

House Calendar

Wednesday, February 12, 2014

37th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until February 12, 2014

Third Reading

H. 612

An act relating to Gas Pipeline Safety Program penalties

NEW BUSINESS

Third Reading

H. 739

An act relating to rulemaking by the Judicial Nominating Board

Favorable with Amendment

H. 809

An act relating to designation of new town centers and growth centers

Rep. Ellis of Waterbury, for the Committee on **Natural Resources and Energy**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 2791 is amended to read:

§ 2791. DEFINITIONS

As used in this chapter:

* * *

(11) “New town center” means the area planned for or developing as a community’s central business district, composed of compact, pedestrian-friendly, multistory, and mixed use development that is characteristic of a traditional downtown, supported by planned or existing urban infrastructure, including curbed streets with sidewalks and on-street parking, stormwater treatment, sanitary sewers and public water supply.

~~(12)(A) “Growth center” means an area of land that contains the characteristics specified in subdivision (B) of this subdivision (12) and that is located in one or a combination of the following:~~

~~(i) A designated downtown, village center, or new town center;~~

~~(ii) An area of land that is in or adjacent to a designated downtown, village center, or new town center, with clearly defined boundaries~~

~~that have been approved by one or more municipalities in their municipal plans to accommodate a majority of growth anticipated by the municipality or municipalities over a 20-year period. Adjacent areas shall include those lands which are contiguous to the designated downtown, village center, or new town center. In situations where contiguity is precluded by natural or physical constraints to growth center development, adjacent areas may include lands lying close to and not widely separated from the majority of the lands within the designated growth center. Noncontiguous land included as part of a growth center must exhibit strong land use, economic, infrastructure, and transportation relationships to the designated downtown, village center, or new town center; be planned to function as a single, integrated growth center; and be essential to accommodate a majority of growth anticipated by the municipality or municipalities over a 20-year period.~~

~~(B) A growth center contains the following characteristics:~~

~~(i) It incorporates a mix of uses that typically include or have the potential to include the following: retail, office, services, and other commercial, civic, recreational, industrial, and residential uses, including affordable housing and new residential neighborhoods, within a densely developed, compact area;~~

~~(ii) It incorporates existing or planned public spaces that promote social interaction, such as public parks, civic buildings (e.g., post office, municipal offices), community gardens, and other formal and informal places to gather.~~

~~(iii) It is organized around one or more central places or focal points, such as prominent buildings of civic, cultural, or spiritual significance or a village green, common, or square.~~

~~(iv) It promotes densities of land development that are significantly greater than existing and allowable densities in parts of the municipality that are outside a designated downtown, village center, growth center, or new town center, or, in the case of municipalities characterized predominately by areas of existing dense urban settlement, it encourages in-fill development and redevelopment of historically developed land.~~

~~(v) It is supported by existing or planned investments in infrastructure and encompasses a circulation system that is conducive to pedestrian and other nonvehicular traffic and that incorporates, accommodates, and supports the use of public transit systems.~~

~~(vi) It results in compact concentrated areas of land development that are served by existing or planned infrastructure and are separated by rural countryside or working landscape.~~

~~(vii) It is planned in accordance with the planning and development goals under section 4302 of this title, and to conform to smart growth principles.~~

~~(viii) It is planned to reinforce the purposes of 10 V.S.A. chapter 151 “Growth center” shall have the same meaning as under section 2793c of this title.~~

(13) “Smart growth principles” means growth that:

(A) Maintains the historic development pattern of compact village and urban centers separated by rural countryside.

(B) Develops compact mixed-use centers at a scale appropriate for the community and the region.

(C) Enables choice in modes of transportation.

(D) Protects the State’s important environmental, natural, and historic features, including natural areas, water quality, scenic resources, and historic sites and districts.

(E) Serves to strengthen agricultural and forest industries and minimizes conflicts of development with these industries.

(F) Balances growth with the availability of economic and efficient public utilities and services.

(G) Supports a diversity of viable businesses in downtowns and villages.

(H) Provides for housing that meets the needs of a diversity of social and income groups in each community.

(I) Reflects a settlement pattern that, at full build-out, is not characterized by:

(i) scattered development located outside of compact urban and village centers that is excessively land consumptive;

(ii) development that limits transportation options, especially for pedestrians;

(iii) the fragmentation of ~~farm~~ farmland and ~~forest land~~ forestland;

(iv) development that is not serviced by municipal infrastructure or that requires the extension of municipal infrastructure across undeveloped lands in a manner that would extend service to lands located outside compact village and urban centers;

(v) linear development along well-traveled roads and highways that lacks depth, as measured from the highway.

(14) "Important natural resources" means headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive ~~forest lands~~ forestlands, and primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

* * *

Sec. 2. 24 V.S.A. § 2793b is amended to read:

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

(a) A municipality, by its legislative body, may apply to the State Board for designation of an area within that municipality as a new town center development district, provided no traditional downtown or new town center already exists in that municipality. ~~An application by a municipality shall contain a map delineating the district, evidence that the regional planning commission and the regional development corporation have been notified of the municipality's intent to apply, and information showing the district meets the standards for designation established in subsection (b) of this section.~~

(1) The State Board shall not approve an application filed by a municipality on or after July 1, 2014 unless the municipality has stated in its town plan that it intends to apply for designation under this section, and the town plan explains how the designation would further the plan's goals and the goals of section 4302 of this title.

(2) A preapplication meeting shall be held with Department staff before an application is filed to review the program requirements and to identify possible designation boundaries. The meeting shall be held in the municipality unless another location is agreed to by the municipality.

(3) An application for designation shall contain a map that delineates the boundaries of the proposed district and is consistent with the guidelines produced by the Department under subsection 2792(d) of this title. The application shall also demonstrate that the proposed district meets the requirements set forth in subdivision 2791(11) of this title, as well as the standards for designation established in subsection (b) of this section. The application shall verify that the regional planning commission and the regional development corporation have been notified of the municipality's intent to apply for designation.

(b) Within 45 days of receipt of a completed application, the State Board shall designate a new town center development district if the State Board finds,

with respect to that district, the municipality has:

(1) ~~a~~ A confirmed planning process under section 4350 of this title, and developed a municipal center plan, and ~~regulations to~~ adopted bylaws and ordinances that implement the plan, including an official map, and a design review district created under this title; ~~and~~ or other regulations that adequately control the physical form and scale of development.

(2) ~~provided~~ Provided a community investment agreement that has been executed by authorized representatives of the municipal government, businesses, and property owners within the district, and community groups with an articulated purpose of supporting downtown interests, and contains the following:

(A) A map of the designated new town center. The total area of land encompassed within a designated new town center shall not exceed 125 acres. In a municipality with a population greater than 15,000, the total area of land encompassed within a designated new town center may include land in excess of 125 acres provided that the additional area is needed to facilitate the redevelopment of predominately developed land in accordance with the smart growth principles defined under subdivision 2791(13) of this title and shall not exceed 175 acres.

(B) Regulations enabling high densities that are greater than those allowed in any other part of the municipality.

(C) Regulations enabling multistory and mixed use buildings and mixed uses which enable the development of buildings in a compact manner.

(D) A capital improvement program, or a capital budget and program under this title, showing a clear plan for providing public infrastructure within the center, including facilities for drinking water, wastewater, stormwater, public space, lighting, and transportation, including public transit, parking, and pedestrian amenities.

(E) A clear plan for mixed income housing in the new town center.

(F) Evidence that civic and public buildings do exist, or will exist in the center, as shown by the capital improvement plan or the capital budget and program, and the official map.

(G) ~~{Deleted.}~~ [Repealed.]

(H) Evidence that any private or municipal sewage system and private or public water supply serving the proposed new town center are in compliance with the requirements of 10 V.S.A. chapters 47 and 56, and that the municipality has dedicated a portion of any unallocated reserve capacity of the sewage and public water supply necessary to support growth within the

proposed new town center. Any municipality proposing a municipal sewage system and public water supply to serve the proposed new town center shall provide evidence to the ~~state board~~ State Board of a commitment to construct or maintain such a system and supply in compliance with requirements of 10 V.S.A. chapters 47 and 56, or a commitment to construct, as applicable, a permissible potable water supply, wastewater system, indirect discharge, or public water supply within no more than ten years. A commitment to construct does not relieve the property owners in the new town center from meeting the applicable regulations of the Agency of Natural Resources regarding wastewater systems, potable water supplies, public water supplies, indirect discharges, and the subdivision of land. In the event a municipality fails in its commitment to construct a municipal sewage system or public water supply, or both, the State Board shall revoke designation, unless the municipality demonstrates to the State Board that all good faith efforts were made and continue to be made to obtain the required approvals and permits from the Agency of Natural Resources, and failure to construct was due to unavailability of sufficient State or federal funding.

(c)(1) Upon designation by the State Board under this section as a new town center, a new town center and projects in a new town center shall be eligible for the authority to create a special taxing district, pursuant to chapter 87 of this title, for the purpose of financing both capital and operating costs of a project within the boundaries established through new town center designation.

(2) Whenever the Commissioner of Buildings and General Services or other State officials in charge of selecting a site are planning to lease or construct buildings suitable to being located in a new town center after determining that the option of utilizing existing space in a downtown development district, pursuant to subdivision 2794(a)(14) of this title, is not feasible, the option of utilizing existing space in a designated new town center shall be given thorough investigation and priority, in consultation with the community.

(d) The ~~state board~~ State Board shall review a new town center designation every five years and may review compliance with the designation requirements at more frequent intervals. The State Board may adjust the schedule of review under this subsection to coincide with the review of a related growth center. If at any time the State Board determines the new town center no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

- (1) ~~Require~~ require corrective action;
- (2) ~~Provide~~ provide technical assistance through the Vermont

Downtown Program;

(3) ~~Limit~~ limit eligibility for the benefits pursuant to subsection (c) of this section without affecting any of the new town center's previously awarded benefits; or

(4) ~~Remove~~ remove the new town center's designation without affecting any of the town center's previously awarded benefits.

Sec. 3. 24 V.S.A. § 2793c is amended to read:

§ 2793c. DESIGNATION OF GROWTH CENTERS

(a)(1) Definition. As used in this section, "growth center" means an area of land that:

(A) is within or adjoining a downtown, village center, or new town center designated under this chapter; and

(B) has clearly defined boundaries that can accommodate a majority of commercial, residential, and industrial growth anticipated by the municipality or municipalities over a 20-year period.

(2) Development and redevelopment within any growth center shall support Vermont's traditional land use pattern of compact centers separated by rural lands and shall meet the requirements set forth in subsection (b) of this section.

(b) Requirements. To achieve the purposes and goals set forth in section 4302 of this title and conform to smart growth principles, a growth center shall meet each of the following requirements:

(1) Size. The size of the growth center shall be sufficient to accommodate a majority of the projected development within each applicant municipality over a 20-year planning period, and:

(A) shall be no larger than the area necessary to accommodate:

(i) 150 percent of the projected dwelling units in the municipality over the period; and

(ii) no more than 100 percent of the projected commercial and industrial development in the municipality;

(B) shall not encompass an excessive area of land that would involve the unnecessary extension of infrastructure to service low-density development or automobile-dependent strip development; and

(C) may include undevelopable land and land planned for green space or open space, as well as areas designed for infill and redevelopment.

(2) Location. The area of land proposed for the growth center shall be located within or shall adjoin, a designated downtown, village center, or new town center. If the growth center is to be adjoining, then the applicant shall demonstrate that an existing designated downtown, village center, or new town center located within each applicant municipality reasonably cannot accommodate the growth proposed to occur in the growth center.

