House Calendar

Tuesday, April 30, 2013

112th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

TABLE OF CONTENTS

ORDERS OF THE DAY

ACTION CALENDAR

Unfinished Business of Monday, April 29 2013

Third Reading

S. 30

An act relating to siting of electric generation plants

S. 31

An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding

Amendment to be offered by Rep. Kilmartin of Newport City to S. 31

In Sec. 1, 15 V.S.A. § 751(b), by adding a new subdivision (C) to read: "(C) A party's interest in a trust with a valid spendthrift provision shall not be included in the marital estate."

and by relettering the existing subdivision (C) to be (D) and the existing subdivision (D) to be (E)

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 adding a new subsection to be subsection (h) to read:

(h) Geographic limitations.

(1) Notwithstanding the requirement that a district pay tuition to any prequalified public or private provider in the State, a school board may choose to limit the geographic boundaries within which the district shall pay tuition by paying tuition solely to those prequalified providers in which parents and guardians choose to enroll resident prekindergarten children that are located within the district's "prekindergarten region" as determined in subdivision (2) of this subsection.

(2) For purposes of this subsection, upon application from the school board, a district's prekindergarten region shall be determined jointly by the Agencies of Education and of Human Services in consultation with the school board, private providers of prekindergarten education, parents and guardians of prekindergarten children, and other interested parties pursuant to a process adopted by rule under subsection (e) of this section. A prekindergarten region:

(A) shall not be smaller than the geographic boundaries of the school district;

(B) shall be based in part upon the estimated number of prekindergarten children residing in the district and in surrounding districts, the availability of prequalified private and public providers of prekindergarten education, commuting patterns, and other region-specific criteria; and

(C) shall be designed to support existing partnerships between the school district and private providers of prekindergarten education.

(3) If a school board chooses to pay tuition to providers solely within its prekindergarten region, and if a resident prekindergarten child is unable to access publicly funded prekindergarten education within that region, then the child's 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 provider located outside the prekindergarten region.

(4) Except for the narrow exception permitting a school board to limit geographic boundaries under subdivision (1) of this subsection, all other provisions of this section and related rules shall continue to apply.

Second: By adding a new section to be Sec. 4a to read:

Sec. 4a. REPORT ON ENROLLMENT AND ACCESS

The Agencies of Education and of Human Services and the Building Bright Futures Council shall monitor and evaluate access to and enrollment in prekindergarten education programs under Sec. 1 of this act. On or before January 1, 2018, they shall report to the House and Senate Committees on Education and on Appropriations, the House Committee on Ways on Means, and the Senate Committee on Finance regarding their evaluation, conclusions, and any recommendations for amendments to statute or related rule.

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)"

Amendment to be offered by Rep. Browning of Arlington to H. 270

First: After Sec. 2, by adding a new section to be Sec. 2a to read:

Sec. 2a. 16 V.S.A. § 4025(a) is amended to read:

(a) An education fund is established to be comprised of the following:

* * *

(2) For each fiscal year, the amount of the general funds appropriated or transferred to the education fund shall be:

(A) $276,240,000.00 increased by the most recent New England economic project cumulative price index, as of November 15, for state and local government purchases of goods and services from fiscal year 2012 through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent; plus

(B) if there were an increase in the amount of education spending statewide for prekindergarten education between the two most recent fiscal years for which data is available, an amount equal to that increase.

* * *

Second: By striking out Sec. 6 in its entirety and inserting a new Sec. 6 to read:

Sec. 6. EFFECTIVE DATES

(a) This act shall take effect on July 1, 2013.

(b) Secs. 1 and 2 of this act shall apply to enrollments on July 1, 2015 and after.

(c) Sec. 2a of this act shall apply to appropriations and transfers for fiscal year 2016 and after.

H. 483

An act relating to adopting revisions to Article 9 of the Uniform Commercial Code

Rep. Carr of Brandon, for the Committee on **Commerce and Economic Development,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9A V.S.A. Article 9 is amended to read:

Article 9. Secured Transactions

Part 1. Applicability, Definitions, and General Concepts

* * *

§ 9-102. DEFINITIONS AND INDEX OF DEFINITIONS

(a) In this article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting," except as used in "accounting for," means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) ~~to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record~~ with present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

* * *

(71) "Public organic record" means a record that is available to the public for inspection and is:

(A) a record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(B) an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) a record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or the United States which amends or restates the name of the organization.

(72) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

~~(72)~~(73) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a

tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

~~(73)~~(74) "Registered organization" means an organization formed or organized solely under the law of a single state or the United States ~~and as to which the state or the United States must maintain a public record showing the organization to have been organized~~ by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.

~~(74)~~(75) "Secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

~~(75)~~(76) "Secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under section 2-401, 2-505, 2-711(3), 2A-508(5), 4-210, or 5-118.

~~(76)~~(77) "Security agreement" means an agreement that creates or provides for a security interest.

~~(77)~~(78) "Send," in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subdivision (A) of this subdivision ~~(77)~~(78).

~~(78)~~(79) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

~~(79)~~(80) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~(80)~~(81) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

~~(81)~~(82) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

~~(82)~~(83) "Termination statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

~~(83)~~(84) "Transmitting utility" means a person primarily engaged in the business of:

(A) operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

* * *

§ 9-105. CONTROL OF ELECTRONIC CHATTEL PAPER

(a) A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably

establishes the secured party as the person to which the chattel paper was assigned.

(b) A system satisfies subsection (a) of this section if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the secured party as the assignee of the record or records;

(3) the authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) copies or ~~revisions~~ amendments that add or change an identified assignee of the authoritative copy can be made only with the ~~participation~~ consent of the secured party;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any ~~revision~~ amendment of the authoritative copy is readily identifiable as ~~an~~ authorized or unauthorized ~~revision~~.

* * *

Part 3. Perfection and Priority

§ 9-307. LOCATION OF DEBTOR

* * *

(f) Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) in the state that the law of the United States designates, if the law designates a state of location;

(2) in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location, including by designating its main office, home office, or other comparable office; or

(3) in the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

* * *

§ 9-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS, AND TREATIES

(a) Except as otherwise provided in subsection (d) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt subsection 9-310(a) of this title;

(2) the following statutes of this state: 23 V.S.A. chapters 21 and 36; or

(3) a ~~certificate-of-title~~ statute of another jurisdiction which provides for a security interest to be indicated on ~~the~~ a certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

* * *

§ 9-316. ~~CONTINUED PERFECTION OF SECURITY INTEREST FOLLOWING~~ EFFECT OF CHANGE IN GOVERNING LAW

* * *

(h) The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

(1) A financing statement filed before the change pursuant to the law of the jurisdiction designated in subsection 9-301(1) or 9-305(c) of this title is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location.

(2) If a security interest perfected by a financing statement that is effective under subdivision (1) of this subsection becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in subsection 9-301(1) or 9-305(c) of this title or the expiration of the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in subsection 9-301(1) or 9-305(c) of this title and the new debtor is located in another jurisdiction, the following rules apply:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under subsection 9-203(d) of this title if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

(2) A security interest perfected by the financing statement, which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in subsection 9-301(1) or 9-305(c) of this title or the expiration of the four-month period, remains perfected thereafter. A security interest perfected by the financing statement, which does not become perfected under the law of the other jurisdiction before the earlier time or event, becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

§ 9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN

* * *

(b) Except as otherwise provided in subsection (e) of this section, a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a ~~security certificate~~ certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

* * *

(d) A licensee of a general intangible or a buyer, other than a secured party, of ~~accounts, electronic chattel paper, general intangibles, or investment property~~ collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

* * *

§ 9-326. PRIORITY OF SECURITY INTERESTS CREATED BY NEW DEBTOR

(a) Subject to subsection (b), a security interest that is created by a new debtor ~~which is~~ in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that ~~is effective solely under section 9-508 in collateral in which a new debtor has or acquires rights~~ would be ineffective to prefect the security interest but for the application of subdivision 9-316(i)(1) or section 9-508 of this title is subordinate to a security interest in the same collateral which is perfected by another method.

* * *

§ 9-406. DISCHARGE OF ACCOUNT DEBTOR; NOTIFICATION OF ASSIGNMENT; IDENTIFICATION AND PROOF OF ASSIGNMENT; RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, AND PROMISSORY NOTES INEFFECTIVE

* * *

(e) Subsection (d) of this section does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under section 9-610 of this title or an acceptance of collateral under section 9-620 of this title.

* * *

§ 9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH CARE INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE

* * *

(b) Subsection (a) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under section 9-610 of this section or an acceptance of collateral under section 9-620 of this section.

* * *

§ 9-502. CONTENTS OF FINANCING STATEMENT; RECORD OF MORTGAGE AS FINANCING STATEMENT; TIME OF FILING FINANCING STATEMENT

* * *

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record complies with the requirements for a financing statement in this section ~~other than an indication~~, but:

(A) the record need not indicate that it is to be filed in the real property records; and

(B) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom subdivision 9-503(a)(4) of this title applies; and

(4) the record is recorded.

(d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

§ 9-503. NAME OF DEBTOR AND SECURED PARTY

(a) A financing statement sufficiently provides the name of the debtor:

(1) except as otherwise provided in subdivision (3) of this subsection, if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name ~~of the debtor indicated~~ that is stated to be the registered organization's name on the public organic record ~~of~~ most recently filed with or issued or enacted by the ~~debtor's~~ registered organization's jurisdiction of organization which ~~shows the debtor to have been organized~~ purports to state, amend, or restate the registered organization's name;

(2) subject to subsection (f) of this section, if the ~~debtor is a decedent's estate~~ collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the ~~debtor is an estate~~ collateral is being administered by a personal representative;

(3) ~~if the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:~~

~~(A) provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and~~

~~(B) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and~~

if collateral is held in a trust that is not a registered organization, only if the financing statement:

(A) provides, as the name of the debtor:

(i) if the organic record of the trust specifies a name for the trust, the name specified; or

(ii) if the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(B) in a separate part of the financing statement:

(i) if the name is provided in accordance with subdivision (3)(A)(i) of this subsection, indicates that the collateral is held in a trust; or

(ii) if the name is provided in accordance with subdivision (3)(A)(ii) of this subsection, provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(4) subject to subsection (g) of this section, if the debtor is an individual to whom this state has issued a driver's license that has not expired, only if the financing statement provides the name of the individual which is indicated on the driver's license;

(5) if the debtor is an individual to whom subdivision (4) of this subsection does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

~~(4)~~(6) in other cases:

(A) if the debtor has a name, only if ~~it~~ the financing statement provides the ~~individual or~~ organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) of this section is not rendered ineffective by the absence of:

(1) a trade name or other name of the debtor; or

(2) unless required under ~~subsection (a)(4)(B)~~ subdivision (a)(6)(B) of this section, names of partners, members, associates, or other persons comprising the debtor.

* * *

(f) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subdivision (a)(2) of this section.

(g) If this state has issued to an individual more than one driver's license of a kind described in subdivision (a)(4) of this section, the one that was issued most recently is the one to which subdivision (a)(4) refers.

(h) In this section, the "name of the settlor or testator" means:

(1) if the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

(2) in other cases, the name of the settlor or testator indicated in the trust's organic record.

* * *

§ 9-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF FINANCING STATEMENT

* * *

(b) Except as otherwise provided in subsection (c) of this section and section 9-508 of this title, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section 9-506 of this title.

(c) If ~~a debtor so changes its~~ the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under subsection 9-503(a) of this title so that the financing statement becomes seriously misleading under section 9-506 of this title:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the ~~change~~ financing statement becomes seriously misleading; and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the ~~change~~ filed financing statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the ~~change~~ financing statement became seriously misleading.

* * *

§ 9-515. DURATION AND EFFECTIVENESS OF FINANCING STATEMENT; EFFECT OF LAPSED FINANCING STATEMENT

* * *

(f) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

* * *

§ 9-516. WHAT CONSTITUTES FILING; EFFECTIVENESS OF FILING

(a) Except as otherwise provided in subsection (b) of this section, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or ~~correction~~ information statement, the record:

(i) does not identify the initial financing statement as required by section 9-512 or 9-518 of this title, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under section 9-515 of this title;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's ~~last name~~ surname; or

(D) in the case of a record recorded in the filing office described in ~~section~~ subdivision 9-501(a)(1) of this title, the record does not provide a sufficient description of the real property to which it relates;

(4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) provide a mailing address for the debtor; or

(B) indicate whether the name provided as the name of the debtor is the name of an individual or an organization; ~~or~~

~~(C) if the financing statement indicates that the debtor is an organization, provide:~~

~~(i) a type of organization for the debtor;~~

~~(ii) a jurisdiction of organization for the debtor; or~~

~~(iii) an organizational identification number for the debtor or indicate that the debtor has none;~~

(6) in the case of an assignment reflected in an initial financing statement under ~~section~~ subsection 9-514(a) of this title or an amendment filed under ~~section~~ subsection 9-514(b) of this title, the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by ~~section~~ subsection 9-515(d) of this title.

(c) For purposes of subsection (b) of this section:

(1) a record does not provide information if the filing office is unable to read or decipher the information; and

(2) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 9-512, 9-514, or 9-518 of this title, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b) of this section, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

* * *

§ 9-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED RECORD

(a) A person may file in the filing office ~~a correction~~ an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) ~~A correction~~ An information statement ~~must~~ shall:

(1) identify the record to which it relates by:

(A) the file number assigned to the initial financing statement to which the record relates; and

(B) if the correction statement relates to a record filed recorded in a filing office described in ~~section~~ subdivision 9-501(a)(1) of this title, the date that the initial financing statement was filed or recorded, and the information specified in ~~section~~ subsection 9-502(b) of this title;

(2) indicate that it is ~~a correction~~ an information statement; and

(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under subsection 9-509(d) of this title.

(d) An information statement under subsection (c) of this section shall:

(1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) indicate that it is an information statement; and

(3) provide the basis for the person's belief that the person that filed the record was not entitle to do so under subsection 9-509(d) of this title.

(e) The filing of ~~a correction~~ an information statement does not affect the effectiveness of an initial financing statement or other filed record.

* * *

§ 9-521. UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND AMENDMENT

(a) A filing office that accepts written records may not refuse to accept a written initial financing statement in the following form and format except for a reason set forth in ~~section~~ subsection 9-516(b) of this title:

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
B. E-MAIL CONTACT AT FILER (optional)	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

	1a. ORGANIZATION'S NAME				
OR	1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR		SUFFIX
1c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

	2a. ORGANIZATION'S NAME				
OR	2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR		SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

	3a. ORGANIZATION'S NAME				
OR	3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
3c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY

4. COLLATERAL: This financing statement covers the following collateral:

5. Check only if applicable and check only one box:

Collateral is ☐ held in a Trust (see UCC1Ad, Item 17 and Instructions)

☐ being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box:

☐ Public-Finance Transaction ☐ Manufactured-Home Transaction

☐ A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box:

☐ Agricultural Lien ☐ Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable): ☐ Lessee/Lessor ☐ Consignee/Consignor ☐ Seller/Buyer

☐ Bailee/Bailor ☐ Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

[UCC FINANCING STATEMENT (Form UCC1)]

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as item 1a or 1b on Financing Statement; if line 1b was left blank because Individual Debtor name did not fit, check here ☐

9a. ORGANIZATION'S NAME

OR 9b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) | SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1)(use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

10a. ORGANIZATION'S NAME

OR 10b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR | SUFFIX

10c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

11. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or 11b)

11a. ORGANIZATION'S NAME

OR 11b. INDIVIDUAL'S SURNAME	FIRST PERSONAL	ADDITIONAL	SUFFIX

	NAME	NAME(S)/INITIAL(S)		
11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral)

13. ☐ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)	14. This FINANCING STATEMENT: ☐ covers timber to be cut ☐ covers as-extracted collateral ☐ is filed as a fixture filing
15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):	16. Description of real estate:

17. MISCELLANEOUS:

[UCC FINANCING STATEMENT ADDENDUM (Form UCC1Ad)]

(b) A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in ~~section~~ subsection 9-516(b) of this title:

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	
B. E-MAIL CONTACT AT FILER (optional)	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

1a. INITIAL FINANCING STATEMENT FILE NUMBER	1b. ☐ This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13.

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3. ☐ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9. For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5. ☐ PARTY INFORMATION CHANGE:

Check one of these two boxes:

This Change affects ☐ Debtor or ☐ Secured Party of record.

AND

Check one of these three boxes to:

☐ CHANGE name and/or address: Complete item 6a or 6b; and item 7a or 7b and item 7c

☐ ADD name: Complete item 7a or 7b, and item 7c

☐ DELETE name: Give record name to be deleted in item 6a or 6b

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b)

	6a. ORGANIZATION'S NAME			
OR	6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact full name; do not omit, modify, or abbreviate any part of the Debtor's name)

	7a. ORGANIZATION'S NAME			
OR	7b. INDIVIDUAL'S SURNAME			
	FIRST PERSONAL NAME			
	ADDITIONAL NAME(S)/INITIAL(S)			SUFFIX
7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

8. ☐ COLLATERAL CHANGE: Also check one of these four boxes:

☐ ADD collateral ☐ DELETE collateral ☐ RESTATE covered collateral ☐ ASSIGN collateral

Indicate collateral:

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment)

If this is an Amendment authorized by a DEBTOR, check here ☐ and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

10. OPTIONAL FILER REFERENCE DATA:

[UCC FINANCING STATEMENT AMENDMENT (Form UCC3)]

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS

11. INITIAL FINANCING STATEMENT FILE NUMBER: Same as item 1a on Amendment form

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT: Same as item 9 on Amendment form

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in some filing offices - see Instruction item 13): Provide only one Debtor name (13a or 13b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); see Instructions if name does not fit

13a. ORGANIZATION'S NAME

OR	13b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

14. ADDITIONAL SPACE FOR ITEM 8 (Collateral)

15. This FINANCING STATEMENT AMENDMENT: ☐ covers timber to be cut ☐ covers as-extracted collateral ☐ is filed as a fixture filing	17. Description of real estate:
16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):	

18. MISCELLANEOUS:

[UCC FINANCING STATEMENT AMENDMENT ADDENDUM (Form UCC3Ad)]

* * *

§ 9-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY

* * *

(b) If necessary to enable a secured party to exercise ~~under subsection~~ subdivision (a)(3) of this section the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) the secured party's sworn affidavit in recordable form stating that:

(A) a default has occurred with respect to the obligation secured by the mortgage; and

(B) the secured party is entitled to enforce the mortgage nonjudicially.

* * *

Part 8. TRANSITION PROVISIONS FOR 2010 AMENDMENTS

§ 9-801. EFFECTIVE DATE

Act [ ] of 2013, adopting the 2010 Uniform Commercial Code amendments promulgated by the National Conference of Commissioners on Uniform State Laws, referred to in this part as "the Act," takes effect on July 1, 2013.

§ 9-802. SAVINGS CLAUSE

(a) Except as otherwise provided in this part, the provisions of the Act apply to a transaction or lien within its scope, even if the transaction or lien was entered into or created before the Act takes effect.

(b) The provisions of the Act do not affect an action, case, or proceeding commenced before the Act takes effect.

§ 9-803. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE

(a) A security interest that is a perfected security interest immediately before the Act takes effect is a perfected security interest under Article 9 of this title, as amended by the Act if, when the Act takes effect, the applicable requirements for attachment and perfection under Article 9 of this title, as amended by the Act, are satisfied without further action.

(b) Except as otherwise provided in section 9-805 of this title, if, immediately before the Act takes effect, a security interest is a perfected security interest, but the applicable requirements for perfection under Article 9 of this title, as amended by the Act, are not satisfied when the Act takes effect, the security interest remains perfected thereafter only if the applicable requirements for perfection under Article 9 of this title, as amended by the Act, are satisfied within one year after the Act takes effect.

§ 9-804. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE

A security interest that is an unperfected security interest immediately before the Act takes effect becomes a perfected security interest:

(1) without further action, when the Act takes effect if the applicable requirements for perfection under Article 9 of this title, as amended by the Act, are satisfied before or at that time; or

(2) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

§ 9-805. EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE

(a) The filing of a financing statement before the Act takes effect is effective to perfect a security interest to the extent the filing would satisfy the application requirements for perfection under Article 9 of this title, as amended by the Act.

(b) The Act does not render ineffective an effective financing statement that, before the Act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in Article 9 of this title as it existed before the amendment. However, except as otherwise provided in subsections (c) and (d) of this section and section 9-806 of this title, the financing statement ceases to be effective:

(1) if the financing statement is filed in this State, at the time the financing statement would have ceased to be effective had the Act not taken effect; or

(2) if the financing statement is filed in another jurisdiction, at the earlier of:

(A) the time the financing statement would have ceased to be effective under the law of that jurisdiction; or

(B) June 30, 2018.

(c) The filing of a continuation statement after the Act takes effect does not continue the effectiveness of a financing statement filed before the Act takes effect. However, upon the timely filing of a continuation statement after the Act takes effect and in accordance with the law of the jurisdiction governing perfection as provided under Article 9 of this title, as amended by the Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before the Act takes effect continues for the period provided by the law of that jurisdiction.

(d) Subdivision (b)(2)(B) of this section applies to a financing statement that, before the Act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in Article 9 of this title, as it existed before amendment, only to the extent that Article 9 of this title, as amended by the Act, provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(e) A financing statement that includes a financing statement filed before the Act takes effect and a continuation statement filed after the Act takes effect is effective only to the extent that it satisfies the requirements of Article 9, Part 5 of this title, as amended by the Act, for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of subdivision 9-503(a)(2) of this title, as amended by the Act. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of subdivision 9-503(a)(3) of this title, as amended by the Act.

§ 9-806. WHEN AN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF A FINANCING STATEMENT

(a) The filing of an initial financing statement in the office specified in section 9-501 of this title continues the effectiveness of a financing statement filed before the Act takes effect if:

(1) the filing of an initial financing statement in that office would be effective to perfect a security interest under Article 9 of this title, as amended by the Act;

(2) the pre-effective-date financing statement was filed in an office in another state; and

(3) the initial financing statement satisfies subsection (c) of this section.

(b) The filing of an initial financing statement under subsection (a) of this section continues the effectiveness of the pre-effective-date financing statement:

(1) if the initial financing statement is filed before the Act takes effect, for the period provided in section 9-515 of this title, as it existed before the Act took effect, with respect to an initial financing statement; and

(2) if the initial financing statement is filed after the Act takes effect, for the period provided in section 9-515 of this title, as amended by the Act, with respect to an initial financing statement.

(c) To be effective for purposes of subsection (a) of this section, an initial financing statement shall:

(1) satisfy the requirements of Article 9, Part 5 of this title, as amended by the Act, for an initial financing statement;

(2) identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and provided the dates of

filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) indicate that the pre-effective-date financing statement remains effective.

§ 9-807. AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING STATEMENT

(a) In this section, "pre-effective-date financing statement" means a financing statement filed before the Act takes effect.

(b) After the Act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Article 9 of this title, as amended by the Act. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d) of this section, if the law of this State governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after the Act takes effect only if:

(1) the pre-effective-date financing statement and an amendment are filed in the office specified in section 9-501 of this title;

(2) an amendment is filed in the office specified in section 9-501 of this title concurrently with, or after the filing in that office of, an initial financing statement that satisfies subsection 9-806(c) of this title; or

(3) an initial financing statement that provides the information as amended and satisfies subsection 9-806(c) of this title is filed in the office specified in section 9-501 of this title.

(d) If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under subsections 9-805(c) and (e) or section 9-806 of this title.

(e) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this State may be terminated after the Act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies subsection 9-806(c) of this title has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Article 9 of this title, as amended by the Act, as the office in which to file a financing statement.

§ 9-808. PERSON ENTITLED TO FILE INITIAL FINANCING STATEMENT OF CONTINUATION STATEMENT

A person may file an initial financing statement or a continuation statement pursuant to the provisions of this section if:

(1) the secured party of record authorizes the filing; and

(2) the filing is necessary under this section:

(A) to continue the effectiveness of a financing statement filed before the Act takes effect; or

(B) to perform or continue the perfection of a security interest.

§ 9-809. PRIORITY

The Act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before the Act takes effect, Article 9 of this title, as it existed before amendment by the Act, determines priority.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

(Committee Vote: 11-0-0)

J.R.S. 14

Joint resolution supporting the Agency of Agriculture, Food and Markets' proposal to adopt an administrative rule to implement international maple grading standards in Vermont

Rep. Toleno of Brattleboro, for the Committee on **Agriculture and Forest Products,** recommends that the House propose to the Senate that the resolution be amended as follows:

First: By striking the final *Whereas* clause and inserting in lieu thereof the following:

Whereas, the 1,000-member Vermont Maple Sugar Makers' Association, the Maple Industry Committee of the Vermont Maple Sugar Makers' Association, the Franklin County Sugar Makers' Association, the Vermont Agriculture and Forest Products Development Board, and the Vermont Farm Bureau are each supportive of the Agency's adoption of the international maple grading standard, *now therefore be it*

Second*:* By striking the second ***Resolved*** clause and inserting in lieu thereof the following:

Resolved: That the Secretary of State be directed to send a copy of this resolution to Chuck Ross, Secretary of Agriculture, Food and Markets, to the Vermont Maple Sugar Makers' Association, to the Maple Industry Committee of the Vermont Maple Sugar Makers' Association, to the Franklin County Maple Sugar Makers' Association, to the Vermont Agricultural and Forest Products Development Board, and to the Vermont Farm Bureau.

