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UNFINISHED BUSINESS OF WEDNESDAY, MARCH 20, 2013

Second Reading

Favorable with Recommendation of Amendment

S. 18.

An act relating to automated license plate recognition systems.

Reported favorably with recommendation of amendment by Senator Campbell for the Committee on Transportation.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 1607 is added to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) "Active data" is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose.

(2) "Automated license plate recognition system" (ALPR) means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) "Historical data" means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(4) "Law enforcement officer" means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as

having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person under 20 V.S.A. § 2358.

(5) "Legitimate law enforcement purpose" applies to access to active or historical data and means crime investigation, detection, and analysis or operation of AMBER alerts or missing or endangered person searches.

(6) "Vermont Information and Analysis Center Analyst" means any sworn or civilian employee who through his or her employment with the Vermont Information and Analysis Center (VTIAC) has access to secure databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.

(c) Confidentiality and access to ALPR data.

(1)(A) Active ALPR data may only be accessed by a law enforcement officer operating the ALPR system who has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Deployment of ALPR equipment is intended to provide access to stolen and wanted files and to further legitimate law enforcement purposes. Use of ALPR systems and access to active data are restricted to these purposes.

(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTIAC and retained for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at VTIAC. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose.

VTIAC shall retain all requests as well as the outcome of the request and shall record in writing any information that was provided to the requester or why the request was denied or not fulfilled. ALPR requests shall be retained by VTIAC for not less than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or back-ups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under Section 1608 of this title, or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) The total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database.

(B) The total number of ALPR reads each agency submitted to the statewide ALPR database.

(C) The 18-month accumulative number of ALPR reads being housed on the statewide ALPR database.

(D) The total number of requests made to VTIAC for ALPR data.

(E) The total number of requests that resulted in release of information from the statewide ALPR database.

(F) The total number of out-of-state requests.

(G) The total number of out-of-state requests that resulted in release of information from the statewide ALPR database.

(2) The Department of Public Safety may adopt rules to implement this section.

Sec. 2. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A governmental entity may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation, or to a pending proceeding in the Judicial Bureau. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved, or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied, or 14 days after the denial of the application for disclosure, whichever is later.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

(Committee vote: 5-0-0)

S. 129.

An act relating to workers' compensation liens.

Reported favorably with recommendation of amendment by Senator MacDonald for the Committee on Finance.

The Committee recommends that the bill be amended as follows:

First: By striking out Sec. 1 in its entirety

Second: In Sec. 2, 21 V.S.A. § 643a, after the sentence that reads: "The extension shall be specific as to the number of days needed and the reason for the extension and must be received by the Commissioner prior to the end of the 21-day limit." by inserting a new sentence to read as follows: No extension approved by the Commissioner shall exceed 21 days.

And by renumbering the remaining sections to be numerically correct.

(Committee vote: 5-1-1)

SUBSTITUTE AMENDMENT FOR THE RECOMMENDATION OF AMENDMENT OF THE COMMITTEE ON FINANCE TO S. 129, TO BE OFFERED BY SENATOR MacDONALD, ON BEHALF OF THE COMMITTEE ON FINANCE

Senator MacDonald, on behalf of the Committee on Finance, moves to substitute an amendment for the recommendation of amendment of the Committee on Finance, as follows:

First: In Sec. 1, 21 V.S.A. § 624, in subdivision (e)(2), in the first sentence, after the words "limited liability insurance or other cause" by inserting the following: , except comparative fault

Second: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read:

Sec. 2. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the ~~commissioner~~ Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the ~~commissioner~~ Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice. The liability for the payments shall continue for ~~seven~~ 14 days after the notice is received by the ~~commissioner~~ Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of the 14-day limit. The Commissioner may grant an extension up to 21 days. The request for an extension shall be specific as to the number of days needed and the reason for the extension and must be received by the Commissioner prior to the end of the

14-day limit. A copy of the request for an extension shall be provided to the employer at the time the request is made to the Commissioner. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the ~~commissioner~~ Commissioner determines that the discontinuance is warranted or if otherwise ordered by the ~~commissioner~~ Commissioner. Every notice shall be reviewed by the ~~commissioner~~ Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the ~~commissioner~~ Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the ~~commissioner~~ Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the ~~department~~ Department that establishes that a preponderance of all evidence now supports the claim. If the ~~commissioner's~~ Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the ~~commissioner~~ Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

AMENDMENT TO S. 129 TO BE OFFERED BY SENATOR MULLIN

Senator Mullin moves to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 640 is amended to read:

§ 640. MEDICAL BENEFITS; ASSISTIVE DEVICES; HOME AND AUTOMOBILE MODIFICATIONS

* * *

(d) The liability of the employer to pay for medical, surgical, hospital, and nursing services and supplies, prescription drugs, and durable medical equipment provided to the injured employee under this section shall not exceed the maximum fee for a particular service, prescription drug, or durable medical equipment as provided by a schedule of fees and rates prepared by the ~~commissioner~~ Commissioner. The reimbursement rate for services and supplies in the fee schedule shall include consideration of medical necessity, clinical efficacy, cost-effectiveness, and safety, and those services and supplies shall be provided on a nondiscriminatory basis consistent with workers' compensation and health care law. The ~~commissioner~~ Commissioner shall authorize reimbursement at a rate higher than the scheduled rate if the

employee demonstrates to the ~~commissioner's~~ Commissioner's satisfaction that reasonable and necessary treatment, prescription drugs, or durable medical equipment is not available at the scheduled rate. An employer shall establish direct billing and payment procedures and notification procedures as necessary for coverage of medically-necessary prescription medications for chronic conditions of injured employees, in accordance with rules adopted by the ~~commissioner~~ Commissioner. The employer shall not be liable to pay for drugs or treatments which are not approved by the Food and Drug Administration. The Department shall not authorize the use of drugs or treatments that are not approved by the Food and Drug Administration.

* * *

Sec. 2. 21 V.S.A. § 640b is amended to read:

§ 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF PROPOSED TREATMENT IS NECESSARY

(a) Within ~~14~~ 21 days of receiving a request for preauthorization for a proposed medical treatment and all relevant medical evidence supporting the requested treatment, a workers' compensation insurer shall:

* * *

(3) notify the health care provider, the injured worker, and the ~~department~~ Department that the insurer has scheduled an examination of the employee or ordered a medical record review pursuant to section 655 of this title. Based on the examination or review, the insurer shall authorize or deny the treatment and notify the ~~department~~ Department and the injured worker of the decision within ~~45~~ 50 days of a request for preauthorization. The ~~commissioner~~ Commissioner may in his or her sole discretion grant a 10-day extension to the insurer to authorize or deny treatment, and such an extension shall not be subject to appeal.

(b) If the insurer fails to authorize or deny the treatment pursuant to subsection (a) of this section within ~~14~~ 21 days of receiving a request, the claimant or health care provider may request that the ~~department~~ Department issue an order authorizing treatment. After receipt of the request, the ~~department~~ Department shall issue an interim order within five days after notice to the insurer, and five days in which to respond, absent evidence that the entire claim is disputed. Upon request of a party, the ~~commissioner~~ Commissioner shall notify the parties that the treatment has been authorized by operation of law.

* * *

Sec. 3. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the ~~commissioner~~ Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the ~~commissioner~~ Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. ~~All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice~~ The employer shall file evidence that is relevant to the discontinuance with the notice of discontinuance. The liability for the payments shall continue for seven days after the notice is received by the ~~commissioner~~ Commissioner and the employee. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the ~~commissioner~~ Commissioner determines that the discontinuance is warranted or if otherwise ordered by the ~~commissioner~~ Commissioner. Every notice shall be reviewed by the ~~commissioner~~ Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the ~~commissioner~~ Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the ~~commissioner~~ Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the ~~department~~ Department that establishes that a preponderance of all evidence now supports the claim. If the ~~commissioner's~~ Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the ~~commissioner~~ Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 4. 21 V.S.A. § 648 is amended to read:

§ 648. PERMANENT PARTIAL DISABILITY BENEFITS

* * *

(b) Any determination of the existence and degree of permanent partial impairment shall be made only in accordance with the whole person

determinations as set out in the ~~fifth~~ sixth or subsequent edition of the American Medical Association Guides to the Evaluation of Permanent Impairment. In order to utilize any subsequent edition of the American Medical Association Guides to the Evaluation of Permanent Impairment or any other appropriate guides to the evaluation of permanent impairment, the ~~commissioner~~ Commissioner, in consultation with the ~~department of labor advisory council~~ Department of Labor Advisory Council, shall adopt a rule. The ~~commissioner~~ Commissioner shall adopt a supplementary schedule for injuries that are not rated by the impairment guide authorized for use by the ~~department~~ Department to determine permanent disability.