(3) Uses. The growth center shall support and reinforce any existing designated downtown, village center, or new town center located in the municipality or adjacent municipality by accommodating concentrated residential neighborhoods and a mix and scale of commercial, civic, and industrial uses that are consistent with the anticipated demand for those uses within the municipality and region. The growth center shall incorporate a mix of uses that typically includes or is planned to include the following: retail, office, services, and other commercial, civic, recreational, industrial, and residential uses, including affordable housing and new residential neighborhoods, within a densely developed, compact area.

(4) Density, design, and form. The municipality shall adopt municipal plan policies and implementing bylaws and ordinances applicable to the growth center that conform with design guidelines developed by the Department pursuant to subdivision 2793c(d)(3) of this title, and that:

(A) allow net residential densities within the growth center greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater;

(B) ensure that all investments contribute to a built environment that enhances the existing and planned character and supports pedestrian use;

(C) ensure sufficient density, building heights, and building coverage or sufficient floor area ratio. A municipality may use bylaws that regulate adequately the physical form and scale of development to demonstrate compliance with this requirement;

(D) minimize the required lot sizes, setbacks, and parking and street widths;

(E) organize the proposed growth center development around one or more central places or focal points that will establish community identity and promote social interaction, such as prominent buildings of civic, cultural, or spiritual significance or a village green, common, or square; and

(F) prohibit linear, automobile-dependent strip development along heavily traveled roads within and extending outside the growth center.

(5) Capital budget. The applicant has adopted, in accordance with section 4430 of this title, a capital budget and program that includes existing and planned wastewater treatment, water, stormwater, and transportation infrastructure; public spaces; other infrastructure necessary to support growth center development; and a reference map.

(6) General infrastructure. The existing and planned infrastructure shall be adequate to implement the growth center and meet the municipality's 20-year growth needs. The municipality shall have adopted policies on the extension of water and wastewater lines that include a defined service area and allocation plan to support the growth center.

(7) Public spaces. The growth center shall incorporate existing or planned public spaces that promote social interaction, such as public parks, civic buildings such as a post office or municipal offices, community gardens, and other formal and informal places to gather.

(8) Transportation. Existing or planned transportation infrastructure serving the growth center shall be adequate to implement growth center development over the 20-year period, and shall conform with "complete streets" principles as described under 19 V.S.A. § 309d; shall establish multi-modal access to the downtown, village center, or new town center; incorporate, accommodate, and support the use of public transit systems; and shall encompass a circulation system that is conducive to pedestrian and other nonvehicular traffic. The applicable municipal plans and bylaws shall include provisions that will result in street connectivity and aim to create a comprehensive, integrated, connected network for all modes.

(9) Natural resources within growth centers. The growth center shall avoid or minimize the inclusion of important natural resources and identified flood hazard and fluvial erosion hazard areas. If an applicant includes an important natural resource or flood hazard or fluvial erosion hazard area within a proposed growth center, the applicant shall identify the resource or area, explain why the resource or area was included, describe any anticipated disturbance to the resource or area, and describe how the municipality's land use bylaws will avoid or minimize impacts to the resource or area. If impacts to the resource or area are necessary to achieve growth center goals, the applicant shall provide justification for why the disturbance cannot be avoided or minimized.

(10) Natural resources outside growth centers. Municipalities applying for growth center designation shall ensure that the approved local plan, implementing bylaws, and other programs serve to minimize conflicts of development with agricultural and forest industries; minimize the conversion and fragmentation of farmland, forestland, or significant areas of habitat

connectivity; and minimize impacts on important natural resources located outside the proposed growth center.

(11) Historic resources. The growth center shall be compatible with and reinforce the character of sites that are listed or eligible for listing on the National or State Register of Historic Places, and other significant cultural and historic resources identified by local or State government in or adjacent to the growth center.

(c) Application for designation of a growth center.

(1) Before submitting a complete application to the Board, the municipal legislative body shall vote to apply for growth center designation according to the procedure established under sections 1972 and 1973 of this title.

(2) The application for designation as a growth center shall:

(A) be based on a 20-year plan for growth that is reflected in the municipal plan of the municipality involved;

(B) include regional and local growth projections and shall identify targets for 20-year growth in various sectors;

(C) include an inventory map and analysis of growth and development potential in the designated downtown, village center, or new town center that connects to the proposed growth center; and

(D) quantify the type and amount of development and land area needed to support the proposed growth center beyond what is available in the designated downtown, village center, or new town center.

(3) Each municipality involved in the application shall have a duly adopted and regionally approved municipal plan that describes the proposed growth center and a planning process that is confirmed in accordance with section 4350 of this title.

(4) Each municipality involved in the application shall have adopted bylaws and regulations under sections 4414, 4418, and 4422 of this title and nonregulatory programs that will support and implement the growth center requirements of subsection (b) of this section.

(5) Each application for designation as a growth center shall include:

(A) a description from each relevant regional planning commission of the role of the proposed growth center in the region, and the relationship between the proposed growth center and neighboring communities;

(B) written confirmation from each relevant regional planning commission that the proposed growth conforms with the regional plan;

(C) a concept plan depicting the character of the streets and public spaces within the growth center, and depicting the size and placement of buildings envisioned in the municipal plan; and

(D) one or more maps that accurately delineate the boundaries of the growth center, and an official map, if one is adopted, of the growth center. The map or maps shall identify:

(i) growth center boundaries in relation to the associated designated downtown, village center, or new town center;

(ii) important natural resources, identified flood hazard and fluvial erosion hazard areas, National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government within the municipality;

(iii) existing slopes of 25 percent or greater; and

(iv) existing and planned public facilities, including public buildings, public spaces, wastewater and water services, roads, sidewalks, paths, transit centers, parking areas, parks, and schools within the growth center boundaries.

(d) Designation process.

(1) Preliminary application and meeting process.

(A) Before submitting an application pursuant to subsection (c) of this section, a municipality shall submit a preliminary application to the Department, consisting of a draft growth center map, and a brief explanation of the planning and implementation policies the municipality plans to enact prior to submitting an application under subdivision (B) of this subdivision (1). These planning and implementation policies will be used to guide development within the growth center and preserve the rural character of the surrounding area.

(B) The Department shall solicit comments on the preliminary application from State agencies and regional planning commissions. The Department shall evaluate the preliminary application for compliance with the requirements of subsection (b) of this section, identify potential issues related to the growth center boundary and implementation tools, and make recommendations to address those issues through adjustment of the growth center boundaries and revised or alternative implementation plans.

(C) The Department shall schedule and conduct a preapplication meeting with the applicant.

(2) Regional planning commission technical planning assistance.

Regional planning commissions, pursuant to section 4345a of this title, are uniquely positioned to assist municipalities with growth center planning. To this end, at the request of a municipality contemplating growth center designation, the regional planning commission shall provide technical assistance in support of that designation.

~~(1)~~(A) Technical support shall include:

~~(A)~~(i) preparing population, housing, and employment growth projections for a period of not less than 20 years;

~~(B)~~(ii) GIS mapping, including identification of development capacity, land use, existing and planned infrastructure and service areas, important natural resources and historic resources, and physical constraints to development and associated features; and

~~(C)~~(iii) build-out analyses for potential growth centers to document analysis of whether the geographic area of proposed growth centers will accommodate a majority of the projected growth over a 20-year period ~~in a manner that is consistent with the definition under subdivision 2791(12) of this title.~~

~~(2)~~(B) These projections and ~~build-out~~ analyses may be prepared on a municipal or regional basis.

~~(b) Growth center designation application assistance.~~

~~(1) A subcommittee of the State Board, to be known as the Growth Center Subcommittee, shall develop and maintain a coordinated preapplication review process in accordance with this subdivision (1). The members of the Growth Center Subcommittee shall be the members of the State Board described under subdivisions 2792(a)(1), (6), (7), (9), and (10) of this title and the member designated by the Vermont League of Cities and Towns under subdivision 2792(a)(8) of this title. The Growth Center Subcommittee shall elect a chair from among its members. In carrying out its duties, the Growth Center Subcommittee shall have the support of the staff of the Department of Housing and Community Development and of the Natural Resources Board.~~

~~(A) The purpose of the Growth Center Subcommittee is to:~~

~~(i) ensure consistency between regions and municipalities regarding growth centers designation and related planning;~~

~~(ii) provide municipalities with a preapplication review process early in the local planning process;~~

~~(iii) encourage coordination of State agency review on matters of agency interest; and~~

~~(iv) provide the State Board with ongoing, coordinated support and expertise in land use, community planning, and natural resources protection.~~

~~(B) Under the preapplication review process, a municipality shall submit a preliminary application to the growth center subcommittee, consisting of a draft growth center map and a brief explanation of planning and implementation policies that the municipality anticipates it will enact prior to submission of an application under subsection (d) of this section in order to guide development inside the growth center and maintain the rural character of the surrounding area, to the extent that it exists. This preapplication review process shall be required prior to filing of an application under subsection (d) of this section. The growth center subcommittee shall solicit comments from State agencies regarding areas of respective agency interest; evaluate the preliminary application for conformance with the requirements of this section; identify potential issues related to the growth center's boundary and implementation tools; and provide recommendations for addressing those issues through adjustment to the growth center's boundary, revisions to planned implementation tools, or consideration of alternative implementation tools. Preliminary review shall be available to municipalities while they are engaged in the municipal planning process so that recommendations may be considered prior to the adoption of the municipal plan and associated implementation measure~~

~~(2)(3) Planning manual. After consultation with the growth center subcommittee and the Natural Resources Board, the The Commissioner of Housing and Community Development or designee shall ~~prepare a "municipal growth centers planning manual and implementation checklist"~~ to assist ensure that the planning manual prepared under section 4304 of this title provides guidelines for municipalities and regional planning commissions to plan planning for growth center designation. The ~~implementation~~ manual shall identify State resources available to assist municipalities and shall include a checklist indicating the issues that should be addressed by the municipality in planning for growth center designation.~~

~~(A) The manual shall address other relevant topics in appropriate detail, such as:~~

~~(i) methodologies for conducting growth projections and ~~build-out~~ analyses;~~

~~(ii) the methodology for determining the appropriate size and location of a growth center boundary;~~

~~(iii) the methodology for calculating residential density in a~~

growth center; and

(iv) the methodology for determining the adequacy of infrastructure needed to support anticipated growth within a growth center.

(B) The planning manual shall address defining appropriate boundaries that are not unduly expansive; enacting plan policies and implementation bylaws that accommodate reasonable densities, compact settlement patterns; and an appropriate mix of uses within growth centers; planning for infrastructure, transportation facilities, and open space; avoiding or mitigating impacts to important natural resources and historic resources; and strategies for maintaining the rural character and working landscape outside growth center boundaries.

~~(3)(4) Assistance by Department. In consultation with the Growth Center Subcommittee, the~~ The Commissioner of Housing and Community Development or designee shall provide ongoing assistance to the State Board to review applications for growth center designation, including coordinating review by State agencies on matters of agency interest and evaluating applications and associated plan policies and implementation measures for conformance with the definition under subdivision 2791(12) of this title and any designation requirements established under subsection (e) of this section.

~~(4)(5) Planning grants. The Vermont Municipal Planning Grant Program, pursuant to section 4306(2) of this title, shall make funding for activities associated with growth centers planning a priority funding activity, and the Vermont Community Development Program shall make funding for activities associated with growth centers planning a priority funding activity under the planning grant program.~~

(6) Designation decision. Within 90 days of the receipt of a completed application, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard, the State Board formally shall designate a growth center if the State Board finds, in a written decision, that the growth center proposal meets the requirements of subsection (b) of this section. An application that complies with all of the requirements of subsection (b) of this section other than the size requirement set forth in subdivision (b)(1) may be approved by the State Board if the applicant presents compelling justification for deviating from the size requirement and provided that at least 80 percent but no fewer than seven of the members of the State Board present vote in favor of the application.