(Committee vote: 11-0-0)

(For text see House Journal 2/20/2013)

Senate Proposal of Amendment

H. 39

An act relating to the Public Service Board and the Department of Public Service

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

* * * Electronic Filings and Case Management * * *

Sec. 1. 30 V.S.A. § 11(a) is amended to read:

(a) The forms, pleadings, and rules of practice and procedure before the ~~board~~ Board shall be prescribed by it. The ~~board~~ Board shall promulgate and adopt rules which include, among other things, provisions that:

(1) A utility whose rates are suspended under the provisions of section 226 of this title shall, within 30 days from the date of the suspension order, file with the ~~board 10 copies of~~ Board all exhibits it intends to use in the hearing thereon together with the names of witnesses it intends to produce in its direct case and a short statement of the purposes of the testimony of each witness. Except in the discretion of the ~~board~~ Board, a utility shall not be permitted to introduce into evidence in its direct case exhibits which are not filed in accordance with this rule.

* * *

Sec. 2. 30 V.S.A. § 11a is added to read:

§ 11a. ELECTRONIC FILING AND ISSUANCE

(a) As used in this section:

(1) "Confidential document" means a document containing information for which confidentiality has been asserted and that has been filed with the Board and parties in a proceeding subject to a protective order duly issued by the Board.

(2) "Document" means information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.

(3) "Electronic filing" means the transmission of documents to the Board by electronic means.

(4) "Electronic filing system" means a board-designated system that provides for the electronic filing of documents with the Board and for the electronic issuance of documents by the Board. If the system provides for the filing or issuance of confidential documents, it shall be capable of maintaining the confidentiality of confidential documents and of limiting access to confidential documents to individuals explicitly authorized to access such confidential documents.

(5) "Electronic issuance" means:

(A) the transmission by electronic means of a document that the Board has issued, including an order, proposal for decision, or notice; or

(B) the transmission of a message from the Board by electronic means informing the recipients that the Board has issued a document, including an order, proposal for decision, or notice, and that it is available for viewing and retrieval from an electronic filing system.

(6) "Electronic means" means any Board-authorized method of electronic transmission of a document.

(b) The Board by order, rule, procedure, or practice may:

(1) provide for electronic issuance of any notice, order, proposal for decision, or other process issued by the Board, notwithstanding any other service requirements set forth in this title or in 10 V.S.A. chapter 43;

(2) require electronic filing of documents with the Board;

(3) for any filing or submittal to the Board for which the filing or submitting entity is required to provide notice or a copy to another state agency under this title or under 10 V.S.A. chapter 43, waive such requirement if the state agency will receive notice of and access to the filing or submittal through an electronic filing system; and

(4) for any filing, order, proposal for decision, notice, or other process required to be served or delivered by first-class mail or personal delivery under this title or under 10 V.S.A. chapter 43, waive such requirement to the extent the required recipients will receive the filing, order, proposal of decision, notice, or other process by electronic means or will receive notice of and access to the filing, order, proposal for decision, notice, or other process through an electronic filing system.

(c) Any order, rule, procedure, or practice issued under subsection (b) of this section shall include exceptions to accommodate parties and other participants who are unable to file or receive documents by electronic means.

(d) Subsection (b) of this section shall not apply to the requirements for service of citations and notices in writing as set forth in sections 111(b), 111a(i), and 2804 of this title.

Sec. 3. 30 V.S.A. § 20(a) is amended to read:

(a)(1) The ~~board or department~~ Board or Department may authorize or retain legal counsel, ~~official stenographers,~~ expert witnesses, advisors, temporary employees, and other research services:

* * *

(4) The Board or Department may authorize or retain official stenographers in any proceeding within their jurisdiction, including proceedings listed in subsection (b) of this section.

* * * Condemnation Hearing: Service of Citation * * *

Sec. 4. 30 V.S.A. § 111(b) is amended to read:

(b) The citation shall be served upon each person having any legal interest in the property, ~~including each municipality and each planning body where the property is situate like a summons,~~ or on absent persons in such manner as the ~~supreme court~~ Supreme Court may by rule provide for service of process in civil actions. The Board shall also give notice of the hearing to each municipality and each planning body where the property is located. The ~~board~~ Board, in its discretion, may schedule a joint hearing of some or all petitions relating to the same project and concerning properties or rights located in the same town or abutting towns.

* * * Filing Rate Schedules with the Board * * *

Sec. 5. 30 V.S.A. § 225 is amended to read:

§ 225. RATE SCHEDULES

(a) Within a time to be fixed by the board, each company subject to the provisions of this chapter shall file with the ~~department~~ Department and the Board, with separate filings to the ~~directors for regulated utility planning and public advocacy~~ Directors for Regulated Utility Planning and for Public Advocacy, schedules which shall be open to public inspection, showing all rates including joint rates for any service performed or any product furnished by it within the ~~state~~ State, and as a part thereof shall file the rules and regulations that in any manner affect the tolls or rates charged or to be charged for any such service or product. Those schedules, or summaries of the

schedules approved by the ~~department~~ Department, shall be published by the company in two newspapers with general circulation in the ~~state~~ State within 15 days after such filing. A change shall not thereafter be made in any such schedules, including schedules of joint rates or in any such rules and regulations, except upon 45 days notice to the ~~board and to the department of public service~~ Board and the Department, and such notice to parties affected by such schedules as the ~~board~~ Board shall direct. The ~~board~~ Board shall consider the ~~department's~~ Department's recommendation and take action pursuant to sections 226 and 227 of this title before the date on which the changed rate is to become effective. All such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 45 days prior to the time the same are to take effect. Subject only to temporary increases, rates may not thereafter be raised without strictly complying with the notice and filing requirements set forth in this section. In no event may a company amend, supplement, or alter an existing filing or substantially revise the proof in support of such filing in order to increase, decrease, or substantiate a pending rate request, unless, upon opportunity for hearing, the company demonstrates that such a change in filing or proof is necessary for the purpose of providing adequate and efficient service. However, upon application of any company subject to the provisions of this chapter, and with the consent of the ~~department of public service~~ Department, the ~~board~~ Board may for good cause shown prescribe a shorter time within which such change may be made; but a change which in effect decreases such tolls or rates may be made upon five days' notice to the ~~board and the department of public service~~ Board and the Department and such notice to parties affected as the ~~board~~ Board shall direct.

(b) Immediately upon receipt of notice of a change in a rate schedule filed by a company, the ~~department~~ Department shall investigate the justness and reasonableness of that change. At least 15 days prior to the date on which the change is to become effective, the ~~department~~ Department shall either report to the ~~board~~ Board the results of its investigations together with its recommendation for acceptance of the change, or it shall notify the ~~board~~ Board and other parties that it opposes the change. If the ~~department of public service~~ Department reports its acceptance of the change in rates, the ~~board~~ Board may accept the change, or it may on its own motion conduct an investigation into the justness and reasonableness of the change, or it may order the ~~department~~ Department to appear before it to justify its recommendation to accept the change. In no event shall a change go into effect without the approval of the ~~board~~ Board, except when a rate change is suspended and temporary or permanent rates are allowed to go into effect pursuant to subsection 226(a) or 227(a) of this title. The ~~board~~ Board shall consider the ~~department's~~ Department's recommendation and take action

pursuant to sections 226 and 227 of this title before the date on which the changed rate is to become effective. In the event that the ~~department~~ Department opposes the change, the ~~board~~ Board shall hear evidence on the matter and make such orders as justice and law require. In any hearing on a change in rates, whether or not opposed by the ~~department~~ Department, the ~~board~~ Board may request the appearance of the ~~attorney general~~ Attorney General or appoint a member of the Vermont ~~bar~~ Bar to represent the public or the ~~state~~ State.

* * * CPG: Recommendations of Municipal and Regional Planning Commissions * * *

Sec. 6. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

* * *

(4)(A) With respect to a facility located in the ~~state~~ State, the ~~public service board~~ Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

(B) The ~~public service board~~ Public Service Board shall hold technical hearings at locations which it selects.

(C) At the time of filing its application with the ~~board~~ Board, copies shall be given by the petitioner to the ~~attorney general~~ Attorney General and the ~~department of public service~~ Department of Public Service, and, with respect to facilities within the ~~state~~ State, the ~~department of health, agency of natural resources, historic preservation division, agency of transportation, the agency of agriculture, food and markets~~ Department of Health, Agency of Natural Resources, Division for Historic Preservation, Agency of Transportation, and Agency of Agriculture, Food and Markets and to the chairperson or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located. At the time of filing its application with the ~~board~~ Board, the petitioner shall give the ~~byways advisory council~~ Byways Advisory Council notice of the filing.

(D) Notice of the public hearing shall be published and maintained on the board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility

will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

(E) The ~~agency of natural resources~~ Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the ~~byways advisory council~~ Byways Advisory Council in such a proceeding.

(F) With respect to an in-state facility, the legislative body and municipal and regional planning commissions for each municipality in which the proposed facility will be located shall be parties to any proceedings held under this subsection (a) and may provide evidence and recommendations on any findings to be made under this section.

(i) If requested by letter submitted to the Board by such a body or commission on or before 15 days after filing of an application for a certificate of public good under this subsection (a), the Board shall stay any proceedings on the application for a period of 45 days from the date on which the application was filed. Such body or commission shall provide a copy of the letter to the petitioner and to those persons entitled to receive a copy of the application under subdivision (C) of this subdivision (4).

(ii) During the 45-day period under this subdivision (4)(F), the Board may schedule a prehearing conference to occur after the end of the period and may issue a notice of that prehearing conference.

(iii) The 45-day period under this subdivision (4)(F) shall not be required for a facility that the Board determines to be eligible for treatment under subsection (j) (facilities of limited size and scope) of this section.

(G) The Public Service Board shall provide written guidance on participation in proceedings under this section to the legislative body and municipal and regional planning commissions for each municipality in which the proposed facility will be located and to all persons who seek to become a party to such a proceeding.

* * *

(f) However~~, the~~:

(1) The petitioner shall submit a notice of intent to construct such a facility within the State to the municipal and regional planning commissions at least six months prior to an application for a certificate of public good under this section. The Board shall specify by rule the content of such a notice of intent, which shall be designed to provide a reasonable description of the

facility to be built, its size and location, and related infrastructure to be constructed. A notice of intent under this subdivision shall not be required for a facility that the Board determines to be eligible for treatment under subsection (j) (facilities of limited size and scope) of this section.

(2) The petitioner shall submit plans for the construction of such a facility within the ~~state must be submitted by the petitioner~~ State to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement. Such municipal or regional planning commission may hold a public hearing on the proposed plans. Such commissions ~~shall~~ may make recommendations~~, if any,~~ to the ~~public service board~~ Public Service Board and to the petitioner ~~at least seven days prior to filing of the petition~~ within 21 days after the date the petition is filed with the ~~public service board~~ Board. However, if the 45-day period under subdivision (a)(4)(F) of this section is invoked, such recommendations may be made at the end of that period.

Sec. 6a. APPLICATION

(a) In Sec. 6, 30 V.S.A. § 248(f)(1) (notice of intent) shall apply to applications for a certificate of public good filed with the Public Service Board on or after January 1, 2014 and shall not apply to complete applications filed with the Board before that date.

(b) The Public Service Board shall commence rulemaking under 30 V.S.A. § 248(f)(1) (notice of intent) within 21 days after this act's effective date and shall make all reasonable efforts to adopt a final rule under that section before January 1, 2014.

* * *

* * * Participation in Federal Proceedings * * *

Sec. 7. 30 V.S.A. § 2(b) is amended to read:

(b) In cases requiring hearings by the ~~board~~ Board, the ~~department~~ Department, through the ~~director for public advocacy~~ Director for Public Advocacy, shall represent the interests of the people of the ~~state~~ State, unless otherwise specified by law. In any hearing, the ~~board~~ Board may, if it determines that the public interest would be served, request the ~~attorney general~~ Attorney General or a member of the Vermont ~~bar~~ Bar to represent the public or the ~~state~~ State. In addition, the Department may intervene, appear, and participate in Federal Energy Regulatory Commission proceedings, Federal Communications Commission proceedings, or other federal administrative proceedings on behalf of the Vermont public.

* * * Coordination of Energy Planning * * *

Sec. 8. 30 V.S.A. § 202 is amended to read:

§ 202. ELECTRICAL ENERGY PLANNING

(a) The ~~department of public service~~ Department of Public Service, through the ~~director for regulated utility planning~~ Director for Regulated Utility Planning, shall constitute the responsible utility planning agency of the ~~state~~ State for the purpose of obtaining for all consumers in the ~~state~~ State proper utility service at minimum cost under efficient and economical management consistent with other public policy of the ~~state~~ State. The ~~director~~ Director shall be responsible for the provision of plans for meeting emerging trends related to electrical energy demand, supply, safety, and conservation.

(b) The ~~department~~ Department, through the ~~director~~ Director, shall prepare an electrical energy plan for the ~~state~~ State. The plan shall be for a 20-year period and shall serve as a basis for state electrical energy policy. The electric energy plan shall be based on the principles of "least cost integrated planning" set out in and developed under section 218c of this title. The plan shall include at a minimum:

(1) an overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for electrical energy, including patterns of urban expansion, statewide and service area economic growth, shifts in transportation modes, modifications in housing types and design, conservation and other trends and factors which, as determined by the ~~director~~ Director, will significantly affect state electrical energy policy and programs;

(2) an assessment of all energy resources available to the ~~state~~ State for electrical generation or to supply electrical power, including, among others, fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy and strategies for minimizing the economic and environmental costs of energy supply, including the production of pollutants, by means of efficiency and emission improvements, fuel shifting, and other appropriate means;

(3) estimates of the projected level of electrical energy demand;

(4) a detailed exposition, including capital requirements and the estimated cost to consumers, of how such demand shall be met based on the assumptions made in subdivision (1) of this subsection and the policies set out in subsection (c) of this section; and

(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate ~~five-year~~ six-year period, for the next succeeding ~~five-year~~ six-year period, and long-term sustainable strategies

for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont.

(c) In developing the plan, the ~~department~~ Department shall take into account the protection of public health and safety; preservation of environmental quality; the potential for reduction of rates paid by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.

(d) In establishing plans, the ~~director~~ Director shall:

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

(E) Vermont electric transmission companies;

(F) environmental and residential consumer advocacy groups active in electricity issues;

(G) industrial customer representatives;

(H) commercial customer representatives;

(I) the ~~public service board~~ Public Service Board;

(J) an entity designated to meet the public's need for energy efficiency services under subdivision 218c(a)(2) of this title;

(K) other interested state agencies; and

(L) other energy providers.

(2) To the extent necessary, include in the plan surveys to determine needed and desirable plant improvements and extensions and coordination between utility systems, joint construction of facilities by two or more utilities, methods of operations, and any change that will produce better service or reduce costs. To this end, the ~~director~~ Director may require the submission of data by each company subject to supervision, of its anticipated electrical demand, including load fluctuation, supplies, costs, and its plan to meet that demand and such other information as the ~~director~~ Director deems desirable.

(e) The ~~department~~ Department shall conduct public hearings on the final draft and shall consider the evidence presented at such hearings in preparing the final plan. The plan shall be adopted no later than January 1, ~~2004~~ 2016 and readopted in accordance with this section by every sixth January 1 thereafter, and shall be submitted to the ~~general assembly~~ General Assembly each time the plan is adopted or readopted. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the submission to be made under this subsection.

(f) After adoption by the ~~department~~ Department of a final plan, any company seeking ~~board~~ Board authority to make investments, to finance, to site or construct a generation or transmission facility or to purchase electricity or rights to future electricity, shall notify the ~~department~~ Department of the proposed action and request a determination by the ~~department~~ Department whether the proposed action is consistent with the plan. In its determination whether to permit the proposed action, the ~~board~~ Board shall consider the ~~department's~~ Department's determination of its consistency with the plan along with all other factors required by law or relevant to the ~~board's~~ Board's decision on the proposed action. If the proposed action is inconsistent with the plan, the ~~board~~ Board may nevertheless authorize the proposed action if it finds that there is good cause to do so. The ~~department~~ Department shall be a party to any proceeding on the proposed action, except that this section shall not be construed to require a hearing if not otherwise required by law.

(g) The ~~director~~ Director shall annually review that portion of a plan extending over the next ~~five~~ six years. The ~~department~~ Department, through the ~~director~~ Director, shall ~~annually~~ biennially extend the plan by ~~one~~ two additional ~~year~~ years; and from time to time, ~~but in no~~ and in any event ~~less than~~ every ~~five years~~ sixth year, institute proceedings to review a plan and make revisions, where necessary. The ~~five year~~ six-year review and any interim revisions shall be made according to the procedures established in this section for initial adoption of the plan. The six-year review and any revisions made in connection with that review shall be performed contemporaneously with readoption of the comprehensive energy plan under section 202b of this title.

(h) The plans adopted under this section ~~shall be submitted to the energy committees of the general assembly and~~ shall become the electrical energy portion of the state energy plan.

(i) It shall be a goal of the electrical energy plan to assure, by 2028, that at least 60 MW of power are generated within the ~~state~~ State by combined heat and power (CHP) facilities powered by renewable fuels ~~or by nonqualifying SPEED resources,~~ as defined in section 8002 of this title. In order to meet this

goal, the plan shall include incentives for development and strategies to identify locations in the ~~state~~ State that would be suitable for CHP. The plan shall include strategies to assure the consideration of CHP potential during any process related to the expansion of natural gas services in the ~~state~~ State.

Sec. 9. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

(a) The ~~department of public service~~ Department of Public Service, in conjunction with other state agencies designated by the ~~governor~~ Governor, shall prepare a comprehensive state energy plan covering at least a 20-year period. The plan shall seek to implement the state energy policy set forth in section 202a of this title. The plan shall include:

(1) A comprehensive analysis and projections regarding the use, cost, supply, and environmental effects of all forms of energy resources used within Vermont.

(2) Recommendations for ~~state~~ State implementation actions, regulation, legislation, and other public and private action to carry out the comprehensive energy plan.

(b) In developing or updating the plan's recommendations, the ~~department of public service~~ Department of Public Service shall seek public comment by holding public hearings in at least five different geographic regions of the ~~state~~ State on at least three different dates, and by providing notice through publication once a week and at least seven days apart for two or more successive weeks in a newspaper or newspapers of general circulation in the regions where the hearings will be held, and by delivering notices to all licensed commercial radio and television stations with transmitting facilities within the ~~state~~ State, plus Vermont Public Radio and Vermont Educational Television.

(c) The ~~department~~ Department shall adopt a state energy plan by ~~no later than~~ January 1, ~~1994~~ 2016 and shall readopt the plan by every sixth January 1 thereafter. On adoption or readoption, the plan shall be submitted to the General Assembly. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to such submission.

(1) Upon adoption of the plan, analytical portions of the plan may be updated ~~annually~~ and published biennially.

(2) Every fourth year after the adoption or readoption of a plan under this section, the Department shall publish the manner in which the Department will engage the public in the process of readopting the plan under this section.

(3) The publication requirements of subdivisions (1) and (2) of this subsection may be met by inclusion of the subject matter in the Department's biennial report.

(4) The plan's implementation recommendations shall be updated by the ~~department~~ Department no less frequently than every ~~five~~ six years. These recommendations shall be updated prior to the expiration of ~~five~~ six years if the ~~general assembly~~ General Assembly passes a joint resolution making a request to that effect. If the ~~department~~ Department proposes or the ~~general assembly~~ General Assembly requests the revision of implementation recommendations, the ~~department~~ Department shall hold public hearings on the proposed revisions.

(d) ~~Any distribution~~ Distribution of the plan to members of the ~~general assembly~~ General Assembly shall be in accordance with the provisions of 2 V.S.A. § 20 (a)–(c).

Sec. 10. INTENT; RETROACTIVE APPLICATION

In enacting Secs. 8 (20-year electric plan) and 9 (comprehensive energy plan) of this act, the General Assembly intends to set the readoption of these plans by the Department of Public Service on a regular six-year cycle.

* * * Smart Meter Report * * *

Sec. 11. 30 V.S.A. § 2811(c) is amended to read:

(c) Reports.

(1) On January 1, 2014 and again on January 1, 2016, the ~~commissioner of public service~~ Commissioner of Public Service shall publish a report on:

(A) the savings realized through the use of smart meters~~, as well as on~~;

(B) the occurrence of any breaches to a company's cyber-security infrastructure;

(C) the number of customers who have chosen not to have a wireless smart meter installed on their premises or who have had one removed; and

(D) the number of complaints received by the Department related to smart meters beginning in calendar year 2012, including a brief description of each complaint, its status, and action taken by the Department in response, if any.

(2) The reports shall be based on electric company data requested by and provided to the ~~commissioner of public service~~ Commissioner of Public Service and shall be in a form and in a manner the ~~commissioner~~

Commissioner deems necessary to accomplish the purposes of this subsection. The reports shall be submitted to the ~~senate committees on finance~~ Senate Committees on Finance and on ~~natural resources and energy~~ Natural Resources and Energy and the ~~house committees on commerce and economic development~~ House Committees on Commerce and Economic Development and on ~~natural resources and energy~~ Natural Resources and Energy.

* * * Joint Energy and Utility Committee * * *

Sec. 12. 2 V.S.A. chapter 17 is amended to read:

CHAPTER 17. JOINT ENERGY AND UTILITY COMMITTEE

§ 601. CREATION OF COMMITTEE; MEETINGS

(a) There is created a ~~joint energy committee~~ Joint Energy and Utility Committee whose membership shall be appointed each biennial session of the ~~general assembly~~ General Assembly. The ~~committee~~ Committee shall consist of ~~four representatives, at least one from each major party, appointed by the speaker of the house, and four members of the senate, at least one from each major party, appointed by the committee on committees~~ five Representatives representing at least two major parties and five members of the Senate representing at least two major parties. The Representatives shall be appointed by the Speaker of the House and the members of the Senate by the Committee on Committees. Of the appointed Representatives from the House, two shall be members of the House Committee on Commerce and Economic Development and two shall be members of the House Committee on Natural Resources and Energy. Of the appointed members from the Senate, two shall be members of the Senate Committee on Finance and two shall be members of the Senate Committee on Natural Resources and Energy.

(b) The ~~committee~~ Committee shall elect a chair, ~~vice-chair~~ vice chair, and clerk and shall adopt rules of procedure. The ~~chair~~ Chair shall rotate biennially between the ~~house~~ House and the ~~senate~~ Senate members. The ~~committee~~ Committee may meet during a session of the ~~general assembly~~ General Assembly at the call of the ~~chair~~ Chair or a majority of the members of the ~~committee~~ Committee. The ~~committee~~ Committee may meet no more than four times during adjournment ~~subject to approval of the speaker of the house and the president pro tempore of the senate~~, except that the Speaker of the House and the President Pro Tempore of the Senate may approve one or more additional meetings of the Committee during adjournment.

(c) A majority of the membership shall constitute a quorum. Committee action shall be taken only if there is a quorum and the proposed action is approved by majority vote of those members physically present and voting.

§ 602. ~~EMPLOYEES; RULES~~ SUPPORT; PER DIEMS; MINUTES

(a) ~~The joint energy committee shall meet following the appointment of its membership to organize and begin the conduct of its business.~~

~~(b)~~ The ~~staff of the legislative council~~ Office of Legislative Council shall provide professional and clerical assistance to the ~~joint committee~~ Joint Energy and Utility Committee.

~~(c)~~(b) For attendance at a meeting when the ~~general assembly~~ General Assembly is not in session, members of the ~~joint energy committee~~ Committee shall be entitled to the same per diem compensation and reimbursement for necessary expenses as provided members of standing committees under section 406 of this title.

~~(d)~~(c) The ~~joint energy committee~~ Committee shall keep minutes of its meetings and maintain a file thereof.

§ 603. ~~FUNCTIONS~~ DUTIES

(a) The ~~joint energy committee~~ Joint Energy and Utility Committee shall:

(1) carry on a continuing review of all energy and utility matters in the ~~state~~ State and energy matters in the northeast region of the United States, including energy sources, energy distribution, energy costs, energy planning, energy conservation, and ~~pertinent~~ related subjects;

(2) work with, assist, and advise other committees of the ~~general assembly~~ General Assembly, the ~~executive~~ Executive Branch, and the public in ~~energy-related~~ energy- and utility-related matters within their respective responsibilities;

(3) provide a continuing review of State energy and utility policies.

(b) In conducting its tasks, the Committee may consult the following:

(1) the Public Service Board;

(2) the Commissioner of Public Service;

(3) ratepayers and advocacy groups;

(4) public service companies subject to regulation by the Public Service Board;

(5) the Vermont State Nuclear Advisory Panel created under chapter 34 of Title 18; and

(6) any other person or entity as determined by the Committee.

(c) On or before December 15 of each year, the Committee shall report its activities, together with its recommendations, if any, to the General Assembly. The Committee may submit more than one report in any given year.

* * *

* * * Department of Public Service Report on Siting of New Electric Transmission Facilities * * *

Sec. 13. REPORT; NEW ELECTRIC TRANSMISSION FACILITIES

(a) Report; proposed legislation. On or before November 15, 2013, the Department of Public Service shall submit a report to the Joint Energy and Utility Committee under 2 V.S.A. chapter 17, the House and Senate Committees on Natural Resources and Energy, the House Committee on Commerce and Economic Development, and the Senate Committee on Finance that contains each of the following:

(1) An assessment of:

(A) setback requirements on electric transmission facilities adopted by other jurisdictions in and outside the United States;

(B) methods to integrate state energy planning with local and regional land use planning as they apply to new electric transmission facilities; and

(C) the relative merits of "intervenor funding" and possible methods to fund intervenors in the siting review process for new electric transmission facilities.

(2) The Department's findings resulting from each assessment under this section.

(3) The Department's recommendations resulting from its findings under this section and proposed legislation, if necessary, to carry out those recommendations.

(b) The Department shall have the assistance of the Agencies of Commerce and Community Development and of Natural Resources in completing its tasks under this section.

* * * Public Service Board Ratemaking * * *

Sec. 14. 30 V.S.A. § 218(h) is added to read:

(h) When the Public Service Board has authorized an increase in rates expressly to prevent the bankruptcy or financial instability of a utility, any excess rates incurred above what ordinarily would have been incurred under a traditional cost-of-service methodology shall be returned to ratepayers in the

form of a credit or refund, in a manner to be determined by the Board, and shall not be recoverable in future rates charged to ratepayers.