* * *

Sec. 5. 21 V.S.A. § 655 is amended to read:

§ 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL EXAMINATION; VIDEO AND AUDIO RECORDING

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the ~~commissioner~~ Commissioner, the employee shall submit to examination, at reasonable times and places, by a duly licensed physician or surgeon designated and paid by the employer. The employer may designate an alternative physician or surgeon in order to avoid unnecessary delay. The employee may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a licensed health care provider designated and paid by the employee present at the examination. The employer may make an audio recording of the examination. The right of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit to or in any way obstructs the examination, the employee's right to prosecute any proceeding under the provisions of this chapter shall be suspended until the refusal or obstruction ceases, and compensation shall not be payable for the period which the refusal or obstruction continues.

Sec. 6. 21 V.S.A. § 663b is added to read:

§ 663b. FRAUD

(a) Claims of fraud submitted by an employer shall be investigated by the Commissioner, and the Commissioner shall make a decision on the claim within 30 days of receipt of the claim. A party may appeal the decision of the Commissioner.

(b) An employee found to have committed fraud in order to receive compensation under this chapter shall be ordered to repay all compensation received. The employer shall not be charged for these payments when the employer's experience rating is determined.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

UNFINISHED BUSINESS OF THURSDAY, MARCH 21, 2013

Third Reading

S. 81.

An act relating to the regulation of octaBDE, pentaBDE, decaBDE, and flame retardant known as Tris in consumer products.

Second Reading

Favorable with Recommendation of Amendment

S. 11.

An act relating to the Austine School.

Reported favorably with recommendation of amendment by Senator Rodgers for the Committee on Institutions.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PROPERTY TRANSACTION; AUSTINE SCHOOL

(a) Notwithstanding 16 V.S.A. § 3823, on or before July 1, 2016, the Vermont Center for the Deaf and Hard of Hearing is authorized to sell a total of up to 15 acres of undeveloped land associated with the Austine School for the Deaf with no obligation to repay any state capital appropriations made to or for the benefit of the Austine School.

(b) Notwithstanding any sale of undeveloped land pursuant to subsection (a) of this section, the first priority lien created under 16 V.S.A. § 3823(b) in favor of the State for all capital appropriations made to or for the benefit of the Austine School for the Deaf shall remain for the full obligation that is owed to the State.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Reported favorably by Senator Nitka for the Committee on Appropriations.

(Committee vote: 7-0-0)

S. 40.

An act relating to establishing an interim committee that will develop policies to restore the 1980 ratio of state funding to student tuition at Vermont State Colleges and to make higher education more affordable.

Reported favorably with recommendation of amendment by Senator McCormack for the Committee on Education.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) In 1980, 51 percent of the revenue supporting our Vermont State Colleges came from state appropriations and 49 percent came from student tuition. Now, after decades of underfunding, state appropriations provide less than 20 percent of the Vermont State Colleges' revenue and over 80 percent comes from student tuition. This is a huge cost shift onto students and families, many of whom simply cannot afford it.

(2) On a per-capita basis, Vermont now provides less state support to its public colleges than almost any other state.

(3) In FY 2011–2012, Vermont ranked 49th among the states, next to last, in state appropriations per $1,000.00 of personal income.

(4) In the 21 years between 1990 and 2011, the state appropriation per full-time Vermont student at Vermont State Colleges fell from $3,342.00 to $3,231.00.

(5) Eighty-one percent of the students at Vermont State Colleges are from Vermont, and 54 percent of these students are the first in their families to attend college. Eighty-four percent of Vermont State College graduates stay in Vermont.

Sec. 2. INTERIM STUDY OF HIGHER EDUCATION FUNDING

(a) The higher education subcommittee of the Prekindergarten-16 Council established in 16 V.S.A. § 2905 shall study and develop policies to make the State Colleges and the University of Vermont more affordable for Vermont residents by lowering costs and restoring the 1980 ratio of state funding to tuition costs.

(b) In addition to the members of the higher education subcommittee identified in 16 V.S.A. § 2905(d), the following individuals shall be members of the subcommittee solely for purposes of this interim study:

(1) one faculty member of the University of Vermont to be appointed by United Professions American Federation of Teachers Vermont;

(2) one faculty member and one staff member of the Vermont State Colleges to be appointed by United Professions American Federation of Teachers Vermont; and

(3) two students, one from the University of Vermont and one from the Vermont State Colleges, appointed by their respective student government associations.

(c) Powers and duties.

(1) The higher education subcommittee shall develop policies to:

(A) lower student and family costs and debt so that Vermont colleges are more affordable for Vermonters; and

(B) return to the 1980 level of state funding to student tuition support ratio.

(2) In developing these policies, the subcommittee shall consider:

(A) higher education funding for state colleges and universities in other states, with a particular focus on tuition ratios and funding methods;

(B) the best policies for increasing the enrollment of Vermont students and keeping students in Vermont after they graduate from college;

(C) administrative as compared to instructional costs;

(D) the portability of Vermont Student Assistance Corporation funds; and

(E) any information available from the state colleges and universities regarding the impact of Vermont State College graduates on Vermont's economy and on job creation and retention.

(d) On or before November 15, 2013, the subcommittee shall report to the General Assembly on its findings and any recommendations for legislative action.

(e) The subcommittee may meet no more than six times between July 1, 2013 and November 15, 2013 for the purposes of this interim study. For attendance at meetings during adjournment of the General Assembly, legislative members of the subcommittee shall be entitled to compensation and

reimbursement for expenses under 2 V.S.A. § 406, and other members of the subcommittee who are not employees of the State of Vermont shall be reimbursed at the per diem rate under 32 V.S.A. § 1010.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

(Committee vote: 5-0-0)

Reported favorably by Senator Westman for the Committee on Appropriations.

(Committee vote: 7-0-0)

AMENDMENT TO S. 40 TO BE OFFERED BY SENATOR McCORMACK

Senator McCormack moves to amend the recommendation of amendment of the Committee on Education as follows:

First: In Sec. 2(c)(2)(E) after "Vermont State College" by inserting the words and University of Vermont

Second: In Sec. 2(e) after "State of Vermont" by striking out the word "shall" and inserting in lieu thereof the word may

Third: In Sec. 2(e) after "32 V.S.A. § 1010" by inserting the words if not otherwise compensated or benefited

CONSIDERATION POSTPONED

Second Reading

Favorable with Recommendation of Amendment

Consideration Postponed to Friday, March 22, 2013

Second Reading

S. 41.

An act relating to water and sewer service.

PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Government Operations?

(For text of the report of the Committee on Government Operations, see Senate Journal for March 19, 2013, page 246.)

AMENDMENT TO S. 41 TO BE OFFERED BY SENATORS POLLINA, WHITE, AYER, FRENCH, AND McALLISTER

Senators Pollina, White, Ayer, French, and McAllister move that the bill be

amended in Sec. 1, 24 V.S.A. § 5143, in subsection (c), by striking out the second sentence in its entirety and inserting in lieu thereof a new sentence to read as follows: If any water and sewer charges or fees are included in the tenant's rent, the tenant may deduct the cost of any water and sewer service charges or fees from his or her rent pursuant to 9 V.S.A. § 4459.

S. 58.

An act relating to Act 250 and oil pipelines.

PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?

(For text of report of the Committee on Natural Resources and Energy, see Senate Journal for March 21, 2013, page 275.)

CONSIDERATION POSTPONED TO TUESDAY, MARCH 26, 2013

Second Reading

Favorable with Recommendation of Amendment

S. 30.

An act relating to siting of electric generation plants.

Reported favorably with recommendation of amendment by Senator Snelling for the Committee on Natural Resources and Energy.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Climate change from the emission of greenhouse gases such as carbon dioxide (CO_2) is one of the most serious issues facing Vermont today. In this State, the change in climate already has resulted in significant damage from increased heavy rain events and flooding and in fundamental alterations to average annual temperatures and the length and characteristics of the seasons. As climate change accelerates, the hazards to human health and safety and the environment in Vermont will rise, including an increased frequency of violent storm events, heat waves, and one- to two-month droughts; threats to the productivity of cold-weather crops and dairy cows and to cold-water fish and wildlife species; reduced seasons for skiing, snowmobiling, and sugaring; and increasing risks to infrastructure such as roads and bridges near streams and rivers.

(2) Vermont currently encourages the in-state siting of renewable electric generation projects in order to contribute to reductions in global climate change caused by greenhouse gas emissions. Yet significant controversy exists over whether in-state development of renewable energy actually reduces Vermont's greenhouse gas emissions, since these projects typically sell renewable energy credits to utilities in other states, and those credits are netted against the greenhouse gas emissions of those states.

(3) Vermont's electric energy consumption does not contribute significantly to the State's carbon footprint. In 2010, CO_2 and equivalent emissions from Vermont energy consumption totaled approximately eight million metric tons ($MMTCO_2$). Of this total, transportation fuel use accounted for approximately 3.5, nonelectric fuel use by homes and businesses for approximately 2.5 and, in contrast, electric energy use for approximately 0.04 $MMTCO_2$.