(7) Conditions of designation. The Board, as a condition of growth center designation, may require certain regulatory changes prior to the

effective date of designation. In addition, the growth center designation may be modified, suspended, or revoked if the applicant fails to achieve the required regulatory changes within a specified period of time. As an option, municipalities applying for growth center designation may make certain regulatory changes effective and contingent upon formal designation.

(8) Request for reconsideration. Within 21 days of a growth center designation under subdivision (1) of this subsection, a person or entity that submitted written or oral comments to the State Board during its consideration of the application for the designated growth center may request that the State Board reconsider the designation. Any such request for reconsideration shall identify each specific finding of the State Board for which reconsideration is requested and state the reasons why each such finding should be reconsidered. The filing of such a request shall stay the effectiveness of the designation until the State Board renders its decision on the request. On receipt of such a request, the State Board shall promptly notify the applicant municipality of the request if that municipality is not the requestor. The State Board shall convene at the earliest feasible date to consider the request and shall render its decision on the request within 90 days of the date on which the request was filed.

~~(e) Public involvement and review. Any decision to apply for growth center designation shall be made by vote of the municipal legislative body, subject to the process established under sections 1972 and 1973 of this title.~~

~~(d) Application and designation requirements. Any application for designation as a growth center shall be to the State Board and shall include a specific demonstration that the proposed growth center meets each provision of subdivisions (e)(1)(A) through (J) of this section. In addition to those provisions, each of the following shall apply:~~

~~(1) In the event that a proposed growth center lacks one or a portion of one of the characteristics listed in subdivision 2791(12)(B) of this title, the application shall contain an explanation of the unique circumstances that prevent the growth center from possessing that characteristic and why, in the absence of that characteristic, the proposed growth center will comply with the purposes of this chapter and all other requirements of this section.~~

~~(2) Any demonstration that an application complies with subdivision (e)(1)(C) of this section shall include an analysis, with respect to each existing designated downtown or village or new town center located within the applicant municipality, of current vacancy rates, opportunities to develop or redevelop existing undeveloped or underdeveloped properties and whether such opportunities are economically viable, and opportunities to revise zoning or other applicable bylaws in a manner that would permit future development that is at a higher density than existing development.~~

~~(3) A map and a conceptual plan for the growth center.~~

~~(4) A build-out analysis and needs study that demonstrates that the growth center meets the provisions of subdivision (e)(1)(J) of this section.~~

~~(5) An explanation of all measures the applicant has undertaken to encourage a majority of growth in the municipality to take place within areas designated under this chapter. In the case of a growth center that is associated with a designated downtown or village center, the applicant shall also explain the manner in which the applicant's bylaws and policies will encourage growth to take place first in its designated downtown or village center and second in its proposed growth center.~~

~~(e) Designation decision.~~

~~(1) Within 90 days of the receipt of a completed application, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard, the State Board formally shall designate a growth center if the State Board finds, in a written decision, that the growth center proposal meets each of the following:~~

~~(A) The growth center meets the definition of a growth center established in subdivision 2791(12) of this title, including planned land uses, densities, settlement patterns, infrastructure, and transportation within the center and transportation relationships to areas outside the center. In the event that a proposed growth center lacks one or a portion of one of the characteristics listed in subdivision 2791(12)(B) of this title, the State Board shall not approve the growth center proposal unless it finds that the absence of that characteristic will not prevent the proposed growth center from complying with the purposes of this chapter and all other requirements of this section. This subdivision (A) does not confer authority to approve a growth center that lacks more than one characteristic listed in subdivision 2791(12)(B) of this title.~~

~~(B) The growth center will support and reinforce any existing designated downtown, village center, or new town center located in the municipality or adjacent municipality by accommodating concentrated residential neighborhoods and a mix and scale of commercial, civic, and industrial uses that are consistent with the anticipated demand for those uses within the municipality and region.~~

~~(C) The growth that is proposed to occur in the growth center cannot reasonably be achieved within an existing designated downtown, village center, or new town center located within the applicant municipality.~~

~~(D) In the case of a growth center that is associated with a designated new town center, the applicable municipal bylaws provide that areas within the growth center that will be zoned predominantly for retail and office development will be located within the new town center.~~

~~(E) In the case of a growth center that is associated with a designated downtown or village center:~~

~~(i) the applicant has taken all reasonable measures to ensure that growth is encouraged to take place first in the designated downtown or village center and second in the proposed growth center; and~~

~~(ii) the applicable municipal bylaws provide that, with respect to those areas within the growth center that will be located outside the designated downtown or village center and will be zoned predominantly for retail and office development:~~

~~(I) such areas will serve as a logical expansion of the designated downtown or village center through such means as sharing of infrastructure and facilities and shared pedestrian accessibility; and~~

~~(II) such areas will be subject to enacted land use and development standards that will establish a development pattern that is compact, oriented to pedestrians, and consistent with smart growth principles.~~

~~(F) The applicant has identified important natural resources and historic resources within the proposed growth center and the anticipated impacts on those resources, and has proposed mitigation.~~

~~(G) The approved municipal plan and the regional plan both have been updated during any five-year plan readoption that has taken place since the date the Secretary of Agriculture, Food and Markets has developed guidelines in compliance with 6 V.S.A. § 8, have been used to identify areas proposed for agriculture, and have been designed so as to avoid the conversion of primary agricultural soils, wherever possible.~~

~~(H)(i) The applicant has a regionally confirmed planning process and an approved municipal plan, pursuant to section 4350 of this title;~~

~~(ii) The approved plan contains provisions that are appropriate to implement the designated growth center proposal;~~

~~(iii) The applicant has adopted bylaws in conformance with the municipal plan that implement the provisions in the plan that pertain to the designated growth center, including:~~

~~(I) bylaw provisions that ensure that land development and use in the growth center will comply with smart growth principles; and~~

~~(II) with respect to residential development in the growth center, bylaw provisions that allow a residential development density that is:~~

~~(aa) at least four dwelling units per acre; and~~

~~(bb) a higher development density if necessary to conform with the historic densities and settlement patterns in residential neighborhoods located in close proximity to a designated downtown or village center which the growth center is within or to which the growth center is adjacent under subdivision 2791(12)(A)(i) or (ii) of this title; and~~

~~(iv) The approved plan and the implementing bylaws further the goal of retaining a more rural character in the areas surrounding the growth center, to the extent that a more rural character exists, and provide reasonable protection for important natural resources and historic resources located outside the proposed growth center.~~

~~(I) The applicant has adopted a capital budget and program in accordance with section 4426 of this title, and that existing and planned infrastructure is adequate to implement the growth center.~~

~~(J) The growth center:~~

~~(i) is of an appropriate size sufficient to accommodate a majority of the projected population and development over a 20-year planning period in a manner that is consistent with the definition under subdivision 2791(12) of this title;~~

~~(ii) does not encompass an excessive area of land that would involve the unnecessary extension of infrastructure to service low density development or result in a scattered or low density pattern of development at the conclusion of the 20-year planning period; and~~

~~(iii) using a 20-year planning period commencing with the year of the application, is sized to accommodate each of the following:~~

~~(I) an amount of residential development that is no more than 150 percent of the projected residential growth in the municipality; and~~

~~(II) an amount of commercial or industrial development, or both, that does not exceed 100 percent of the projected commercial and industrial growth in the municipality.~~

~~(2) The Board, as a condition of growth center designation, may require certain regulatory changes prior to the effective date of designation. In addition, the growth center designation may be modified, suspended, or revoked if the applicant fails to achieve the required regulatory changes within a specified period of time. As an option, municipalities applying for growth~~

~~center designation may make certain regulatory changes effective and contingent upon formal designation.~~

~~(3) Within 21 days of a growth center designation under subdivision (1) of this subsection, a person or entity that submitted written or oral comments to the State Board during its consideration of the application for the designated growth center may request that the State Board reconsider the designation. Any such request for reconsideration shall identify each specific finding of the State Board for which reconsideration is requested and state the reasons why each such finding should be reconsidered. The filing of such a request shall stay the effectiveness of the designation until the State Board renders its decision on the request. On receipt of such a request, the State Board shall promptly notify the applicant municipality of the request if that municipality is not the requestor. The State Board shall convene at the earliest feasible date to consider the request and shall render its decision on the request within 90 days of the date on which the request was filed.~~

~~(4) Except as otherwise provided in this section, growth center designation shall extend for a period of 20 years. The State Board shall review a growth center designation no less frequently than every five years, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard. For each applicant, the State Board may adjust the schedule of review under this subsection so as to coincide with the review of the related and underlying designation of a downtown, village center, or new town center. If, at the time of the review, the State Board determines that the growth center no longer meets the standards for designation in effect at the time the growth center initially was designated, it may take any of the following actions:~~

~~(A) require corrective action;~~

~~(B) provide technical assistance through the coordinated assistance program; or~~

~~(C) remove the growth center's designation, with that removal not affecting any of the growth center's previously awarded benefits.~~

~~(5) At any time a municipality shall be able to apply to the State Board for amendment of a designated growth center or any related conditions or other matters, according to the procedures that apply in the case of an original application.~~

(e) Length of Designation.

(1) Except as otherwise provided in this section, growth center

designation shall extend for 20 years. The State Board shall review a growth center designation no less frequently than every five years, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard. For each applicant, the State Board may adjust the schedule of review under this subsection so as to coincide with the review of the related and underlying designation of a downtown, village center, or new town center.

(2) The five-year review shall include, at a minimum, an updated five-year capital plan that funds infrastructure improvements necessary to implement growth center development, updated development projections, a summary of growth within and outside the growth center to date, and any changes to the municipal plan, bylaws, or maps since the original growth center application or any previous review.

(3) If, at the time of the review, the State Board determines that the growth center no longer meets the standards for designation in effect at the time the growth center initially was designated, the State Board may:

(A) require corrective action;

(B) provide technical assistance through the coordinated assistance program; or

(C) remove the growth center's designation, with that removal not affecting any of the growth center's previously awarded benefits.

(4) At any time, a municipality shall be able to apply to the State Board for amendment of a designated growth center or any related conditions or other matters, according to the procedures that apply in the case of an original application.

(f) Review by the Natural Resources Board and issuance of Act 250 findings of fact and conclusions of law. Subsequent to growth center designation by the State Board, an applicant municipality may submit a request for findings of fact and conclusions of law under specific criteria of 10 V.S.A. § 6086(a) to the Natural Resources Board for consideration in accordance with the following:

(1) In requesting findings of fact, the applicant municipality shall specify any criteria for which findings and conclusions are requested and the nature and scope of the findings that are being requested.

(2) The ~~panel~~ Natural Resources Board shall notify all landowners of land located within the proposed growth center, entities that would be accorded party status before a district commission under 10 V.S.A. § 6085(c)(1)(C) and

(D), and all owners of land adjoining the proposed growth center of a hearing on the issue. The ~~panel~~ Natural Resources Board may fashion alternate and more efficient means of providing adequate notice to persons potentially affected under this subdivision. Persons notified may appear at the hearing and be heard, as may any other person who has a particularized interest protected by 10 V.S.A. chapter 151 that may be affected by the decision.

