

# Journal of the House

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Wednesday, April 24, 2013

At eight o'clock and thirty minutes in the forenoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by Honorable Stephen Reynes of Calais, Vt.

## Message from Governor

A message was received from His Excellency, the Governor, by Mr. Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-third day of April, 2013, he approved and signed bills originating in the House of the following titles:

**H. 13 An act relating to statutory revision**

**H. 51 An act relating to payment of workers' compensation benefits by electronic payroll card**

**H. 531 An act relating to Building 617 in Essex**

## Remarks Journalized

On motion of **Rep. Russell of Rutland City**, the following remarks by **Honorable Stephen Reynes of Calais** were ordered printed in the Journal:

“Mr. Speaker:

### **The Tragedy in Boston and Being a Vermont Legislator**

Good morning. This reflection offers a few thoughts about what happened in Boston and your work as Vermont legislators in the stressful final weeks of the Session.

This is the 9<sup>th</sup> day since the bombs ripped into fans and runners at the Boston Marathon. This story stays with us. As much as we may love the Burlington area, Boston is our big city. I expect we all have images and connections with Boston, whether the North end, Fenway Park and the Red Sox, Charles River, Boston Pops, some great times at pubs or restaurants, and maybe you have walked along Boylston Street. Perhaps you have some direct

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connection with loved ones or friends from this marathon or its aftermath. My niece's husband was at the finish line of the race with their two small boys – after seeing the faster runners complete the race, they walked home, about 20 minutes before the terrible bombs exploded.

Doctors say that more lives and limbs would have been lost were it not for the immediate responses of people at the scene. We admire those who, instead of running away, *ran to* the victims to aid and comfort any way they could – even though they had no way of knowing whether there would be another bomb exploding any time. Two strangers, one woman and one man, helped a girl who lost her leg – it turns out she was the sister of Martin, the 8-year old boy who was killed. Imagine that family if no one had helped the daughter in time? There was the guy in the cowboy hat, Carlos, who climbed over the fence right after the first blast and staunched the bleeding of a man who lost both legs; Carlos, who years earlier had been saved from suicide by others, saved another life that day. There is story after story of what was done by bystanders, medical personnel, police and others who put it all on the line.

We are inspired by those who call on what is best in themselves to help and protect others, perhaps summoning better in themselves than they knew they had, not only exhibiting *grace under pressure*, but *bringing grace to others*. It led me to think that wherever we are, whatever our situation, we are called to do and be our best, to listen and act as our better angels show, as they did. We must privately admit that we do not always rise to that standard. That may discourage us. There is a little book about the Benedictines' rule of life with a title I find helpful: *Always We Begin Again*.

Lots of folks have made efforts, commitments and sacrifices so you are here today, and your colleagues. You know, you Rs, Ds and Ps are all in the same boat known as the Vermont Legislature. As difficult as you may find another legislator's politics or style, the fact is that a majority of Vermonters in his or her district elected that person, and that must be respected. In the times of stress and difficult, difficult issues, sometimes it's hard to distinguish where the line is between one's perception of the public good and one's ego. There is Boston Strong, and we know about Vermont Strong from Irene, where what counted, what counts, is working together. Take some time for quiet reflection, respect others, and respect yourself

May God bless each of you and give you light and wisdom in your work under this Dome, the peoples' House of Representatives.

SR Reflection, Boston & Legislators24April13”

**Senate Proposal of Amendment Concurred in  
with a Further Proposal of Amendment thereto; Rules Suspended  
and the Bill was Ordered Messaged to the Senate Forthwith**

**H. 510**

The Senate proposed to the House to amend House bill, entitled

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

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

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

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

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

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

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

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

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

\* \* \* Program Development – Funding Sources \* \* \*

Sec. 1a. PROGRAM DEVELOPMENT – FUNDING

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

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

(2) increase project spending authority in the total amount of

\$2,087,500.00 in TIB bond proceeds on projects eligible under 32 V.S.A. § 972; and

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

\* \* \* Town Highway Bridge \* \* \*

Sec. 2. TOWN HIGHWAY BRIDGE

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

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

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

\* \* \* Maintenance \* \* \*

Sec. 3. MAINTENANCE

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

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal services	39,744,134	39,744,134	0
Operating expenses	50,687,536	48,877,536	-1,810,000
Grants	75,000	75,000	0
Total	90,506,670	88,696,670	-1,810,000
<u>Sources of funds</u>			
State	79,961,670	78,151,670	-1,810,000
Federal	10,445,000	10,445,000	0
Interdep't transfer	100,000	100,000	0
Total	90,506,670	88,696,670	-1,810,000