Sec. 15. APPLICATION

Sec. 14 of this act shall not apply to or alter any Public Service Board order issued prior to the effective date of this act.

* * * Effective Date * * *

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal 2/14/2013)

Action Postponed Until April 30, 2013

Favorable with Amendment

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:

amended 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)

Amendment to be offered by Rep. Mook of Bennington to H. 535

In Sec. 2, 24 App. V.S.A. chapter 162, in § 8 (elected officers), in subsection (b), in the last sentence, by striking out "Marriages and Civil Unions" and inserting in lieu thereof "Civil Marriages"

ACTION CALENDAR

Favorable with Amendment

S. 77

An act relating to patient choice and control at end of life

Rep. Haas of Rochester, for the Committee on **Human Services,** 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. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. RIGHTS OF QUALIFIED PATIENTS SUFFERING A TERMINAL CONDITION

§ 5281. DEFINITIONS

As used in this chapter:

(1) "Capable" means that in the opinion of a court or in the opinion of the patient's prescribing physician, consulting physician, psychiatrist, psychologist, or clinical social worker, a patient has the ability to make and communicate health care decisions to health care providers, including communication through persons familiar with the patient's manner of communicating if those persons are available.

(2) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's illness and who is willing to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

(3) "Dispense" means to prepare and deliver pursuant to a lawful order of a physician a prescription drug in a suitable container appropriately labeled for subsequent use by a patient entitled to receive the prescription drug. The term shall not include the actual administration of a prescription drug to the patient.

(4) "Evaluation" means a consultation between a psychiatrist, psychologist, or clinical social worker licensed in Vermont and a patient for the purpose of confirming that the patient:

(A) is capable; and

(B) does not have impaired judgment.

(5) "Good faith" means objective good faith.

(6) "Health care facility" shall have the same meaning as in section 9432 of this title.

(7) "Health care provider" means a person, partnership, corporation, facility, or institution, licensed or certified or authorized by law to administer health care or dispense medication in the ordinary course of business or practice of a profession.

(8) "Hospice care" means a program of care and support provided by a Medicare-certified hospice provider to help an individual with a terminal condition to live comfortably by providing palliative care, including effective

pain and symptom management. Hospice care may include services provided by an interdisciplinary team that are intended to address the physical, emotional, psychosocial, and spiritual needs of the individual and his or her family.

(9) "Informed decision" means a decision by a patient to request and obtain a prescription for medication to be self-administered to hasten his or her death based on the patient's understanding and appreciation of the relevant facts that was made after the patient was fully informed by the prescribing physician of all the following:

(A) the patient's medical diagnosis;

(B) the patient's prognosis, including an acknowledgement that the physician's prediction of the patient's life expectancy is an estimate based on the physician's best medical judgment and is not a guarantee of the actual time remaining in the patient's life, and that the patient may live longer than the time predicted;

(C) the range of treatment options appropriate for the patient and the patient's diagnosis;

(D) all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;

(E) the range of possible results, including potential risks associated with taking the medication to be prescribed; and

(F) the probable result of taking the medication to be prescribed.

(10) "Palliative care" shall have the same meaning as in section 2 of this title.

(11) "Patient" means a person who is 18 years of age or older, a resident of Vermont, and under the care of a physician.

(12) "Physician" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33.

(13) "Prescribing physician" means the physician whom the patient has designated to have primary responsibility for the care of the patient and who is willing to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

(14)(A) "Qualified patient" means a patient who:

(i) is capable;

(ii) is physically able to self-administer medication;

(iii) has executed an advance directive in accordance with chapter 231 of this title;

(iv) is enrolled in hospice care; and

(v) has satisfied the requirements of this chapter in order to obtain a prescription for medication to hasten his or her death.

(B) An individual shall not qualify under the provisions of this chapter solely because of age or disability.

(15) "Terminal condition" means an incurable and irreversible disease which would, within reasonable medical judgment, result in death within six months.

§ 5282. REQUESTS FOR MEDICATION

(a) In order to qualify under this chapter:

(1) A patient who is capable, who has been determined by the prescribing physician and consulting physician to be suffering from a terminal condition, and who has voluntarily expressed a wish to hasten the dying process may request medication to be self-administered for the purpose of hastening his or her death in accordance with this chapter.

(2) A patient shall have made an oral request and a written request and shall have reaffirmed the oral request to his or her prescribing physician not less than 15 days after the initial oral request. At the time the patient makes the second oral request, the prescribing physician shall offer the patient an opportunity to rescind the request.

(b) Oral requests for medication by the patient under this chapter shall be made in the physical presence of the prescribing physician.

(c) A written request for medication shall be signed and dated by the patient and witnessed by at least two persons, at least 18 years of age, who, in the presence of the patient, sign and affirm that the patient appears to understand the nature of the document and to be free from duress or undue influence at the time the request was signed. Neither witness shall be any of the following persons:

(1) the patient's prescribing physician, consulting physician, or any person who has conducted an evaluation of the patient pursuant to section 5285 of this title;

(2) a person who knows that he or she is a relative of the patient by blood, civil marriage, civil union, or adoption;

(3) a person who at the time the request is signed knows that he or she would be entitled upon the patient's death to any portion of the estate or assets of the patient under any will or trust, by operation of law, or by contract; or

(4) an owner, operator, or employee of a health care facility, nursing home, or residential care facility where the patient is receiving medical treatment or is a resident.

(d) A person who knowingly fails to comply with the requirements in subsection (c) of this section is subject to prosecution under 13 V.S.A. § 2004.

(e) The written request shall be completed only after the patient has been examined by a consulting physician as required under section 5284 of this title.

(f)(1) Under no circumstances shall a guardian or conservator be permitted to act on behalf of a ward for purposes of this chapter.

(2) Under no circumstances shall an agent under an advance directive be permitted to act on behalf of a principal for purposes of this chapter.

§ 5283. PRESCRIBING PHYSICIAN; DUTIES

The prescribing physician shall perform all the following:

(1) determine whether a patient:

(A) is suffering a terminal condition, based on the prescribing physician's physical examination of the patient and review of the patient's relevant medical records;

(B) is capable;

(C) has executed an advance directive in accordance with chapter 231 of this title;

(D) is enrolled in hospice care;

(E) is making an informed decision; and

(F) has made a voluntary request for medication to hasten his or her death;

(2) require proof of Vermont residency, which may be shown by:

(A) a Vermont driver's license or photo identification card;

(B) proof of Vermont voter's registration; or

(C) a Vermont resident personal income tax return for the most recent tax year;

(3) inform the patient in person, both verbally and in writing, of all the following:

(A) the patient's medical diagnosis;

(B) the patient's prognosis, including an acknowledgement that the physician's prediction of the patient's life expectancy is an estimate based on the physician's best medical judgment and is not a guarantee of the actual time remaining in the patient's life, and that the patient may live longer than the time predicted;

(C) the range of treatment options appropriate for the patient and the patient's diagnosis;

(D) all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;

(E) the range of possible results, including potential risks associated with taking the medication to be prescribed; and

(F) the probable result of taking the medication to be prescribed;

(4) refer the patient to a consulting physician for medical confirmation of the diagnosis, prognosis, and a determination that the patient is capable and is acting voluntarily;

(5) verify that the patient does not have impaired judgment or refer the patient for an evaluation under section 5285 of this chapter;

(6) with the patient's consent, consult with the patient's primary care physician, if the patient has one;

(7) recommend that the patient notify the next of kin or someone with whom the patient has a significant relationship;

(8) counsel the patient about the importance of ensuring that another individual is present when the patient takes the medication prescribed pursuant to this chapter and the importance of not taking the medication in a public place;

(9)(A) inform the patient that the patient has an opportunity to rescind the request at any time and in any manner; and

(B) offer the patient an opportunity to rescind after the patient's second oral request;

(10) verify, immediately prior to writing the prescription for medication under this chapter, that the patient is making an informed decision;

(11) fulfill the medical record documentation requirements of section 5290 of this title;

(12) ensure that all required steps are carried out in accordance with this chapter prior to writing a prescription for medication to hasten death; and

(13)(A) dispense medication directly, including ancillary medication intended to facilitate the desired effect while minimizing the patient's discomfort, provided the prescribing physician is licensed to dispense medication in Vermont, has a current Drug Enforcement Administration certificate, and complies with any applicable administrative rules; or

(B) with the patient's written consent:

(i) contact a pharmacist and inform the pharmacist of the prescription; and

(ii) deliver the written prescription personally or by mail or facsimile to the pharmacist, who will dispense the medication to the patient, the prescribing physician, or an expressly identified agent of the patient.

§ 5284. MEDICAL CONSULTATION REQUIRED

Before a patient is qualified in accordance with this chapter, a consulting physician shall physically examine the patient, review the patient's relevant medical records, and confirm in writing the prescribing physician's diagnosis that the patient is suffering from a terminal condition and verify that the patient is capable, is acting voluntarily, and has made an informed decision. The consulting physician shall either verify that the patient does not have impaired judgment or refer the patient for an evaluation under section 5285 of this chapter.

§ 5285. REFERRAL FOR EVALUATION

If, in the opinion of the prescribing physician or the consulting physician, a patient may have impaired judgment, either physician shall refer the patient for an evaluation. A medication to end the patient's life shall not be prescribed until the person conducting the evaluation determines that the patient is capable and does not have impaired judgment.

§ 5286. INFORMED DECISION

A person shall not receive a prescription for medication to hasten his or her death unless the patient has made an informed decision. Immediately prior to writing a prescription for medication in accordance with this chapter, the prescribing physician shall verify that the patient is making an informed decision.

§ 5287. RECOMMENDED NOTIFICATION

The prescribing physician shall recommend that the patient notify the patient's next of kin or someone with whom the patient has a significant

relationship of the patient's request for medication in accordance with this chapter. A patient who declines or is unable to notify the next of kin or the person with whom the patient has a significant relationship shall not be refused medication in accordance with this chapter.

§ 5288. RIGHT TO RESCIND

A patient may rescind the request for medication in accordance with this chapter at any time and in any manner regardless of the patient's mental state. A prescription for medication under this chapter shall not be written without the prescribing physician's offering the patient an opportunity to rescind the request.

§ 5289. WAITING PERIOD

The prescribing physician shall write a prescription no less than 48 hours after the last to occur of the following events:

(1) the patient's written request for medication to hasten his or her death;

(2) the patient's second oral request; or

(3) the prescribing physician's offering the patient an opportunity to rescind the request.

§ 5290. MEDICAL RECORD DOCUMENTATION

(a) The following shall be documented and filed in the patient's medical record:

(1) the date, time, and wording of all oral requests of the patient for medication to hasten his or her death;

(2) all written requests by a patient for medication to hasten his or her death;

(3) the prescribing physician's diagnosis, prognosis, and basis for the determination that the patient is capable, is acting voluntarily, and has made an informed decision;

(4) the consulting physician's diagnosis, prognosis, and verification, pursuant to section 5284 of this title, that the patient is capable, is acting voluntarily, and has made an informed decision;

(5) a copy of the patient's advance directive;

(6) the prescribing physician's attestation that the patient was enrolled in hospice care at the time of the patient's oral and written requests for medication to hasten his or her death;

(7) the prescribing physician's and consulting physician's verifications that the patient either does not have impaired judgment or that the prescribing or consulting physician, or both, referred the patient for an evaluation pursuant to section 5285 of this title and the person conducting the evaluation has determined that the patient does not have impaired judgment;

(8) a report of the outcome and determinations made during any evaluation which the patient may have received;

(9) the date, time, and wording of the prescribing physician's offer to the patient to rescind the request for medication at the time of the patient's second oral request; and

(10) a note by the prescribing physician indicating that all requirements under this chapter have been satisfied and describing all of the steps taken to carry out the request, including a notation of the medication prescribed.

(b) Medical records compiled pursuant to this chapter shall be subject to discovery only if the court finds that the records are:

(1) necessary to resolve issues of compliance with or limitations on actions under this chapter; or

(2) essential to proving individual cases of civil or criminal liability and are otherwise unavailable.

§ 5291. REPORTING REQUIREMENT

(a) The Department of Health shall require:

(1) that any physician who writes a prescription pursuant to this chapter promptly file a report with the Department covering all the prerequisites for writing a prescription under this chapter; and

(2) physicians to report on an annual basis the number of written requests for medication received pursuant to this chapter, regardless of whether a prescription was actually written in each instance.

(b) The Department shall review annually the medical records of qualified patients who hastened their deaths in accordance with this chapter during the previous year.

(c) The Department shall adopt rules pursuant to 3 V.S.A. chapter 25 to facilitate the collection of information regarding compliance with this chapter and to enable the Department to report information as required by subsection (d) of this section. Individually identifiable health information collected under this chapter, as well as reports filed pursuant to subdivision (a)(1) of this section, are confidential and are exempt from public inspection and copying under the Public Records Act.

(d) The Department shall generate and make available to the public an annual statistical report of information collected under subsections (a) and (b) of this section, including:

(1) demographic information regarding patients who hastened their deaths in accordance with this chapter, including the underlying illness and the type of health insurance or other health coverage, if any;

(2) reasons given by patients for their use of medication to hasten their deaths in accordance with this chapter, including whether patients expressed concerns about:

(A) being a burden to family or caregivers;

(B) the financial implications of treatment; and

(C) inadequate pain control;

(3) information regarding physicians prescribing medication in accordance with this chapter, including physicians' compliance with the requirements of this chapter;

(4) the number of patients who did not take the medication prescribed pursuant to this chapter and died of other causes; and

(5) the length of time between when a patient ingested the medication and when death occurred and the number of instances in which medication was taken by a qualified patient to hasten death but failed to have the intended effect.

§ 5292. SAFE DISPOSAL OF UNUSED MEDICATIONS

The Department of Health shall adopt rules providing for the safe disposal of unused medications prescribed under this chapter.

(1) The Department initially shall adopt rules under this section as emergency rules pursuant to 3 V.S.A. § 844. The General Assembly determines that adoption of emergency rules pursuant to this subdivision is necessary to address an imminent peril to public health and safety.

(2) Contemporaneously with the initial adoption of emergency rules under subdivision (1) of this section, the Department shall propose permanent rules under this section for adoption pursuant to 3 V.S.A. §§ 836–843. The Department subsequently may revise these rules in accordance with the Vermont Administrative Procedure Act.

§ 5293. PROHIBITIONS; CONTRACT CONSTRUCTION; INSURANCE POLICIES

(a) A provision in a contract, will, trust, or other agreement, whether

written or oral, shall not be valid to the extent the provision would affect whether a person may make or rescind a request for medication to hasten his or her death in accordance with this chapter.

(b) The sale, procurement, or issue of any life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the making or rescinding of a request by a person for medication to hasten his or her death in accordance with this chapter or the act by a qualified patient to hasten his or her death pursuant to this chapter. Neither shall a qualified patient's act of ingesting medication to hasten his or her death have an effect on a life, health, or accident insurance or annuity policy.

(c) The sale, procurement, or issue of any medical malpractice insurance policy or the rate charged for the policy shall not be conditioned upon or affected by whether the physician is willing or unwilling to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

§ 5294. LIMITATIONS ON ACTIONS

(a) A person shall not be subject to civil or criminal liability or professional disciplinary action for actions taken in good faith reliance on the provisions of this chapter. This includes being present when a qualified patient takes the prescribed medication to hasten his or her death in accordance with this chapter.

(b) A health care provider shall not subject a person to discipline, suspension, loss of license, loss of privileges, or other penalty for actions taken in good faith reliance on the provisions of this chapter or refusals to act under this chapter.

(c) The provision by a prescribing physician of medication in good faith reliance on the provisions of this chapter shall not constitute patient neglect for any purpose of law.

(d) A request by a patient for medication under this chapter shall not provide the sole basis for the appointment of a guardian or conservator.

(e) A health care provider shall not be under any duty, whether by contract, by statute, or by any other legal requirement, to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter. If a health care provider is unable or unwilling to carry out a patient's request in accordance with this chapter and the patient transfers his or her care to a new health care provider, the previous health care provider, upon request, shall transfer a copy of the patient's relevant medical records to the

new health care provider. A decision by a health care provider not to participate in the provision of medication to a qualified patient shall not constitute the abandonment of the patient or unprofessional conduct under 26 V.S.A. § 1354.

§ 5295. HEALTH CARE FACILITY EXCEPTION

Notwithstanding any other provision of law to the contrary, a health care facility may prohibit a prescribing physician from writing a prescription for medication under this chapter for a patient who is a resident in its facility and intends to use the medication on the facility's premises, provided the facility has notified the prescribing physician in writing of its policy with regard to the prescriptions. Notwithstanding subsection 5294(b) of this title, any health care provider who violates a policy established by a health care facility under this section may be subject to sanctions otherwise allowable under law or contract.

§ 5296. LIABILITIES AND PENALTIES

(a) With the exception of the limitations on actions established by section 5294 of this title and with the exception of the provisions of section 5298 of this title, nothing in this chapter shall be construed to limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

(b) With the exception of the limitations on actions established by section 5294 of this title and with the exception of the provisions of section 5298 of this title, nothing in this chapter or in 13 V.S.A. § 2312 shall be construed to limit criminal prosecution under any other provision of law.

(c) A health care provider is subject to review and disciplinary action by the appropriate licensing entity for failing to act in accordance with this chapter, provided such failure is not in good faith.

§ 5297. FORM OF THE WRITTEN REQUEST

A written request for medication as authorized by this chapter shall be substantially in the following form:

REQUEST FOR MEDICATION TO HASTEN MY DEATH

I, _____ , am an adult of sound mind.

I am suffering from _____, which my prescribing physician has determined is a terminal disease and which has been confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, and the expected result. I am enrolled in hospice care and have completed an advance directive.

I request that my prescribing physician prescribe medication that will hasten my death.

INITIAL ONE:

_____ I have informed my family or others with whom I have a significant relationship of my decision and taken their opinions into consideration.

_____ I have decided not to inform my family or others with whom I have a significant relationship of my decision.

_____ I have no family or others with whom I have a significant relationship to inform of my decision.

I understand that I have the right to change my mind at any time.

I understand the full import of this request, and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer, and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: _____ Dated: _____

AFFIRMATION OF WITNESSES

We affirm that, to the best of our knowledge and belief:

(1) the person signing this request:

(A) is personally known to us or has provided proof of identity;

(B) signed this request in our presence;

(C) appears to understand the nature of the document and to be free from duress or undue influence at the time the request was signed; and

(2) that neither of us:

(A) is under 18 years of age;

(B) is a relative (by blood, civil marriage, civil union, or adoption) of the person signing this request;

(C) is the patient's prescribing physician, consulting physician, or a person who has conducted an evaluation of the patient pursuant to 18 V.S.A. § 5285;

(D) is entitled to any portion of the person's assets or estate upon death; or

(E) owns, operates, or is employed at a health care facility where the person is a patient or resident.

Witness 1/Date _____

Witness 2/Date _____

NOTE: A knowingly false affirmation by a witness may result in criminal penalties.

§ 5298. STATUTORY CONSTRUCTION

Nothing in this chapter shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Action taken in accordance with this chapter shall not be construed for any purpose to constitute suicide, assisted suicide, mercy killing, or homicide under the law.

Sec. 2. 13 V.S.A. § 2312 is added to read:

§ 2312. VIOLATION OF PATIENT CHOICE AND CONTROL AT END OF LIFE ACT

A person who violates 18 V.S.A. chapter 113 with the intent to cause the death of a patient as defined in subdivision 5281(11) of that title may be prosecuted under chapter 53 of this title (homicide).

Sec. 3. 13 V.S.A. § 2004 is added to read:

§ 2004. FALSE WITNESSING

A person who knowingly violates the requirements of 18 V.S.A. § 5282(c) shall be imprisoned for not more than 10 years or fined not more than $2,000.00, or both.

Sec. 4. EFFECTIVE DATES

This act shall take effect on September 1, 2013, except that 18 V.S.A. § 5292 (rules for safe disposal of unused medications) in Sec. 1 of this act shall take effect on passage. The Department of Health shall ensure that emergency rules adopted under Sec. 1 of this act, 18 V.S.A. § 5292, are in effect on or before September 1, 2013.

(Committee vote: 7-4-0)

(For text see Senate Journal 2/13/2013 and 2/14/2013)

Rep. Waite-Simpson of Essex, for the Committee on **Judiciary,** 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, 18 V.S.A. § 5281, by adding a new subdivision (9) to read as follows:

(9) "Impaired judgment" means that a person does not sufficiently appreciate the relevant facts necessary to make an informed decision.

And by renumbering the remaining subdivisions in the section to be numerically correct

Second: In Sec. 1, in 18 V.S.A. § 5281, in renumbered (10)(D), before the word "all" by inserting "if the patient is not enrolled in hospice care,"

Third: In Sec. 1, in 18 V.S.A. § 5281, by striking renumbered (14) in its entirety and inserting in lieu thereof a new subdivision (14) to read as follows:

(14) "Prescribing physician" means the physician whom the patient has designated to have responsibility for the care of the patient pursuant to this chapter and who is willing to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

Fourth: In Sec. 1, in 18 V.S.A. § 5281, in renumbered (15)(A)(iv), after the word "care" by inserting the words "or has been informed of all feasible end-of-life services pursuant to subdivision 5283(3)(D) of this title"

Fifth: In Sec. 1, in 18 V.S.A. § 5283(3)(D), before the word "all" by inserting "if the patient is not enrolled in hospice care,"

Sixth: In Sec. 1, in 18 V.S.A. § 5290(a)(6), after the word "death" by inserting the words "or that the prescribing physician informed the patient of all feasible end-of-life services"

Seventh: In Sec. 1, in 18 V.S.A. § 5290, by striking the designation (a) and subsection (b) in its entirety

Eighth: In Sec. 1, in 18 V.S.A. § 5291, by striking subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d) The Department shall generate, and make available to the public to the extent that doing so would not reasonably be expected to violate the privacy of any person, an annual statistical report of information collected under subsections (a) and (b) of this section, including:

(1) demographic information regarding qualified patients who hastened their deaths in accordance with this chapter, including the underlying illness and the type of health insurance or other health coverage, if any;

(2) any reasons given by qualified patients for their use of medication to hasten their deaths in accordance with this chapter;

(3) information regarding physicians prescribing medication in accordance with this chapter, including physicians' compliance with the requirements of this chapter;

(4) the number of qualified patients who did not take the medication prescribed pursuant to this chapter and died of other causes; and

(5) the number of instances in which medication was taken by a qualified patient to hasten death but failed to have the intended effect.

Ninth: In Sec. 1, in 18 V.S.A. § 5297, in the form, after "and the expected result." by striking "I am enrolled in hospice care and have completed an advance directive." and inserting "I have completed an advance directive. I have been informed of all feasible end-of-life services or am enrolled in hospice care."

Tenth: In Sec. 1, 18 V.S.A., chapter 113, by striking § 5293 in its entirety and inserting in lieu thereof a new § 5293 to read as follows:

§ 5293. PROHIBITIONS; INSURANCE POLICIES

(a) The sale, procurement, or issue of any life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the making or rescinding of a request by a person for medication to hasten his or her death in accordance with this chapter or the act by a qualified patient to hasten his or her death pursuant to this chapter. Neither shall a qualified patient's act of ingesting medication to hasten his or her death have an effect on a life, health, or accident insurance or annuity policy.

(b) The sale, procurement, or issue of any medical malpractice insurance policy or the rate charged for the policy shall not be conditioned upon or affected by whether the physician is willing or unwilling to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

Eleventh: In Sec. 1, 18 V.S.A., chapter 113, by striking § 5294 in its entirety and inserting in lieu thereof a new § 5294 to read as follows:

§ 5294. LIMITATIONS ON ACTIONS

(a) A person shall not be subject to civil or criminal liability or professional disciplinary action for actions taken in good faith reliance on the provisions of this chapter.

(b) A person shall not be subject to civil or criminal liability or professional disciplinary action solely for being present when a qualified patient takes prescribed medication to hasten his or her death in accordance with this chapter.

(c) A health care provider shall not subject a person to discipline, suspension, loss of license, loss of privileges, or other penalty for actions taken in good faith reliance on the provisions of this chapter or refusals to act under this chapter.

(d) The provision by a prescribing physician of medication in good faith reliance on the provisions of this chapter shall not constitute patient neglect for any purpose of law.

(e) A request by a patient for medication under this chapter shall not provide the sole basis for the appointment of a guardian or conservator.

(f)(1) A health care provider shall not be under any duty, whether by contract, by statute, or by any other legal requirement, to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

(2) If a health care provider is unable or unwilling to carry out a patient's request in accordance with this chapter and the patient transfers his or her care to a new health care provider, the previous health care provider, upon request, shall transfer a copy of the patient's relevant medical records to the new health care provider.

(3) A decision by a health care provider not to participate in the provision of medication to a qualified patient shall not constitute the abandonment of the patient or unprofessional conduct under 26 V.S.A. § 1354.

(g) This section shall not be construed to limit civil or criminal liability for gross negligence, recklessness, or intentional misconduct.

Twelfth: In Sec. 1, in 18 V.S.A. § 5296(b), after the word "chapter" by striking the words "or in 13 V.S.A. § 2312"

Thirteenth: In Sec. 1, in 18 V.S.A. § 5298, after "law." by inserting "This section shall not be construed to conflict with section 1553 of the Patient Protection and Affordable Health Care Act, Pub.L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub.L. No. 111-152."

Fourteenth: In Sec. 1, 18 V.S.A., chapter 113, by adding § 5299 to read as follows:

§ 5299. NO EFFECT ON PALLIATIVE SEDATION

This chapter shall not limit or otherwise affect the provision, administration, or receipt of palliative sedation consistent with accepted medical standards.