(4) The in-state siting of renewable electric generation projects carries the potential for significant adverse impacts. For example, in Vermont, developers site industrial wind generation projects and wind meteorological stations on ridgelines, which often contain sensitive habitat and important natural areas. Vermont's ridgelines also define and enhance the State's natural and scenic beauty. Vermont has invested substantial time and effort to develop regulatory policy and programs to protect its ridgelines.

(5) Ridgeline wind generation plants have potential impacts on natural resources, scenic beauty, and quality of life, including effects on endangered and threatened species, wildlife habitat, and aesthetics and impacts from blasting and turbine noise. Residents near installed wind generation plants have raised concerns about health impacts, including sleep loss. Significant controversy has arisen over whether the Public Service Board review process adequately protects the public and the environment from the negative impacts caused by these and other electric generation projects.

(6) Vermont has a long history of supporting community-based land use planning. Under 24 V.S.A. chapter 117, Vermont's 11 regional planning commissions and its municipal planning commissions are enabled and encouraged to adopt plans to guide development, including energy and utility facilities. These plans are adopted through a public hearing and comment process after substantial effort by the regions and the municipalities, often with extensive involvement of citizens in the affected communities. Yet under current law, the Public Service Board when reviewing an electric generation project may set aside the results of this planning process for any reason the Board considers to affect the general good of the State, even if the project is not needed for reliability of the electric system.

(7) No statewide analysis and planning is performed to address the environmental, land use, and health impacts of siting wind generation projects in Vermont. Instead, the Public Service Board examines the impacts on a case-by-case basis only.

(8) The current case-by-case system of regulating electric generation projects must be revised to ensure the best possible siting of these projects. To achieve this goal, the siting of electric generation projects must be directed by community-based land use planning. Each electric generation project must comply with the same environmental and land use criteria as other development projects unless the generation project is for the purpose of system reliability. A statewide assessment must be made and a process must be developed that integrates and strengthens the role of community-based land use planning and supports effective review and optimal siting of all electric generation projects. This assessment also must evaluate whether encouraging in-state siting of renewable electric generation is the most appropriate means at Vermont's disposal to reduce its carbon footprint.

* * * Assessment; Report * * *

Sec. 2. ELECTRIC GENERATION SITING; ASSESSMENT; REPORT

(a) Charge. On or before November 15, 2013, the Department of Public Service, in consultation with and assisted by the Agencies of Commerce and Community Development and of Natural Resources, the Natural Resources Board, and the state's regional planning commissions, shall conduct and complete the assessment and submit the report to the General Assembly required by this section.

(b) Definitions. In this section:

(1) "ACCD" means the Agency of Commerce and Community Development.

(2) "ANR" means the Agency of Natural Resources.

(3) "Board" means the Natural Resources Board.

(4) "Department" means the Department of Public Service.

(5) "Electric generation plant" means a plant that produces electricity and has a plant capacity that exceeds 500 kilowatts.

(6) "Plant" and "plant capacity" shall have the same meaning as in 30 V.S.A. § 8002, except that they shall not be limited to renewable energy.

(7) "Regional planning commission" shall have the meaning as in 24 V.S.A. § 4303.

(8) "Wind generation plant" means an electric generation plant that captures the energy of the wind and converts it into electricity. The term includes all associated facilities and infrastructure such as wind turbines, towers, guy wires, power lines, roads, and substations.

(9) "Wind meteorological station" means any tower, and associated guy wires and attached instrumentation, constructed to collect and record wind speed, wind direction, and atmospheric conditions.

(c) Governor's Siting Policy Commission. In performing its tasks under this section, the Department shall use the information and data collected by the Governor's Energy Siting Policy Commission (the Siting Policy Commission) created by Executive Order No. 10-12 dated October 2, 2012 (the Executive Order) and shall consider the recommendations of that Commission.

(d) Assessment. The Department, assisted by ACCD, ANR, the Board, and the regional planning commissions, shall assess each of the following:

(1) the appropriateness and economic efficiency of investing or encouraging investment in renewable electric generation plants to reduce Vermont's greenhouse gas emissions in comparison to other measures to reduce those emissions such as transportation fuel efficiency and thermal energy efficiency;

(2) the current policy and practice of selling renewable energy credits from renewable electric generation plants in Vermont to utilities in other jurisdictions and the effect of this policy and practice on reducing Vermont's greenhouse gas emissions;

(3) methods to integrate state energy planning and local and regional land use planning as they apply to electric generation plants;

(4) methods to strengthen the role of local and regional plans in the siting review process for electric generation plants and to assure that the siting review process reflects the outcome of the local and regional planning processes;

(5) methods to fund intervenors in the siting review process for electric generation projects; and

(6) with respect to wind generation plants and wind meteorological stations:

(A) health impacts of plants and stations located in and outside Vermont;

(B) sound and infrasound emitted from plants and stations located in and outside Vermont as they affect public health and quality of life;

(C) setback requirements on such plants and stations adopted by other jurisdictions in and outside the United States;

(D) the impacts on the environment, natural resources, and quality of life of the plants and stations in Vermont in existence or under construction as of the effective date of this section; and

(E) the economic and environmental costs and benefits of such plants and stations, including the value of any ecosystem services affected by them.

(e) Report; proposed legislation. On or before November 15, 2013, the Department, assisted by ACCD, ANR, the Board, and the regional planning commissions, shall submit a report to the House and Senate Committees on Natural Resources and Energy and the Electric Generation Oversight Committee created under subsection (g) of this section that contains each of the following:

(1) The results of each assessment to be conducted under subsection (d) of this section.

(2) Recommendations and proposed legislation to:

(A) establish a comprehensive planning process for the siting of electric generation plants that integrates state energy and local and regional land use planning;

(B) ensure that the outcome of this integrated planning process directs the siting review process for electric generation plants and that local and regional land use plans have a determinative role in this siting review process;

(C) establish a method to fund intervenors participating in the siting review process for electric generation plants;

(D) maximize the reductions in Vermont's greenhouse gas emissions supported by revenues raised from Vermont taxpayers and ratepayers;

(E) establish standards applicable to all wind generation plants and wind meteorological stations to address their impacts on the public health, environment, land use, and quality of life, including standards to protect natural areas and wildlife habitat and to establish noise limits and setback requirements applicable to such plants and stations; and

(F) establish a procedure to measure a property owner's loss of value, if any, due to proximity to a wind generation plant and to propose a method to compensate the property owner for the loss in value, including a determination of who shall pay for such loss.

(f) Public notice and participation.

(1) The Department shall give widespread public notice of the assessment and report required by this section and shall maintain on its website a prominent page concerning this process that provides notice of all public meetings held and posts relevant information and documents.

(2) In performing the assessment and developing the report required by this section, the Department shall provide an opportunity for local legislative bodies, local planning commissions, affected businesses and organizations, and members of the public to submit relevant factual information, analysis, and comment. This opportunity shall include meetings conducted by the DPS at locations that are geographically distributed around the State to receive such information, analysis, and comment.

(g) Oversight committee. There is created the Electric Generation Oversight Committee (the Committee). The purpose of the Committee shall be to perform legislative oversight of the conduct of the assessment and report required by this section and to discuss potential legislation on planning for and siting of electric generation plants.

(1) Membership. The Committee shall be composed of six members who shall be appointed within 30 days of this section's effective date. Three of the members shall be members of the Senate Committee on Natural Resources and Energy appointed by the Committee on Committees of the Senate. Three of the members shall be members of the House Committee on Natural Resources and Energy appointed by the Speaker of the House.

(2) Meetings. During adjournment of the General Assembly, the Committee shall be authorized to conduct up to three meetings. at which meetings the Committee may:

(A) direct the Department, ACCD, ANR, the Board, and one or more regional planning commissions to appear and provide progress reports on the assessment and report required by this section and discuss proposals of draft legislation on planning for and siting of electric generation plants; and

(B) direct members of the Siting Policy Commission to appear and provide information and testimony related to the Commission's report and recommendations issued pursuant to the Executive Order and to the siting of electric generation plants in Vermont. This authority shall continue for the duration of the Committee's term whether or not the Siting Policy Commission ceases to exist prior to the end of the Committee's term.

(3) Reimbursement. For attendance at authorized meetings during adjournment of the General Assembly, members of the Committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

(4) For the purpose of its tasks under this subsection, the Committee shall have the administrative and legal assistance of the Office of Legislative Council.

(5) Term of committee. The Committee shall cease to exist on February 1, 2014.

Sec. 3. APPROPRIATION

For fiscal year 2014, the sum of $75,000.00 is appropriated to the Department of Public Service from the General Fund for the purpose of Sec. 2 of this act (electric generation siting; assessment; report).

* * * Regional Planning for Electric Generation Plants * * *

Sec. 4. 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:

* * *

(3) An energy element, which:

(A) may include an analysis of energy resources, needs, scarcities, costs, and problems within the region, a statement of policy on the conservation of energy and the development of renewable energy resources, and a statement of policy on patterns and densities of land use and control devices likely to result in conservation of energy; and

(B) shall include the electric energy siting plan under section 4348c of this title;

* * *

Sec. 5. 24 V.S.A. § 4348c is added to read:

§ 4348c. ELECTRIC ENERGY SITING PLAN

(a) In this section:

(1) "Electric generation plant" means a plant that produces electricity and has a plant capacity that exceeds 500 kilowatts.