(3) The ~~panel~~ Natural Resources Board shall review the request in accordance with and shall issue findings of fact and conclusions of law under the applicable criteria of 10 V.S.A. § 6086(a) which are deemed to have been satisfied by the applicant's submissions during the formal designation process, any additional submissions, as well as associated municipal plan policies, programs, and bylaws. Findings and conclusions of law shall be effective for a period of five years, unless otherwise provided. The ~~panel~~ Natural Resources Board, before issuing its findings and conclusions, may require specific changes in the proposal, or regulatory changes by the municipality, as a condition for certain findings and conclusions. These findings and conclusions shall be subject to appeal to the Environmental Division pursuant to 10 V.S.A. chapter 220 within 30 days of issuance.

(4) During the period of time in which a growth center designation remains in effect, any findings and conclusions issued by the Natural Resources Board or any final adjudication of those findings and conclusions shall be applicable to any subsequent application for approval by a district commission under 10 V.S.A. chapter 151 and shall be binding upon the district commission and the persons provided notice in the Natural Resources Board proceeding, according to the rules of the Natural Resources Board, provided the proposed development project is located within the designated growth center.

(5) In any application to a district commission under 10 V.S.A. chapter 151 for approval of a proposed development or subdivision to be located within the designated growth center, the district commission shall review de novo any relevant criteria of 10 V.S.A. § 6086(a) that are not subject to findings of fact and conclusions of law issued by the Natural Resources Board pursuant to this section.

(6) The decision of the State Board pursuant to this section shall not be binding as to the criteria of 10 V.S.A. § 6086(a) in any proceeding before the panel or a district commission.

(g) Review by district commission. In addition to its other powers, in making its determinations under 10 V.S.A. § 6086, a district commission may consider important resources within a proposed growth center that have been identified in the designation process and the anticipated impacts on those

resources, and may require that reasonable mitigation be provided as an alternative to permit denial.

(h) Concurrent designation. A municipality may seek designation of a growth center concurrently with the designation of a downtown pursuant to section 2793 of this title, the designation of a village center pursuant to section 2793a of this title, or the designation of a new town center pursuant to section 2793b of this title.

(i) Benefits from designation. A growth center designated by the State Board pursuant to this section is eligible for the following development incentives and benefits:

(1) Financial incentives.

(A) A municipality may use tax increment financing for infrastructure and improvements in its designated growth center pursuant to the provisions of Title 32 and this title. A designated growth center under this section shall be presumed to have met any locational criteria established in Vermont statutes for tax increment financing. The State Board may consider project criteria established under those statutes and, as appropriate, may make recommendations as to whether any of those project criteria have been met.

(B) Vermont Economic Development Authority (VEDA) incentives shall be provided to designated growth centers.

(2) State assistance and funding for growth centers.

(A) It is the intention of the ~~general assembly~~ General Assembly to give the highest priority to facilitating development and growth in designated downtowns and village centers whenever feasible. The provisions in this section and elsewhere in law that provide and establish priorities for State assistance and funding for designated growth centers are not intended to take precedence over any other provisions of law that provide ~~state~~ State assistance and funding for designated downtowns and village centers.

(B) On or before January 15, 2007, the Secretary of Administration, in consultation with the Secretaries of Natural Resources, of Transportation, of Commerce and Community Development, and of ~~agriculture, food and markets~~ Agriculture, Food and Markets, shall report to the General Assembly on the priorities and preferences for State assistance and funding granted in law to downtown centers, village centers, and designated growth centers, and the manner in which such priorities are applied.

(3) State infrastructure and development assistance.

(A) With respect to State grants and other State funding, priority should be given to support infrastructure and other investments in public

facilities located inside a designated growth center to consist of the following:

(i) Agency of Natural Resources funding of new, expanded, upgraded, or refurbished wastewater management facilities serving a growth center in accordance with the Agency's rules regarding priority for pollution abatement, pollution prevention, and the protection of public health and water quality.

(ii) Technical and financial assistance for brownfields remediation under the Vermont brownfields initiative.

(iii) Community development block grant (CDBG) program implementation grants.

(iv) Technical, financial, and other benefits made available by statute or rule.

(B) Whenever the Commissioner of Buildings and General Services or other State officials in charge of selecting a site are planning to lease or construct buildings suitable to being located in a designated growth center after determining that the option of utilizing existing space in a downtown development district pursuant to subdivision 2794(a)(13) of this title or within a designated village center pursuant to subdivision 2793a(c)(6) of this title or within a designated new town center pursuant to subdivision 2793b(c)(2) of this title is not feasible, the option of locating in a designated growth center shall be given thorough investigation and priority in consultation with the legislative body of the municipality.

(4) State investments. The State shall:

(A) Expand the scope of the downtown transportation fund, as funds are available, to include access to downtowns with the first priority being projects located in designated downtowns, the second priority being projects located in designated village centers, and the third priority being projects located in designated growth centers.

(B) Extend priority consideration for transportation enhancement improvements located within or serving designated downtowns, village centers, and growth centers.

(C) Grant to projects located within designated growth centers priority consideration for State housing renovation and affordable housing construction assistance programs.

(5) Regulatory incentives.

(A) Master plan permit application. At any time while designation of a growth center is in effect, any person or persons who exercise ownership or

control over an area encompassing all or part of the designated growth center or any municipality within which a growth center has been formally designated may apply for a master plan permit for that area or any portion of that area to the district commission pursuant to the rules of the Natural Resources Board. Municipalities making an application under this subdivision are not required to exercise ownership of or control over the affected property. The district commission shall be bound by any conclusions or findings of the Natural Resources Board, or any final adjudication of those findings and conclusions, pursuant to subsection (f) of this section but shall consider de novo any of the criteria of 10 V.S.A. § 6086(a) that were not subject to the final issuance of findings and conclusions by the Natural Resources Board pursuant to that subsection. In approving a master permit, the district commission may set forth specific conditions that an applicant for an individual project permit will be required to meet.

(B) Individual project permits within a designated growth center. The district commission shall review individual Act 250 permit applications in accordance with the specific findings of fact and conclusions of law issued by the Natural Resources Board under this section, if any, and in accordance with the conditions, findings, and conclusions of any applicable master plan permit. Any person proposing a development or subdivision within a designated growth center where no master plan permit is in effect shall be required to file an application with the district environmental commission for review under the criteria of 10 V.S.A. § 6086(a).

Sec. 4. 24 V.S.A. § 4302(c) is amended to read:

(c) In addition, this chapter shall be used to further the following specific goals:

(1) To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

(A) Intensive residential development should be encouraged primarily in areas related to community centers, and strip development along highways should be discouraged.

(B) Economic growth should be encouraged in locally designated growth areas, ~~or~~ employed to revitalize existing village and urban centers, or both, and should be encouraged in growth centers designated under chapter 76A of this title.

(C) Public investments, including the construction or expansion of infrastructure, should reinforce the general character and planned growth patterns of the area.

(D) Development should be undertaken in accordance with smart growth principles as defined in subdivision 2791(13) of this title.

* * *

Sec. 5. 24 V.S.A. § 4304 is amended to read:

§ 4304. PLANNING AND LAND USE MANUAL

(a) ~~The agency of commerce and community development~~ Commissioner of Housing and Community Development shall prepare, maintain, and distribute from time to time to all municipalities a manual setting forth:

(1) ~~A~~ a copy of this chapter, together with all amendments thereof;

(2) ~~Examples~~ examples of land planning policies, and maps and documents prepared in conformance with plan requirements;

(3) ~~An~~ an explanation and illustrative examples of bylaws, capital programs ~~and~~, budgets, and procedures authorized in this chapter; and

(4) ~~Other~~ other explanatory material and data which will aid municipalities in the preparation of plans, capital budgets ~~and~~, programs, and the administration of bylaws authorized in this chapter.

(b) ~~The agency of commerce and community development~~ Commissioner of Housing and Community Development shall, from time to time, confer with interested persons with a view toward ~~insuring~~ ensuring the maintenance of such manual in a form most useful to those regions and municipalities making use of it.

(c) Sections of this manual may be cited in any plan or ~~by-law~~ bylaw in the same manner as citations of this chapter, and may be incorporated by reference in any plan ~~by-law~~ bylaw.

Sec. 6. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

(1) A statement of objectives, policies, and programs of the municipality to guide the future growth and development of land, public services, and facilities, and to protect the environment;

(2) A land use plan, consisting of a map and statement of present and prospective land uses, indicating those areas proposed for forests, recreation,

agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses and open spaces reserved for flood plain, wetland protection, or other conservation purposes; and setting forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service; and those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought;

* * *

Sec. 7. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include ~~but need not be limited to~~ the following:

(1) A statement of basic policies of the region to guide the future growth and development of land and of public services and facilities, and to protect the environment;

(2) A land use element, which shall consist of a map and statement of present and prospective land uses:

(A) indicating those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, open spaces, and areas identified by the State, regional planning commissions or municipalities, which require special consideration for aquifer protection, wetland protection, or for other conservation purposes;

(B) indicating those areas within the region that are likely candidates for designation under sections 2793 (downtown development districts), 2793a (village centers), 2793b (new town centers), and 2793c (growth centers) of this title;

(C) indicating locations proposed for developments with a potential for regional impact, as determined by the regional planning commission, including flood control projects, surface water supply projects, industrial parks, office parks, shopping centers and shopping malls, airports, tourist attractions, recreational facilities, private schools, public or private colleges, and residential developments or subdivisions;

~~(D)~~ setting forth the present and prospective location, amount,

intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services;

~~(D)~~(E) indicating those areas that have the potential to sustain agriculture and recommendations for maintaining them which may include transfer of development rights, acquisition of development rights, or farmer assistance programs;

* * *

Sec. 8. 24 V.S.A. § 4404 is added to read

§ 4404. STATE DESIGNATION; IMPLEMENTATION OF MUNICIPAL PLAN

A municipality, to implement its municipal plan, may apply for State designation of an existing or planned municipal growth center, downtown, village center, new town center, or neighborhood development area as necessary for eligibility to receive associated benefits pursuant to chapter 76A of this title.

Sec. 9. PLANNING MANUAL; REVISIONS

On or before November 15, 2015, the Commissioner of Housing and Community Development shall revise the planning manual under 24 V.S.A. § 4304 to conform to the provisions of this act.

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Senate Proposal of Amendment

H. 655

An act relating to fiscal year 2014 budget adjustments

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

First: By adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. 2013 Acts and Resolves No. 50, Sec. B.139 is amended to read:

Sec. B.139 Tax department - reappraisal and listing payments

Grants	<u>3,293,196</u>	<u>3,368,196</u>
Total	<u>3,293,196</u>	<u>3,368,196</u>
Source of funds		
Education fund	<u>3,293,196</u>	<u>3,368,196</u>

Total	3,293,196	3,368,196
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and by striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. 2013 Acts and Resolves No. 50, Sec. B.145 is amended to read:

Sec. B.145 Total general government

Source of funds

General fund	69,657,388	70,763,769
Transportation fund	3,930,356	3,930,356
Special funds	10,336,132	10,336,132
Education fund	9,480,096	9,555,096
Federal funds	963,293	963,293
Internal service funds	69,123,421	69,123,421
Interdepartmental transfers	6,974,721	6,974,721
Enterprise funds	3,233,092	3,233,092
Pension trust funds	39,659,149	39,659,149
Private purpose trust funds	<u>1,138,128</u>	<u>1,138,128</u>
Total	214,495,776	215,677,157

and by adding a new section to be numbered Sec. 73a to read as follows:

Sec. 73a. 2013 Acts and Resolves No. 50, Sec. E.139(c) is added to read:

(c) Of this appropriation, \$75,000 shall be transferred to the Department of Taxes, Division of Property Valuation and Review and used with any remaining funds from the amount transferred pursuant to 2013 Acts and Resolves No. 1, Sec. 75, for payment of any expenses associated with reappraisals of the hydroelectric plants and other property owned by TransCanada Hydro Northeast, Inc. in the State of Vermont. Expenditures for this purpose shall be considered qualified expenditures under 16 V.S.A. § 4025(c).