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

\* \* \* Paving \* \* \*

Sec. 4. PROGRAM DEVELOPMENT – PAVING

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

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

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

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

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

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	6,530,000	6,530,000	0
Total	6,530,000	6,530,000	0
<u>Sources of funds</u>			
State	0	601,723	601,723
TIB	1,235,476	633,753	-601,723

Federal	5,294,524	5,294,524	0
Total	6,530,000	6,530,000	0

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

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

\* \* \* Rest Areas \* \* \*

#### Sec. 5. REST AREAS

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

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

\* \* \* Rail \* \* \*

#### Sec. 6. RAIL

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

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

Sec. 7. CANCELLATION OF RAIL PROJECTS

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

- (1) Salisbury-Middlebury – 05G342 – Rail Improvements;
- (2) White River Junction-Newport – 05G350 – Improve RR Bridges;
- (3) Proctor-New Haven – STRB(37) – 08G090 – Repair and/or Replace 6 Bridges;
- (4) Middlebury – WCRS( ) – 09G108 – Bridge 236;
- (5) Waterbury – STP 2036(10) – 09G364 – Crossing;
- (6) Rutland-Fair Haven – 09G372 – 2 Miles of CWR;
- (7) Rutland-Fair Haven – 11G254 – Crossings.

Sec. 8. PITTSFORD BRIDGE 219 PROJECT

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

\* \* \* Amtrak Vermont Services; Fares \* \* \*

Sec. 8a. AMTRAK VERMONT SERVICES; FARES

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

\* \* \* Aviation \* \* \*

Sec. 9. AVIATION

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

<u>FY14</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	1,850,758	1,710,758	-140,000
Total	1,850,758	1,710,758	-140,000

Sources of funds

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

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

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

Sec. 10. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

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

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

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

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

Sec. 11. TRANSPORTATION INFRASTRUCTURE BONDS; SPENDING AUTHORITY

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

\* \* \* Transportation Alternatives Grant Program \* \* \*

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

§ 38. TRANSPORTATION ENHANCEMENT ALTERNATIVES GRANT PROGRAM

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

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



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

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

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

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

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

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

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

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

~~(b)(c)~~ The ~~Vermont transportation enhancement grant program~~ Transportation Alternatives Grant Program is created. The ~~grant program shall be funded as provided in subsection (c) of this section and~~ Grant Program shall be administered by the ~~agency~~ Agency, and shall be funded in the amount provided for in 23 U.S.C. § 213(a), less the funds set aside for the Recreational Trails Program as specified in 23 U.S.C. § 213(f). ~~The grant program Awards shall be made to eligible entities as defined under 23 U.S.C. § 213(c)(4), and awards under the Grant Program shall be limited to enhancement the activities as defined in~~ described at 23 U.S.C. § 401(a)(35) which are sponsored by

~~municipalities, nonprofit organizations, or political subdivisions of the state other than the agency 213(b) other than Recreational Trails Program grants.~~

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

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

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

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

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

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

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

~~enhancement grants awarded with respect to applicable prior federal fiscal years.~~

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

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

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

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

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

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

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

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

~~(h)(g) The agency Agency shall develop an outreach and marketing effort designed to provide information to communities with respect to the benefits of participating in the enhancement program Transportation Alternatives Grant Program. The outreach and marketing activities shall include apprising~~

municipalities of the availability of grants for salt and sand sheds. The outreach effort should be directed to areas of the ~~state~~ State historically underserved by this program.

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

§ 42. REPORTS PRESERVED

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

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

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

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

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

\* \* \* Central Garage \* \* \*

Sec. 14. TRANSFER TO CENTRAL GARAGE FUND

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

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

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

§ 15. CHANGES IN THE STATE HIGHWAY SYSTEM

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

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

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

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

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

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

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

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

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

#### § 20. SMALL CLAIMS FOR INJURY OR DAMAGE

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

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

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

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

(a) Except as otherwise provided by subsection (b) of this section, or as otherwise provided by law, leases or licenses negotiated by the ~~agency~~ Agency under 5 V.S.A. §§ 204 and 3405 and ~~section sections 26 and 1703(d)~~ of this title ordinarily shall require the payment of fair market value rent, as determined by the prevailing area market prices for comparable space or property. However, the ~~agency~~ Agency may lease or license state-owned property under its jurisdiction for less than fair market value when the ~~agency~~ Agency determines that the proposed occupancy or use serves a public purpose or that there exist other relevant factors, such as a prior course of dealing between the parties, that justify setting rent at less than fair market value.