(2) "Plant" and "plant capacity" shall have the same meaning as in 30 V.S.A. § 8002, except that they shall not be limited to renewable energy.

(b) Each regional planning commission shall adopt a plan concerning the siting of electric generation plants within the region. This plan shall be adopted as part of or an amendment to the regional plan.

(c) The plan shall state the region's specific policies on the siting of electric generation plants and identify the appropriate locations within the region, if any, for the siting of electric generation plants.

(d) In developing the siting plan, the regional planning commission shall apply the resource maps developed by the Secretary of Natural Resources under 10 V.S.A. § 127, protect the resources under 10 V.S.A. § 6086(a), and consider the energy policy set forth in 30 V.S.A. §§ 202a and 8001 and the state energy plans adopted under 30 V.S.A. §§ 202 and 202b.

(e) Notwithstanding section 4350 of this title, the plan for a municipality shall not be considered incompatible with the regional plan for the reason that the municipal plan prohibits the siting of an electric generation plant that the regional plan would allow within the municipality.

Sec. 6. IMPLEMENTATION

On or before December 15, 2014, each regional planning commission shall adopt a renewable electric energy siting plan under Sec. 5 of this act, 24 V.S.A. § 4348c.

* * * Municipal Officers; Ethics Disclosure * * *

Sec. 7. 24 V.S.A. § 873 is added to read:

§ 873. DISCLOSURE; FINANCIAL INTEREST; WIND GENERATION PLANTS

A member of a municipality's legislative body or other municipal officer shall not participate in any meeting or proceeding or take any official action concerning a wind generation plant proposed to be located within the municipality the member or officer may have in the construction or operation of the plant, including the retention of the member or officer by the plant developer an agreement under which the plant developer will compensate the member or officer for potential impacts to land of the member or officer.

(1) In this section, a financial interest of a member or officer shall include a financial interest in the construction or operation of the plant of any natural person to which the member or officer is related within the fourth degree of consanguinity or affinity or of any corporation of which an officer, director, trustee, or agent is related to the member or officer within such degree.

(2) This section shall not require disclosure of a financial interest shared generally by the residents of the municipality such as the municipality's receipt of property taxes or other payments from the plant.

Sec. 8. 24 V.S.A. § 4461 is amended to read:

§ 4461. DEVELOPMENT REVIEW PROCEDURES

(a) Meetings; rules of procedure and ethics. An appropriate municipal panel shall elect its own officers and adopt rules of procedure, subject to this section and other applicable state statutes, and shall adopt rules of ethics with respect to conflicts of interest.

(1) Meetings of any appropriate municipal panel shall be held at the call of the chairperson and at such times as the panel may determine. The officers of the panel may administer oaths and compel the attendance of witnesses and the production of material germane to any issue under review. All meetings of the panel, except for deliberative and executive sessions, shall be open to the public. The panel shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the clerk of the municipality as a public record. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the panel, and any action of the panel shall be taken by the concurrence of a majority of the panel.

(2) The provisions of section 873 of this title (disclosure; financial interest; wind generation plant) shall apply to each member of an appropriate municipal panel.

* * *

* * * Electric Generation Siting Jurisdiction; Public Service Board * * *

Sec. 9. 30 V.S.A. § 248 is amended to read:

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

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

(A) In any way purchase electric capacity or energy from outside the ~~state~~ State:

(i) for a period exceeding five years, that represents more than three percent of its historic peak demand, unless the purchase is from a plant as defined in subdivision 8002(14) of this title that produces electricity from renewable energy as defined under subdivision 8002(17); or

(ii) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant as defined in subdivision 8002(14) of this title that produces electricity from renewable energy as defined under subdivision 8002(17); or

(B) invest in an electric generation or transmission facility located outside this ~~state~~ State unless the ~~public service board~~ Public Service Board first finds that the same will promote the general good of the ~~state~~ State and issues a certificate to that effect.

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility within the ~~state~~ State which is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, unless the ~~public service board~~ Public Service Board first finds that the same will promote the general good of the ~~state~~ State and issues a certificate to that effect.

* * *

(b) Before the ~~public service board~~ Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1)(A) with respect to an in-state electric generation facility exceeding 500 kilowatts, will be in conformance with the duly adopted plans under 24 V.S.A. chapter 117 for the municipality and region in which the facility is located, and due consideration has been given to the land conservation measures contained in the plan of any other affected municipality. Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (1)(A) is met. However, this subdivision (1)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;

(B) with respect to ~~an~~ any other in-state facility subject to this section, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However, with respect to a natural gas

transmission line subject to board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the ~~board~~ Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located;

* * *

(5) with respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety~~, with~~ and:

(A) with respect to an in-state electric generation facility exceeding 500 kilowatts, will comply with the criteria of 10 V.S.A. § 6086(a)(1)–(9)(L). Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (5)(A) is met. However, this subdivision (5)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;

(B) with respect to any other in-state facility subject to this section, due consideration ~~having~~ has been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K) and greenhouse gas impacts.

* * *

(q) When reviewing a facility under this section pursuant to the criteria of 10 V.S.A. § 6086(a), the Public Service Board shall consider the relevant precedents of the former Environmental Board and of the Environmental Division of the Superior Court and shall apply the relevant precedents of the Vermont Supreme Court.

Sec. 10. RETROACTIVE APPLICATION

Notwithstanding 1 V.S.A. §§ 213 and 214, Sec. 9 (new gas and electric purchases, investments, and facilities; certificate of public good) of this act shall apply to applications that are filed on and after March 1, 2013 and are pending as of this section's effective date.

* * * State Lands * * *

Sec. 11. 10 V.S.A. chapter 88 is added to read:

CHAPTER 88. PROHIBITION; COMMERCIAL CONSTRUCTION; CERTAIN PUBLIC LANDS

§ 2801. POLICY

Vermont's state parks, state forests, natural areas, wilderness areas, wildlife management areas, and wildlife refuges are intended to remain in a natural or wild state forever and shall be protected and managed accordingly.

§ 2802. PROHIBITION

(a) Construction for any commercial purpose, including the generation of electric power, shall not be permitted within any state park or forest, wilderness area designated by law, or natural area designated under section 2607 of this title.

(b) This section shall not prohibit:

(1) the construction of a concession or other structure for the use of visitors to state parks or forests;

(2) a modification or improvement to a dam in existence as of the effective date of this section, if the modification or improvement is:

(A) to ensure public safety; or

(B) to allow the dam's use for the generation of electricity, and the construction of any power lines and facilities necessary for such use;

(3) the construction of telecommunications facilities, as defined in 30 V.S.A. § 248a(b) (certificate of public good; communications facilities), in accordance with all other applicable state law;

(4) a temporary structure or road for forestry purposes as may be permitted on a state land;

(5) tapping of maple trees and associated activities on state forestland authorized under a license pursuant to section 2606b of this title; or

(6) construction on state land that is permitted under a lease or license that was in existence on this act's effective date and, in the case of a ski area, the renewal of such a lease or license or its modification to allow expansion of the ski area.

Sec. 12. REPEAL

10 V.S.A. § 2606(c) (state forests; parks; leases for mining or quarrying) is repealed.

* * * Effective Date * * *

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage, except Sec. 3 (appropriation) of this act shall take effect on July 1, 2013.

(Committee vote: 4-1-0)

SUBSTITUTE AMENDMENT FOR THE RECOMMENDATION OF AMENDMENT OF THE COMMITTEE ON NATURAL RESOURCES AND ENERGY TO S. 30, TO BE OFFERED BY SENATOR SNELLING, ON BEHALF OF THE COMMITTEE ON NATURAL RESOURCES AND ENERGY

Senator Snelling, on behalf of the Committee on Natural Resources and Energy, moves to substitute an amendment for the recommendation of amendment of the Committee on Natural Resources and Energy as follows:

By striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds:

(1) Vermont currently encourages the in-state siting of renewable electric generation projects. As with other land uses such as ski resorts or mountainside condominiums, the development of renewable electric generation projects brings both benefits and costs, which must be considered according to statutory criteria for development and siting review.

(2) To address concerns raised regarding the siting processes for electric generation projects and related recommendations in the 2011 Comprehensive Energy Plan, the Governor signed Executive Order No. 10-12 (the Executive Order) creating the Governor's Energy Generation Siting Policy Commission (the Commission). The Commission's charge is to survey best practices for siting approval of electric generation projects, except for net metering systems, and for public participation and representation in the siting review process, and to recommend modifications or improvements to be made to the process through legislation.