Fifteenth: By striking Sec. 2 in its entirety

and by renumbering the remaining sections and cross references to be numerically correct

(Committee Vote: 8-3-0)

Amendment to be offered by Rep. Morrissey of Bennington to the recommendation of amendment of the Committee on Human Services to S. 77

First: In Sec. 1, in 18 V.S.A. § 5283, in subdivision (12), by striking out the word "and" following the semicolon; in subdivision (13), by inserting before the period "; and" and by adding a subdivision (14) to read as follows:

(14) personally verify the cause of a qualified patient's death for the purposes of completing a death certificate specifying whether the immediate cause of death was the underlying terminal condition, ingestion of the medication prescribed to hasten death in accordance with this chapter, an accident, suspected homicide, or another cause.

and in Sec. 1, in 18 V.S.A. § 5291, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The Department of Health shall require:

(1) that any physician who writes a prescription pursuant to this chapter promptly file a report with the Department covering all the prerequisites for writing a prescription under this chapter;

(2) that any physician who writes a prescription pursuant to this chapter promptly report to the Department the immediate cause of a qualified patient's death for the purposes of completing the patient's death certificate, specifying whether the immediate cause of death was the underlying terminal condition, ingestion of the medication prescribed to hasten death in accordance with this chapter, an accident, suspected homicide, or another cause; and

(3) physicians to report on an annual basis the number of written requests for medication received pursuant to this chapter, regardless of whether a prescription was actually written in each instance.

Amendment to be offered by Rep. Kilmartin of Newport City to the recommendation of amendment of the Committee on Human Services to S. 77

First: In Sec. 1, 18 V.S.A. § 5296, by adding a subsection (d) to read as follows:

(d)(1)(A) No health insurance plan, health care provider, or other person shall deny any individual health care coverage, benefits, treatment, or services as a direct or indirect result of the potential or actual availability to the individual of medication to hasten his or her death in accordance with this chapter.

(B) As used in this subsection, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in section 9402 of this title; Green Mountain Care, established pursuant to 33 V.S.A. chapter 18, subchapter 2, and any other publicly financed health care system; and, to the extent not expressly prohibited by federal law, Medicaid and any other public health care assistance programs offered or administered by the State or by any subdivision or instrumentality of the State. The term shall also include policies and plans providing coverage for specified diseases and other limited benefit coverage.

(2)(A)(i) Any health insurance plan, health care provider, or other person who denies health care coverage, benefits, treatment, or services to a person with the intent to violate subdivision (1) of this subsection (d) shall be assessed a civil penalty of not more than $25,000.00. A civil action to enforce this subdivision may be brought by the Attorney General, a state's attorney, or a person or the estate of a person who has been denied health care coverage, benefits, treatment, or services in violation of subdivision (1) of this subsection (d).

(ii) Notwithstanding any other provision of law:

(I) One-third of the civil penalties collected pursuant to this subdivision shall be transferred to the Office of the Attorney General to support investigation of abuses of chapter 113 of this title (Rights of qualified patients suffering a terminal condition) pursuant to Sec. 4 of this act.

(II) Two-thirds of the civil penalties collected pursuant to this subdivision shall be transferred to the Department of Disabilities, Aging, and Independent Living for purposes of funding the services the Department provides.

(B) Proceedings brought under this subdivision shall be brought in the Civil Division of the Superior Court and shall be subject to the limitations

period of 12 V.S.A. § 512.

(C) The Attorney General shall have the same authority to make rules, conduct civil investigations, and bring civil actions for violations of this subdivision as is provided under 9 V.S.A. chapter 63. In an action brought by the Attorney General under this chapter the court may award or impose any relief available under 9 V.S.A. chapter 63.

(3)(A) A person denied health care coverage, benefits, treatment, or services in violation of subdivision (1) of this subsection (d) shall have a civil action for all damages arising from the denial, including the cost or value of the treatment denied, had it been allowed, and recovery of reasonable attorney's fees and expenses, including the costs of obtaining expert opinions in the event the person prevails.

(B) An action brought under this subdivision shall be:

(i) tried before a jury if the plaintiff so demands;

(ii) subject to the limitations period of 12 V.S.A. § 512; and

(iii) considered an action for bodily harm or injury which shall survive as provided in 14 V.S.A. § 1452.

(C)(i) No cap or ceiling on damages in any other statute, regulation, court rule, or judicial decision shall apply in civil actions under this subdivision.

(ii) If it is established by a preponderance of the evidence that a person's death was proximately caused by a violation of subdivision (1) of this subsection (d), the court may award, in addition to any other damages available, damages to the extent proven under 14 V.S.A. § 1492.

(D) The defense of sovereign immunity shall not be available to the State or any subdivision or instrumentality of the State named as a defendant in an action brought under this subdivision.

(E) There shall be a rebuttable presumption that a denial of health care coverage, benefits, treatment, or services was in violation of subdivision (1) of this subsection (d) if the denial occurred 90 days or less before the options afforded by this chapter became available to the person. The rebuttable presumption may only be overcome by clear and convincing admissible evidence to the contrary.

(F)(i) If it is established by clear and convincing evidence that a person's death was proximately caused by a violation of subdivision (1) of this subsection (d), all damages, exclusive of costs and attorney's fees, shall be doubled by the court after the jury's verdict.

(ii) If the judge determines as a matter of law that the evidence of proximate causation met the clear and convincing evidence standard, the judge shall pose an interrogatory to the jury as to what standard of proof has been met, instruct the jury as to the definitions of the two standards, and accept the jury's determination in awarding double damages pursuant to this subdivision.

(iii) If the judge finds as a matter of law that the evidence of proximate causation did not meet the clear and convincing evidence standard, the judge shall instruct the jury only as to preponderance of the evidence.

(iv) This subdivision shall not be construed to change or in any way affect the law relating to, or the judge's authority to impose, judgments as a matter of law under Rule 50 of the Vermont Rules of Civil Procedure.

Second: By adding a Sec. 4 to read:

Sec. 4. 4 V.S.A. § 31a is added to read:

§ 31a. JURISDICTION; CIVIL DIVISION; PRESIDING JUDGE SITTING ALONE

The presiding judge of the Civil Division, sitting without a jury or assistant judges, shall have jurisdiction over proceedings under 18 V.S.A. § 5296(d)(2) to impose civil penalties for violations of 18 V.S.A. § 5296(d)(1), relating to denial of health care coverage, benefits, treatment, or services.

Third: By adding a new Sec. 5 to read:

Sec. 5. ATTORNEY GENERAL'S OFFICE, SPECIAL INVESTIGATIONS UNIT; DENIAL OF TREATMENT VIOLATIONS

(a) There is established within the Office of the Attorney General a Special Investigations Unit to investigate abuses of 18 V.S.A. chapter 113 (Rights of qualified patients suffering a terminal condition). The unit shall investigate all allegations of abuse and misuse of the procedures of 18 V.S.A. chapter 113, including:

(1) violations of 18 V.S.A. § 5296(d)(1), relating to denial of health care coverage, benefits, treatment, or services to a person as a direct or indirect result of the potential or actual availability to the person of medication to hasten his or her death in accordance with 18 V.S.A. chapter 113; and

(2) civil rights violations arising as a result of a person's exercise of his or her natural, inherent, and unalienable rights of enjoying and defending liberty and pursuing and obtaining happiness as guaranteed by Chapter 1, Article 1 of the Vermont Constitution.

(b) The Special Investigations Unit established by this section shall consist

of at least one full-time assistant attorney general and one full-time qualified investigator who are exclusively dedicated to investigating and prosecuting abuses of 18 V.S.A. chapter 113 as provided in this section.

(c) The Special Investigations Unit established by this section shall report its activities to the General Assembly no later than January 15 of each year.

Fourth: By adding a new Sec. 6 to read:

Sec. 6. APPROPRIATION

The sum of $250,000.00 is appropriated in fiscal year 2014 from the General Fund to the Office of the Attorney General to fund the Special Investigation Unit established to investigate abuses of 18 V.S.A. chapter 113 (Rights of qualified patients suffering a terminal condition).

Fifth: By adding a new Sec. 7 to read:

Sec. 7. POSITIONS CREATED

(a) On July 1, 2013, one classified investigator position is created in the Office of the Attorney General to investigate abuses of 18 V.S.A. chapter 113 (Rights of qualified patients suffering a terminal condition).

(b) On July 1, 2013, one exempt assistant attorney general position is created in the Office of the Attorney General to investigate abuses of 18 V.S.A. chapter 113 (Rights of qualified patients suffering a terminal condition).

and by renumbering the remaining section to be numerically correct

S. 88

An act relating to telemedicine services delivered outside a health care facility

Rep. Till of Jericho, for the Committee on **Health Care,** recommends that the House propose to the Senate that the bill be amended as follows:

In Sec. 1, in the second sentence, after "service delivery,", by inserting the words "the possibility of equipping home health agency nurses with the tools needed to provide telemedicine services during home health visits,"

(Committee vote: 8-2-1)

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

S. 150

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

Rep. Brennan of Colchester, for the Committee on **Transportation,** 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. 23 V.S.A. § 4(11) is amended to read:

(11) "Enforcement officers" shall include:

(A) the following persons certified pursuant to 20 V.S.A. § 2358: sheriffs, deputy sheriffs, constables whose authority has not been limited under 24 V.S.A. § 1936a, police officers, state's attorneys, capitol police officers, motor vehicle inspectors, state game wardens, and state police~~, and~~;

(B) for enforcement of offenses relating to parking of motor vehicles, meter checkers~~,~~ and other duly authorized employees of a municipality employed to assist in the enforcement of parking regulations~~. "Enforcement officers" shall also include~~;

(C) for enforcement of nonmoving traffic violations enumerated in subdivisions 2302(a)(1), (2), (3), and (4) of this title, duly authorized employees of the ~~department of motor vehicles for the purpose of issuing~~ Department of Motor Vehicles. Such employees may issue complaints ~~related to their administrative duties, pursuant to 4 V.S.A. § 1105,~~ in accordance with 4 V.S.A. § 1105.

Sec. 2. 23 V.S.A. § 4(11) is amended to read:

(11) "Enforcement officers" shall include:

(A) the following persons certified pursuant to 20 V.S.A. § 2358: sheriffs, deputy sheriffs, constables whose authority has not been limited under 24 V.S.A. § 1936a, police officers, state's attorneys, capitol police officers, motor vehicle inspectors, liquor investigators, state game wardens, and state police~~, and~~;

(B) for enforcement of offenses relating to parking of motor vehicles, meter checkers~~,~~ and other duly authorized employees of a municipality employed to assist in the enforcement of parking regulations~~. "Enforcement officers" shall also include~~;

(C) for enforcement of nonmoving traffic violations enumerated in subdivisions 2302(a)(1), (2), (3), and (4) of this title, duly authorized employees of the ~~department of motor vehicles~~ ~~for the purpose of issuing~~ Department of Motor Vehicles. Such employees may issue complaints ~~related~~

~~to their administrative duties, pursuant to 4 V.S.A. § 1105,~~ in accordance with 4 V.S.A. § 1105.

Sec. 3. 23 V.S.A. § 4(42) is amended to read:

(42) "Transporter" shall mean a person engaged in the business of delivering vehicles of a type required to be registered hereunder from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer, and includes persons regularly engaged in the business of towing trailer coaches, owned by them or temporarily in their custody, on their own wheels over public highways~~,~~; persons towing office trailers owned by them or temporarily in their custody, on their own wheels over public highways~~,~~; persons regularly engaged and properly licensed for the short-term rental of "storage trailers" owned by them and who move these storage trailers on their own wheels over public highways~~, and~~; persons regularly engaged in the business of moving modular homes over public highways; and ~~shall also include~~ dealers and automobile repair shop owners when engaged in the transportation of motor vehicles to and from their place of business for repair purposes. "Transporter" shall also include ~~other~~ persons~~, firms or corporations, provided the transportation and delivery of motor vehicles is a common and usual incident to the~~ towing overwidth trailers owned by them in connection with their business, or whose business is the repossession of motor vehicles ~~in connection with~~ provided that the transportation and delivery of motor vehicles is a common and usual incident to their business. For purposes of this subdivision, "short-term rental" shall mean a period of less than one year. Before a person may become licensed as a transporter, he or she shall present proof of compliance with section 800 of this title. He or she shall also either own or lease a permanent place of business located in this ~~state~~ State where business shall be conducted during regularly established business hours and the required records stored and maintained.

* * * Placards for Persons with Disabilities * * *

Sec. 4. 23 V.S.A. § 304a(c) is amended to read:

(c) Vehicles with special registration plates or removable windshield placards from any state ~~or which have a handicapped parking card issued by the commissioner of motor vehicles~~ may use the special parking spaces when:

(1) the ~~card or~~ placard is displayed ~~in the lower right side of the windshield~~:

(A) by hanging it from the front windshield rearview mirror in such a manner that it may be viewed from the front and rear of the vehicle; or

(B) if the vehicle has no rearview mirror, on the dashboard;

(2) the plate is mounted as provided in section 511 of this title; or

(3) the plate is mounted or the placard displayed as provided by the law of the ~~state~~ jurisdiction where the vehicle is registered.

* * * Temporary Registrations * * *

Sec. 5. 23 V.S.A. § 305(d) is amended to read:

(d) When a registration for a motor vehicle, snowmobile, motorboat, or all-terrain vehicle is processed electronically, a receipt shall be available for printing. The receipt shall serve as a temporary registration. To be valid, the temporary registration shall be in the possession of the operator at all times, and it shall expire ten days after the date of the transaction.

* * * Registration Fees, Taxes on Trailers * * *

Sec. 6. 23 V.S.A. § 371 is amended to read:

§ 371. TRAILER AND SEMI-TRAILER

(a)(1) The one-year and two-year fees for registration of a trailer or semi-trailer, except a contractor's trailer or farm trailer, shall be as follows:

(A) $25.00 and $48.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of ~~less than~~ 1,500 pounds or less;

(B) $49.00 and $96.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of more than 1,500 pounds ~~or more,~~ and is drawn by a vehicle of the pleasure car type;

(C) $49.00 and $96.00, respectively, when such trailer or semi-trailer is drawn by a motor truck or tractor, when such trailer or semi-trailer has a gross weight of more than 1,500 pounds ~~or more,~~ but ~~not in excess of~~ less than 3,000 pounds;

(D) $49.00 and $96.00, respectively, when such trailer or semi-trailer is used in combination with a truck-tractor or motor truck registered at the fee provided for combined vehicles under section 367 of this title. Excepting for the fees, the provisions of this subdivision shall not apply to trailer coaches as defined in section 4 of this title nor to modular homes being transported by trailer or semi-trailer.

(2) The one-year and two-year fees for registration of a contractor's trailer shall be $145.00 and $290.00, respectively.

(b)(1) ~~A~~ Except as provided in subdivision (2) of this subsection, a trailer or semi-trailer, except a farm trailer, may be registered for a period of five years for a fee equal to five times the annual fee established by subsection (a) of this section.

(2) A trailer or semi-trailer may be registered for a period of five years for a fee of $100.00 if at least 80 percent of the miles that it is drawn is outside the State of Vermont.

~~(2)~~(3) Any registration made for a period of five years shall cost the full fee regardless of the month in which the registration is made, but a five-year registration may be transferred or cancelled in the same manner as an annual registration.

Sec. 6a. 23 V.S.A. § 371(b) is amended to read:

(b)(1) ~~Except as provided in subdivision (2) of this subsection, a~~ A trailer or semi-trailer, except a farm trailer, may be registered for a period of five years for a fee equal to five times the annual fee established by subsection (a) of this section.

(2) ~~A trailer or semi-trailer may be registered for a period of five years for a fee of $100.00 if at least 80 percent of the miles that it is drawn is outside the State of Vermont.~~ [Repealed.]

(3) Any registration made for a period of five years shall cost the full fee regardless of the month in which the registration is made, but a five-year registration may be transferred or cancelled in the same manner as an annual registration.

Sec. 6b. 23 V.S.A. § 301 is amended to read:

§ 301. PERSONS REQUIRED TO REGISTER

Residents, except as provided in section 301a and chapter 35 of this title, shall annually register motor vehicles owned or leased for a period of more than 30 days and operated by them, unless currently registered in Vermont. Notwithstanding this section, a resident who has moved into the ~~state~~ State from another jurisdiction shall register his or her motor vehicle within 60 days of moving into the ~~state~~ State. A person shall not operate a motor vehicle nor draw a trailer or semi-trailer on any highway unless such vehicle is registered as provided in this chapter. Vehicle owners who have apportioned power units registered under the International Registration Plan are exempt from the requirement to register their trailers in this State.

Sec. 6c. 23 V.S.A. § 301 is amended to read:

§ 301. PERSONS REQUIRED TO REGISTER

Residents, except as provided in section 301a and chapter 35 of this title, shall annually register motor vehicles owned or leased for a period of more than 30 days and operated by them, unless currently registered in Vermont. Notwithstanding this section, a resident who has moved into the State from

another jurisdiction shall register his or her motor vehicle within 60 days of moving into the State. A person shall not operate a motor vehicle nor draw a trailer or semi-trailer on any highway unless such vehicle is registered as provided in this chapter. ~~Vehicle owners who have apportioned power units registered under the International Registration Plan are exempt from the requirement to register their trailers in this State.~~

Sec. 6d. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

* * *

(23) a trailer or semi-trailer if at least 80 percent of the miles that the trailer or semi-trailer has been or will be drawn is outside the State of Vermont.

Sec. 6e. 32 V.S.A. § 8911(23) is amended to read:

(23) ~~a trailer or semi-trailer if at least 80 percent of the miles that the trailer or semi-trailer has been or will be drawn is outside the State of Vermont.~~ [Repealed.]

* * * Biennial Motorboat Registration * * *

Sec. 7. 23 V.S.A. § 3305 is amended to read:

§ 3305. FEES

(a) A person shall not operate a motorboat on the public waters of this state unless the motorboat is registered in accordance with this chapter.

(b) Annually or biennially, the owner of each motorboat required to be registered by this state shall file an application for a number with the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by ~~a~~ an annual fee of $22.00 and a surcharge of $5.00, or a biennial fee of $39.00 and a surcharge of $10.00, for a motorboat in class A; by ~~a~~ an annual fee of $33.00 and a surcharge of $10.00, or a biennial fee of $61.00 and a surcharge of $20.00, for a motorboat in class 1; by ~~a~~ an annual fee of $60.00 and a surcharge of $10.00, or a biennial fee of $115.00 and a surcharge of $20.00, for a motorboat in class 2; by ~~a~~ an annual fee of $126.00 and a surcharge of $10.00, or a biennial fee of $247.00 and a surcharge of $20.00, for a motorboat in class 3. Upon receipt of the application in approved form, the ~~commissioner~~ Commissioner shall enter the application upon the records of the ~~department of motor vehicles~~ Department of Motor Vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner.

The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the ~~commissioner~~ Commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue in the case of annual registrations, or void two years from the first day of the month following the month of issue in the case of biennial registrations. A vessel of less than 10 horsepower used as a tender to a registered vessel shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered vessel with the number "1" after the number. The number shall be maintained in legible condition. The registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of $2.00 to the ~~commissioner~~ Commissioner. Notwithstanding section 3319 of this chapter, $5.00 of each registration fee shall be allocated to the ~~transportation fund~~ Transportation Fund. The remainder of the fee shall be allocated in accordance with section 3319 of this title.

* * *

(d)(1) Registration of a motorboat ends when the owner transfers title to another. The former owner shall immediately return directly to the ~~commissioner~~ Commissioner the registration certificate previously assigned to the transferred motorboat with the date of sale and the name and residence of the new owner endorsed on the back of the certificate.

(2) When a person transfers the ownership of a registered motorboat to another, files a new application and pays a fee of $5.00, he or she may have registered in his or her name another motorboat of the same class for the remainder of the registration ~~year~~ period without payment of any additional registration fee. However, if the fee for the registration of the motorboat sought to be registered is greater than the registration fee for the transferred motorboat, the applicant shall pay the difference between the fee first paid and the fee for the class motorboat sought to be registered.

* * *

(f) Every registration certificate awarded under this subchapter shall continue in effect ~~for one year from the first day of the month of issue~~ as prescribed in subsection (b) of this section unless sooner ended under this chapter. The registration certificate may be renewed by the owner in the same manner provided for in securing the initial certificate.

* * *

* * * Off-Site Display of Vehicles by Dealers * * *

Sec. 8. 23 V.S.A. § 451(b) is amended to read:

(b) With the prior approval of the ~~commissioner~~ Commissioner, a Vermont dealer may display vehicles on a temporary basis, but in no instance for more than ~~10~~ 14 days, at fairs, shows, exhibitions, and other off-site locations within the manufacturer's stated area of responsibility in the franchise agreement. No sales may be transacted at these ~~off-site~~ off-site locations. A dealer desiring to display vehicles temporarily at an off-site location shall notify the ~~commissioner~~ Commissioner in a manner prescribed by the ~~commissioner~~ Commissioner no less than two days prior to the first day for which approval is requested.

* * * Penalties for Unauthorized Operation by Junior Operators and Learner's Permit Holders * * *

Sec. 9. 23 V.S.A. § 607a is amended to read:

§ 607a. RECALL OF LEARNER'S PERMIT OR JUNIOR OPERATOR'S LICENSE

(a) A learner's permit or junior operator's license shall contain an admonition that it is recallable and that the later procurement of an operator's license is conditional on the establishment of a record which is satisfactory to the ~~commissioner~~ Commissioner and showing compliance with the motor vehicle laws of this and other states. The ~~commissioner~~ Commissioner may recall any permit or license issued to a minor whenever he or she is satisfied, from information provided by a credible person and upon investigation, that the operator is mentally or physically unfit or, because of his or her habits or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. On recommendation of a diversion or reparative board, the ~~commissioner~~ Commissioner may recall the learner's permit or junior operator's license of a person in a diversion or reparative program for up to 30 days. The ~~commissioner~~ Commissioner shall also recall any learner's permit or junior operator's license for 30 days when an operator is adjudicated of a single texting violation under section 1099 of this title, 90 days following adjudication of a single speeding violation resulting in a three-point assessment, 90 days when a total of six points has been accumulated, or 90 days when an operator is adjudicated of a violation of ~~section 678~~ subsection 614(c) or 615(a) of this title. When a learner's permit or junior operator's license is so recalled, it shall be reinstated upon expiration of a specific term, and, if required by the ~~commissioner~~ Commissioner, when the person has passed a reexamination approved by the ~~commissioner~~ Commissioner.

(b) When a license or permit is recalled under the provisions of this section, the person whose license or permit is so recalled shall have the same right of hearing before the ~~commissioner~~ Commissioner as is provided in subsection 671(a) of this title.

(c) Except for a recall based solely upon the provisions of subsection (d) of this section, any recall of a license or permit may extend past the operator's 18th birthday. While the recall is still in effect, that operator shall be ineligible for any operator's license.

(d) The ~~commissioner~~ Commissioner shall recall a learner's permit or junior operator's license upon written request of the individual's custodial parent or guardian.

(e) Any recall period under this section shall run concurrently with any suspension period imposed under chapter 13 of this title.

Sec. 10. 23 V.S.A. § 614 is amended to read:

§ 614. RIGHTS UNDER LICENSE

(a) An operator's license shall entitle the holder to operate a registered motor vehicle with the consent of the owner whether employed to do so or not.

(b) A junior operator's license shall entitle the holder to operate a registered motor vehicle~~,~~ with the consent of the owner, but shall not entitle him or her to operate a motor vehicle in the course of his or her employment or for direct or indirect compensation for one year following issuance of the license, except that the holder may operate a farm tractor with or without compensation upon a public highway in going to and from different parts of a farm of the tractor's owner or to go to any repair shop for repair purposes. A junior operator's license shall not entitle the holder to carry passengers for hire.

(c) During the first three months of operation, the holder of a junior operator's license is restricted to driving alone or with a licensed parent or guardian, licensed or certified driver education instructor, or licensed person at least 25 years of age. During the following three months, a junior operator may additionally transport family members. No person operating with a junior operator's license shall transport more passengers than there are safety belts unless he or she is operating a vehicle that has not been manufactured with a federally approved safety belt system. A person convicted of operating a motor vehicle in violation of this subsection shall be subject to a penalty of not more than $50.00, and his or her license shall be recalled for a period of 90 days. The provisions of this subsection may be enforced only if a law enforcement officer has detained the operator for a suspected violation of another traffic offense.

~~(b) This section shall not prohibit a holder of a junior operator's license from operating a farm tractor with or without compensation upon a public highway in going to and from different parts of a farm of the owner of such tractor and for repair purposes to any repair shop.~~

Sec. 11. 23 V.S.A. § 615 is amended to read:

§ 615. UNLICENSED OPERATORS

(a)(1) An unlicensed person 15 years of age or older~~,~~ may operate a motor vehicle~~,~~ if he or she ~~has in possession,~~ possesses a valid learner's permit issued to him or her by the ~~commissioner~~ Commissioner and if ~~their~~ his or her licensed parent or guardian, licensed or certified driver education instructor, or a licensed person at least 25 years of age rides beside him or her. Nothing in this section shall be construed to permit a person against whom a revocation or suspension of license is in force, or a person less than 15 years of age, or a person who has been refused a license by the ~~commissioner,~~ Commissioner to operate a motor vehicle.

(2) A licensed person who does not possess a valid motorcycle endorsement may operate a motorcycle, with no passengers, only during daylight hours and then only if he or she has upon his or her person a valid motorcycle learner's permit issued to him or her by the ~~commissioner~~ Commissioner.

(b) ~~The commissioner in his or her discretion, may recall a learner's permit in the same circumstances as he or she may recall a provisional license~~ A person convicted of operating a motor vehicle in violation of this section shall be subject to a penalty of not more than $50.00, and his or her learner's permit shall be recalled for a period of 90 days. No person may be issued traffic complaints alleging a violation of this section and a violation of section 676 of this title from the same incident. The provisions of this section may be enforced only if a law enforcement officer has detained the operator for a suspected violation of another traffic offense.