\* \* \*

\* \* \* Emergency Repairs; Condemnation Authority \* \* \*

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

§ 518. MINOR ALTERATIONS TO EXISTING FACILITIES

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

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

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

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

title, the person taking the appeal shall follow the procedure specified in section 513 of this title.

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

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

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

\* \* \*

(7) organize, reorganize, transfer, or abolish sections and staff function sections within the ~~agency~~ Agency; except however, the ~~secretary~~ Secretary may not alter the number of highway districts without legislative approval; ~~and~~

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

\* \* \* State Highway Closures \* \* \*

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

§ 43. STATE HIGHWAY CLOSURES

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

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

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

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

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

~~(b)(d)~~ (d) In developing mitigation strategies, the ~~agency~~ Agency shall consider the need to provide a level of safety for the traveling public

comparable to that available on the segment of state highway affected by the planned closure. If the ~~agency~~ Agency finds town highways unsuitable for a signed detour, the ~~agency~~ Agency will advise local legislative bodies of the reasons for its determination.

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

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

§ 3003. IMPOSITION OF TAX; EXCEPTIONS

(a) A tax of ~~\$0.25~~ \$0.27, a fee of \$0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a \$0.03 motor fuel transportation infrastructure assessment; which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

- (1) sold or delivered by a distributor; or
- (2) used by a user.

\* \* \*

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

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

- (1) sold or delivered by a distributor; or
- (2) used by a user.

\* \* \*

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

§ 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

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

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



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

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

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

(I) \$0.134 per gallon; or

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

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

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

\* \* \*

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

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

\* \* \* DUI Special Enforcement Fund \* \* \*

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

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

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

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

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

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

\* \* \* Transfer of Position \* \* \*

Sec. 26. TRANSFER OF POSITION

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

\* \* \* Appropriation of Transportation Funds \* \* \*

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

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

No transportation funds shall be appropriated for the support of government other than for the ~~agency of transportation~~ Agency, the ~~transportation board~~ Board, transportation pay act funds, construction of transportation capital facilities ~~used by the agency of transportation~~, transportation debt service, the ~~department of buildings and general services~~ operation of information centers ~~by the Department of Buildings and General Services~~, and the ~~department of public safety~~ Department of Public Safety. The amount of transportation funds

appropriated to the ~~department of public safety~~ Department of Public Safety shall not exceed:

- (1) \$25,250,000.00 in fiscal year 2014;
- (2) \$22,750,000.00 in fiscal year 2015; and
- (3) \$20,250,000.00 in fiscal year 2016 and in succeeding fiscal years.

\* \* \*

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

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

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

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

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

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

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

(2) In a November 5, 2012 report submitted pursuant to 2012 Acts and Resolves No. 153, Sec. 39, the Vermont Energy Investment Corporation found that the six percent sales and use tax rate on natural gas would be insufficient

to replace motor fuel or diesel tax revenues not collected from operators of motor vehicles propelled by natural gas. The report did not address motor vehicles propelled by propane.

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

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

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

#### Sec. 30. STATE FACILITIES SERVED BY TOWN HIGHWAYS

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

(b) A Study Committee is established consisting of:

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

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

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

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

(c) The Study Committee shall examine the condition of class 3 and 4 town highways that serve as primary access roads to state parks and other state facilities used by the public, alternative mechanisms for the State to assist municipalities with the maintenance or rehabilitation of such town highways, the appropriate municipal share for projects to maintain or rehabilitate such

highways and whether a cap on any state assistance is appropriate, and the potential fiscal impact to the State of the alternative mechanisms reviewed by the Committee. The Committee shall formulate recommendations for consideration by the General Assembly as to whether and how the State should assist municipalities in maintaining and rehabilitating the town highways described in this subsection.