(3) In accordance with the Executive Order, the General Assembly anticipates receiving the report and recommendations from the Commission on

or before April 30, 2013 and therefore establishes a process for further assessments of issues related to electric generation siting and to consider the report and recommendations in advance of the 2014 legislative session.

* * * Joint Energy Committee * * *

Sec. 2. 2 V.S.A. § 601 is amended to read:

§ 601. CREATION OF COMMITTEE

* * *

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

* * * Electric Generation Siting; Assessment; Report * * *

Sec. 3. DEFINITIONS

In Secs. 3 through 5 of this act:

(1) "ACCD" means the Agency of Commerce and Community Development.

(2) "ANR" means the Agency of Natural Resources.

(3) "Board" means the Natural Resources Board.

(4) "Department" means the Department of Public Service.

(5) "Electric generation plant" means a plant that produces electricity and has a plant capacity that exceeds 500 kilowatts.

(6) "Executive Order" means Executive Order No. 10-12 dated October 2, 2012 creating the Siting Policy Commission.

(7) "Joint Energy Committee" means the Joint Energy Committee created under 2 V.S.A. chapter 17.

(8) "Plant" and "plant capacity" shall have the same meaning as in 30 V.S.A. § 8002, except that they shall not be limited to renewable energy.

(9) "Regional planning commission" shall have the meaning as in 24 V.S.A. § 4303.

(10) "Siting Policy Commission" means the Governor's Energy Siting Policy Commission created by Executive Order No. 10-12 dated October 2, 2012 .

(11) "VDH" means the Department of Health.

(12) "Wind generation plant" means an electric generation plant that captures the energy of the wind and converts it into electricity. The term includes all associated facilities and infrastructure such as wind turbines, towers, guy wires, power lines, roads, and substations.

(13) "Wind meteorological station" means any tower, and associated guy wires and attached instrumentation, constructed to collect and record wind speed, wind direction, and atmospheric conditions.

Sec. 4. DEPARTMENT; ELECTRIC GENERATION SITING; ASSESSMENT; REPORT

(a) Charge. On or before November 15, 2013, the Department, in consultation with and assisted by the ACCD, ANR, the Board, the Department of Taxes, VDH, and the regional planning commissions, shall conduct and complete each assessment and submit the report and recommendations required by this section.

(b) Governor's Siting Policy Commission. In performing its tasks under this section, the Department shall use the information and data collected by and consider the report and recommendations of the Siting Policy Commission.

(c) Assessment. The Department, assisted by ACCD, ANR, the Board, the Department of Taxes, VDH, and the regional planning commissions, shall complete a written assessment of each of the following:

(1) the appropriateness and economic efficiency of investing or encouraging investment in renewable electric generation plants to reduce Vermont's greenhouse gas emissions in comparison to other measures to reduce those emissions such as transportation fuel efficiency and thermal and electric energy efficiency;

(2) the current policy and practice of selling renewable energy credits from renewable electric generation plants in Vermont to utilities in other jurisdictions and the effect of this policy and practice on reducing Vermont's greenhouse gas emissions;

(3) methods to integrate state energy planning and local and regional land use planning as they apply to electric generation plants;

(4) methods to strengthen the role of local and regional plans in the siting review process for electric generation plants and to assure that the siting review process reflects the outcome of the local and regional planning processes;

(5) methods to fund intervenors in the siting review process for electric generation plants; and

(6) with respect to wind generation plants and wind meteorological stations:

(A) health impacts of plants and stations located in and outside Vermont;

(B) sound and infrasound emitted from plants and stations located in and outside Vermont as they affect public health and quality of life;

(C) setback requirements on such plants and stations adopted by other jurisdictions in and outside the United States;

(D) the impacts on the environment, natural resources, and quality of life of the plants and stations in Vermont in existence or under construction as of the effective date of this section; and

(E) the economic and environmental costs and benefits of such plants and stations, including the value of any ecosystem services affected by them.

(d) Report; proposed legislation. On or before November 15, 2013, the Department, assisted by ACCD, ANR, the Board, the Department of Taxes, VDH, and the regional planning commissions, shall submit a report to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, the House Committee on Commerce and Economic Development, and the Joint Energy Committee that contains each of the following:

(1) The results of each assessment to be conducted under subsection (c) of this section.

(2) Recommendations and proposed legislation to:

(A) establish a comprehensive planning process for the siting of electric generation plants that integrates state energy and local and regional land use planning;

(B) ensure that the outcome of this integrated planning process directs the siting review process for electric generation plants and that local and regional land use plans have a determinative role in this siting review process;

(C) establish a method to fund intervenors participating in the siting review process for electric generation plants;

(D) maximize the reductions in Vermont's greenhouse gas emissions supported by revenues raised from Vermont taxpayers and ratepayers;

(E) establish standards applicable to all wind generation plants and wind meteorological stations to address their impacts on the public health, environment, land use, and quality of life, including standards to protect natural areas and wildlife habitat and to establish noise limits and setback requirements applicable to such plants and stations; and

(F) establish a procedure to measure a property owner's loss of value, if any, due to proximity to a wind generation plant and to propose a method to compensate the property owner for the loss in value, including a determination of who shall pay for such loss.

(e) Public notice and participation.

(1) The Department shall give widespread public notice of the assessment and report required by this section and shall maintain on its website a prominent page concerning this process that provides notice of all public meetings held and posts relevant information and documents.

(2) In performing the assessment and developing the report required by this section, the Department shall provide an opportunity for local legislative bodies, local planning commissions, affected businesses and organizations, and members of the public to submit relevant factual information, analysis, and comment. This opportunity shall include meetings conducted by the Department at locations that are geographically distributed around the State to receive such information, analysis, and comment.

(f) Joint Energy Committee. During adjournment between the 2013 and 2014 sessions, the Joint Energy Committee (the Committee) shall review the conduct and content of the assessment and report required by this section and the report and recommendations of the Siting Policy Commission and discuss potential legislation on planning for and siting of electric generation plants. To this end, the Committee may:

(1) direct the Department, ACCD, ANR, the Board, the Department of Taxes, VDH, and one or more regional planning commissions to appear and provide progress reports on the assessment and report required by this section and discuss proposals of draft legislation on planning for and siting of electric generation plants; and

(2) direct members of the Siting Policy Commission to appear and provide information and testimony related to the Commission's report and

recommendations issued pursuant to the Executive Order and to the siting of electric generation plants in Vermont. This authority shall continue until the General Assembly reconvenes in 2014 whether or not the Siting Policy Commission ceases to exist prior to that date.

Sec. 5. APPROPRIATION

For fiscal year 2014, the sum of $75,000.00 is appropriated to the Department of Public Service from Special Fund No. 21698 (Department of Public Service; Energy and Regulation Fund) for the purpose of Sec. 4 of this act (electric generation siting; assessment; report).

* * * Electric Generation Siting Jurisdiction; Public Service Board * * *

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

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

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

(A) In any way purchase electric capacity or energy from outside the ~~state~~ State:

(i) for a period exceeding five years, that represents more than three percent of its historic peak demand, unless the purchase is from a plant as defined in subdivision 8002(14) of this title that produces electricity from renewable energy as defined under subdivision 8002(17); or

(ii) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant as defined in subdivision 8002(14) of this title that produces electricity from renewable energy as defined under subdivision 8002(17); or

(B) invest in an electric generation or transmission facility located outside this ~~state~~ State unless the ~~public service board~~ Public Service Board first finds that the same will promote the general good of the ~~state~~ State and issues a certificate to that effect.

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility

within the ~~state~~ State which is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, unless the ~~public service board~~ Public Service Board first finds that the same will promote the general good of the ~~state~~ State and issues a certificate to that effect.

* * *

(b) Before the ~~public service board~~ Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1)(A) with respect to an in-state electric generation facility exceeding 2.2 megawatts, will be in conformance with the duly adopted plans under 24 V.S.A. chapter 117 for the municipality and region in which the facility is located, and due consideration has been given to the land conservation measures contained in the plan of any other affected municipality. Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (1)(A) is met. However, this subdivision (1)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;

(B) with respect to ~~an~~ any other in-state facility subject to this section, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However, with respect to a natural gas transmission line subject to board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the ~~board~~ Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located;

* * *

(5) with respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety~~, with~~ and:

(A) with respect to an in-state electric generation facility exceeding 2.2 megawatts, will comply with the criteria of 10 V.S.A. § 6086(a)(1)–(9)(L). Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (5)(A) is met. However, this subdivision (5)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;

(B) with respect to any other in-state facility subject to this section, due consideration ~~having~~ has been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K) and greenhouse gas impacts.

* * *

(q) When reviewing a facility under this section pursuant to the criteria of 10 V.S.A. § 6086(a), the Public Service Board shall consider the relevant precedents of the former Environmental Board and of the Environmental Division of the Superior Court and shall apply the relevant precedents of the Vermont Supreme Court.