Sec. 12. REPEAL

23 V.S.A. § 678 (penalties for unauthorized operation) is repealed.

* * * Nondriver Identification Cards * * *

Sec. 13. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

(a) Any Vermont resident may make application to the ~~commissioner~~ Commissioner and be issued an identification card which is attested by the ~~commissioner~~ Commissioner as to true name, correct age, residential address

unless the listing of another address is requested by the applicant or is otherwise authorized by law, and any other identifying data as the ~~commissioner~~ Commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian, or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the ~~commissioner~~ Commissioner may require. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation be placed on his or her identification card. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the identification card shall include the term "veteran" on its face. The ~~commissioner~~ Commissioner shall require payment of a fee of $20.00 at the time application for an identification card is made.

* * *

(i) ~~An identification card issued under this subsection to an individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the individual identified on the card.~~ Each identification card issued to an initial or renewal applicant shall include a bar code encoded with minimum data elements as prescribed in 6 C.F.R. § 37.19.

* * *

* * * License Certificates * * *

Sec. 14. 23 V.S.A. § 603 is amended to read:

§ 603. APPLICATION FOR AND ISSUANCE OF LICENSE

(a)(1) The ~~commissioner~~ Commissioner or his or her authorized agent may license operators and junior operators when an application, on a form prescribed by the ~~commissioner~~ Commissioner, signed and sworn to by the applicant for the license, is filed with him or her, accompanied by the required license fee and any valid license from another state or Canadian jurisdiction is surrendered.

(2) The ~~commissioner~~ Commissioner may, however, in his or her discretion, refuse to issue a license to any person whenever he or she is satisfied from information given him or her by credible persons, and upon investigation, that the person is mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license, under the

provisions of this subsection or section 605 of this title, shall be entitled to hearing as provided in sections 105-107 of this title.

(3) Any new or renewal application form shall include a space for the applicant to request that a "veteran" designation be placed on his or her license certificate. An applicant who requests the designation shall provide a Department of Defense Form 214, or other proof of veteran status specified by the Commissioner.

* * *

Sec. 15. 23 V.S.A. § 610 is amended to read:

§ 610. LICENSE CERTIFICATES

(a) The ~~commissioner~~ Commissioner shall assign a distinguishing number to each licensee and shall furnish the licensee with a license certificate~~,~~ ~~showing~~ that shows the number~~,~~ and the licensee's full name, date of birth, and residential address unless the listing of another address is requested by the applicant or is otherwise authorized by law. The certificate also shall include a brief physical description~~, and mailing address~~ and a space for the signature of the licensee. The license shall be void until signed by the licensee. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides proof of veteran status as specified in subdivision 603(a)(3) of this title, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the license certificate shall include the term "veteran" on its face.

* * *

(c) Each license certificate issued to a first-time applicant and each subsequent renewal by that person shall be issued with the photograph or imaged likeness of the licensee included on the certificate. The ~~commissioner~~ Commissioner shall determine the locations where photographic licenses may be issued. ~~A photographic motor vehicle operator's license issued under this subsection to an individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the licensee.~~ A person issued a license under this subsection that contains an imaged likeness may renew his or her license by mail. Except that a renewal by a licensee required to have a photograph or imaged likeness under this subsection must be made in person so that an updated imaged likeness of the person is obtained no less often than once every eight years.

(d) Each license certificate issued to an initial or renewal applicant shall include a bar code with minimum data elements as prescribed in 6 C.F.R. § 37.19.

Sec. 16. 23 V.S.A. § 7 is amended to read:

§ 7. ENHANCED DRIVER LICENSE; MAINTENANCE OF DATABASE INFORMATION; FEE

(a) The face of an enhanced license shall contain the individual's name, date of birth, gender, a unique identification number, full facial photograph or imaged likeness, address, signature, issuance and expiration dates, ~~and~~ citizenship, and, if applicable, a veteran designation. The back of the enhanced license shall have a machine-readable zone. A Gen 2 vicinity Radio Frequency Identification chip shall be embedded in the enhanced license in compliance with the security standards of the U.S. Department of Homeland Security. Any additional personal identity information not currently required by the Department of Homeland Security shall need the approval of either the ~~general assembly~~ General Assembly or the ~~legislative committee on administrative rules~~ Legislative Committee on Administrative Rules prior to the implementation of the requirements.

(b) In addition to any other requirement of law or rule, before an enhanced license may be issued to a person, the person shall present for inspection and copying satisfactory documentary evidence to determine identity and United States citizenship. An application shall be accompanied by: a photo identity document, documentation showing the person's date and place of birth, proof of the person's Social Security number, and documentation showing the person's principal residence address. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation be placed on the enhanced license. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the identification card shall include the term "veteran" on its face. To be issued, an enhanced license must meet the same requirements as those for the issuance of a United States passport. Before an application may be processed, the documents and information shall be verified as determined by the ~~commissioner~~ Commissioner. Any additional personal identity information not currently required by the U.S. Department of Homeland Security shall need the approval of either the ~~general assembly~~ General Assembly or the ~~legislative committee on administrative rules~~ Legislative Committee on Administrative Rules prior to the implementation of the requirements.

(c) No person shall compile or maintain a database of electronically readable information derived from an operator's license, junior operator's license, enhanced license, learner permit, or nondriver identification card. This

prohibition shall not apply to a person who accesses, uses, compiles, or maintains a database of the information for law enforcement or governmental purposes or for the prevention of fraud or abuse or other criminal conduct.

* * *

* * * Driver Training Instructors * * *

Sec. 17. 23 V.S.A. § 705 is amended to read:

§ 705. QUALIFICATIONS FOR INSTRUCTOR'S LICENSE

In order to qualify for an instructor's license, each applicant shall:

(1) not have been convicted of:

(A) a felony nor incarcerated for a felony within the 10 years prior to the date of application; ~~or~~

(B) a violation of section 1201 of this title~~,~~ or a ~~conviction~~ like offense in another jurisdiction reported to the ~~commissioner~~ Commissioner pursuant to subdivision 3905(a)(2) of this title within the three years prior to the date of application; ~~or~~

(C) a subsequent ~~conviction for an~~ violation of an offense listed in subdivision 2502(a)(5) of this title or of section 674 of this title; or

(D) a sex offense that requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3.

* * *

* * * Operating on Closed Highways * * *

Sec. 18. 23 V.S.A. § 1112 is amended to read:

§ 1112. CLOSED HIGHWAYS

(a) Except by the written permit of the authority responsible for the closing, ~~no~~ a person shall not drive any vehicle over any highway across which there is a barrier or a sign indicating that the highway is closed to public travel.

(b) An authority responsible for closing a highway to public travel may erect a sign, which shall be visible to highway users and proximate to the barrier or sign indicating that the highway is closed to public travel, indicating that violators are subject to penalties and civil damages.

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

cost of providing the services, if at the time of the violation a sign satisfying the requirements of subsection (b) of this section was installed.

* * * DUI Suspensions; Credit * * *

Sec. 19. 23 V.S.A. § 1205(p) is amended to read:

(p) Suspensions to run concurrently. Suspensions imposed under this section or any comparable statute of any other jurisdiction and sections 1206, 1208, and 1216 of this title or any comparable statutes of any other jurisdiction, or any suspension resulting from a conviction for a violation of section 1091 of this title from the same incident, shall run concurrently and a person shall receive credit for any elapsed period of a suspension served in Vermont against a later suspension imposed in this ~~state~~ State. ~~In order for suspension credit to be available against a later suspension, the suspension issued under this section must appear and remain on the individual's motor vehicle record.~~

Sec. 20. 23 V.S.A. § 1216(i) is amended to read:

(i) Suspensions imposed under this section or any comparable statute of any other jurisdiction shall run concurrently with suspensions imposed under sections 1205, 1206, and 1208 of this title or any comparable statutes of any other jurisdiction or with any suspension resulting from a conviction for a violation of section 1091 of this title from the same incident, and a person shall receive credit for any elapsed period of a suspension served in Vermont against a later suspension imposed in this ~~state~~ State. ~~In order for suspension credit to be available against a later suspension, the suspension issued under this section must appear and remain on the individual's motor vehicle record.~~

* * * Sirens and Lights on Exhibition Vehicles * * *

Sec. 21. 23 V.S.A. § 1252 is amended to read:

§ 1252. ~~USES OF~~ ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the ~~commissioner~~ Commissioner shall issue and may revoke, for cause, permits for sirens or colored signal lamps in the following manner:

(1) Sirens or blue or blue and white signal lamps, or a combination of these, may be authorized for all law enforcement vehicles~~,~~ owned or leased by a law enforcement agency ~~or,~~ a certified law enforcement officer ~~and if~~, or the Vermont Criminal Justice Training Council. If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable's authority to engage in enforcement

activities under 24 V.S.A. § 1936a.

(2) Sirens and red or red and white signal lamps may be authorized for all ambulances, fire apparatus, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer ~~firemen~~ firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer's employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities ~~and motor vehicles used solely in rescue operations~~.

(3) No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection.

(4) ~~Notwithstanding subdivisions (1) and (2) of this subsection, no~~ No motor vehicle, other than one owned by the applicant, shall be issued a permit until ~~such time as~~ the ~~commissioner can adequately record~~ Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the ~~commissioner~~ Commissioner, the ~~commissioner~~ Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

* * *

* * * Motor Vehicle Arbitration Board; Administrative Support * * *

Sec. 22. 9 V.S.A. § 4174 is amended to read:

§ 4174. VERMONT MOTOR VEHICLE ARBITRATION BOARD

(a) There is created a Vermont ~~motor vehicle arbitration board~~ Motor Vehicle Arbitration Board consisting of five members and three alternate members to be appointed by the ~~governor~~ Governor for terms of three years. Board members may be appointed for two additional three-year terms. One member of the ~~board~~ Board and one alternate shall be new car dealers in Vermont, one member and one alternate shall be persons active as automobile technicians, and three members and one alternate shall be persons having no direct involvement in the design, manufacture, distribution, sales, or service of motor vehicles or their parts. Board members shall be compensated in accordance with the provisions of 32 V.S.A. § 1010. ~~The board shall be attached to the department of motor vehicles and shall receive administrative~~

~~services from the department of motor vehicles~~ Administrative support for the Board shall be provided as determined by the Secretary of Transportation.

* * *

* * * Traffic Violations; Judicial Bureau * * *

Sec. 23. 4 V.S.A. § 1105 is amended to read:

§ 1105. ANSWER TO COMPLAINT; DEFAULT

(a) A violation shall be charged upon a summons and complaint form approved and distributed by the ~~court administrator~~ Court Administrator. The complaint shall be signed by the issuing officer or by the state's attorney. The original shall be filed with the ~~judicial bureau,~~ Judicial Bureau; a copy shall be retained by the issuing officer or state's attorney and two copies shall be given to the defendant. The Judicial Bureau may, consistent with rules adopted by the Supreme Court pursuant to 12 V.S.A. § 1, accept electronic signatures on any document, including the signatures of issuing officers, state's attorneys, and notaries public. The complaint shall include a statement of rights, instructions, notice that a defendant may admit, not contest, or deny a violation, notice of the fee for failure to answer within 20 days, and other notices as the ~~court administrator~~ Court Administrator deems appropriate. The ~~court administrator~~ Court Administrator, in consultation with appropriate law enforcement agencies, may approve a single form for charging all violations, or may approve two or more forms as necessary to administer the operations of the ~~judicial bureau~~ Judicial Bureau.

* * *

(f) If a person fails to appear or answer a complaint the ~~bureau~~ Bureau shall enter a default judgment against the person. However, no default judgment shall be entered until the filing of a declaration by the issuing officer or state's attorney, under penalty of perjury, setting forth facts showing that the defendant is not a person in military service as defined at 50 App. U.S.C. § 511 (Servicemembers Civil Relief Act definitions), except upon order of the hearing officer in accordance with the Servicemembers Civil Relief Act, 50 App. U.S.C. Titles I–II. The ~~bureau~~ Bureau shall mail a notice to the person that a default judgment has been entered. A default judgment may be set aside by the hearing officer for good cause shown.

* * *

* * * Texting While Driving; Penalties * * *

Sec. 24. 23 V.S.A. § 1099 is amended to read:

§ 1099. TEXTING PROHIBITED

* * *

(c) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to a penalty of not less than $100.00 and not more than $200.00 upon adjudication of a first violation, and of not less than $250.00 and not more than $500.00 upon adjudication of a second or subsequent violation within any two-year period.

* * * Portable Electronic Devices in Work Zones * * *

Sec. 25. 23 V.S.A. § 4(5) is amended to read:

(5) "Construction area" ~~shall mean and include all of that portion~~ or "work zone" or "work site" means an area of a highway ~~while under~~ undergoing construction, maintenance, or utility work activities by order or with the permission of the ~~state~~ State or a municipality ~~thereof,~~ that is designated by and located within properly posted warning ~~signs maintained at each end thereof showing such area to have been designated as a "Construction Area"~~ devices.

Sec. 26. 23 V.S.A. § 1095b is added to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE IN WORK ZONE PROHIBITED

(a) Definition. As used in this section, "hands-free use" means the use of a portable electronic device without use of either hand and outside the immediate proximity of the user's ear, by employing an internal feature of, or an attachment to, the device.

(b) Use of handheld portable electronic device in work zone prohibited. A person shall not use a portable electronic device while operating a moving motor vehicle within a highway work zone. The prohibition of this subsection shall not apply unless the work zone is properly designated with warning devices in accordance with subdivision 4(5) of this title, and shall not apply:

(1) to hands-free use, or

(2) when use of a portable electronic device is necessary to communicate with law enforcement or emergency service personnel under emergency circumstances.

(c) Penalty. A person who violates this section commits a traffic violation and shall be subject to a penalty of not less than $100.00 and not more than $200.00 upon adjudication of a first violation, and of not less than $250.00 and not more than $500.00 upon adjudication of a second or subsequent violation within any two-year period.

* * * Assessment of Points * * *

Sec. 27. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

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

(1) Two points assessed for:

* * *

(LL)(i)	§ 1095.	~~Operating with television set installed~~ Entertainment picture visible to operator;
(ii)	§ 1095b.	Use of portable electronic device in work zone—first offense;
(MM)	~~§ 1099. Texting prohibited—first offense;~~ [Deleted.]	

* * *

(4) Five points assessed for:

* * *

(C)	§ 1099.	Texting prohibited~~—second and subsequent offenses~~;
(D)	~~Deleted~~	
	§ 1095b.	Use of portable electronic device in work zone—second and subsequent offenses;

* * *

* * * Prohibited Idling of Motor Vehicles * * *

Sec. 28. 23 V.S.A. § 1110 is added to subchapter 11 of chapter 13 to read:

§ 1110. PROHIBITED IDLING OF MOTOR VEHICLES

(a)(1) General prohibition. A person shall not cause or permit operation of the primary propulsion engine of a motor vehicle for more than five minutes in any 60-minute period, while the vehicle is stationary.

(2) Exceptions. The five-minute limitation of subdivision (1) of this subsection shall not apply when:

(A) a military vehicle; an ambulance; a police, fire, or rescue vehicle; or another vehicle used in a public safety or emergency capacity idles as

necessary for the conduct of official operations;

(B) an armored vehicle idles while a person remains inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded;

(C) a motor vehicle idles because of highway traffic conditions, at the direction of an official traffic control device or signal, or at the direction of a law enforcement official;

(D) the health or safety of a vehicle occupant requires idling, or when a passenger bus idles as necessary to maintain passenger comfort while nondriver passengers are on board;

(E) idling is necessary to operate safety equipment such as windshield defrosters, and operation of the equipment is needed to address specific safety concerns;

(F) idling of the primary propulsion engine is needed to power work-related mechanical, hydraulic, or electrical operations other than propulsion, such as mixing or processing cargo or straight truck refrigeration, and the motor vehicle is idled to power such work-related operations;

(G) a motor vehicle of a model year prior to 2018 with an occupied sleeper berth compartment is idled for purposes of air-conditioning or heating during a rest or sleep period;

(H) a motor vehicle idles as necessary for maintenance, service, repair, or diagnostic purposes or as part of a state or federal inspection; or

(I) a school bus idles on school grounds in compliance with rules adopted pursuant to the provisions of subsection 1282(f) of this title.

(b) Operation of an auxiliary power unit, generator set, or other mobile idle reduction technology is an alternative to operating the primary propulsion engine of a motor vehicle and is not subject to the prohibition of subdivision (a)(1) of this section.

(c) In addition to the exemptions set forth in subdivision (a)(2) of this section, the Commissioner of Motor Vehicles, in consultation with the Secretary of Natural Resources, may adopt rules governing times or circumstances when operation of the primary propulsion engine of a stationary motor vehicle is reasonably required.

(d) A person adjudicated of violating subdivision (a)(1) of this section shall be:

(1) assessed a penalty of not more than $10.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), for a first violation;

(2) assessed a penalty of not more than $50.00 for a second violation; and

(3) assessed a penalty of not more than $100.00 for a third or subsequent violation.

Sec. 29. 16 V.S.A. § 1045 is amended to read:

§ 1045. DRIVER TRAINING COURSE

* * *

(d) All driver education courses shall include instruction on the adverse environmental, health, economic, and other effects of unnecessary idling of motor vehicles and on the law governing prohibited idling of motor vehicles.

* * * Veteran Indicator on Commercial Driver Licenses * * *

Sec. 30. 23 V.S.A. § 4110(a)(5) is amended to read:

(5) The person's signature, as well as a space for the applicant to request that a "veteran" designation be placed on a commercial driver license. An applicant who requests a veteran designation shall provide a Department of Defense Form 214, or other proof of veteran status specified by the Commissioner.

Sec. 31. 23 V.S.A. § 4111 is amended to read:

§ 4111. COMMERCIAL DRIVER LICENSE

(a) Contents of license. A commercial driver's license shall be marked "commercial driver license" or "CDL," and shall be, to the maximum extent practicable, tamper proof, and shall include~~, but not be limited to~~ the following information:

* * *

(12) A veteran designation if a veteran, as defined in 38 U.S.C. § 101(2), requests the designation and provides proof of veteran status as specified in subdivision 4110(a)(5) of this title, and if the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions.

* * *

* * * Effective Dates and Sunsets * * *

Sec. 32. EFFECTIVE DATES AND SUNSETS

(a) This section and Sec. 22 of this act (administrative support for the Motor Vehicle Arbitration Board) shall take effect on passage.

(b)(1) Sec. 1 of this act shall take effect on July 1, 2013, if the deletion of "liquor investigators" from the definition of "enforcement officers" provided for in 2011 Acts and Resolves No. 17, Sec. 4 takes effect on or before July 1, 2013.

(2) Sec. 2 of this act shall take effect on July 1, 2013, if the deletion of "liquor investigators" from the definition of "enforcement officers" provided for in 2011 Acts and Resolves No. 17, Sec. 4 does not take effect on or before July 1, 2013.

(c) Secs. 25, 26, and 28, and in Sec. 27, § 2502(a)(1)(LL) and (a)(4)(D) of this act shall take effect on January 1, 2014.

(d) Secs. 6a, 6c, and 6e of this act shall take effect on July 1, 2018.

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

(Committee vote: 10-0-1)

(For text see Senate Journal 3/19/2013)

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** and when further amended as follows:

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

Sec. 6. 23 V.S.A. § 371(a) is amended to read:

§ 371. TRAILER AND SEMI-TRAILER

(a)(1) The one-year and two-year fees for registration of a trailer or semi-trailer, except a contractor's trailer or farm trailer, shall be as follows:

(A) $25.00 and $48.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of ~~less than~~ 1,500 pounds or less;

(B) $49.00 and $96.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of more than 1,500 pounds ~~or more,~~ and is drawn by a vehicle of the pleasure car type;

(C) $49.00 and $96.00, respectively, when such trailer or semi-trailer is drawn by a motor truck or tractor, when such trailer or semi-trailer has a gross weight of more than 1,500 pounds ~~or more,~~ but ~~not in excess of~~ less than 3,000 pounds;

(D) $49.00 and $96.00, respectively, when such trailer or semi-trailer is used in combination with a truck-tractor or motor truck registered at the fee provided for combined vehicles under section 367 of this title. Excepting for

the fees, the provisions of this subdivision shall not apply to trailer coaches as defined in section 4 of this title nor to modular homes being transported by trailer or semi-trailer.

(2) The one-year and two-year fees for registration of a contractor's trailer shall be $145.00 and $290.00, respectively.

Second: By striking Secs. 6a, 6b, 6c, 6d, and 6e in their entirety

Third: In Sec. 32, by striking subsection (d) in its entirety, and by relettering subsection (e) to be subsection (d)

(Committee Vote: 9-0-2)

S. 157

An act relating to modifying the requirements for hemp production in the State of Vermont

Rep. Zagar of Barnard, for the Committee on **Agriculture and Forest Products,** 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. 6 V.S.A. chapter 34 is amended to read:

CHAPTER 34. ~~INDUSTRIAL~~ HEMP

§ 561. FINDINGS; INTENT

(a) Findings.

(1) Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, bio-fuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.

(2) The many agricultural and environmental beneficial uses of hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

(3) The hemp plant, an annual herbaceous plant with a long slender stem ranging in height from four to 15 feet and a stem diameter of one-quarter to three-quarters of an inch is morphologically distinctive and readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and seed.

(4) Hemp cultivation will enable the State of Vermont to accelerate

economic growth and job creation, promote environmental stewardship, and expand export market opportunities.

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

§ 562. DEFINITIONS

As used in this chapter:

(1) ~~"Grower" means any~~ a person ~~or business entity licensed under this chapter by the secretary as an industrial hemp grower.~~ [Deleted.]

(2) "Hemp products" means all products made from ~~industrial~~ hemp, including ~~but not limited to~~ cloth, cordage, fiber, food, fuel, paint, paper, ~~particle board~~ construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation ~~if such seeds originate from industrial hemp varieties~~.

(3) ~~"Industrial hemp" means varieties of the plant cannabis sativa having no more than 0.3 percent tetrahydrocannabinol, whether growing or not, that are cultivated or possessed by a licensed grower in compliance with this chapter.~~ "Hemp" means the plant Cannabis sativa L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(4) "Secretary" means the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets.

§ 563. ~~INDUSTRIAL~~ HEMP: AN AGRICULTURAL PRODUCT

~~Industrial hemp~~ Hemp is an agricultural product which may be grown as a crop, produced, possessed, and commercially traded in Vermont pursuant to the provisions of this chapter. The cultivation of hemp shall be subject to and comply with the requirements of the accepted agricultural practices adopted under section 4810 of this title.

§ 564. ~~LICENSING; APPLICATION~~ REGISTRATION; ADMINISTRATION

~~(a) Any person or business entity wishing to engage in the production of industrial hemp must be licensed as an industrial hemp grower by the secretary. A license from the secretary shall authorize industrial hemp production only at a site or sites specified by the license.~~

~~(b) A license from the secretary shall be valid for 24 months from the date~~

~~of issuance and may be renewed but shall not be transferable.~~

~~(c)(1) The secretary shall obtain from the Vermont criminal information center a record of convictions in Vermont and other jurisdictions for any applicant for a license who has given written authorization on the application form. The secretary shall file a user's agreement with the center. The user's agreement shall require the secretary to comply with all statutes, rules, and policies regulating the release of criminal conviction records and the protection of individual privacy. Conviction records provided to the secretary under this section are confidential and shall be used only to determine the applicant's eligibility for licensure.~~

~~(2) A person who has been convicted in Vermont of a felony offense or a comparable offense in another jurisdiction shall not be eligible for a license under this chapter.~~

~~(d) When applying for a license from the secretary, an applicant shall provide information sufficient to demonstrate to the secretary that the applicant intends to grow and is capable of growing industrial hemp in accordance with this chapter, which at a minimum shall include:~~

~~(1) Filing with the secretary a set of classifiable fingerprints and written authorization permitting the Vermont criminal information center to generate a record of convictions as required by subdivision (c)(1) of this section.~~

~~(2) Filing with the secretary documentation certifying that the seeds obtained for planting are of a type and variety compliant with the maximum concentration of tetrahydrocannabinol set forth in subdivision 560(3) of this chapter.~~

~~(3) Filing with the secretary the location and acreage of all parcels sown and other field reference information as may be required by the secretary.~~

~~(e) To qualify for a license from the secretary, an applicant shall demonstrate to the satisfaction of the secretary that the applicant has adopted methods to ensure the legal production of industrial hemp, which at a minimum shall include:~~

~~(1) Ensuring that all parts of the industrial hemp plant that do not enter the stream of commerce as hemp products are destroyed, incorporated into the soil, or otherwise properly disposed of.~~

~~(2) Maintaining records that reflect compliance with the provisions of this chapter and with all other state laws regulating the planting and cultivation of industrial hemp.~~

~~(f) Every grower shall maintain all production and sales records for at least three years.~~

~~(g) Every grower shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected by and at the discretion of the secretary or his or her designee.~~

(a) A person who intends to grow hemp shall register with the Secretary and submit on a form provided by the Secretary the following:

(1) the name and address of the person;

(2) a statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in subdivision 562(3) of this title; and

(3) the location and acreage of all parcels sown and other field reference information as may be required by the Secretary.

(b) The form provided by the Secretary pursuant to subsection (a) of this section shall include a notice statement that, until current federal law is amended to provide otherwise:

(A) cultivation and possession of hemp in Vermont is a violation of the federal Controlled Substances Act; and

(B) federal prosecution for growing hemp in violation of federal law may include criminal penalties, forfeiture of property, and loss of access to federal agricultural benefits, including agricultural loans, conservation programs, and insurance programs.

(c) A person registered with the Secretary pursuant to this section shall allow hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and tested by and at the discretion of the Secretary or his or her designee.