Second: By adding a new section to be numbered Sec. 5a to read as follows:

Sec. 5a. 2013 Acts and Resolves No. 50, Sec. B.204 is amended to read:

Sec. B.204 Judiciary

Personal services	32,218,222	32,868,222
Operating expenses	8,707,574	8,707,574
Grants	<u>70,000</u>	<u>70,000</u>
Total	40,995,796	41,645,796
Source of funds		
General fund	35,067,633	35,717,633

Special funds	3,235,319	3,235,319
Tobacco fund	39,871	39,871
Federal funds	714,176	714,176
Interdepartmental transfers	<u>1,938,797</u>	<u>1,938,797</u>
Total	<u>40,995,796</u>	41,645,796

and by striking out Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. 2013 Acts and Resolves No. 50, Sec. B.240 is amended to read:

Sec. B.240 Total protection to persons and property

Source of funds		
General fund	118,749,083	119,499,112
Transportation fund	25,238,498	25,238,498
Special funds	75,064,951	75,164,951
Tobacco fund	606,315	606,315
Federal funds	66,671,503	66,671,503
ARRA funds	1,479,429	1,479,429
Global commitment fund	256,224	256,224
Interdepartmental transfers	8,670,609	8,670,609
Enterprise funds	<u>6,178,980</u>	<u>6,178,980</u>
Total	302,915,592	303,376,621

Third: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. 2013 Acts and Resolves No. 50, Sec. B.300 is amended to read:

Sec. B.300 Human services - agency of human services - secretary's office

Personal services	10,337,270	10,462,270
Operating expenses	3,232,916	3,591,498
Grants	5,473,998	<u>5,260,754</u>
Total	19,044,184	19,314,522
Source of funds		
General fund	5,135,482	5,241,643
Special funds	91,017	91,017
Tobacco fund	291,127	223,127
Federal funds	9,843,546	9,975,320
Global commitment fund	415,000	415,000
Interdepartmental transfers	3,268,012	<u>3,368,415</u>
Total	19,044,184	19,314,522

and by striking out Sec. 36 in its entirety and inserting in lieu thereof a new Sec. 36 to read as follows:

Sec. 36. 2013 Acts and Resolves No. 50, Sec. B.346 is amended to read:

Sec. B.346 Total human services

Source of funds

General fund	590,507,696	606,770,937
Special funds	89,631,251	89,094,967
Tobacco fund	40,046,431	40,046,431
State health care resources fund	267,531,579	268,303,555
Education fund	3,929,242	3,929,242
Federal funds	1,186,473,782	1,207,610,475
Global commitment fund	1,224,791,971	1,248,742,299
Internal service funds	1,502,901	1,502,901
Interdepartmental transfers	25,378,027	25,503,430
Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	3,429,817,880	3,491,529,237

Fourth: By striking out Sec. 37 in its entirety and inserting in lieu thereof a new Sec. 37 to read as follows:

Sec. 37. 2013 Acts and Resolves No. 50, Sec. B.500 is amended to read:

Sec. B.500 Education - finance and administration

Personal services	7,072,845	7,147,845
Operating expenses	2,019,419	2,519,419
Grants	<u>12,591,200</u>	<u>12,591,200</u>
Total	21,683,464	22,258,464

Source of funds

General fund	3,007,875	3,007,875
Special funds	13,293,157	13,868,157
Education fund	892,795	892,795
Federal funds	3,624,185	3,624,185
Global commitment fund	<u>865,452</u>	<u>865,452</u>
Total	21,683,464	22,258,464

and by striking out Sec. 40 in its entirety and inserting in lieu thereof a new Sec. 40 read as follows:

Sec. 40. 2013 Acts and Resolves No. 50, Sec. B.515 is amended to read:

Sec. B.515 Total general education

Source of funds

General fund	370,703,978	370,703,978
Special funds	17,197,375	17,772,375
Tobacco fund	766,541	766,541
Education fund	1,452,124,701	1,451,050,701

Federal funds	133,926,899	133,926,899
Global commitment fund	865,452	865,452
Pension trust funds	<u>34,963,059</u>	<u>34,963,059</u>
Total	2,010,548,005	2,010,049,005

and by adding a new section to be numbered Sec.79a to read as follows:

Sec. 79a. 2013 Acts and Resolves No. 50, Sec. E.500(b) is added to read:

(b) Of the special funds appropriated in Sec. B.500 of this act, up to \$75,000 shall be transferred to the Joint Fiscal Office from the Agency of Education for reimbursement of costs incurred for analysis of special education as authorized in subsections (c) - (f) of this section.

(c) The Joint Fiscal Office, with the assistance of the Office of Legislative Council and the Agency of Education, shall develop a request for proposals to evaluate the use of paraprofessionals to provide special education services in Vermont public schools. A special committee consisting of the members of the Joint Fiscal Committee and the chairs of the House and Senate Committees on Education shall select a consultant from among the proposals submitted and the Joint Fiscal Office shall enter into a contract with the consultant to perform the evaluation required by this section.

(d) The consultant's evaluation shall include examination of the following:

(1) the relationship between the use of paraprofessionals and achievement of identified student outcomes;

(2) factors that influence a school district's decision to use paraprofessionals to deliver special education services;

(3) the range of and impacts resulting from the implementation of schoolwide programs for improving and managing behaviors, particularly on the use of paraprofessionals;

(4) if and how the current education funding system impacts the use of paraprofessionals to deliver special education services;

(5) the quality and availability of information to boards and administrators of supervisory unions and school districts to monitor and evaluate the delivery of special education services; and

(6) local governance practices regarding regular reevaluation of the needs for one-on-one aides and the movement of special needs students toward independence from an aide.

(e) The Joint Fiscal Office, the Office of Legislative Council, and the Agency of Education shall assist the consultant to gather data necessary for an evaluation. The consultant shall interview school board members,

administrators, licensed teachers, and paraprofessionals and shall provide opportunities for participation by students with special needs and their parents or guardians.

(f) On or before January 15, 2015, the consultant shall submit a report to the Governor, the Joint Fiscal Committee, and the House and Senate Committees on Education detailing research, conclusions, and recommendations.

Fifth: By striking out Sec. 42 in its entirety and inserting in lieu thereof a new Sec. 42 to read as follows:

Sec. 42. 2013 Acts and Resolves No. 50, Sec. B.714 is amended to read:

Sec. B.714 Total natural resources

Source of funds

General fund	26,072,035	27,838,171
Special funds	34,994,533	34,994,533
Fish and wildlife fund	8,914,102	8,914,102
Federal funds	20,837,609	20,837,609
Interdepartmental transfers	<u>6,986,357</u>	<u>6,986,357</u>
Total	97,804,636	99,570,772

Sixth: By striking out Sec. 45 in its entirety and inserting in lieu thereof a new Sec. 45 to read as follows:

Sec. 45. 2013 Acts and Resolves No. 50, Sec. B.813 is amended to read:

Sec. B.813 Total commerce and community development

Source of funds

General fund	14,731,031	14,731,031
Special funds	18,937,450	19,562,450
Federal funds	44,834,367	44,834,367
Interdepartmental transfers	222,700	222,700
Enterprise funds	<u>827,003</u>	<u>827,003</u>
Total	79,552,551	80,177,551

Seventh: By striking out Sec. 47 in its entirety and inserting in lieu thereof a new Sec. 47 to read as follows:

Sec. 47. 2013 Acts and Resolves No. 50, Sec. B.922 is amended to read:

Sec. B.922 Total transportation

Source of funds

Transportation fund	218,733,438	220,657,745
TIB fund	21,121,994	19,197,687

Special funds	2,235,250	2,235,250
Federal funds	373,641,099	373,641,099
Internal service funds	20,319,956	20,319,956
Interdepartmental transfers	4,432,547	4,432,547
Local match	2,183,313	2,183,313
TIB proceeds fund	<u>10,387,500</u>	<u>10,387,500</u>
Total	653,055,097	653,055,097

Eighth: By striking out Sec. 49 in its entirety and inserting in lieu thereof a new Sec. 49 to read as follows:

Sec. 49. 2013 Acts and Resolves No. 50, Sec. B.1001 is amended to read:

Sec. B.1001 Total debt service

Source of funds

General fund	70,521,584	70,210,177
Transportation fund	2,414,979	2,414,979
TIB debt service fund	2,397,816	2,393,683
Special funds	628,910	628,910
ARRA funds	<u>1,253,280</u>	<u>1,153,645</u>
Total	77,216,569	76,801,394

Ninth: By striking out Sec. 53(a) in its entirety and inserting in lieu thereof a new Sec. 53(a) to read as follows:

(a) The following is appropriated in fiscal year 2014 to the Agency of Transportation:

<u>Transportation Fund</u>	<u>\$1,626,284</u>
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Tenth: By adding a new section to be numbered Sec. 53a to read as follows:

Sec. 53a. 2012 Acts and Resolves No. 162, Sec. BB.1200(a)(1)(B) is amended to read:

(B) Transportation Fund. The amount of ~~\$2,200,000~~ \$1,910,949 is appropriated from the transportation fund to the secretary of administration for distribution to the agency of transportation, the transportation board, and the department of public safety to fund the collective bargaining agreements and the requirements of this act.

Eleventh: By striking out Sec 71 in its entirety and inserting in lieu thereof a new Sec. 71 to read as follows:

Sec. 71. [Deleted]

Twelfth: By striking out Sec. 73 in its entirety and inserting in lieu thereof a new Sec. 73 to read as follows:

Sec. 73. 2013 Acts and Resolves No. 50, Sec. E.127(c) is added to read:

(c) The amount of \$200,000 shall be transferred from the fiscal year 2014 Legislature budget to the Joint Fiscal Committee budget for the purpose of procuring fiscal and policy expertise related to Vermont's health care system.

Thirteenth: By adding a new section to be numbered Sec. 75a to read as follows:

Sec. 75a. CHOICES FOR CARE; REINVESTMENT

(a) Of the Choices for Care funds available for reinvestment in fiscal year 2014, the Department of Disabilities, Aging, and Independent Living is authorized to use up to \$1,000,000 in fiscal years 2014 and 2015 on one-time investments that directly benefit eligible choices for care enrollees and one-time investments to home- and community-based providers that are consistent with and prioritized based on current needs analysis to meet the overall strategic goals and outcomes of the waiver. This authorization is in addition to the reinvestment plan submitted by the Department as submitted to the Committees on Appropriations in January 2014. The General Fund portion of this amount is \$435,600 which may be transferred to other Department appropriations as needed to meet the objectives of this section. The Department shall report to the Joint Fiscal Committee in July 2014 regarding this provision.

Fourteenth: By striking out Sec. 78 in its entirety and inserting in lieu thereof a new Sec. 78 to read as follows:

Sec. 78. GENERAL ASSISTANCE HOUSING INTENT

(a) The General Assembly understands that there is a need for emergency housing in Vermont and supports the efforts of the Department for Children and Families to address the growing demand. It finds that while motels are currently used to address emergency housing needs, it is the goal of the General Assembly that motels be reserved for catastrophic situations in the future.

Fifteenth: By adding a new section to be numbered Sec. 86a to read as follows:

Sec. 86a. SPECIAL WARMTH GRANT

(a) Effective January 30, 2014, the Department for Children and Families is authorized to grant \$500,000 of the funds available within the fuel assistance program for a special warmth program to address extraordinary

temperature-related fuel assistance needs in the 2013-2014 heating season.