Sec. 7. RETROACTIVE APPLICATION

Notwithstanding 1 V.S.A. §§ 213 and 214, Sec. 6 (new gas and electric purchases, investments, and facilities; certificate of public good) of this act shall apply retroactively to applications that are filed on and after March 1, 2013 and are pending as of this section's effective date.

Sec. 8. 30 V.S.A. § 248 is amended to read:

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

* * *

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1)~~(A) with respect to an in-state electric generation facility exceeding 2.2 megawatts, will be in conformance with the duly adopted plans under 24 V.S.A. chapter 117 for the municipality and region in which the facility is located, and due consideration has been given to the land conservation measures contained in the plan of any other affected municipality. Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (1)(A) is met. However, this subdivision (1)(A) shall not~~

~~apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;~~

~~(B)~~ with respect to ~~any other~~ an in-state facility ~~subject to this section~~, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However, with respect to a natural gas transmission line subject to board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the ~~board~~ Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located;

* * *

(5) with respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety ~~and:~~

~~(A) with respect to an in-state electric generation facility exceeding 2.2 megawatts, will comply with the criteria of 10 V.S.A. § 6086(a)(1) (9)(L). Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (5)(A) is met. However, this subdivision (5)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;~~

~~(B) with respect to any other in-state facility subject to this section,~~ with due consideration ~~has~~ having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K) and greenhouse gas impacts.

* * *

(q) ~~When reviewing a facility under this section pursuant to the criteria of 10 V.S.A. § 6086(a), the Public Service Board shall consider the relevant precedents of the former Environmental Board and of the Environmental Division of the Superior Court and shall apply the relevant precedents of the Vermont Supreme Court.~~ [Repealed.]

* * * State Lands * * *

Sec. 9. 10 V.S.A. chapter 88 is added to read:

CHAPTER 88. PROHIBITION; COMMERCIAL CONSTRUCTION; CERTAIN PUBLIC LANDS

§ 2801. POLICY

Vermont's state parks, state forests, natural areas, wilderness areas, wildlife management areas, and wildlife refuges are intended to remain in a natural or wild state forever and shall be protected and managed accordingly.

§ 2802. PROHIBITION

(a) Construction for any commercial purpose, including the generation of electric power, shall not be permitted within any state park or forest, wilderness area designated by law, or natural area designated under section 2607 of this title.

(b) This section shall not prohibit:

(1) the construction of a concession or other structure for the use of visitors to state parks or forests;

(2) a modification or improvement to a dam in existence as of the effective date of this section, if the modification or improvement is:

(A) to ensure public safety; or

(B) to allow the dam's use for the generation of electricity, and the construction of any power lines and facilities necessary for such use;

(3) the construction of telecommunications facilities, as defined in 30 V.S.A. § 248a(b) (certificate of public good; communications facilities), in accordance with all other applicable state law;

(4) a structure, road, or landing for forestry purposes as may be permitted on a state land;

(5) tapping of maple trees and associated activities on state forestland authorized under a license pursuant to section 2606b of this title; or

(6) construction on state land that is permitted under a lease or license that was in existence on this act's effective date and, in the case of a ski area, the renewal of such a lease or license or its modification to allow expansion of the ski area.

Sec. 10. REPEAL

10 V.S.A. § 2606(c) (state forests; parks; leases for mining or quarrying) is repealed.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 5 (appropriation) of this act shall take effect on July 1, 2013; and

(2) Sec. 8 (new gas and electric purchases, investments, and facilities; certificate of public good) of this act shall take effect on July 1, 2014.

Reported without recommendation by Senator Ashe for the Committee on Finance.

(Committee voted: 3-2-2)

Reported favorably with recommendation of amendment by Senator Starr for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendment thereto:

In Sec. 3 (appropriation) by striking out the words "the General Fund" and inserting in lieu thereof: Special Fund No. 21698 (Department of Public Service; Energy and Regulation Fund)

(Committee vote: 7-0-0)

NEW BUSINESS

Third Reading

S. 128.

An act relating to updating mental health judicial proceedings.

S. 159.

An act relating to various amendments to Vermont's land use control law and related statutes.

AMENDMENT TO S. 159 TO BE OFFERED BY SENATOR MacDONALD BEFORE THIRD READING

Senator MacDonald moves to amend the bill in Sec. 9, 10 V.S.A. § 6021 (Natural Resources Board) in subdivision (a)(1), by striking out the first

sentence in its entirety and inserting in lieu thereof the following:

The ~~board~~ Board shall consist of ~~nine~~ five members appointed by the ~~governor~~ Governor, with the advice and consent of the ~~senate~~ Senate, so that one appointment ~~on each panel~~ expires in each ~~odd-numbered~~ year.

S. 161.

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

Second Reading

Favorable

S. 26.

An act relating to providing state financial support for school meals for children of low-income households.

Reported favorably by Senator Collins for the Committee on Education.

(Committee vote: 5-0-0)

Reported favorably by Senator Fox for the Committee on Appropriations.

(Committee vote: 7-0-0)

Favorable with Recommendation of Amendment

S. 61.

An act relating to the shipment of malt beverages.

Reported favorably with recommendation of amendment by Senator Mullin for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

§ 2. DEFINITIONS

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

* * *

(19) "Second class license": a license granted by the ~~control commissioners~~ Control Commissioners permitting the licensee to export malt

or vinous beverages and to sell malt or vinous beverages to the public for consumption off the premises for which the license is granted.

* * *

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

* * *

(32) "Art gallery or bookstore permit": a permit granted by the liquor control board permitting an art gallery or bookstore to conduct an event at which malt or vinous beverages or both are served by the glass to the public, provided that the event is approved by the local licensing authority. A permit holder may purchase malt or vinous beverages directly from a licensed retailer. A permit holder shall be subject to the provisions of this title and the rules of the board regarding the service of alcoholic beverages. A request for a permit shall be submitted to the department in a form required by the ~~department~~ Department at least five days prior to the event and shall be accompanied by the permit fee required by subdivision 231(a)(22) of this title. As used in this section, "art gallery" means a fixed establishment whose primary purpose is to exhibit and offer for sale works of art subject to federal copyright protection; and "bookstore" means a fixed establishment whose primary purpose is to offer books for sale.

* * *

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

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

(a) A manufacturer or rectifier of vinous beverages or malt beverages licensed in Vermont may be granted an in-state consumer shipping license by filing with the ~~department of liquor control~~ Department of Liquor Control an application in a form required by the ~~department~~ Department accompanied by a copy of the applicant's current Vermont manufacturer's license and the fee as required by subdivision 231(7)(A) of this title. This consumer shipping license may be renewed annually by filing the renewal fee as required by subdivision 231(7)(A) of this title accompanied by a copy of the licensee's current Vermont manufacturer's license.

(b) A manufacturer or rectifier of vinous beverages or malt beverages licensed in another state that operates a winery or brewery in the United States and holds valid state and federal permits and licenses may be granted an out-of-state consumer shipping license by filing with the ~~department of liquor control~~ Department an application in a form required by the ~~department~~ Department accompanied by copies of the applicant's current out-of-state manufacturer's license and the fee as required by subdivision 231(7)(B) of this title. This consumer shipping license may be renewed annually by filing the renewal fee as required by subdivision 231(7)(B) of this title accompanied by the licensee's current out-of-state manufacturer's license. For the purposes of this subsection and subsection (c) of this section, "out-of-state" means any state other than Vermont, any territory or possession of the United States, and does not include a foreign country.

* * *

(d) Pursuant to a consumer shipping license granted under subsection (a) or (b) of this section, the licensee may ship vinous beverages or malt beverages produced by the licensee:

(1) Only to private residents for personal use and not for resale.

(2) No more than 12 cases containing no more than 29 gallons of vinous beverages or no more than 12 cases of malt beverages containing no more than 36 gallons of malt beverages to any one Vermont resident in any calendar year.

(3) Only by common carrier certified by the ~~department~~ Department. The common carrier shall comply with all the following:

(A) ~~Deliver~~ deliver ~~vinous~~ beverages pursuant to an invoice that includes the name of the licensee and the name and address of the purchaser~~.~~;

(B) ~~On~~ on delivery, require a valid form of photographic identification from a recipient who appears to be under ~~the~~ age ~~of~~ 30~~.~~;

(C) ~~Require~~ require the recipient to sign an electronic or paper form or other acknowledgement of receipt.