(d) The Secretary may assess an annual registration fee of $25.00 for the performance of his or her duties under this chapter.

§ 565. ~~REVOCATION AND SUSPENSION OF LICENSE;~~

~~ENFORCEMENT~~

~~(a) The secretary may deny, suspend, revoke, or refuse to renew the license of any grower who:~~

~~(1) Makes a false statement or misrepresentation on an application for a license or renewal of a license.~~

~~(2) Fails to comply with or violates any provision of this chapter or any rule adopted under it.~~

~~(b) Revocation or suspension of a license may be in addition to any civil or~~

~~criminal penalties imposed on a grower for a violation of any other state law.~~ [Repealed.]

§ 566. RULEMAKING AUTHORITY

The ~~secretary shall~~ Secretary may adopt rules to provide for the implementation of this chapter, which ~~shall~~ may include rules to ~~allow~~ require ~~for the industrial~~ hemp to be tested during growth for tetrahydrocannabinol levels and to ~~allow for~~ require inspection and supervision of ~~the industrial~~ hemp during sowing, growing season, harvest, storage, and processing. The Secretary shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law.

Sec. 2. 18 V.S.A. § 4201(15) is amended to read:

(15) "Marijuana" means any plant material of the genus ~~cannabis~~ Cannabis or any preparation, compound, or mixture thereof except:

(A) sterilized seeds of the plant ~~and~~;

(B) fiber produced from the stalks~~,~~; or

(C) hemp or hemp products, as defined in 6 V.S.A. § 562.

Sec. 3. 18 V.S.A. § 4241(b) is amended to read:

(b) This subchapter shall not apply to any property used or intended for use in an offense involving two ounces or less of marijuana or in connection with hemp or hemp products as defined in 6 V.S.A. § 562.

Sec. 4. 2008 Acts and Resolves No. 212, Sec. 3 is amended to read:

Sec. 3. EFFECTIVE DATE

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

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/27/2013)

Senate Proposal of Amendment

H. 533

An act relating to capital construction and state bonding

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

* * * Capital Appropriations * * *

Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that of the $159,900,000.00 authorized in this act, no more than $90,148,531.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(b) It is the intent of the General Assembly that in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of a Capital Construction and State Bonding Adjustment Bill. It is the intent of the General Assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

Sec. 2. STATE BUILDINGS

(a) The following sums are appropriated to the Department of Buildings and General Services, and the Commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions are notified before that action is taken.

(b) The following sums are appropriated in FY 2014:

(1) Statewide, asbestos:	$50,000.00
(2) Statewide, building reuse and planning:	$75,000.00
(3) Statewide, contingency:	$100,000.00
(4) Statewide, major maintenance:	$8,000,000.00
(5) Statewide, BGS engineering and architectural project costs:	$2,802,597.00

(6) Statewide, physical security enhancements: $200,000.00

(7) Burlington, 32 and 108 Cherry Street, HVAC and DDC controls upgrades and roof renovations: $250,000.00

(8) Montpelier, 133 State Street, foundation and parking lot restoration: $1,450,000.00

(9) Montpelier, capitol district heat plant:

(A) 122 State Street, construction: $2,500,000.00

(B) 120 State Street, Loading Dock, parking reconfiguration: $400,000.00

(10) Southern State Correctional Facility, steamline replacement: $600,000.00

(11) Southern State Correctional Facility, copper waterline replacement: $400,000.00

(12) Montpelier, Capitol Complex Historic Preservation, major maintenance: $200,000.00

(13) NWSCF, roof and soffit replacement, A, B, and C wings: $425,000.00

(14) Chittenden Regional Correctional Facility, HVAC upgrades: $400,000.00

(15) Renovation and replacement of state-owned assets, Tropical Storm Irene:

(A) Vermont State Hospital, related projects: $8,700,000.00

(B) Waterbury State Office Complex: $21,200,000.00

(C) National Life: $4,100,000.00

(D) Notwithstanding subsection (a) of this section, allocations in this subdivision shall be used only to fund the projects described in this subdivision (15). However, if costs associated with these projects exceed the amount allocated in this subdivision, the Commissioner, in consultation with the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, may transfer funds from other projects in this section.

(E) For the purpose of allowing the Department of Buildings and General Services to enter into contractual agreements and complete work on the projects described in this subdivision (15) as soon as possible, it is the

intent of the General Assembly that these are committed funds.

(F) A special committee consisting of the Joint Fiscal Committee and the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions ("Special Committee") is hereby established. If there are any material changes to the planning or funding of the Waterbury State Office Complex, the Special Committee shall meet to review and approve these changes at the next regularly scheduled meeting of the Joint Fiscal Committee or at an emergency meeting called by the Chairs of the House Committee on Corrections and Institutions, the Senate Committee on Institutions, and the Joint Fiscal Committee. The Special Committee shall be entitled to per diem and expenses as provided in 2 V.S.A. § 406.

(G) The Commissioner of Buildings and General Services shall notify the House Committee on Corrections and Institutions and the Senate Committee on Institutions at least monthly of updates to the planning process for the projects described in this subdivision (b)(15).

(H) As used in this subdivision (b)(15), a "material change" means a change to the planning or funding of the Waterbury State Office Complex that:

(i) increases the total project cost estimate by 10 percent; or

(ii) constitutes a change in plan or design.

(16) Barre, Barre Court, pellet boiler installation, supplement HVAC project: $329,000.00

(17) Laboratory, feasibility and governance study conducted by the Department of Buildings and General Services, the Agency of Natural Resources, and the Agency of Agriculture, Food and Markets (as described in Sec. 41 of this act): $100,000.00

(c) The following sums are appropriated in FY 2015:

(1) Statewide, asbestos and lead abatement: $50,000.00

(2) Statewide, building reuse and planning: $75,000.00

(3) Statewide, contingency: $100,000.00

(4) Statewide, major maintenance: $8,739,064.00

(5) Statewide, BGS engineering and architectural project costs: $2,802,597.00

(6) Statewide, physical security enhancements: $100,000.00

(7) Southern State Correctional Facility, steamline replacement: $600,000.00

(8) Southern State Correctional Facility, copper waterline replacement: $300,000.00

(9) Montpelier, Capitol Complex Historic Preservation, major maintenance: $200,000.00

(10) Renovation and replacement of state-owned assets, Tropical Storm Irene:

(A) Waterbury State Office Complex: $33,000,000.00

(B) For the purpose of allowing the Department of Buildings and General Services to enter into contractual agreements and complete work on the projects described in this subdivision (10) as soon as possible, it is the intent of the General Assembly that these are committed funds not subject to budget adjustment.

(d) It is the intent of the General Assembly that the Commissioner of Buildings and General Services may use up to $75,000.00 of the funds appropriated in subdivision (b)(4) of this section for the purpose of funding projects described in 2009 Acts and Resolves No. 43, Sec. 24(b), and in Sec. 49 of this act.

(e) It is the intent of the General Assembly to review the proposal submitted by the Commissioner of Finance and Management pursuant to Sec. 39 of this act and evaluate the suitability of the FY 2015 appropriation to the Department of Buildings and General Services for engineering costs in subdivision (c)(5) of this section.

Appropriation – FY 2014	$52,281,597.00
Appropriation – FY2015	$45,966,661.00
Total Appropriation – Section 2	$98,248,258.00

Sec. 3. ADMINISTRATION

The following sums are appropriated to the Department of Taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping:

(1) $100,000.00 is appropriated in FY 2014.

(2) $100,000.00 is appropriated in FY 2015.

Total Appropriation – Section 3	$200,000.00

Sec. 4. HUMAN SERVICES

(a) The following sums are appropriated in FY 2014 to the Department of

Buildings and General Services for the Agency of Human Services for the projects described in this subsection:

(1) Health laboratory, continuation of design, permitting, bidding, and construction phases for co-location of Department of Health laboratory with the UVM Colchester research facility: $5,000,000.00

(2) Corrections, security upgrades: $100,000.00

(b) The following sums are appropriated in FY 2015 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in this subsection:

(1) Health laboratory, continuation of design, permitting, bidding, and construction phases for co-location of the Department of Health laboratory with the UVM Colchester research facility: $6,000,000.00

(2) Corrections, security upgrades: $100,000.00

(c) It is the intent of the General Assembly that the funds appropriated in subdivision (b)(1) of this section are committed funds not subject to budget adjustment.

Appropriation – FY 2014 $5,100,000.00

Appropriation – FY 2015 $6,100,000.00

Total Appropriation – Section 4 $11,200,000.00

Sec. 5. JUDICIARY

(a) The sum of $1,000,000.00 is appropriated in FY 2014 to the Department of Buildings and General Services on behalf of the Judiciary for the planning and design for building renovations and addition to the Lamoille County Courthouse in Hyde Park.

(b) The sum of $2,500,000.00 is appropriated in FY 2015 to continue the project described in subsection (a) of this section.

Total Appropriation – Section 5 $3,500,000.00

Sec. 6. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2014 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for the following projects:

(1) Major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the Department of Buildings and General Services: $200,000.00

(2) Bennington Monument, structural repairs and ADA compliance: $175,000.00

(b) The following sums are appropriated in FY 2014 to the Agency of Commerce and Community Development for the following projects:

(1) Underwater preserves: $25,000.00

(2) Placement and replacement of roadside historic site markers: $15,000.00

(c) The following sums are appropriated in FY 2014 to the Department of Buildings and General Services for the following projects:

(1) Battle of Cedar Creek and Winchester Memorials, relocation and placement of roadside marker: $30,000.00

(2) Schooner Lois McClure, upgrades: $50,000.00

(d) The following sum is appropriated in FY 2015 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the Department of Buildings and General Services: $200,000.00

(e) The following sums are appropriated in FY 2015 to the Agency of Commerce and Community Development for the following projects:

(1) Underwater preserves: $35,000.00

(2) Placement and replacement of roadside historic site markers: $15,000.00

Appropriation – FY 2014 $495,000.00

Appropriation – FY 2015 $250,000.00

Total Appropriation – Section 6 $745,000.00

Sec. 7. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2014 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: $225,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: $225,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment of the Arts, provided that all capital funds are made available to the cultural facilities grant program: $225,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: $225,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program: $225,000.00

(6) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: $225,000.00

(b) The following sum is appropriated in FY 2014 to the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: $225,000.00

(c) The following sums are appropriated in FY 2015 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: $225,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: $225,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment of the Arts, provided that all capital funds are made available to the cultural facilities grant program: $225,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: $225,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program: $225,000.00

(6) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: $225,000.00

(d) The following sum is appropriated in FY 2015 to the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: $225,000.00

Appropriation – FY 2014 $1,575,000.00

Appropriation – FY 2015 $1,575,000.00

Total Appropriation – Section 7 $3,150,000.00

Sec. 8. EDUCATION

(a) The sum of $6,704,634.00 is appropriated in FY 2014 to the Agency of Education for funding the state share of completed school construction projects pursuant to 16 V.S.A. § 3448.

(b) The sum of $10,411,446 is appropriated in FY 2015 to the Agency of Education for the funding the state share of completed school construction projects pursuant to 16 V.S.A. § 3448. It is the intent of the General Assembly that the funds appropriated in subdivision (b) of this section are committed funds not subject to budget adjustment.

Appropriation – FY 2014 $6,704,634.00

Appropriation – FY 2015 $10,411,446.00

Total Appropriation – Section 8 $17,116,080.00

Sec. 9. UNIVERSITY OF VERMONT

(a) The sum of $1,400,000.00 is appropriated in FY 2014 to the University of Vermont for construction, renovation, and major maintenance.

(b) The sum of $1,400,000.00 is appropriated in FY 2015 to the University of Vermont for construction, renovation, and major maintenance.

(c) It is the intent of the General Assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project.

Total Appropriation – Section 9 $2,800,000.00

Sec. 10. VERMONT STATE COLLEGES

(a) The sum of $1,400,000.00 is appropriated in FY 2014 to the Vermont State Colleges for construction, renovation, and major maintenance.

(b) The sum of $1,400,000.00 is appropriated in FY 2015 to the Vermont State Colleges for construction, renovation, and major maintenance.

(c) On or before January 15, 2014, the Vermont State Colleges shall, in coordination with the Enhanced 911 Board, bring each state college into compliance with the requirements of 30 V.S.A. § 7057 (privately owned telephone systems) or develop a comprehensive plan approved by the Enhanced 911 Board to bring each state college into compliance with the Enhanced 911 program requirements. The funds appropriated in FY 2015 to the Vermont State Colleges shall only become available after the Enhanced 911 Board has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions that the Vermont State

Colleges has met these requirements.

(d) It is the intent of the General Assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project.

Total Appropriation – Section 10 $2,800,000.00

Sec. 11. NATURAL RESOURCES

(a) The following sums are appropriated to the Agency of Natural Resources in FY 2014 for:

(1) the Water Pollution Control Fund for the following projects:

(A) Clean Water State/EPA Revolving Loan Fund (CWSRF) match: $1,381,600.00

(B) Principal associated with funding for the Pownal project: $500,000.00

(C) Administrative support – engineering, oversight, and program management: $300,000.00

(2) the Drinking Water Supply for the following projects:

(A) Drinking Water State Revolving Fund: $2,500,000.00

(B) Engineering, oversight, and project management: $300,000.00

(C) EcoSystem restoration and protection: $2,250,000.00

(D) Waterbury waste treatment facility for phosphorous removal: $3,440,000.00

(3) the Agency of Natural Resources for the Department of Forests, Parks and Recreation for statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects: $2,000.000.00

(4) the Department of Fish and Wildlife for the following projects:

(A) general infrastructure projects: $1,000,000.00

(B) Fish and Wildlife Enforcement Division, for safety ramps, GPS units, deer decoys, and snowmobiles: $75,950.00

(C) Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure: $25,000.00

(b) The following sums are appropriated to the Agency of Natural Resources in FY 2015 for:

(1) the Water Pollution Control Fund for the following projects:

(A) Clean Water State/EPA Revolving Loan Fund (CWSRF) match: $700,000.00

(B) Interest associated with delayed grant funding for the Pownal project: $30,000.00

(C) Springfield loan conversions: $78,000.00

(D) Administrative support – engineering, oversight, and program management: $300,000.00

(2) the Drinking Water Supply for the following projects:

(A) Drinking Water State Revolving Fund: $1,000,000.00

(B) Engineering, oversight, and project management: $300,000.00

(C) EcoSystem restoration and protection: $2,073,732.00

(3) dam safety and hydrology projects: $400,000.00

(4) the Agency of Natural Resources for the Department of Forests, Parks and Recreation for statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects: $2,000,000.00

(5) the Department of Fish and Wildlife: $1,000,000.00

(c) It is the intent of the General Assembly to review the proposal submitted by the Commissioner of Finance and Management pursuant to Sec. 39 of this act to evaluate the suitability of the FY 2015 appropriations to the Agency of Natural Resources for engineering costs in subdivisions (b)(1)(D) and (b)(2)(B) of this section.

Appropriation – FY 2014	$13,772,550.00
Appropriation – FY 2015	$7,881,732.00
Total Appropriation – Section 11	$21,654,282.00

Sec. 12. MILITARY

(a) The sum of $750,000.00 is appropriated in FY 2014 to the Department of Military for land acquisition, new construction, maintenance, and renovations at state armories. To the extent feasible, these funds shall be used to match federal funds.

(b) The sum of $500,000.00 is appropriated in FY 2015 for the purpose described in subsection (a) of this section.

Total Appropriation – Section 12	$1,250,000.00

Sec. 13. PUBLIC SAFETY

(a) The sum of $3,000,000.00 is appropriated in FY 2014 to the Department of Buildings and General Services for the Department of Public Safety for the design, construction, and fit-up of a new public safety field station to consolidate the Brattleboro and Rockingham barracks. For the purpose of allowing the Department of Buildings and General Services to enter into contractual agreements and complete work on the projects described in this subsection as soon as possible, it is the intent of the General Assembly that these are committed funds.

(b) The sum of $3,100,000.00 is appropriated in FY 2015 for the project described in subsection (a) of this section. For the purpose of allowing the Department of Buildings and General Services to enter into contractual agreements and complete work on the project as soon as possible, it is the intent of the General Assembly that these are committed funds not subject to budget adjustment.

(c) The sum of $550,000.00 is appropriated in FY 2014 to the Department Buildings and General Services for the Department of Public Safety to purchase land for public safety field stations and to conduct feasibility studies.

(d) The sum of $300,000.00 is appropriated in FY 2015 for the project described in subsection (c) of this section.

(e) The sum of $50,000.00 is appropriated in FY 2014 to the Department of Public Safety for the purchase of fire safety equipment for the Fire Service Training Center in Pittsford.

Appropriation – FY 2014	$3,600,000.00
Appropriation – FY 2015	$3,400,000.00
Total Appropriation – Section 13	$7,000,000.00

Sec. 14. AGRICULTURE, FOOD AND MARKETS

(a) The sum of $150,000.00 is appropriated in FY 2014 to the Department of Buildings and General Services for the Agency of Agriculture, Food and Markets for major maintenance costs at the Vermont Exposition Center Building in Springfield, Massachusetts.

(b) The sum of $1,200,000.00 is appropriated in FY 2015 to the Agency of Agriculture, Food and Markets for the conservation reserve enhancement program and the best management practice implementation cost share program to continue to reduce nonpoint source pollution in Vermont. Cost share funds for the best management practice implementation cost share program shall not

exceed 90 percent of the total cost of a project. Whenever possible, state funds shall be combined with federal funds to complete projects.

Appropriation – FY 2014	$150,000.00
Appropriation – FY 2015	$1,200,000.00
Total Appropriation – Section 14	$1,350,000.00

Sec. 15. VERMONT PUBLIC TELEVISION

(a) The sum of $205,750.00 is appropriated in FY 2014 to Vermont Public Television for the continuation of digital conversion and energy conservation retrofitting.

(b) The sum of $200,000.00 is appropriated in FY 2015 to Vermont Public Television for transmission security.

Appropriation – FY 2014	$205,750.00
Appropriation – FY 2015	$200,000.00
Total Appropriation – Section 15	$405,750.00

Sec. 16. VERMONT RURAL FIRE PROTECTION

(a) The sum of $100,000.00 is appropriated in FY 2014 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force to continue the dry hydrant program.

(b) The sum of $100,000.00 is appropriated in FY 2015 for the project described in subsection (a) of this section.

Total Appropriation – Section 16	$200,000.00

Sec. 17. VERMONT VETERANS' HOME

(a) The sum of $1,216,000.00 is appropriated in FY 2014 to the Department of Buildings and General Services for the Vermont Veterans' Home for emergency mold remediation actions, for updates to the 2006 facilities assessment report, and for the development of a comprehensive plan to address and prevent mold growth.

(b) The Commissioner of Buildings and General Services, in consultation with the Chief Administrative Officer of the Veterans' Home, shall apply for any eligible federal funds to use as a match for the appropriation made in subsection (a) of this section and shall work with Vermont's Congressional Delegation to investigate the availability of other possible federal funding sources. The Commissioner of Buildings and General Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the availability of federal funds and the status of

a federal match to be used for the project described in subsection (a) of this section on or before July 31, 2013.

(c) The Commissioner of Buildings and General Services, in consultation with the Chief Administrative Officer of the Veterans' Home, shall contract with an independent third party to conduct an update to the 2006 facilities assessment report of the Vermont Veterans' Home. On or before January 15, 2014, the Commissioner shall submit a copy of the report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(d) The Commissioner of Buildings and General Services, in consultation with the Chief Administrative Officer of the Veterans' Home, shall contract with an independent third party to prepare a comprehensive plan to address the ongoing mold issues at the Home and prevent any additional mold issues.

(1) The plan shall include:

(A) identification of currently known mold issues and potential mold issues at the Veterans' Home;

(B) recommendations for implementing preventive measures to address mold growth;

(C) estimates for the projected cost to implement the recommendations and preventive measures;

(D) a proposed time line to implement the plan; and

(E) a review and consideration of the findings of the Veterans' Home management and operations review required by 2013 Acts and Resolves No. 1, Sec. 53.1, the updated facilities assessment report required by subsection (c) of this section, and the findings and recommendations of any other design professionals or consultants engaged by the Department of Buildings and General Services to work at the Veterans' Home.

(2) On or before February 15, 2014, the Commissioner shall submit a copy of the plan to the Veterans' Home Board of Trustees, the Vermont State Employees' Association (VSEA), the House Committee on Corrections and Institutions, and the Senate Committee on Institutions.

Total Appropriation – Section 17 $1,216,000.00

Sec. 18. VERMONT INTERACTIVE TECHNOLOGIES

(a) The sum of $288,000.00 is appropriated in FY 2014 to the Vermont States Colleges for the Vermont Interactive Technologies for the purchase of equipment necessary for systems and unit upgrades at Vermont Interactive Technologies sites.

(b) The sum of $88,000.00 is appropriated in FY 2015 for the project described in subsection (a) of this section.

Appropriation – FY 2014	$288,000.00
Appropriation – FY 2015	$88,000.00
Total Appropriation – Section 18	$376,000.00

Sec. 18a. ENHANCED 911 PROGRAM

(a) The sum of $10,000.00 is appropriated in FY 2014 to the Enhanced 911 Board for the planning and implementation of the Enhanced 911 program in schools pursuant to 30 V.S.A. § 7057.

(b) The sum of $10,000.00 is appropriated in FY 2015 for the project described in subsection (a) of this section.

Total Appropriation – Section 18a	$20,000.00

* * * Financing this Act * * *

Sec. 19. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated by 2009 Acts and Resolves No. 43, Sec. 1 (32 Cherry Street): $48,065.57

(2) of the amount appropriated by 2009 Acts and Resolves No. 43, Sec. 1 (Rutland multimodal garage trench drains): $404.09

(3) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 3 (VSH ongoing safety): $96.98

(4) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 14 (two-way radio system): $12,579.71

(5) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 2 (DMV bathroom renovations): $119,067.33

(6) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 2 (engineer cost): $158,779.04

(7) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 2 (116 State Street): $0.02

(8) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 2 (Waterbury fuel tank replacement): $400,000.00

(9) of the amount appropriated by 2011 Acts and Resolves No. 40,

Sec. 7 (recreation grant program): $8,150.00

(10) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 7 (Human Service and Educational Grant): $2,515.61

(11) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 14(e) (architectural assessment, Middlesex): $6.80

(12) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 6(3) (Vermont Arts Council, cultural facilities grant): $29,454.00

(b) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated by 1989 Acts and Resolves No. 52, Sec. 8(b)(1) (water pollution): $9,426.24

(2) of the amount appropriated by 1990 Acts and Resolves No. 276, Sec. 10 (potable water supply construction): $17,430.00

(3) of the amount appropriated by 1991 Acts and Resolves No. 93, Sec. 11(d)(2) (water supply): $46,514.75

(4) of the amount appropriated by 1992 Acts and Resolves No. 256, Sec. 11(e)(1) (water pollution): $35,000.65

(5) of the amount appropriated by 1998 Acts and Resolves No. 148, Sec. 13(b)(1) (water supply): $72,513.80

(6) of the amount appropriated by 1998 Acts and Resolves No. 148, Sec. 13(b)(2)(A) (pollution control): $305,394.84

(7) of the amount appropriated by 2001 Acts and Resolves No. 61, Sec. 9(a) (various projects): $277,833.51

(8) of the amount appropriated by 2003 Acts and Resolves No. 63, Sec. 8 (water pollution/drinking): $118,725.81

(9) of the amount appropriated by 2004 Acts and Resolves No. 121, Sec. 10 (water pollution grants): $896.40

(10) of the amount appropriated by 2004 Acts and Resolves No. 121, Sec. 10 (clean and clear program): $44,447.91

(11) of the amount appropriated by 2004 Acts and Resolves No. 121, Sec. 10 (ecological assessments): $36.70

(12) of the amount appropriated by 2004 Acts and Resolves No. 121, Sec. 10 (species recovery plan): $3.90

(13) of the amount appropriated by 2005 Acts and Resolves No. 43, Sec. 9 (water pollution grants): $128,115.97

(14) of the amount appropriated by 2005 Acts and Resolves No. 43, Sec. 9 (clean and clear program): $135,500.37

(15) of the amount appropriated by 2006 Acts and Resolves No. 147, Sec. 10 (water pollution grants): $34,703.62

(16) of the amount appropriated by 2006 Acts and Resolves No. 147, Sec. 10 (clean and clear program): $40,686.00

(17) of the amount appropriated by 2007 Acts and Resolves No. 52, Sec. 11 (water pollution control): $35,000.00

(18) of the amount appropriated by 2007 Acts and Resolves No. 52, Sec. 11 (state-owned dams): $198,104.00

(19) of the amount appropriated by 2007 Acts and Resolves No. 52, Sec. 11 (clean and clear): $320,042.39

(20) of the amount appropriated by 2008 Acts and Resolves No. 200, Sec. 12 (clean and clear): $92,906.23

(21) of the amount appropriated by 2008 Acts and Resolves No. 200, Sec. 12 (water pollution): $87,967.95

(22) of the amount appropriated by 2009 Acts and Resolves No. 43, Sec. 9 (water pollution control): $231,202.30

(23) of the amount appropriated by 2009 Acts and Resolves No. 43, Sec. 9 (clean and clear): $515,957.62

(24) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 12 (Drinking Water State Revolving Fund): $5,500.00

(25) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 12 (water pollution control): $123,666.00

(26) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 12 (clean and clear): $66,864.08

(27) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 12 (sea lamprey control project): $155,898.60

(28) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 12(a) (water pollution control): $210,000.00

(29) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 12(a) (water pollution TMDL/wetland): $20,112.00

(30) of the amount appropriated by 2012 Acts and Resolves No. 40, Sec. 12(b) (drinking water projects): $35,483.32

(31) of the amount appropriated by 2012 Acts and Resolves No. 40, Sec. 12(b) (water pollution control): $472,239.85

(c) The following unexpended funds appropriated to the Agency of Commerce and Community Development for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated by 2007 Acts and Resolves No. 52, Sec. 7(e) (Unmarked Burial Fund): $18,928.39

(2) of the amount appropriated by 2008 Acts and Resolves No. 200, Sec. 7(b)(1) (Unmarked Burial Fund): $24,769.00

(d) The following sums are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

(1) of the proceeds from the sale of property authorized by 2009 Acts and Resolves No. 43, Sec. 25(i) (sale of Thayer school): $433,478.30

(2) of the amount recouped by the state for waterfront enhancement authorized by 1993 Acts and Resolves No. 59, Sec. 16d(c) (special fund 21896, Waterfront Preservation Fund): $190,000.00

(3) of the proceeds from the sale of property authorized by 2009 Acts and Resolves No. 43, Sec. 25(d) (sale of former North American Playcare, Inc. building in Middlesex): $132,040.88

(4) of the proceeds from the sale of property authorized by 20 V.S.A. § 542 (Northfield, Ludlow, and Rutland armories): $311,539.21

Total Reallocations and Transfers – Section 19 $5,728,049.74

Sec. 20. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The State Treasurer is authorized to issue general obligation bonds in the amount of $159,900,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

(b) The State Treasurer is further authorized to issue additional general

obligation bonds in the amount of $7,603,320.00 that were previously authorized but unissued under 2011 Acts and Resolves No. 40, Sec. 25 for the purpose of funding the appropriations of this act. This amount shall be allocated to the Department of Buildings and General Services to defray expenditures in Sec. 2 of this act.