(For text see House Journal 1/23/2014 & 1/24/2014)

NOTICE CALENDAR

Favorable with Amendment

H. 62

An act relating to prohibiting the handheld use of a portable electronic device while driving

Rep. Koch of Barre Town, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 1095b is amended 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 on a highway work zone in this State~~. 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 to use of the device to activate or deactivate hands-free use; or

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

(3) to communications among law enforcement or emergency service personnel in the performance of their official duties; or

(4) to use of an ignition interlock device, as defined at 23 V.S.A. § 1200.

(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~~ for a first violation, and of not less than \$250.00 and not more than \$500.00 ~~upon adjudication of~~ for a second or subsequent

violation within any two-year period.

(d)(1) Operators of commercial motor vehicles shall be governed by the provisions of 23 V.S.A. chapter 39 (Commercial Driver License Act) instead of the provisions of this chapter with respect to the handheld use of mobile telephones, and texting, while operating a commercial motor vehicle.

(2) A person shall not be issued more than one complaint for any violation of this section, section 1095a of this title (junior operator use of portable electronic devices), or section 1099 of this title (texting prohibited) that arises from the same conduct.

Sec. 2. 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.	Entertainment picture visible to operator;
(ii)	§ 1095b.	Use of portable electronic device in-work zone —first offense;

* * *

(4) Five points assessed for:

* * *

(D)	§ 1095b.	Use of portable electronic device in-work zone —second and subsequent offenses;
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* * *

Sec. 3. 23 V.S.A. § 1095a is amended to read:

§ 1095a. JUNIOR OPERATOR USE OF PORTABLE ELECTRONIC DEVICES

A person under 18 years of age shall not use any portable electronic device as defined in subdivision 4(82) of this title while operating a moving motor vehicle on a highway. This prohibition shall not apply ~~if it is necessary to place an emergency 911 call;~~

(1) when use of a portable electronic device is necessary for a person to communicate with law enforcement or emergency service personnel under emergency circumstances; or

(2) to communications among law enforcement or emergency service personnel in the performance of their official duties.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(**Committee Vote: 11-0-0**)

Rep. McCarthy of St. Albans City, for the Committee on **Transportation**, recommends the bill ought to pass when amended as recommended by the Committee on **Judiciary** and when further amended as follows:

In Sec. 1, in 23 V.S.A. § 1095b(b)(1), by striking the following phrase: “or to use of the device to activate or deactivate hands-free use”

(**Committee Vote: 10-0-1**)

H. 208

An act relating to absence from work for health care and safety

Rep. Stevens of Waterbury, for the Committee on **General, Housing and Military Affairs**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) According to the VT Department of Labor 2011 Fringe benefits study, roughly 75 percent of all private sector employers provide some form of paid time off and 43 percent provide paid time that is specifically permitted for use as sick time. An estimated 38 percent of all private sector workers in the State do not have access to specifically designated earned sick time and an estimated 20 percent of all Vermont workers do not have access to any paid time off.

(2) This figure represents nearly 60,000 working Vermonters, of which approximately 2,000 are employed as temporary workers for the State of Vermont.

Sec. 2. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

* * *

(d) For the purposes of earned sick time, an employer must comply with the provisions required under subchapter 3A of this title.

Sec. 3. 21 V.S.A. chapter 5, subchapter 3A is added to read:

Subchapter 3A. Earned Sick Time

§ 401. DEFINITIONS

As used in this subchapter:

(1) “Combined time off” means a policy wherein the employer provides time off for vacation, sickness, personal reasons, or holidays, the employee has the option to use all of their leave for whatever purpose they choose.

(2) “Commissioner” means the Commissioner of Labor.

(3) “Differential” means compensation paid in addition to the usual compensation to an employee of a health care facility as defined in 18 V.S.A. § 9432(8) who does not work on a regular schedule and who works only when he or she indicates that he or she is available to work and has no obligation to work when he or she does not indicate availability.

(4) “Earned sick time” means discretionary time earned and accrued under the provisions of this subchapter, with a constant cap of 56 hours that cannot accumulate or use annually an amount more than 56 hours, and used for the purposes listed in subdivisions 403(a)(1)–(4) of this title.

(5) “Employee” has the same meaning as set forth in section 341 of this title.

(6) “Employer” means an individual, organization, or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State employing five or more individuals.

(7) “Full-time employee” means an employee who works more than 30 hours per week.

(8) “Seasonal employee” has the same meaning as set forth in subdivisions 2002(4)(A)–(B) of this title.

§ 402. EARNED SICK TIME

(a) An employee shall accrue not less than one hour of earned sick time for every 30 hours worked.

(b) An employer shall require a probationary period for new hires. During

this probationary period, an employee shall accrue earned sick time pursuant to section 402 of this title but cannot use this earned sick time for 60 calendar days or 240 work hours, whichever is later.

(c) In the absence of a more generous paid time plan or collective bargaining agreement provision, an employer may:

(1) limit the amount of earned sick time accrued pursuant to section 402 of this title to a maximum of 56 hours in a 12-month period; or

(2) limit to 40 hours the number of hours in the workweek for which full-time employees not subject to the overtime provisions of the Federal Fair Labor Standards Act (29 U.S.C. § 213(a)(1)) may accrue earned sick time pursuant to section 402 of this title.

(d) Earned sick time accrued pursuant to section 402 of this title shall be compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns for hours worked.

(e) Service or tipped employees shall be compensated at an amount that is not less than the minimum wage required for nonservice or nontipped employees pursuant to section 384 of this title.

(f) At the employer's discretion, an employee may borrow earned sick time accrued pursuant to section 402 of this title before the time is actually accrued.

(g) An employer with a paid time policy that is comparable to or more generous than the earned sick time provided under this section is not required to provide additional earned sick time.

(h) If an employer offers combined time off that does not specifically include paid sick time, an employee may use all or a portion of that time for the purposes listed in subdivisions 403(a)(1)–(4) of this title.

(i) Nothing in this section shall be construed to interfere with the enforcement of or require a change in a collective bargaining agreement that is comparable or more generous than the paid time provided under this section.

§ 403. USE OF EARNED SICK TIME

(a) An employee may use earned sick time accrued pursuant to section 402 of this title for any of the following reasons:

(1) The employee is ill or injured.

(2) The employee obtains professional diagnostic, preventive, routine, or therapeutic health care.

(3) The employee cares for a sick or injured child, parent, parent-in-law, grandparent, grandparent-in-law, spouse, domestic partner, stepchild, foster

child, grandchild, or ward of the employee, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment.

(4) The employee is arranging for social or legal services or obtaining medical care or counseling for the employee or for the employee's child, parent, parent-in-law, grandparent, grandparent-in-law, spouse, stepchild, foster child, grandchild, or ward of the employee who is a victim of domestic violence, sexual assault, or stalking or who is relocating as the result of domestic violence, sexual assault, or stalking. As used in this section, "domestic violence," "sexual assault," or "stalking" shall have the same meaning as in 15 V.S.A. § 1151.

(b) An employee shall use earned sick time accrued pursuant to section 402 of this title in the smallest time increment that the employer's payroll system uses to account for other absences when the employee's absence is shorter than a normal workday.

(c) Earned sick time that is accrued pursuant to section 402 of this title but unused has no monetary value until used by the employee.

(d) An employee may use no more than 56 hours of earned sick time accrued pursuant to section 402 of this title in any one year. Unused hours shall be carried over to the next year and the employee has the right to earn the balance between the unused portion and the maximum allowed.

(e) Upon separation from employment, an employee shall not be entitled to payment for unused earned sick time accrued pursuant to section 402 of this title unless agreed upon by the employer.

(f) If, at an employer's discretion, an employer pays an employee for unused earned sick time accrued pursuant to section 402 of this title at the end of an annual period, then the amount for which the employee was compensated does not carry over to the next year.

(g) An employee who is rehired within 12 months after a separation from employment shall retain earned sick time accrued pursuant to section 402 of this title but unused at the time of separation, unless the employee was compensated for this earned sick time at the time of separation from employment.

(h) An employer may require an employee to make reasonable efforts to find a replacement for planned absences.

(i) An employer may require an employee planning to take earned sick time accrued pursuant to section 402 of this title to:

(1) make reasonable efforts to avoid scheduling routine or preventive health care during regular work hours; or

(2) notify the employer as soon as practicable of the intent to take earned sick time accrued pursuant to section 402 of this title and the expected duration of the employee's absence.

(j) An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer's place of business. An employer shall also notify an employee of the provisions of this section at the time of the employee's hiring.

(k) This section shall not apply to an employee of a health care facility as defined in 18 V.S.A. § 9432(8) if the employee:

(1) is under no obligation to work a regular schedule;

(2) works only when he or she indicates that he or she is available to work and has no obligation to work when he or she does not indicate availability; and

(3) receives higher pay in the form of a differential as defined in section 401 of this title, or some other increased compensation than that paid to an employee of a health care facility performing the same job on a regular schedule.

(4) An employer may agree to provide earned sick time to an employee covered by this subsection.

(l) This section shall not apply to an employee of a school district, supervisory district, or supervisory union as defined in 16 V.S.A. § 11 that is employed pursuant to a school district or supervisory union policy on substitute educators as required by the State Board of Education Rule 5381; and

(1) is under no obligation to work a regular schedule; and

(2) is not under contract or written agreement to provide at least one period of long-term substitute coverage which is defined as 30 or more consecutive calendar days in the same assignment.

(m) A seasonal employee shall accrue earned sick time pursuant to section 402 of this title during his or her first year of employment but shall not use this earned sick time until his or her second year of employment, provided that:

(1) the seasonal employee returns after the separation from employment within 12 months as provided by subsection 402(g) of this title; and

(2) the seasonal employee is employed by the same employer as the previous season.

(n) An employee who uses paid sick leave accrued pursuant to section 402

of this title shall not forfeit his or her rights to leave under sections 472 and 472a of this title.

(o) An employer, employment agency, or labor organization shall not discharge or in any other manner discriminate against or penalize an employee because the employee:

(1) requests or uses earned sick leave accrued pursuant to section 402 of this title either in accordance with section 402 of this title or in accordance with the employer's own paid sick leave policy, if any; or

(2) has lodged a complaint with the Commissioner alleging the employer's violations of sections 402 and 403 of this title.

(p) An employer may adopt an earned sick time policy more generous than the earned sick time policy provided by this subchapter. Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or any employment benefit program or plan which provides greater sick time rights than the rights provided by this subchapter. A collective bargaining agreement or employment benefit program or plan may not diminish rights provided by this subchapter.

(q) An employer who violates this section shall be subject to the penalty provisions of section 345 of this title.

(r) The Commissioner shall enforce this section in accordance with the procedures established in section 342a of this title.

Sec. 4. 21 V.S.A. § 345 is amended to read:

§ 345. NONPAYMENT OF WAGES AND BENEFITS

(a) Each employer who violates sections ~~342 and 343~~ 342, 343, 402, and 403 of this title shall be fined not more than \$5,000.00. Where the employer is a corporation, the president or other officers who have control of the payment operations of the corporation shall be considered employers and liable to the employee for actual wages due when the officer has willfully and without good cause participated in knowing violations of this chapter.

* * *

Sec. 5. DEPARTMENT OF LABOR SURVEY

The Department of Labor shall commission a survey to report the effects of this legislation on employers and employees one year after implementation. Survey topics shall include the health and economic effects on employees and employers, and shall be reported to the appropriate committees.

Sec. 6. EFFECTIVE DATE

This act shall take effect on January 1, 2015.