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

(1) ~~Ensure~~ ensure that all containers of alcoholic beverages shipped under this section are clearly labeled: "contains alcohol; signature of individual age 21 or older required for ~~delivery."~~ delivery";

(2) ~~Not~~ not ship to any address in a municipality that the ~~department~~ Department identified as having voted to be ~~"dry."~~ dry";

(3) ~~Retain~~ retain a copy of each record of sale for a minimum of five years from the date of shipping~~.~~;

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

(A) ~~The~~ the total amount of vinous beverages or malt beverages shipped into or within the ~~state~~ State for the preceding six months if a holder of a direct consumer shipping license or every 12 months if a holder of a retail shipping license~~.~~;

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

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

(5) ~~Pay~~ pay directly to the ~~commissioner of taxes~~ Commissioner of Taxes the amount of tax on the vinous beverages or malt beverages shipped under this section pursuant to subsection 421(a) of this title, and comply with the provisions of 32 V.S.A. chapter 233, 24 V.S.A. § 138, and any other legally authorized local sales taxes. Delivery in this ~~state~~ State shall be deemed to constitute a sale in this ~~state~~ State at the place of delivery and shall be subject to all appropriate taxes levied by the ~~state~~ State of Vermont~~.~~;

(6) ~~Permit the state treasurer~~ permit the State Treasurer, the ~~department of liquor control~~ Department of Liquor Control, and the ~~department of taxes~~ Department of Taxes, separately or jointly, upon request, to perform an audit of its records~~.~~;

(7) ~~If~~ if an out-of-state license holder, be deemed to have consented to the jurisdiction of the ~~department of liquor control~~ Department of Liquor Control or any other state agency and the Vermont state courts concerning enforcement of this or other applicable laws and regulations~~.~~;

(8) ~~Not~~ not have any direct or indirect financial interest in a Vermont wholesale dealer or retail dealer, including a first, second, or third class license~~.~~;

(9) ~~Comply~~ comply with all ~~liquor control board~~ Liquor Control Board laws and regulations; and

(10) comply with the beverage container deposit redemption system pursuant to 10 V.S.A. chapter 53.

(f) A common carrier shall not deliver vinous beverages or malt beverages until it has complied with the training provisions in subsections 239(a) and (b) of this title and been certified by the ~~department of liquor control~~ Department of Liquor Control. No employee of a certified common carrier may deliver vinous beverages or malt beverages until that employee completes the training provisions in subsection 239(c) of this title. A common carrier shall deliver only vinous beverages or malt beverages that have been shipped by the holder of a license issued under this section or a vinous beverage storage license issued under section 68 of this title.

(g) The ~~department of liquor control and the department of taxes~~ Departments of Liquor Control and of Taxes may adopt rules and forms necessary to implement this section.

(h) Direct shipments of vinous beverages or malt beverages are prohibited if the shipment is not specifically authorized and in compliance with this section. Any person who knowingly makes, participates in, imports, or receives a direct shipment of vinous beverages or malt beverages from a person who is not licensed or certified as required by this section may be fined not more than $1,000.00 or imprisoned not more than one year, or both.

(i) A licensee under this section or a common carrier that ships vinous beverages or malt beverages to an individual under 21 years of age shall be fined not less than $1,000.00 or more than $3,000.00 or imprisoned not more than two years, or both.

(j) For any violation of this section, the ~~liquor control board~~ Liquor Control Board may suspend or revoke a license issued under this section, among all other remedies available to the board.

Sec. 3. 7 V.S.A. § 232 is amended to read:

§ 232. TERMS OF ~~PERMITS AND~~ LICENSES

All ~~permits and~~ licenses shall expire at midnight, April 30, ~~of each year and, upon~~ of each year, except that annual licenses issued beginning July 1, 2013 shall expire at midnight one year from the date of issuance, and six month licenses shall expire at midnight six months from the date of issuance. Upon the payment of a new fee, licenses may be renewed by the ~~control commissioners~~ Control Commissioners with the approval of the ~~liquor control board as provided in section 222 of this title~~ Liquor Control Board, provided the licensee is entitled thereto.

Sec. 4. 7 V.S.A. § 239 is amended to read:

§ 239. LICENSEE EDUCATION

(a) ~~No new first or second class license~~ A new first class, second class, third class, fourth class, or farmer's market license shall not be granted until the applicant has met with a liquor control investigator or training specialist for the purpose of being informed of the Vermont liquor laws, rules, and regulations pertaining to the purchase, storage, and sale of alcohol beverages. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection.

(b) Every ~~first and second class licensee~~ first class, second class, third class, fourth class, or farmer's market licensee and every holder of a manufacturer's license shall complete the ~~department of liquor control~~ Department of Liquor Control licensee ~~enforcement~~ training seminar at least once every ~~three~~ two years. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection. ~~No first or second class license~~ A first class, second class, third class, fourth class, or farmer's market license or manufacturer's license shall not be renewed unless the records of the ~~department of liquor control~~ Department of Liquor Control show that the licensee has complied with the terms of this subsection.

(c) Each licensee shall ensure that every employee who is involved in the sale or serving of alcohol beverages completes a training program approved by the ~~department of liquor control~~ Department of Liquor Control before the employee begins serving or selling alcoholic beverages and at least once every 24 months thereafter. Each licensee shall maintain written documentation, signed by each employee trained, of each training program conducted. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished or approved by the ~~department of liquor control~~ Department of Liquor Control. A

licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of no less than one day of the license issued under this title.

Sec. 5. 7 V.S.A. § 602 is amended to read:

§ 602. EXHIBITION OF CARD

An individual shall exhibit "a valid authorized form of identification," which means a valid photographic operator's license, enhanced driver's license, or valid photographic nondriver identification card issued by Vermont or another state or foreign jurisdiction, a United States military identification card, or a valid passport or passport card bearing the photograph and signature of the individual upon demand of a licensee, an employee of a licensee, or a law enforcement officer. On the failure of an individual to produce and exhibit a valid authorized form of identification upon demand of a licensee, the licensee shall be entitled to refuse to sell the individual any alcoholic beverage. Sale or furnishing of any alcoholic beverages by a licensee to an individual exhibiting a valid authorized form of identification shall be prima facie evidence of the licensee's compliance with the law prohibiting the sale or furnishing of alcoholic beverages to minors.

Sec. 6. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax is assessed on the gross revenue on the retail sale of spirituous liquor in the ~~state~~ State of Vermont, including fortified wine, sold by the ~~liquor control board~~ Liquor Control Board or sold by a manufacturer or rectifier of spirituous liquor in accordance with the provisions of this title. The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the previous year:

(1) if the gross revenue of the seller is ~~$100,000.00~~ $200,000.00 or lower, the rate of tax is five percent;

(2) if the gross revenue of the seller is between ~~$100,000.00~~ $200,000.00 and ~~$200,000.00~~ $400,000.00, the rate of tax is ~~$15,000.00~~ $10,000.00 plus 15 percent of gross revenues over ~~$100,000.00~~ $200,000.00;

(3) if the gross revenue of the seller is over ~~$200,000.00~~ $400,000.00, the rate of tax is 25 percent.

Sec. 7. REPEAL

The following sections of 2011 Acts and Resolves No. 17 (An act relating to powers and immunities of the liquor control investigators) are repealed:

(1) Sec. 3 (amending 7 V.S.A. § 561(a), effective July 1, 2013);

(2) Sec. 4 (amending 23 V.S.A. § 4(11), effective July 1, 2013); and

(3) Sec. 5(b) (effective date of Secs. 3 and 4).

Sec. 8. EFFECTIVE DATE

This section and Sec. 7 shall take effect on passage. All other sections shall take effect on July 1, 2013.

And that after passage the title of the bill be amended to read: "An act relating to alcoholic beverages".

(Committee vote: 5-0-0)

Reported favorably with recommendation of amendment by Senator Mullin for the Committee on Finance.

The Committee recommends that the bill be amended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

First: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read:

Sec. 3. 7 V.S.A. § 232 is amended to read:

§ 232. TERMS OF ~~PERMITS AND~~ LICENSES

All ~~permits and~~ licenses shall expire at midnight, April 30, ~~of each year and, upon~~ of each year. A person acquiring a new license in the first quarter of the license period shall pay the full amount of the license; a person acquiring a new license in the second quarter of the licensing period shall pay 75 percent of the license fee; a person acquiring a new license in the third quarter of the licensing period shall pay 50 percent of the license fee; and a person acquiring a new license in the final quarter of the licensing period shall pay 25 percent of the license fee. Six-month licenses issued to third class licensees beginning July 1, 2013 shall expire at midnight six months from the date of issuance. Upon the payment of a new fee, licenses may be renewed by the ~~control commissioners~~ Control Commissioners with the approval of the ~~liquor control board as provided in section 222 of this title~~ Liquor Control Board, provided the licensee is entitled thereto.

Second: By striking out Sec. 6 in its entirety

Third: In Sec 8, EFFECTIVE DATE, by striking out "Sec. 7" and inserting in lieu thereof Sec. 6

And by renumbering the remaining sections to be numerically correct.

(Committee vote: 7-0-0)

AMENDMENT TO S. 61 TO BE OFFERED BY SENATOR GALBRAITH

Senator Galbraith moves that the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs be amended in Sec. 1, 7 V.S.A. § 2, (definitions) in subdivision (32), by striking out the last sentence in its entirety and inserting in lieu thereof a new sentence to read: As used in this section, "art gallery" means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; and "bookstore" means a fixed establishment whose primary purpose is to offer books for sale.

Joint Resolution For Action

J.R.S. 19.

Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

PENDING QUESTION: Shall the resolution be adopted?

(For text of resolution, see Senate Journal of March 21, 2013, page 274.)

NOTICE CALENDAR

Committee Bills for Second Reading

Favorable with Recommendation of Amendment

S. 152.

An act relating to the Green Mountain Care Board's rate review authority.

By the Committee on Finance. (Senator Lyons for the Committee.)

Reported favorably with recommendation of amendment by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the bill be amended as follows:

First: In Sec. 11, 18 V.S.A. § 9374(h), by striking out subdivisions (2) and (3) in their entirety and inserting in lieu thereof the following:

(2) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision (1) of this subsection if, in the Board's discretion, the expenses to be allocated in the best interests of the regulated entities and of the State.

(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical,

comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

Second: By striking out Sec. 12 in its entirety

Third: In Sec. 13, 18 V.S.A. § 9415, by striking out subsections (b), (c), and (d) in their entirety and inserting in lieu thereof the following:

(b) The Commissioner may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subsection (a) of this section if, in the Commissioner's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(c) Expenses under subsection (a) of this section shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section include major medical, comprehensive medical, hospital or surgical coverage, and any comprehensive health care services plan, but ~~does~~ shall not include long-term care, limited benefits, disability, credit or stop loss or excess loss insurance coverage

Fourth: By adding a new Sec. 13 to read as follows:

Sec. 13. BILL-BACK REPORT

(a) Annually on or before September 15, the Green Mountain Care Board and the Department of Financial Regulation shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations the total amount of all expenses eligible for allocation pursuant to 18 V.S.A. §§ 9374(h) and 9415 during the preceding state fiscal year and the total amount actually billed back to the regulated entities during the same period.

(b) The Board and the Department shall also present the information required by subsection (a) of this section to the Joint Fiscal Committee annually at its September meeting.

And by renumbering the sections of the bill to be numerically correct.

(Committee vote: 6-0-1)

S. 157.

An act relating to modifying the requirements for hemp production in the State of Vermont.

By the Committee on Agriculture. (Senator Bray for the Committee.)

Reported favorably with recommendation of amendment by Senator Galbraith for the Committee on Finance.

The Committee recommends that the bill be amended in Sec. 1, in 6 V.S.A. § 566(b)(1), by striking out "$25.00" and inserting in lieu thereof $200.00

(Committee vote: 6-0-1)

Second Reading

Favorable with Recommendation of Amendment

S. 27.

An act relating to respectful language in the Vermont Statutes Annotated.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.

The Committee recommends that the bill be amended as set forth in the Addendum to the Senate Calendar for March 19, 2013.

(Committee vote: 4-0-1)

Reported favorably by Senator Ashe for the Committee on Finance.

(Committee vote: 4-0-3)

S. 55.

An act relating to increasing efficiency in state government finance and lending operations.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. STATE FINANCIAL SERVICES TASK FORCE

(a) Creation of task force. There is created a State Financial and Lending Efficiency Task Force to evaluate state government operations relating to finance and lending, grant-making, investing, and banking.

(b) Membership. The Task Force shall be composed of the following members:

(1) The Secretary of Commerce and Community Development or designee.

(2) The President of the Vermont Community Foundation or designee.

(3) A business entrepreneur with relevant financial services experience, appointed by the Senate President Pro Tempore.

(4) A current officer or executive of a Vermont-based banking institution, appointed by the Speaker of the House of Representatives.

(5) The Vermont State Treasurer or designee.

(6) One member of the Vermont House of Representatives, appointed by the Speaker of the House of Representatives.

(7) One member of the Vermont Senate, appointed by the Senate President Pro Tempore.

(8) The Executive Director of the Vermont Economic Development Authority or designee.

(9) The executive director of a nonprofit with expertise in designing lending and banking services, appointed by the Senate President Pro Tempore.

(10) A municipal employee whose official duties involve local economic development, appointed by the Speaker of the House of Representatives.

(11) The Director of the Gund Institute for Ecological Economics or designee.

(12) An academic economist appointed jointly by the Speaker of the House of Representatives and the Senate President Pro Tempore.

(13) The president of the Vermont Student Assistance Corporation or designee.

(14) The executive director of the Vermont Housing Finance Agency or designee.

(c) Powers and duties.

(1) The Task Force shall study ways to increase efficiency and reduce costs in government financial operations, including:

(A) The number, nature, and scope of lending, loan servicing, investing, grant-making, and related operations performed by the State and its instrumentalities.

(B) The costs and benefits of contracting out banking services, including fees, transaction costs, debt service, lost profit opportunities, opportunities to increase local investing, and administrative savings.

(C) The costs and benefits of consolidating Vermont tax receipts, fees, or other revenues, including impacts on debt service, and on access to capital for Vermont economic development activities, education lending, and other lending activities:

(i) into one or more Vermont-based private banking institutions; or

(ii) into an existing or new public institution.

(D) How a new public institution can work in partnership with Vermont financial institutions:

(i) to increase access to capital for Vermont citizens and businesses; and

(ii) to provide lower cost capital to municipalities to meet infrastructure needs and other expenditures.

(2) For purposes of its study of these issues, the Task Force shall have administrative, policy, and legal support from the legislative Joint Fiscal Office and the Office of Legislative Council.

(d) Report. On or before January 15, 2014, the Task Force shall report to the House and Senate Committees on Government Operations its findings and any recommendations for legislative action.

(e) Reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Task Force shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406; and other members of the Task Force who are not employees of the State of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010(b) plus mileage reimbursement.

(f) Appropriation. The sum of $5,000.00 is appropriated from the General Fund in fiscal year 2014 to the Department of Finance and Management for per diem and expenses of the State Financial and Lending Efficiency Task Force under this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Reported favorably by Senator Hartwell for the Committee on Finance, when amended as recommended by the Committee on Government Operations.

(Committee vote: 6-0-1)

CONCURRENT RESOLUTIONS FOR ACTION

S.C.R. 17 - 18 (For text of Resolutions, see Addendum to Senate Calendar for March 21, 2013)

H.C.R. 61-72 (For text of Resolutions, see Addendum to House Calendar for March 21, 2013)

CONFIRMATIONS

Heidi Pelletier of Montpelier – Member of Vermont State Colleges Board of Trustees – By Sen. Doyle for the Committee on Education. (3/13/13)

M. Jerome Diamond of Montpelier – Member of Vermont State Colleges Board of Trustees – By Sen. Doyle for the Committee on Education. (3/13/13)

Harlan Sylvester of Burlington – Chair of the Vermont Racing Commission – By Sen. Mullin for the Committee on Economic Development, Housing and General Affairs. (3/14/13)

Cheryl DeVos of North Ferrisburgh – Member of the Vermont Housing and Conservation Board – By Sen. Collins for the Committee on Economic Development, Housing and General Affairs. (3/19/13)

Megan Smith of Mendon – Commissioner, Tourism and Marketing - By Sen. Mullin for the Committee on Economic Development, Housing and General Affairs. (3/19/13)

Lawrence Miller of Montpelier – Secretary, Agency of Commerce and Community Development – By Sen. Doyle for the Committee on Economic Development, Housing and General Affairs. (3/19/13)

Chris Recchia of Randolph – Commissioner of Department of Public Service - By Sen. MacDonald for the Committee on Finance. (3/22/13)

PUBLIC HEARINGS

Thursday, April 18, 2013 - Room 11 - 6:00 - 8:00 P.M. Re: H. 208 Earned Sick Days - House Committee on General, Housing and Military Affairs.

NOTICE OF JOINT ASSEMBLY

Thursday, March 28, 2013 - 10:30 A.M. – House Chamber - Retention of seven Superior Judges and one Magistrate.

JFO NOTICE

INFORMATION NOTICE

The following items were recently received by the Joint Fiscal Committee:

JFO #2614 – $2,167,747 grant from the U.S. Department of Health and Human Service to the Department of Vermont Health Access. These funds will be used to design and implement an In-Person Assistance program to help individuals, families, employees, and small businesses use the health benefits exchange as required by the federal Affordable Care Act. Five (5) limited

service positions are associated with this request. Expedited review has been requested. Joint Fiscal Committee members will be contacted by March 27th with a request to waive the balance of the review period and accept this grant.

JFO #2615 – $68,000 grant from the Lintilhac Foundation to the Vermont Department of Forests, Parks and Recreation (FPR). These funds will be used to accelerate structural changes (within the Department) intended to centralize the responsibility for statewide recreation management in the new Division of Parks and Recreation. One (1) limited service position is associated with this request.

FOR INFORMATION ONLY

CROSSOVER DEADLINES

(1) The date for standing committees to report Senate bills out of committee was March 15, 2013.

(2) Senate bills referred pursuant to Senate Rule 31, must be reported out of the Committees on Appropriations and Finance on or before March 22, 2013.

(3) These deadlines may be waived for any bill or committee **only** by consent given by the Committee on Rules.