Total Revenues – Section 20	$167,503,320.00

Sec. 21. SALE OF BUILDING 617 IN ESSEX; USE OF PROCEEDS

The proceeds from the sale of Building 617 in Essex shall be allocated to the Department of Buildings and General Services and used to defray FY 2014 expenditures in Sec. 2 of this act. To the extent such use of proceeds results in a like amount of general obligation bonds authorized in Sec. 20 of this act for Sec. 2 to remain unissued at the end of FY 2014, then such unissued amount of bonds shall remain authorized to be issued in FY 2015 to provide additional funding for the Waterbury State Office Complex and such amount shall be appropriated in FY 2015 to Sec. 2(c)(10) of this act.

* * * Policy * * *

* * * Buildings and General Services * * *

Sec. 22. REPEAL; ROBERT GIBSON PARK; TOWN OF BRATTLEBORO

1999 Acts and Resolves No. 29, Sec. 19(b)(1)(C)(i) (repayment of appropriation for Robert Gibson Park) is repealed.

Sec. 23. 2012 Acts and Resolves No. 104, Sec. 25 is amended to read:

Sec. 25. EMPLOYEE SERVICE MEMORIAL

(a) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services, in consultation with the ~~commissioner of human resources~~ Commissioner of Human Resources and an association representing Vermont state employees, shall develop a plan to honor the services of past, present, and future Vermont state employees with an appropriate memorial. On or before January 15, ~~2013~~ 2014, the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall recommend a future location for an employee service memorial and provide estimated costs to the ~~general assembly~~ General Assembly.

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

Sec. 24. NEWPORT WATERFRONT

Notwithstanding 29 V.S.A. §§ 165(h) and 166(b), the Commissioner of

Buildings and General Services is authorized to sell, lease, gift, or otherwise convey the property or any portion thereof associated with the Waterfront in the City of Newport. The Commissioner is further authorized to accept federal or state grants for improvements, maintenance, and operating costs associated with the Newport Waterfront.

Sec. 25. BATTLE OF CEDAR CREEK AND WINCHESTER MEMORIALS

The Commissioner of Buildings and General Services is authorized to use the appropriation in Sec. 6(c)(1) of this act for expenses associated with the placement of a Vermont historical roadside marker at the Cedar Creek Battlefield in Virginia, the relocation of the Battle of Winchester Memorial to its original location on the Third Winchester Battlefield in Virginia, and reimbursement to the Civil War Trust, the State of Virginia, and the United States Veterans Administration for any expenses associated with the completion of these projects. Expenses associated with the placement of the roadside marker or the relocation of the Memorial may include site acquisition, planning, design, transportation, and any other reasonably related costs.

Sec. 26. 29 V.S.A. § 165 is amended to read:

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

* * *

(d) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall by rule establish procedures which all agencies shall follow in the leasing of real property. No agency shall enter into any lease, no lease shall be valid, and no state funds shall be paid by the ~~department of finance and management~~ Department of Finance and Management pursuant to the terms of any lease, unless the proposed lease has been pre-approved by the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services. If a lease is entered into pursuant to this section, the Commissioner of Buildings and General Services shall preapprove any additional fees, reimbursements, charges, or fit-up costs in excess of the proposed lease rental rate.

Sec. 27. SPECIAL FUND FOR WATERFRONT

Notwithstanding 1993 Acts and Resolves No. 59, Sec. 16d(c), the funds allocated to the special fund for the waterfront to be used for the purpose of waterfront enhancement and preservation are transferred to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act.

Sec. 28. WINDSOR COUNTY COURTHOUSE

Of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 5 to the Department of Buildings and General Services on behalf of the Judiciary, the sum of $40,000.00 is directed to the Windsor County Courthouse in Woodstock to perform repairs and upgrades to bring the facility into ADA compliance.

Sec. 29. 2011 Acts and Resolves No. 40, Sec. 12(b), as amended by 2012 Acts and Resolves No. 104, Sec. 8, is amended to read:

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

* * *

~~(E)~~(6) the ~~department of forests, parks and recreation~~ Department of Forests, Parks and Recreation for the Vermont Youth Conservation Corps to perform stabilization, restoration, and cleanup of environmental damage to waterways, forests, and public access lands caused by Tropical Storm Irene, including projects such as controlling the spread of invasive species, stabilizing flood-eroded river and stream banks; restoring vital aquatic and wildlife habitats, removing toxic materials from fragile natural areas, and remediating recognized viewsheds: 200,000

* * *

* * * Commerce and Community Development * * *

Sec. 30. REGIONAL ECONOMIC DEVELOPMENT GRANT PROGRAM

The Commissioner of Buildings and General Services, in consultation with the Secretary of Commerce and Community Development, the Regional Development Corporations of Vermont, and the Regional Economic Development Advisory Committee, shall consider whether the Regional Economic Development grants are being awarded to projects for the purpose of funding capital expenses and whether catastrophic situations should qualify for grants.

* * * Agency of Agriculture, Food and Markets * * *

Sec. 31. ADDITIONAL FUNDING FOR CAPITAL PROJECTS

If additional support is required for the Best Management Practice Implementation Cost-Share Program and the Conservation Reserve Enhancement Program in FY 2014, the Secretary of Agriculture, Food and Markets is authorized to use as funding prior capital fund appropriations for these programs to the Agency of Agriculture, Food and Markets.

Sec. 32. AGRICULTURE; REALLOCATION

Of the amount held in the Eastern States Building Special Fund #21682, it the intent of the General Assembly that the Agency of Agriculture, Food and Markets shall redirect the sum of $125,000.00 to the Department of Buildings and General Services for major maintenance at the Vermont Exposition Center Building in Springfield, Massachusetts.

* * * Capital Planning and Finance * * *

Sec. 33. 29 V.S.A. § 152 is amended to read:

§ 152. DUTIES OF COMMISSIONER

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

* * *

(3) Prepare or cause to be prepared plans and specifications for construction and repair on all state-owned buildings:

(A) For which the ~~legislature~~ General Assembly or the ~~emergency board~~ Emergency Board has made specific appropriations. In consultation with the department or agency concerned, the ~~commissioner~~ Commissioner shall select sites, purchase lands, determine plans and specifications, and advertise for bids for the furnishing of materials and construction thereof and of appurtenances thereto. The ~~commissioner~~ Commissioner shall determine the time for beginning and completing the construction. Any change orders occurring under the contracts let as the result of actions previously mentioned in this section shall not be allowed unless they have the approval of the ~~secretary of administration~~ Secretary of Administration.

(B) For which no specific appropriations have been made by the ~~legislature~~ General Assembly or the ~~emergency board~~ Emergency Board. The ~~commissioner~~ Commissioner may, with the approval of the ~~secretary of administration~~ Secretary of Administration acquire an option, for a price not to exceed $75,000.00, on an individual property without prior legislative approval, provided the option contains a provision stating that purchase of the property shall occur only upon the approval of the ~~general assembly~~ General Assembly and the appropriation of funds for this purpose. The ~~state treasurer~~ State Treasurer is authorized to advance a sum not to exceed $75,000.00, upon warrants drawn by the ~~commissioner of finance and management~~ Commissioner of Finance and Management for the purpose of purchasing an option on a property pursuant to this subdivision.

(C) For which the Department of Buildings and General Services is granted a right of first refusal. The Commissioner may, with the approval of

the Secretary of Administration, enter into an agreement that grants the Department of Buildings and General Services a right of first refusal to purchase property, provided that the right of first refusal contains a provision stating that the purchase of the property shall occur only upon the approval of the General Assembly.

* * *

(23) With the approval of the ~~secretary of administration~~ Secretary of Administration, transfer during any fiscal year to the ~~department of buildings and general services~~ Department of Buildings and General Services for use only for major maintenance within the capitol complex in Montpelier, any unexpended balances of funds appropriated in any capital construction act for any ~~executive or judicial branch~~ Executive or Judicial Branch project, excluding any appropriations for state grant-in-aid programs, which is completed or substantially completed as determined by the ~~commissioner~~ Commissioner. On or before January 15 of each year, the ~~commissioner~~ Commissioner shall report to the ~~house committee on corrections and institutions and the senate committee on institutions~~ House Committee on Corrections and Institutions and the Senate Committee on Institutions regarding~~:~~

~~(A)~~ all transfers and expenditures made pursuant to this subdivision (23)~~; and~~

~~(B) the unexpended balance of projects completed for two or more years~~.

* * *

Sec. 34. 32 V.S.A. § 310 is amended to read:

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

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

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

(1) Assessment and projection of need.

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

(B) Capital funding shall be categorized as follows:

(i) state buildings, facilities, ~~and~~ land acquisitions, major maintenance, renewable energy sources, and conservation;

(ii) higher education;

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

(iv) transportation facilities.

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

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

(2) Comprehensive cost and financing assessment.

(A) Amounts appropriated and expended for the current fiscal year and for the preceding fiscal year shall be indicated for capital programs and for individual projects. The assessment shall indicate further the source of funds for any project which required additional funding and a description of any authorized projects which were delayed.

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

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

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

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

(F) Alternative methods of financing capital programs and projects

should be described and assessed, including debt financing and use of current revenues.

Sec. 35. TEN-YEAR CAPITAL PROGRAM PLAN

On or before January 15, 2014, the Commissioner of Buildings and General Services, in consultation with the House Committee on Corrections and Institutions and the Senate Committee on Institutions, shall develop a proposal for the planning process for a ten-year capital program plan. The ten-year capital program plan shall include proposals for capital construction requests and major maintenance, and shall set forth definitions and criteria to be used for prioritizing capital projects. Projects may be prioritized based on criteria including: critical priorities, prior capital allocations or commitments, strategic investments, and future investments.

Sec. 36. 32 V.S.A. § 701a is amended to read:

§ 701a. CAPITAL CONSTRUCTION BILL

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

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

(c) The spending authority authorized by a capital construction act shall carry forward until expended, unless otherwise provided. ~~Any unencumbered funds remaining after a two-year period~~ All unexpended funds remaining for projects authorized by capital construction acts enacted in a legislative session that was two or more years prior to the current legislative session shall be reported to the ~~general assembly~~ General Assembly and may be reallocated in future capital construction acts.

(d) On or before October 15, each entity to which spending authority ~~is~~ has been authorized by a capital construction act enacted in a legislative session that was two or more years prior to the current legislative session shall submit

to the ~~department of buildings and general services~~ Department of Buildings and General Services a report on the status of each authorized project ~~authorized~~ with unexpended funds. The report shall follow the form provided by the ~~department of buildings and general services~~ Department of Buildings and General Services and shall include details regarding how much of the appropriation has been spent, how much of the appropriation is unencumbered, actual progress in meeting the goals of the project, and any impediments to completing the project on time and on budget. The ~~department~~ Department may request additional or clarifying information regarding each project. On or before January 15, the ~~department~~ Department shall present the information collected to the ~~house committee on corrections and institutions and the senate committee on institutions~~ House Committee on Corrections and Institutions and the Senate Committee on Institutions.

Sec. 37. AVAILABILITY OF APPROPRIATIONS

Notwithstanding 32 V.S.A. § 1 (fiscal year to commence on July 1 and end on June 30), the appropriations in this act designated as FY 2014 shall be available on passage of this act, and those designated as FY 2015 shall be available on passage of the Capital Construction and State Bonding Budget Adjustment Act of the 2014 legislative session.

Sec. 38. ADDITIONAL FUNDING FOR CAPITAL PROJECTS

The Commissioner of Buildings and General Services, in consultation with the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, is authorized to use funds appropriated in this act for capital projects requiring additional support that were funded with capital or general fund appropriations in prior years.

Sec. 39. ACCOUNTING STANDARDS FOR ENGINEERING COSTS

(a) The Commissioner of Finance and Management shall establish a working group to develop a set of criteria and guidelines for allocating engineering costs between the Capital bill and the General Fund. The Working Group shall review current state practices, standard accounting classifications and approaches taken in other states. The Group shall include the Commissioner of Finance and Management or designee, the Commissioner of Buildings and General Services or designee, the Secretary of Natural Resources or designee, the State Auditor or designee, and a Joint Fiscal Officer or designee.

(b) On or before September 30, 2013, the Commissioner of Finance and Management shall present the proposal to the Joint Fiscal Committee and the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions for review with the intent that the criteria and

guidelines on cost allocations will be used in the FY 2015 capital budget.

* * * Human Services * * *

Sec. 40. SECURE RESIDENTIAL FACILITY

Pursuant to the Level 1 Psychiatric Care Evaluation required by the Fiscal Year 2014 Appropriations Act, Sec. E.314.2, the Commissioner of Buildings and General Services shall develop a proposal to establish a permanent secure residential facility no later than January 15, 2015.

* * * Natural Resources * * *

Sec. 41. LABORATORY FEASIBILITY STUDY

On or before December 15, 2013, the Department of Buildings and General Services, the Agency of Natural Resources, and the Agency of Agriculture, Food and Markets shall examine and report to the General Assembly on the feasibility of sharing the same laboratory, exploring relationships with the University of Vermont and the Vermont State Colleges system, or other public or private entities, and determining what specialized services may be sold within the Northeast region to fulfill state and regional laboratory needs. This report shall include a cost-benefit analysis and a governance model.

Sec. 42. 24 V.S.A. § 4763b is amended to read:

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only one single-family residence on its own lot meets the definition of a failed supply or system, the ~~secretary of natural resources~~ Secretary of Natural Resources may lend monies to the owner of the residence from the Vermont ~~wastewater and potable water revolving loan fund~~ Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) loans may only be made to households with an income equal to or less than 200 percent of the state average median household income;

(2) loans may only be made to households where the recipient of the loan resides in the residence on a year-round basis;

(3) loans may only be made if the owner of the residence has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least ~~two~~ one other financing ~~entities~~ entity;

(4) no construction loan shall be made to an individual under this

subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the ~~secretary of natural resources~~ Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the ~~secretary of natural resources~~ Secretary of Natural Resources that the proposed project has secured all state and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan~~.~~;

(5) all funds from the repayment of loans made under this section shall be deposited into the Vermont ~~wastewater and potable water revolving loan fund~~ Wastewater and Potable Water Revolving Loan Fund.

(b) The ~~secretary of natural resources~~ Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The ~~secretary~~ Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

Sec. 43. ADDITIONAL FUNDING FOR CAPITAL PROJECTS

(a) If additional support is required for the Dufresne Dam Project in FY 2014, the Secretary of Natural Resources is authorized to use as funding prior capital funds authorized in 2011 Acts and Resolves No. 40, Sec. 12(a)(4)(A) for the Wolcott Pond Dam repair and maintenance.

(b) On or before January 15, 2014, the Secretary of Natural Resources shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the status of close-out audits of project grants funded with capital funds.

(c) In FY 2014, the Secretary of Natural Resources, in consultation with the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, is authorized to reallocate unexpended funds that were appropriated to the Agency of Natural Resources:

(1) between projects authorized in different capital construction acts if the funds are appropriated to the same department within the Agency of Natural Resources for a related purpose; and

(2) between a project authorized in a capital construction act and a project not authorized in a capital construction act if the funds are used for planning advances pursuant to 10 V.S.A. § 1591(a).

(d) The Secretary shall reallocate no more than:

(1) $200,000.00 in unexpended funds pursuant to subdivision (c)(1) of this section; and

(2) $30,000.00 per project and $100,000.00 in total pursuant to subdivision (c)(2) of this section.

* * * Military Department * * *

Sec. 44. 20 V.S.A. § 542 is amended to read:

§ 542. ACQUISITION, MAINTENANCE, AND DISPOSAL OF PROPERTY FOR THE NATIONAL GUARD USE

In the name of the ~~state~~ State, the ~~board~~ Board shall be responsible for the real estate and personal property of the ~~national guard~~ National Guard. The ~~board~~ Board may acquire or purchase, and maintain and dispose of by sale or otherwise real estate and personal property. Upon determination by the ~~board~~ Board that real estate is to be disposed of, the disposal shall be at fair market value, and proceeds shall be allocated to future capital ~~appropriations~~ construction acts.

* * * Education * * *

Sec. 45. STATE AID FOR SCHOOL CONSTRUCTION; EXTENSION OF SUSPENSION

(a) In 2007 Acts and Resolves No. 52, Sec. 36, the General Assembly suspended state aid for school construction in order to permit the Secretary of Education and the Commissioner of Finance and Management to recommend a sustainable plan for state aid for school construction.

(b) In 2008 Acts and Resolves No. 200, Sec. 45, as amended by 2009 Acts and Resolves No. 54, Sec. 22, the General Assembly, in the absence of a recommendation, extended the suspension until a sustainable plan for state aid for school construction is developed and adopted.

(c) State aid remains suspended pursuant to the terms of 2008 Acts and Resolves No. 200, Sec. 45 as amended by 2009 Acts and Resolves No. 54, Sec. 22.

(d) Notwithstanding the suspension, the State intends to honor its obligation by FY 2016 to pay for projects for which state aid had been committed prior to the suspension.

Sec. 46. MORGAN SCHOOL

Notwithstanding 16 V.S.A. § 3448(b) or any other provision of law to the contrary, the Morgan School District is authorized to sell the Morgan School

building and property to the town of Morgan to use for community purposes without repayment of school construction aid. Thereafter, if the town of Morgan sells the building and property to another entity, including the Morgan School District, the town shall repay the sum owed to the State for school construction aid under the terms set forth in 16 V.S.A. § 3448(b).

Sec. 47. ENHANCED 911 PROGRAM; IMPLEMENTATION IN SCHOOL DISTRICTS

On or before January 15, 2014, the Enhanced 911 Board shall, in coordination with the Secretary of Education, provide technical assistance and guidance to school districts to comply with the requirement in 30 V.S.A. § 7057 that accurate location information be associated with each landline telephone installed in a school. The Board is authorized to use funds appropriated in Sec. 18a of this act to plan and implement compliance with this program. It is the intent of the General Assembly that these funds are used by the Enhanced 911 Board as a supplement to funding from the Vermont Universal Service Fund established pursuant to 30 V.S.A. chapter 88.

* * * Public Safety * * *

Sec. 48. PUBLIC SAFETY FIELD STATION PROJECT

The Department of Buildings and General Services, in consultation with the Department of Public Safety, is authorized to use appropriations in Sec. 13 of this act to conduct feasibility studies, and identify and purchase land for future public safety field station sites. If the Department of Buildings and General Services proposes to purchase property when the General Assembly is not in session, the Commissioner of Buildings and General Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions of the proposal.

* * * Energy Use on State Properties * * *

Sec. 49. RENEWABLE ENERGY AND ENERGY CONSERVATION POLICY

(a) The Department of Buildings and General Services shall incorporate the use of renewable energy sources, energy efficiency, and thermal energy conservation in any new building construction or major renovation project in excess of $250,000.00 unless a life cycle cost analysis demonstrates that the investment cannot be recouped or there are limitations on siting.

(b) On or before January 15, 2014, the Department of Buildings and General Services shall contract for a desk audit to examine and report on the feasibility of installing renewable energy devices on up to 20 properties owned by the State.

(c) As used in this section, the "life cycle cost" of each new building construction or major renovation project shall mean the present value purchase price of an item, plus the replacement cost, plus or minus the salvage value, plus the present value of operation and maintenance costs, plus the energy and environmental externalities' costs or benefits.

* * * Effective Date * * *

Sec. 50. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal 4/4/2013)

NOTICE CALENDAR

Favorable with Amendment

S. 59

An act relating to independent direct support providers

Rep. Stevens of Waterbury, for the Committee on **General, Housing and Military Affairs,** 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. 21 V.S.A. chapter 20 is added to read:

CHAPTER 20. INDEPENDENT DIRECT SUPPORT PROVIDERS

§ 1631. DEFINITIONS

As used in this chapter:

(1) "Board" means the State Labor Relations Board established by 3 V.S.A. § 921.

(2) "Collective bargaining" or "bargaining collectively" means the process by which the State and the exclusive representative of the independent direct support providers negotiate mandatory subjects of bargaining identified in subsection 1634(b) of this chapter, or any other mutually agreed subjects of bargaining not in conflict with state or federal law, with the intent to arrive at an agreement which, when reached, shall be legally binding on all parties.

(3) "Collective bargaining service fee" means a fee deducted by the State from the compensation of an independent direct support provider who is not a member of the exclusive representative of independent direct support providers, which is paid to the exclusive representative. The collective

bargaining service fee shall not exceed 85 percent of the amount payable as dues by members of the exclusive representative, and shall be deducted in the same manner as dues are deducted from the compensation of members of the exclusive representative, and shall be used to defray the costs incurred by the labor organization in fulfilling its duty to represent independent direct support providers in their relations with the State.

(4) "Exclusive representative" means the labor organization that has been certified under this chapter and has the right to represent independent direct support providers for the purpose of collective bargaining.

(5) "Grievance" means the exclusive representative's formal written complaint regarding the improper application of one or more terms of the collective bargaining agreement, the failure to abide by any agreement reached, or the discriminatory application of a rule or regulation, which has not been resolved to a satisfactory result through informal discussion with the State.

(6) "Independent direct support provider" means any individual who provides home- and community based services to a service recipient and is employed by the service recipient, shared living provider, or surrogate.

(7) "Labor organization" means an organization of any kind in which independent direct support providers participate and which exists, in whole or in part, for the purpose of representing independent direct support providers.

(8) "Service recipient" means a person who receives home- and community-based services under the Choices for Care Medicaid waiver, the Attendant Services Program (ASP), the Children's Personal Care Service Program, the Developmental Disabilities Services Program, or any successor program or similar program subsequently established.

(9) "Shared living provider" means a person who operates under a contract with an authorized agency and provides individualized home support for one or two people who live in his or her home. An authorized agency includes a designated agency for developmental services.

(10) "Surrogate" means a service recipient's authorized family member, legal guardian, or a person identified in a written agreement as having responsibility for the care of a service recipient.

§ 1632. RIGHTS OF INDEPENDENT DIRECT SUPPORT PROVIDERS

Independent direct support providers shall have the right to:

(1) organize, form, join, or assist a labor organization for the purposes of collective bargaining without interference, restraint, or coercion;

(2) bargain collectively through their chosen representatives;

(3) engage in concerted activities for the purpose of supporting or engaging in collective bargaining or other mutual aid or protection;

(4) pursue grievances through the exclusive representative as provided in this chapter; and

(5) refrain from any or all such activities, subject to the requirements of subdivision 1634(b)(3) of this chapter.

§ 1633. RIGHTS OF THE STATE

Subject to the rights guaranteed by this chapter and subject to all other applicable laws, rules, and regulations, nothing in this chapter shall be construed to interfere with the right of the State to:

(1) carry out the statutory mandate and goals of the Agency of Human Services and to utilize personnel, methods, and means in the most appropriate manner possible;

(2) with the approval of the Governor, take whatever action may be necessary to carry out the mission of the Agency of Human Services in an emergency situation;

(3) comply with federal and state laws and regulations;

(4) enforce regulations and regulatory processes;

(5) develop regulations and regulatory processes that do not impair existing contracts, subject to the duty to bargain over mandatory subjects of bargaining and to the rulemaking authority of the General Assembly and the Human Services Board; and

(6) solicit and accept for use any grant of money, services, or property from the federal government, the State, or any political subdivision or agency of the State, including federal matching funds, and to cooperate with the federal government or any political subdivision or agency of the State in making an application for any grant.

§ 1634. ESTABLISHMENT OF LIMITED COLLECTIVE BARGAINING; SCOPE OF BARGAINING

(a) Independent direct support providers, through their exclusive representative, shall have the right to bargain collectively with the State, through the Governor's designee, under this chapter.

(b) Mandatory subjects of bargaining under this section shall be limited to:

(1) compensation rates, workforce benefits, and payment methods and

procedures, except that independent direct support providers shall not be eligible to participate in the State's retirement system or the Vermont state employee health plan solely by virtue of bargaining under this chapter;

(2) professional development and training, except that the issue of whether the State may choose directly to create and administer a professional development or training program shall be a permissive subject of bargaining;

(3) the collection and disbursement of dues or fees to the exclusive representative, provided that a collective bargaining service fee may not be required of nonmembers unless the exclusive representative has established and maintained a procedure to provide nonmembers with:

(A) an audited financial statement that identifies the major categories of expenses, and divides them into chargeable and nonchargeable expenses; and

(B) an opportunity to object to the amount of the agency fee sought, any amount reasonably in dispute to be placed in escrow, subject to prompt review and determination by the board to resolve any objection over the amount of the collective bargaining fee, as provided for in subsection (d) of this section.