(Committee Vote: 6-1-1)

H. 640

An act relating to technical corrections

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

Sec. 1. 3 V.S.A. § 253 is amended to read:

§ 253. DEPUTY OFFICERS

* * *

(c)(1) ~~The Commissioner of Financial Regulation, with the approval of the governor~~ Governor, shall appoint a Deputy Commissioner of Banking, a Deputy Commissioner of Insurance, a Deputy Commissioner of Captive Insurance, and a Deputy Commissioner of Securities, ~~and a Deputy Commissioner of Health Care Administration~~. The Commissioner of Financial Regulation may remove the deputy commissioners at pleasure and shall be responsible for their acts. The functions and duties that relate to banks and banking shall be in the charge of the Deputy Commissioner of Banking; those that relate to the business of insurance shall be in the charge of the Deputy Commissioner of Insurance; those that relate to the business of captive insurance shall be in the charge of the Deputy Commissioner of Captive Insurance; and those that relate to the business of securities shall be in the charge of the Deputy Commissioner of Securities; ~~and those that relate to health care administration shall be in the charge of the Deputy Commissioner of health care administration.~~

(2) In the case of a vacancy in the Office of the Commissioner of Financial Regulation, one of the deputies appointed by the Commissioner shall assume and discharge the duties of that office until the vacancy is filled or the Commissioner returns.

(d) In case a vacancy occurs in the office of any appointing official who by law is authorized to appoint a deputy, or ~~such~~ the official is absent, his or her deputy shall assume and discharge the duties of such office until ~~such~~ the vacancy is filled; or ~~such~~ the official returns. ~~In the case of a vacancy in the office of the Commissioner of Financial Regulation, one of the deputies appointed by the Commissioner shall assume and discharge the duties of that office until the vacancy is filled or the Commissioner returns. In case a~~

~~vacancy occurs in the office of the Secretary of Agriculture, Food and Markets, the Deputy Commissioner for administration and enforcement shall assume and discharge the duties of the Secretary until such vacancy is filled, or the Secretary returns.~~

(e)(1) The Secretary of Agriculture, Food and Markets, with the approval of the Governor, shall appoint a Deputy ~~Commissioner for administration and enforcement~~ Secretary. The Secretary of Agriculture, Food and Markets may remove the Deputy ~~Commissioner~~ Secretary at pleasure, and he or she shall be responsible for the Deputy ~~Commissioner's~~ Secretary's acts. The Agency of Agriculture, Food and Markets shall be so organized that, subject to the supervision of the Secretary of Agriculture, Food and Markets, the functions and duties that relate to administration and enforcement shall be in the charge of the Deputy ~~Commissioner of Administration and Enforcement~~ Secretary.

(2) In case a vacancy occurs in the Office of the Secretary of Agriculture, Food and Markets, the Deputy Secretary shall assume and discharge the duties of the Secretary until such vacancy is filled or the Secretary returns.

* * *

Sec. 2. 3 V.S.A. § 471(m) is amended to read:

(m) The committee may authorize the loan of its securities pursuant to securities lending agreements that provide for collateral consisting of cash or securities issued or guaranteed by the ~~United States~~ U.S. government or its agencies equal to 100 percent or more of the market value of the loaned securities. Cash collateral may be invested by the lending institution in investments approved by the ~~state treasurer~~ State Treasurer. Approval of investments shall be made in accordance with the standard of care established by the prudent investor rule under ~~chapter 147 of Title 9~~ 14A V.S.A. chapter 9.

Sec. 3. 3 V.S.A. § 472(a) is amended to read:

(a) The members of the Vermont ~~pension investment committee~~ Pension Investment Committee established in chapter 17 of this title shall be the trustees of the funds created by this subchapter, 16 V.S.A. chapter 55 of Title 16, and 24 V.S.A. chapter 125 of Title 24, and with respect to them may invest and reinvest the assets of the ~~fund~~ Fund, and hold, purchase, sell, assign, transfer, and dispose of the securities and investments in which the assets of the ~~fund~~ Fund have been invested and reinvested. Investments shall be made in accordance with the standard of care established by the prudent investor rule under ~~chapter 147 of Title 9~~ 14A V.S.A. chapter 9.

Sec. 4. 3 V.S.A. § 479(d) is amended to read:

(d) After January 1, 2007, the State Treasurer may offer and administer a dental benefit plan for retired members, beneficiaries, eligible dependents, and eligible retirees of special affiliated groups and the dependents of members of those groups who are eligible for coverage in the State Employee ~~Group~~ Medical Benefit Plan. The Plan shall be separate and apart from any dental benefit plan offered to Vermont State employees. The original plan of benefits, and any changes thereto, shall be determined by the State Treasurer with due consideration of recommendations from the Retired Employees' Committee on Insurance established in section 636 of this title.

* * *

Sec. 5. 10 V.S.A. § 543(f)(3) is added to read:

(3) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

Sec. 6. 10 V.S.A. § 905b(18) is amended to read:

(18) study and investigate the wetlands of the State and cooperate with municipalities, the general public, other agencies, and the Board in collecting and compiling data relating to wetlands, ~~propose to the Board specific wetlands to be designated as Class I wetlands~~, issue or deny permits pursuant to section 913 of this title and the rules authorized by this subdivision, issue wetland determinations pursuant to section 914 of this title, issue orders pursuant to section 1272 of this title, and in accordance with 3 V.S.A. chapter 25, adopt rules to address the following:

* * *

Sec. 7. 10 V.S.A. § 1080 is amended to read:

§ 1080. DEFINITIONS

As used in this chapter:

* * *

(4) "Engineer" means a professional engineer ~~registered~~ licensed under Title 26 who has experience in the design and investigation of dams.

* * *

Sec. 8. 10 V.S.A. § 1087 is amended to read:

§ 1087. REVIEW OF PLANS AND SPECIFICATIONS

Upon receipt of an application, the ~~state~~ State agency having jurisdiction

shall employ a ~~registered~~ licensed engineer experienced in the design and investigation of dams to investigate the property, review the plans and specifications, and make additional investigations as it considers necessary to ensure that the project adequately provides for the public safety. The engineer shall report his or her findings to the agency.

Sec. 9. 10 V.S.A. § 1090 is amended to read:

§ 1090. CONSTRUCTION SUPERVISION

The construction, alteration or other action authorized in section 1086 of this title shall be supervised by a ~~registered~~ licensed engineer employed by the applicant. Upon completion of the authorized project, the engineer shall certify to the agency having jurisdiction that the project has been completed in conformance with the approved plans and specifications.

Sec. 10. 10 V.S.A. § 1105 is amended to read:

§ 1105. INSPECTION OF DAMS

The ~~state~~ State agency having jurisdiction shall employ an engineer to make periodic inspections of nonfederal dams in the ~~state~~ State to determine their condition and the extent, if any, to which they pose a potential or actual threat to life and property, or shall ~~promulgate~~ adopt rules pursuant to 3 V.S.A. chapter 25 ~~of Title 3~~ to require an adequate level of inspection by an independent ~~registered~~ licensed engineer experienced in the design and investigation of dams. The agency shall provide the owner with the findings of the inspection and any recommendations.

Sec. 11. 10 V.S.A. § 4255(a) is amended to read:

(a) Vermont residents may apply for licenses on forms provided by the Commissioner. Fees for each license shall be:

(1) Fishing license	\$25.00
(2) Hunting license	\$25.00
(3) Combination hunting and fishing license	\$40.00
(4) Big game licenses (all require a hunting license)	
(A) archery license	\$23.00
(B) muzzle loader license	\$23.00
(C) turkey license	\$23.00
(D) second muzzle loader license <u>[Repealed.]</u>	\$17.00
(E) second archery license <u>[Repealed.]</u>	\$17.00

(F) moose license	\$100.00
(G) <u>early</u> season bear tag	\$5.00
(H) additional deer archery tag	\$23.00

* * *

Sec. 12. 13 V.S.A. § 3255(b) is amended to read:

(b) In a prosecution for a crime defined in this chapter and in a prosecution pursuant to sections 2601 and 2602 of this title, for human trafficking or aggravated human trafficking under chapter 60 of this title, or for abuse or exploitation of a vulnerable adult under 33 V.S.A. § 6913**(b)**, if a defendant proposes to offer evidence described in subdivision (a)(3) of this section, the defendant shall prior to the introduction of such evidence file written notice of intent to introduce that evidence, and the Court shall order an in camera hearing to determine its admissibility. All objections to materiality, credibility, and probative value shall be stated on the record by the prosecutor at the in camera hearing, and the Court shall rule on the objections forthwith, and prior to the taking of any other evidence.

Sec. 13. 16 V.S.A. § 1943(a) is amended to read:

(a) The members of the Vermont ~~pension investment committee~~ Pension Investment Committee established in 3 V.S.A. chapter 17 shall be the trustees of the fund created by this subchapter, and with respect to them may invest and reinvest the assets of the ~~fund~~ Fund, and hold, purchase, sell, assign, transfer, and dispose of the securities and investments in which the assets of the ~~fund~~ Fund have been invested and reinvested. Investments shall be made in accordance with the standard of care established by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9.

Sec. 14. 18 V.S.A. § 7505(a) is amended to read:

(a) In emergency circumstances where a certification by a physician is not available without serious and unreasonable delay, and when personal observation of the conduct of a person constitutes reasonable grounds to believe that the person is a person in need of treatment, and he or she presents an immediate risk of serious injury to himself or herself or others if not restrained, a law enforcement officer or mental health professional may make an application, not accompanied by a physician's certificate, to any ~~district or superior~~ Superior judge for a warrant for an immediate examination.

Sec. 15. 18 V.S.A. § 7801(a) is amended to read:

(a) A patient who has been ordered hospitalized may apply for discharge to the ~~criminal division~~ Family Division of the ~~superior court~~ Superior Court

within which the hospital is located. A patient who has been ordered to receive treatment other than hospitalization may apply for discharge to the ~~criminal division~~ Family Division of the ~~superior court~~ Superior Court which originally entered the order; the ~~court~~ Court in its discretion may transfer the matter, for the convenience of witnesses or for other reasons, to the ~~criminal division~~ Family Division of the ~~superior court~~ Superior Court within which the treatment is centered or in which the patient resides. Applications may be made no sooner than 90 days after the issuance of an order of continued treatment or no sooner than six months after the filing of a previous application under this section.

Sec. 16. 18 V.S.A. § 7802 is amended to read:

§ 7802. ADMINISTRATIVE REVIEW

The head of the hospital and the board shall cause the condition of every patient to be reviewed as regularly as practicable, but not less often than every six months, and whenever the head of a hospital or the board certifies that the patient is not a patient in need of further treatment, the patient shall be discharged. If requested by the patient all hearings by the board on the issue of granting a discharge shall be on reasonable notice to the patient's attorney who shall be afforded an opportunity to attend. In the absence of any attorney, the board shall notify the ~~criminal division~~ Family Division of the ~~superior court~~ Superior Court and an attorney shall be appointed as provided in section 7111 of this title.

Sec. 17. 18 V.S.A. § 9352(c) is amended to read:

(c) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for this State. The Secretary of Administration or designee shall enter into procurement grant agreements with VITL pursuant to ~~8 V.S.A. § 4089k~~ 32 V.S.A. § 10301. Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

Sec. 18. 19 V.S.A. § 38(a)(2) is amended to read:

(2) a representative from the Division ~~of~~ for Historic Preservation appointed by the Secretary of Commerce and Community Development;

Sec. 19. 20 V.S.A. § 3817 is amended to read:

§ 3817. RULES ADOPTION AUTHORITY

The ~~agency of agriculture, food and markets~~ Agency of Human Services may adopt rules to implement this subchapter.