(4) procedures for resolving grievances against the State, provided that the final step of any negotiated grievance procedure, if required, shall be a hearing and final determination by the board in accordance with board rules and regulations; and

(5) access to job referral opportunities within covered programs, except that the issue of whether the State may choose directly to create and administer a referral registry shall be a permissive subject of bargaining.

(c) For the purpose of this chapter, the obligation to bargain collectively is the performance of the mutual obligation of the State and the exclusive representative of the independent direct support providers to meet at reasonable times and confer in good faith with respect to all matters bargainable under the provisions of this chapter; but the failure or refusal of either party to agree to a proposal, or to change or withdraw a lawful proposal, or to make a concession shall not constitute, or be evidence of direct or indirect, a breach of this obligation. Nothing in this chapter shall be construed to require either party during collective bargaining to accede to any proposal or proposals of the other party.

(d) Any dispute raised by a nonmember concerning the amount of a collective bargaining service fee, as provided for under subdivision (b)(3) of this section, may be grieved to the State Labor Relations Board which shall

review and determine such matter promptly, in accordance with the Board's rules.

§ 1635. ELECTION; BARGAINING UNIT

(a) Petitions and elections shall be conducted pursuant to the procedures provided in 3 V.S.A. §§ 941 and 942, except that only one bargaining unit shall exist for independent direct support providers, and the exclusive representative shall be the exclusive representative for the purpose of grievances.

(b) A representation election for independent direct support providers conducted by the Board shall be by mail ballot.

(c) The bargaining unit for purposes of collective bargaining pursuant to this chapter shall be one statewide unit of independent direct support providers. Eligible independent direct support providers shall have the right to participate in a representation election but shall not have the right to vote on or otherwise determine the collective bargaining unit. Eligible independent direct support providers shall all be independent direct support providers who have been paid for providing home- and community-based services within the previous 180 days.

(d) At least quarterly the State shall compile and maintain a list of names and addresses of all independent direct support providers who have been paid for providing home- and community-based services to service recipients within the previous 180 days. The list shall not include the names of any recipient, or indicate that an independent direct support provider is a relative of a recipient or has the same address as a recipient. The State shall, upon request, provide within seven days the most recent list of independent direct support providers in its possession to any organization which has as one of its primary purposes the collective bargaining representation of independent direct support providers in their relations with state or other public entities. This obligation shall include providing the most recent list, upon request, to any labor organization certified as the exclusive representative under this chapter.

§ 1636. MEDIATION; FACT-FINDING; LAST BEST OFFER

(a) If, after a reasonable period of negotiation, the representative of the collective bargaining unit and the State reach an impasse, the Board, upon petition of either party, may authorize the parties to submit their differences to mediation. Within five days after receipt of the petition, the Board shall appoint a mediator who shall communicate with the parties and attempt to mediate an amicable settlement. A mediator shall be of high standing and not actively connected with labor or management.

(b) If, after a reasonable period of time, no fewer than 15 days after the appointment of a mediator, the impasse is not resolved, the mediator shall certify to the Board that the impasse continues.

(c) The Board shall appoint a fact finder who has been mutually agreed upon by the parties. If the parties fail to agree on a fact finder within five days, the Board shall appoint a neutral third party to act as a fact finder pursuant to rules adopted by the Board. A member of the Board or any individual who has actively participated in mediation proceedings for which fact-finding has been called shall not be eligible to serve as a fact finder under this section, unless agreed upon by the parties.

(d) The fact finder shall conduct hearings pursuant to rules of the Board. Upon request of either party or of the fact finder, the Board may issue subpoenas of persons and documents for the hearings and the fact finder may require that testimony be given under oath and may administer oaths.

(e) Nothing in this section shall prohibit the fact finder from endeavoring to mediate the dispute at any time prior to issuing recommendations.

(f) The fact finder shall consider the following factors in making a recommendation:

(1) the needs and welfare of consumers, including their interest in greater access to quality services;

(2) the nature and needs of the personal care assistance program;

(3) the interest and welfare of independent direct support providers;

(4) the history of negotiation between the parties, including those leading to the proceedings;

(5) changes in the cost of living; and

(6) generally accepted labor-management relations practices in Vermont.

(g) Upon completion of the hearings provided in subsection (d) of this section, the fact finder shall file written findings and recommendations with both parties.

(h) The costs of witnesses and other expenses incurred by either party in fact-finding proceedings shall be paid directly by the parties incurring them, and the costs and expenses of the fact finder shall be divided equally by the parties. The fact finder shall be paid a rate mutually agreed upon by the parties for each day or any part of a day while performing fact-finding duties and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of his or her duties. A statement of fact-finding per diem and

expenses shall be certified by the fact finder and submitted to the Board for approval. The Board shall provide a copy of approved fact-finding costs to each party with its order apportioning half of the total to each party for payment. Each party shall pay its half of the total within 15 days after receipt of the order. Approval by the Board of fact-finding and the fact finder's costs and expenses and its order for payment shall be final as to the parties.

(i) If the dispute remains unresolved 20 days after transmittal of findings and recommendations, each party shall submit to the Board its last best offer on all disputed issues as a single package. Each party's last best offer shall be certified to the Board by the fact finder. The board may hold hearings and consider the recommendations of the fact finder. Within 30 days of the certifications, the Board shall select between the last best offers of the parties, considered in their entirety without amendment, and shall determine its cost. The Board shall not issue an order under this subsection that: (1) is in conflict with any statute; (2) is in conflict with any rule unless the rule relates to a mandatory subject of bargaining; or (3) determines an issue that is not a mandatory subject of bargaining. The Board shall determine the cost of the agreement selected and recommend to the General Assembly its choice with a request for appropriation. If the General Assembly appropriates sufficient funds, the agreement shall become effective and legally binding at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly, and the agreement with the negotiated changes shall become effective and binding at the beginning of the next fiscal year. No portion of any agreement shall become effective separately without the mutual consent of the parties.

§ 1637. GENERAL DUTIES AND PROHIBITED CONDUCT

(a) The State and the independent direct support providers and their representatives shall make every reasonable effort to make and maintain agreements concerning matters allowed under this chapter and to settle all disputes, whether arising out of the application of those agreements or disputes concerning the agreements. All disputes shall, upon request of either party, be considered within 15 days of the request or at such times as may be mutually agreed to and if possible settled with all expedition in conference between representatives designated and authorized to confer by the State or the independent direct support providers. This obligation does not compel either party to make any agreements or concessions.

(b) It shall be an unfair labor practice for the State to:

(1) Interfere with, restrain, or coerce independent direct support

providers in the exercise of their rights under this chapter or by any law, rule, or regulation.

(2) Dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it.

(3) Discriminate in regard to referral practices or eligibility for work opportunities within covered programs for an independent direct support provider, or to encourage or discourage membership in any labor organization.

(4) Take negative action against an independent direct support provider because the provider has taken actions demonstrating his or her support for a labor organization, including signing a petition, grievance, or affidavit or giving testimony under this chapter.

(5) Refuse to bargain collectively in good faith with the exclusive representative.

(6) Discriminate against an independent direct support provider based on race, color, creed, religion, age, gender, sexual orientation, gender identity, or national origin, or because the provider is a qualified individual with a disability.

(c) It shall be an unfair labor practice for a labor organization to:

(1) Restrain or coerce independent direct support providers in the exercise of the rights guaranteed them by law, rule, or regulation. However, a labor organization may prescribe its own rules with respect to the acquisition or retention of membership, provided such rules are not discriminatory.

(2) Refuse to bargain collectively in good faith with the State.

(3) Cause, or attempt to cause, the State to discriminate against an independent direct support provider in violation of subsection (b) of this section.

(4) Threaten to or cause a provider to strike or curtail the provider's services in recognition of a picket line of any employee or labor organization.

(d) An independent direct support provider shall not strike or curtail his or her services in recognition of a picket line of any employee or labor organization.

§ 1638. PREVENTION OF UNFAIR PRACTICES

(a) The Board may prevent the State or a labor organization from engaging in any unfair labor practice listed in section 1637 of this title. Whenever a charge is made that the State or a labor organization has engaged in or is engaging in any unfair labor practice, the Board may issue and cause to be

served upon that party a complaint stating the charges in that respect and containing a notice of hearing before the Board at a place and time therein fixed at least seven days after the complaint is served. The Board may amend the complaint at any time before it issues an order based thereon. No complaint shall issue based on any unfair labor practice occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the party against whom such charge is made, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the U.S. Armed Forces, in which event the six-month period shall be computed from the day of his or her discharge.

(b) The party complained of shall have the right to file an answer to the original or amended complaint and appear in person or otherwise and present evidence in connection therewith at the time and place fixed in the complaint. In the discretion of the Board, any other person may be permitted to intervene and present evidence in the matter. Any proceeding under this section shall, so far as practicable, be conducted in accordance with rules of evidence used in the courts. The Board shall provide for the making of a transcript of the testimony presented at the hearing.

(c) The Board shall have power to administer oaths and take testimony under oath relative to the matter of inquiry. At any hearing ordered by the Board, the Board shall have the power to subpoena witnesses and to demand the production of books, papers, records, and documents for its examination. Officers who serve subpoenas issued by the Board and witnesses attending hearings conducted by the Board shall receive fees and compensation at the same rates as officers and witnesses in causes before a Criminal Division of the Superior Court, to be paid on vouchers of the Board.

(d) If upon the preponderance of the evidence, the Board finds that any party named in the complaint has engaged in or is engaging in any such unfair labor practice, it shall state its finding of fact in writing and shall issue and cause to be served on that party an order requiring him or her to cease and desist from the unfair labor practice, and to take such affirmative action as will carry out the policies of this chapter. If upon the preponderance of the evidence, the Board does not find that the party named in the complaint has engaged in or is engaging in any unfair labor practice, it shall state its findings of fact in writing and dismiss the complaint.

(e) In determining whether a complaint shall issue alleging a violation of subdivision 1637(1) or (2) of this title, and in deciding those cases, the same regulations and rules of decision shall apply irrespective of whether or not a labor organization affected is affiliated with a labor organization national or international in scope.

§ 1639. NEGOTIATED AGREEMENT; FUNDING

(a) If the State and the exclusive representative reach an agreement, the Governor shall request from the General Assembly an appropriation sufficient to fund the agreement in the next operating budget. If the General Assembly appropriates sufficient funds, the negotiated agreement shall become effective and binding at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly and shall become effective and legally binding in the next fiscal year.

(b) Collective bargaining agreements shall be for a maximum term of two years and shall not be subject to cancellation or renegotiation during the term except with the mutual consent in writing of both parties, which consent shall be filed with the Board. Upon the filing of such consent, an agreement may be supplemented, cancelled, or renegotiated.

(c) The agreement shall terminate at the expiration of its specified term. Negotiations for a new agreement to take effect upon the expiration of the preceding agreement shall be commenced at any time within one year next preceding the expiration date upon the request of either party and may be commenced at any time previous thereto with the consent of both parties.

(d) In the event the State of Vermont and the collective bargaining unit are unable to arrive at an agreement and there is not an existing agreement in effect, the existing contract shall remain in force until a new contract is ratified by the parties. However, nothing in this subsection shall prohibit the parties from agreeing to a modification of certain provisions of the existing contract which, as amended, shall remain in effect until a new contract is finalized and funded by the General Assembly.

(e) The Board is authorized to enforce compliance with all provisions of a collective bargaining agreement upon complaint of either party. In the event a complaint is made by either party to an agreement, the Board shall proceed in the manner prescribed in section 1638 of this title relating to the prevention of unfair labor practices.

§ 1640. RIGHTS UNALTERED

(a) A collective bargaining agreement shall not infringe upon any rights of service recipients or their surrogates to hire, direct, supervise, or discontinue the employment of any particular independent direct support provider.

(b) Nothing in this section shall alter the rights and obligations of private sector employers and employees under the National Labor Relations Act,

29 U.S.C. § 151 et seq.

(c) Independent direct support providers shall not be considered state employees for purposes other than collective bargaining, including for purposes of joint or vicarious liability in tort or the limitation on liability in subsection (e) of this section. Independent direct support providers shall not be eligible for participation in the State Employee Retirement System or health care plan solely by virtue of bargaining under this chapter. Nothing in this chapter shall require the State to alter its current practice with respect to independent direct support providers of making payments regarding Social Security and Medicare taxes, federal or state unemployment contributions, or workers' compensation insurance.

(d) Nothing in this chapter shall infringe upon the right of the Judiciary and the General Assembly to make programmatic modifications to the delivery of state services through subsidy or other programs.

(e) The State and its employees shall not be vicariously liable for any act or omission by an independent direct support provider or any claim arising out of the employment relationship between a service recipient and an independent direct service provider, nor shall the State be liable as a joint employer.

§ 1641. RULES AND REGULATIONS

The Board shall make and may amend and rescind and adopt such rules and regulations consistent with this chapter as may be necessary to carry out the provisions of this chapter.

§ 1642. APPEAL

(a) Any person aggrieved by an order or decision of the Board issued under the authority of this chapter may appeal on questions of law to the Supreme Court.

(b) An order of the Board shall not automatically be stayed pending appeal. A stay must first be requested from the Board. The Board may stay the order or any part of it. If the Board denies a stay, then a stay may be requested from the Supreme Court. The Supreme Court or a single justice may stay the order or any part of it and may order additional interim relief.

§ 1643. ENFORCEMENT

(a) Orders of the Board issued under this chapter may be enforced by any party or by the Board by filing a petition with the Civil Division of the Superior Court of Washington County or in the Civil Division of the Superior Court in the county in which the action before the Board originated. The petition shall be served on the adverse party as provided for service of process under the Vermont Rules of Civil Procedure. If, after hearing, the court

determines that the Board had jurisdiction over the matter and that a timely appeal was not filed or that an appeal was timely filed and a stay of the Board order or any part of it was not granted or that a Board order was affirmed on appeal in pertinent part by the Supreme Court, the court shall incorporate the order of the Board as a judgment of the court. There is no appeal from that judgment except that a judgment reversing a Board decision on jurisdiction may be appealed to the Supreme Court.

(b) Upon filing of a petition by a party or the Board, the court may grant such temporary relief, including a restraining order, as it deems proper pending formal hearing.

(c) Orders and decisions of the Board shall apply only to the particular case under appeal, but any number of appeals presenting similar issues may be consolidated for hearing with the consent of the Board. The Board shall not modify, add to, or detract from a collective bargaining agreement by any order or decision.

§ 1644. ANTITRUST EXEMPTION

The activities of independent direct support providers and their exclusive representative that are necessary for the exercise of their rights under this chapter shall be afforded state action immunity under applicable federal and state antitrust laws. The State intends that the "state action" exemption to federal antitrust laws be available only to the State, to independent direct support providers, and to their exclusive representative in connection with these necessary activities. Exempt activities shall be actively supervised by the State.

Sec. 2. SELF-DETERMINATION ALLIANCE

(a) There is established a Self-Determination Alliance to advise the State on issues related to stabilizing the independent direct provider workforce and improving the quality of services provided to people with disabilities and elders who manage their services. The alliance shall consist of:

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee;

(2) The Commissioner of Health or designee;

(3) Two service recipients who manage their services under Developmental Disabilities Services, two service recipients who manage their services under Choices for Care Medicaid Waiver, and two recipients who manage their services under Attendant Services Program (ASP), and one service recipient who manages his or her services under the Traumatic Brain Injury Program.

(4) One family member of a service recipient under Children's Personal Care Program and one family member of a service recipient under Developmental Disabilities Services.

(b) All initial appointments to the Alliance shall be made on or before August 1, 2013. The chair shall convene the first meeting on or before September 1, 2013. The chair shall be appointed by the Governor from among its members. Members shall serve coterminously and at the pleasure of their appointing authority. A majority of members of the Self-Determination Alliance shall constitute a quorum for the transaction of any business. The Alliance shall be within the Agency of Human Services for administrative purposes only.

(c) The Self-Determination Alliance shall advise the State regarding issues relating to attracting and retaining a high-quality independent direct support provider workforce to be available to all service recipients, including making recommendations to improve the quality, stability, and availability of the independent direct support provider workforce.

(d) The Secretary of Human Services shall review the recommendations of the Self-Determination Alliance within 30 days of submission, and shall include the recommendations with his or her input to the Governor's collective bargaining designee.

Sec. 3. SUNSET

Sec. 2 of this act shall be repealed on June 30, 2018. Prior to this date, the members of the Self-Determination Alliance shall review the purpose and membership of the Alliance and report its recommendations on the future role of the Alliance to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 7-0-1)

(For text see Senate Journal 3/14/2013)

Senate Proposal of Amendment

H. 2

An act relating to the Governor's Snowmobile Council

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

In Sec. 2 by striking out the phrase "on July 1, 2013" and inserting in lieu

thereof on passage

(No House Amendments)

H. 95

An act relating to unclaimed life insurance benefits

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

First: In Sec. 1, 27 V.S.A. § 1244a, subsection (b), after the first sentence, by adding a sentence to read An insurance company may use the full Death Master File once annually and the Death Master File Update Files for the remaining comparisons in the year.

Second: In Sec. 1, 27 V.S.A. § 1244a, by striking out subdivision (b)(1) in its entirety and by inserting in lieu thereof a new subdivision (b)(1) to read as follows:

(1) within 90 days of identifying the match:

(A) complete a good faith effort, which shall be documented by the insurance company, to confirm the death of the insured, annuitant, or retained asset account holder against other available records and information;

(B) review its records to determine whether the deceased insured has purchased any other products with the insurance company; and

(C) determine whether benefits are due in accordance with the applicable policy or contract; and, if benefits are due in accordance with the applicable policy or contract:

(i) use good faith efforts, which shall be documented by the insurance company, to locate the beneficiary or beneficiaries; and

(ii) provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate, if applicable under the policy or contract; and

Third: In Sec. 1, 27 V.S.A. § 1244a, subsection (e), after the words "life insurance policy" by adding , contract,

Fourth: In Sec. 1, 27 V.S.A. § 1244a, subdivision (f)(1), after the words "life insurance policy" by adding or contract,

Fifth: In Sec. 1, 27 V.S.A. § 1244a, subsection (g), after the words "unclaimed life insurance" by adding or annuity death

Sixth: By striking out Sec. 2 (effective date; retroactive application) in its entirety and by inserting in lieu thereof a new Sec. 2 to read:

Sec. 2. 8 V.S.A. § 3802a is added to read:

§ 3802a. POLICYHOLDER INFORMATION

For each group life insurance policy issued under this subchapter, the insurer shall maintain at least the following information for those covered under the policy:

(1) Social Security Number, if any, name, and date of birth;

(2) beneficiary designation information;

(3) coverage eligibility;

(4) benefit amount; and

(5) premium payment status.

Seventh: By adding Sec. 3 to read:

Sec. 3. EFFECTIVE DATE; APPLICATION

This act shall take effect on July 1, 2013 and, notwithstanding 1 V.S.A. § 214(b), shall apply to all life insurance policies, annuity contracts, and retained asset accounts in force on or after the effective date, except that Sec. 2 of this act (policyholder information for group life insurance) shall apply only to group life insurance policies issued or renewed on or after the effective date.

(For text see House Journal 3/21/2013)

H. 105

An act relating to adult protective services reporting requirements

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

First: In Sec. 1, by striking out subdivisions (2) and (3), and by renumbering the remaining subdivisions to be numerically correct

Second: In Sec. 1, in the newly renumbered subdivision (4), by striking out the second sentence and inserting in lieu thereof:

The request for proposals for the grants contained an acknowledgment by the Self-Neglect Task Force that data are lacking at both the state and community levels to determine the scope of the problem of self-neglect.

Third: In Sec. 3, subsection (a), by striking out the first sentence and inserting in lieu thereof:

On or before January 15, 2006 and on or before January 15 of each year thereafter until January 15, 2018, the ~~secretary of the agency of human services~~ Secretary of Human Services shall submit a report to the following committees: the ~~house and senate committees on judiciary, the house~~

~~committee on human services, and the senate committee on health and welfare~~ House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare.

Fourth: In Sec. 3, subdivision (a)(1)(A)(iv), by inserting before ", including" the following: regardless of whether reports were opened, substantiated, or unsubstantiated

(For text see House Journal 3/20/2013)

H. 377

An act relating to neighborhood planning and development for municipalities with designated centers

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

First: In Sec. 2, 24 V.S.A. § 2791, in subdivision (3), by striking out the words "a regional" and inserting in lieu thereof the word the

Second: In Sec. 8, 24 V.S.A. § 2793e, in subsection (c), by striking out subdivision (5) in its entirety and inserting in lieu thereof the following:

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the availability of land for housing within the neighborhood planning area, and the smart growth principles. Based on those considerations, the municipality shall select an area for neighborhood development area designation that:

(A) Avoids or that minimizes to the extent feasible the inclusion of "important natural resources" as defined in subdivision 2791(14) of this title. If an "important natural resource" is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, describe any anticipated disturbance to such resource, and describe why the disturbance cannot be avoided or minimized.

(B) Is served by planned or existing transportation infrastructure that conforms with "complete streets" principles as described under 19 V.S.A. § 309d and establishes pedestrian access directly to the downtown, village center, or new town center.

(C) Is compatible with and will reinforce the character of adjacent National Register Historic Districts, national or state register historic sites, and other significant cultural and natural resources identified by local or state government.

Third: In Sec. 8, 24 V.S.A. § 2793e, in subsection (d), by striking out subdivision (1) in its entirety and inserting in lieu thereof the following:

(1) When approving a neighborhood development area, the State Board shall consult with the applicant about any changes the Board considers making to the boundaries of the proposed area. After consultation with the applicant, the Board may change the boundaries of the proposed area.

Fourth: In Sec. 8, 24 V.S.A. § 2793e, in subsection (d), in subdivision (2), before the words "the members", by inserting the words at least 80 percent but no fewer than seven of, and by striking out the word "unanimously" and inserting in lieu thereof the word present

Fifth: In Sec. 8, 24 V.S.A. § 2793e, in subsection (h), after the last sentence, by adding Before reviewing such an application, the State Board shall request comment from the municipality.

Sixth: By adding a new section to be Sec. 14a to read:

Sec. 14a. 32 V.S.A. § 3850 is added to read:

§ 3850. BLIGHTED PROPERTY IMPROVEMENT PROGRAM

(a) At an annual or special meeting, a municipality may vote to authorize the legislative body of the municipality to exempt from municipal taxes for a period not to exceed five years the value of improvements made to dwelling units certified as blighted. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(b) If a municipality votes to approve the exemption described in subsection (a) of this section, the legislative body of the municipality shall appoint an independent review committee that is authorized to certify dwelling units in the municipality as blighted and exempt the value of improvements made to these dwelling units.

(c) As used in this section, a dwelling unit may be certified as blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

(d) If a dwelling unit is certified as blighted under subsection (b) of this section, the exemption shall take effect on the April 1 following the certification of the dwelling unit.

(For text see House Journal 3/20/2013)

H. 513

An act relating to the Department of Financial Regulation

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

First: In Sec. 26, 8 V.S.A. § 3579, by striking out subsection (e) in its entirety and by inserting in lieu thereof a new subsection (e) to read as follows:

(e) No partner or other person rendering the report required by ~~section 3578~~ the annual financial reporting rule adopted by the Commissioner under section 3578a of this title may act in that capacity for more than ~~seven~~ five consecutive years. Upon application by the insurer, the ~~commissioner~~ Commissioner may find that the rotation requirement of this subsection would pose an unreasonable hardship on the insurer and may extend the accountant's period of qualification for an additional term. In making such determinations, the ~~commissioner~~ Commissioner may consider the experience of the retained accountant and the size of his or her business, the premium volume of the insurer, and the number of jurisdictions in which the insurer transacts business, as provided by the annual financial reporting rule adopted by the Commissioner under section 3578 of this title.

Second: In Sec. 30, 8 V.S.A. § 3684, subdivision (b)(7), by striking out the words "is responsible for and"

Third: In Sec. 31, 8 V.S.A. § 3685, subsection (j), by striking out subdivision (4) in its entirety and by inserting a new subdivision (4) to read as follows:

(4) The board of directors of a domestic insurer shall establish one or more committees composed of a majority of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers. For purposes of this subsection, principal officers shall mean the chief executive officer, the president, and any chief operating officer.

Fourth: In Sec. 33, 8 V.S.A. § 3687, subsection (a), in the first sentence, by striking out the words "All information, documents and copies thereof" and by inserting in lieu thereof Documents, materials, or other information in the possession or control of the Department that are

Fifth: In Sec. 33, 8 V.S.A. § 3687, subsection (f), after "confidential by law

and privileged," by inserting shall not be subject to public inspection and copying under the Public Records Act,

Sixth: By adding a Sec. 35a to read:

Sec. 35a. 8 V.S.A. chapter 159 is redesignated to read:

CHAPTER 159. RISK BASED CAPITAL FOR ~~LIFE AND HEALTH~~ INSURERS

Seventh: In Sec. 36, 8 V.S.A. § 8301, by striking out subdivision (9) in its entirety and by inserting in lieu thereof a new subdivision (9) to read as follows:

~~(10)~~(9) "Negative trend" means ~~a decreasing marginal difference of total adjusted capital over authorized control level risk based capital~~, with respect to a life or health insurer or fraternal benefit society, negative trend over a period of time as determined in accordance with the trend test calculation ~~incorporated~~ included in the life or fraternal risk based capital instructions.

Eighth: By adding a Sec. 51a to read:

Sec. 51a. 8 V.S.A. chapter 141, subchapter 4 is redesignated to read:

Subchapter 4. Special Purpose Financial ~~Captive~~ Insurance Companies

Ninth: In Sec. 66, 8 V.S.A. § 6048o, subsection (a), by striking out the word "chapter" and inserting in lieu thereof the word subchapter

(No House Amendments)