Sec. 20. 21 V.S.A. § 2002(3) is amended to read:

(3) “Full-time equivalent” or “FTE” means the number of employees expressed as the number of employee hours worked during a calendar quarter divided by 520. “Full-time equivalent” shall not include any employee hours attributable to a seasonal employee or part-time employee of an employer who offers health care coverage to all of its regular full-time employees, provided that the seasonal employee or part-time employee has health care coverage under either a private or any public plan except ~~VHAP~~ or Medicaid.

Sec. 21. 23 V.S.A. § 3318(c) is amended to read:

(c) The provisions of this subchapter and the rules adopted pursuant to this subchapter shall be enforced by law enforcement officers as defined in section 3302 of this title in accordance with the provisions of 12 V.S.A. chapter 193, and they may also enforce the provisions of 10 V.S.A. § ~~1266~~ 1454 and the rules adopted pursuant to 10 V.S.A. § 1424. With respect to the provisions of 10 V.S.A. § ~~1266~~ 1454 and the rules adopted pursuant to 10 V.S.A. § 1424, whenever a penalty for a violation of such a rule is not otherwise established, three ~~superior~~ Superior judges appointed by the Court Administrator shall establish a schedule, within the limits prescribed by law, of the penalty to be imposed. Any law enforcement officer who issues a complaint shall advise the defendant of the schedule of penalties and show the defendant a copy of the schedule.

Sec. 22. 23 V.S.A. § 4103(4)(B)(iv) is amended to read:

(iv) farm vehicles, which are vehicles:

- (I) controlled and operated by a farmer;
- (II) used to transport either agricultural products, farm machinery, farm supplies ~~or both,~~ or any of these to or from a farm;
- (III) not used in the operations of a common or contract motor carrier; and
- (IV) used within 150 miles of the farm.

Sec. 23. 24 V.S.A. § 3269(d) is amended to read:

(d) The ~~reserve fund~~ Reserve Fund shall be capitalized in accordance with standards and procedures approved by the Commissioner of Financial Regulation to cover expected foreclosures and fund administration costs based on good lending practice experience. Interest earned shall remain in the ~~fund~~ Fund. The administrator of the ~~reserve fund~~ Reserve Fund shall invest and reinvest the ~~moneys~~ monies in the ~~fund~~ Fund and hold, purchase, sell, assign, transfer, and dispose of the investments in accordance with the standard of care

established by the Prudent Investor Rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9. The administrator shall apply the same investment objectives and policies adopted by the Vermont State Employees' Retirement System, where appropriate, to the investment of ~~moneys~~ monies in the ~~fund~~ Fund.

Sec. 24. 24 V.S.A. § 3270(c) is amended to read:

(c) At the direction of the Treasurer, a sum shall be transferred to the ~~fund~~ Fund from ~~moneys~~ monies deposited into the Energy Efficiency Fund pursuant to ~~30 V.S.A. § 209(d)(7)~~ 30 V.S.A. § 209(e)(1)(A) (net capacity savings payments) and ~~(8)(B)~~ (net revenues from the sale of carbon credits).

* * *

Sec. 25. 24 V.S.A. § 4306(b)(2) is amended to read:

(2) Disbursement to municipalities shall be awarded annually on or before December 31 through a competitive program administered by the Department of Housing and Community Affairs providing the opportunity for any eligible municipality or municipalities to compete regardless of size, provided that to receive funds, a municipality:

* * *

Sec. 26. 24 V.S.A. § 4471(e) is amended to read:

(e) ~~Vermont neighborhood.~~ Neighborhood development area. Notwithstanding subsection (a) of this section, a determination by an appropriate municipal panel shall not be subject to appeal if the determination is that a proposed residential development within a designated downtown development district, designated growth center, ~~or~~ designated Vermont neighborhood, or designated neighborhood development area seeking conditional use approval will not result in an undue adverse effect on the character of the area affected, as provided in subdivision 4414(3)(A)(ii) of this title.

Sec. 27. 24 V.S.A. § 4472(b) is amended to read:

(b) The remedy of an interested person with respect to the constitutionality of any one or more of the provisions of any bylaw or municipal plan shall be governed by the Vermont Rules of Civil Procedure with a de novo trial in the Civil Division of the Superior Court, unless the issue arises in the context of another case under this chapter, in which instance it may be raised in the Environmental Division. In such cases, hearings before the appropriate municipal panel shall not be required. This section shall not limit the authority of the Attorney General to bring an action before the Environmental Division under section 4453 of this title, with respect to challenges to housing

provisions in bylaws.

Sec. 28. 24 V.S.A. § 5062(o) is amended to read:

(o) The Vermont Pension Investment Committee may authorize the loan of its securities pursuant to securities lending agreements that provide for collateral consisting of cash or securities issued or guaranteed by the ~~United States~~ U.S. government or its agencies equal to 100 percent or more of the market value of the loaned securities. Cash collateral may be invested by the lending institution in investments approved by the State Treasurer. Approval of investments shall be made in accordance with the standard of care established by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9.

Sec. 29. 24 V.S.A. § 5088(5) is amended to read:

(5) A “public transit service” means any fixed route, paratransit, transportation brokerage, user-side subsidy, ~~and~~ or rideshare/ride-match program which is available to any person upon payment of the proper fare, and which is promoted to be available to all members of the public, including those with special needs.

Sec. 30. 30 V.S.A. § 8015(d)(3) is amended to read:

(3) ~~A The Fund may issue a grant in lieu of a solar energy tax credit in accordance with 32 V.S.A. § 5930z(f).~~ Of any Fund ~~moneys~~ monies unencumbered by such grants, the first \$2.3 million shall fund the Small-scale Renewable Energy Incentive Program described in subdivision (1)(E)(ii) of this subsection.

Sec. 31. 32 V.S.A. § 434 is amended to read:

§ 434. INVESTMENT OF CERTAIN FUNDS

(a)(1) A “Trust Investment Account” is hereby created to maximize the earnings of individual funds by associating them together for common investment.

* * *

(3) The State Treasurer may invest and reinvest the funds in the ~~account~~ Account, and hold, purchase, sell, assign, transfer, and dispose of the investments in accordance with the standard of care established by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9. The Treasurer shall apply the same investment objectives and policies adopted by the Vermont State Employees’ Retirement System, where appropriate, to the investment of funds in the Trust Investment Account.

* * *

(b) The State Treasurer may invest and reinvest the monies deposited into the Tobacco Litigation Settlement Fund established by section 435a of this title, and may hold, purchase, sell, assign, transfer, and dispose of the investments in accordance with the standard of care established by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9.

Sec. 32. 32 V.S.A. § 1261(a) is amended to read:

(a) Unless otherwise provided, all persons in the employ of the ~~state~~ State when away from home and office on official duties shall be reimbursed for expenses necessarily incurred for travel, subsistence, postage, telephone, telegraph, express, and incidentals which shall be paid out of the ~~biennial~~ appropriation made for the support of their respective departments. Nothing contained herein shall authorize payment to an administrative official or employee, except the Governor, for travel between his or her place of residence and office, or subsistence thereat except for mileage reimbursement when an employee is called in and required to work at any time other than continuously into his or her normally scheduled shift. Compensation for subsistence, travel, and other expenses occurring while conducting business for the State shall be the subject of collective bargaining as defined in 3 V.S.A. § 904(a). Whenever it shall be necessary to effect the transfer of an employee of the State from one official station to another by direction of the head of a department, said employee shall be reimbursed for his or her reasonable and necessary moving expenses actually incurred. However, the reasonableness of ~~said~~ the expense shall be determined by the Commissioner of Finance and Management and no such expense shall be allowed unless the transfer is made for the convenience of the State and in no event where it is effected for the convenience or at the request of the employee. Such expense when allowed shall be paid out of the ~~biennial~~ appropriation made for the support of the respective departments. When an administrative official or employee works out of his or her home in the usual course of employment rather than out of an office, he or she shall be reimbursed for expenses in the same manner as though he or she were working out of an office and for the purposes of this section, his or her home shall be considered as his or her office.

Sec. 33. CAMPAIGN FINANCE; CONTRIBUTION LIMITS;
TRANSITIONAL PROVISION

Notwithstanding the provisions of 2014 Acts and Resolves No. 90 (campaign finance (S.82)), Secs. 2 (repeal of 17 V.S.A. chapter 59) and 8 (effective dates; transitional provisions), the provisions of 17 V.S.A. § 2805(a), (b), (f), (g), and (h) (limitations of contributions), as administered and enforced by the State immediately prior to the effective date of 2014 Acts and Resolves No. 90, Sec. 2, shall continue to apply to elections in the State from the

effective date of 2014 Acts and Resolves No. 90, Sec. 2 until the effective date of 2014 Acts and Resolves No. 90, Sec. 3, 17 V.S.A. § 2941 (limitations of contributions).

Sec. 34. REPEALS

The following are repealed:

(1) 2009 Special Session Acts and Resolves No. 1, Sec. H.7 (directing the Legislative Council to revise the Vermont Statutes Annotated to reflect the redesignation of the Department of Taxes as the Department of Revenue).

(2) 3 V.S.A. § 252 (cost of bonds; blanket bond).

(3) 3 V.S.A. § 3083 (Department of Developmental and Mental Health Services).

(4) 10 V.S.A. § 902(10) (definition of “Panel”).

(5) 10 V.S.A. § 914(e) (wetland determination provision).

(6) 24 V.S.A. § 2408 (land acquired by virtue of the provisions of 24 V.S.A. § 2407).

(7) 30 V.S.A. § 8004(f) (report requirement).

Sec. 35. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Rep. Branagan of Georgia, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations**.

(Committee Vote: 11-0-0)

Public Hearings

February 13, 2014 - House Chamber - 7:00-9:00 pm - H. 586 - Improving the Quality of State Waters - House Agriculture and Forest Products

Public Hearing on the Governor’s Proposed Fiscal Year 2015 State Budget

For Advocates

House Committee on Appropriations

Tuesday, February 18, 2014, 11:00 a.m. - 12:00 p.m. or Friday, February 21, 2014, 1:00 – 2:30 p.m. – The House Committee on Appropriations will hold a public hearing for advocates in room 11 of the State House on the

Governor's proposed FY2015 state budget. Please sign up in advance, with Theresa Utton-Jerman at (802) 828-5767 or tutton@leg.state.vt.us or in room 40.

The Governor's budget proposal can be viewed at the Department of Finance & Management's website:
http://finance.vermont.gov/state_budget/rec.

Individual department budgets that have been made available can be viewed at the Joint Fiscal Office's website:
http://www.leg.state.vt.us/jfo/dept_budgets_fy_2015.aspx.

February 19, 2014 - Room 11 - 7:00p,- 8:30pm - Judicial retention - Joint Committee on Judicial Retention

Information Notice

Deadline for Introducing Bills

Pursuant to Rule 40(c) during the second year of the biennium, except with the prior consent of the Committee on Rules, no committee, except the Committees on Appropriations, Ways and Means or Government Operations, may introduce a bill drafted in standard form after the last day of March (March 31, 2014). The Committees on Appropriations and Ways and Means bill may be drafted in standard form at any time, and Government Operations bills pertaining to city or town charters, may be drafted in standard form at any time.

If you are planning on a resolution for presentation at your Town Meeting, please see Michael Chernick with your information by February 14th or sooner, if possible. This will allow sufficient time for processing and passage by both bodies. Thank you.

Joint Assembly

February 20, 2014 - 10:30 A.M. – Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than February 13, 2014 , by 4:30 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions. Do not use pink mail to deliver notification to the Secretary of State. Hand delivery is the best method to insure notification has been received.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.