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

#### Sec. 30a. SCHOOL BUS PILOT PROGRAM

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

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

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

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

(2) constitute and be recognized by enforcement officers in Vermont as a waiver, until expiration of the pilot program, of those provisions of 23 V.S.A. §§ 4(37), 1221, and 1283(a)(6) and of any rule that would prohibit school

buses retrofitted with auxiliary fuel tanks from lawfully operating on Vermont highways; and

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

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

\* \* \* Effective Dates \* \* \*

#### Sec. 31. EFFECTIVE DATES

(a) This section, Sec. 8a (Amtrak Vermont services), Sec. 10 (authority to issue transportation infrastructure bonds), Sec. 15a (addition to state highway system), and Sec. 30a (school bus pilot program) of this act shall take effect on passage.

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

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

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

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Brennan of Colchester** moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

First: By striking Secs. 22, 23, and 24 in their entirety and by inserting in lieu thereof the following:

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

#### § 3003. IMPOSITION OF TAX; EXCEPTIONS

(a) A tax of ~~\$0.27~~ \$0.28, a fee of \$0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a \$0.03 motor fuel transportation infrastructure assessment which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

(1) sold or delivered by a distributor; or

(2) used by a user.

\* \* \*

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

§ 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

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

(A) a tax of ~~\$0.19~~ \$0.182 upon each gallon of motor fuel sold by the distributor; and

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

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

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

(I) \$0.067 per gallon; or

(II) two percent of the tax-adjusted retail price or \$0.09 per gallon, whichever is less, upon each gallon of motor fuel sold by the distributor.

(2) For the purposes of subdivision (1)(B) of this subsection, the retail price applicable for a quarter shall be the average of the monthly retail prices for regular gasoline determined and published by the Department of Public

Service for the three months of the preceding quarter. The tax-adjusted retail price applicable for a quarter shall be the retail price exclusive of all federal and state taxes and assessments, and the petroleum distributor licensing fee established by 10 V.S.A. § 1942, at the rates applicable in the preceding quarter.

(3) The consolidated executive branch fee report and request for transportation made pursuant to 32 V.S.A. § 605(b)(1) may recommend an adjustment in the tax specified in subdivision (1)(A) of this subsection to reflect changes in the Consumer Price Index for All Urban Consumers.

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

\* \* \*

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

§ 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

(a)(1) Except for sales of motor fuels between distributors licensed in this State, which sales shall be exempt from the taxes and assessments authorized under this section, unless exempt under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the Commissioner:

(A) a tax of ~~\$0.182~~ \$0.121 upon each gallon of motor fuel sold by the distributor; and

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

(i) a motor fuel transportation infrastructure assessment in the amount of two percent of the tax-adjusted retail price upon each gallon of motor fuel sold by the distributor; and

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

(I) ~~\$0.067~~ \$0.134 per gallon; or

(II) ~~two~~ four percent of the tax-adjusted retail price or ~~\$0.09~~ \$0.18 per gallon, whichever is less, upon each gallon of motor fuel sold by the distributor.



\* \* \*

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

Notwithstanding the provisions of 23 V.S.A. § 3106(a)(1)(B) and 3106(a)(2), from May 1, 2013 through September 30, 2013, the motor fuel transportation infrastructure assessment required under 23 V.S.A. § 3106(a)(1)(B)(i) shall be \$0.0656 per gallon, and the fuel tax assessment required under 23 V.S.A. § 3106(a)(1)(B)(ii) shall be \$0.067 per gallon.

Second: By striking Sec. 31 in its entirety and by inserting in lieu thereof the following:

\* \* \* Effective Dates \* \* \*

Sec. 31. EFFECTIVE DATES

(a) This section, Sec. 8a (Amtrak Vermont services), Sec. 10 (authority to issue transportation infrastructure bonds), Sec. 15a (addition to state highway system), and Sec. 30a (school bus pilot program) of this act shall take effect on passage.

(b) Secs. 23, 24, 25, and 26 of this act shall take effect on May 1, 2013.

(c) Secs. 22 (taxation of diesel) and 23a (taxation of motor fuel) of this act shall take effect on July 1, 2014.

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

Pending the question, Shall the House concur in the Senate proposal of amendment with further proposal of amendment thereto? **Rep. Turner of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House concur in the Senate proposal of amendment with further proposal of amendment thereto? was decided in the affirmative. Yeas, 107. Nays, 36.

Those who voted in the affirmative are:

Ancel of Calais	Campion of Bennington	Conquest of Newbury
Bartholomew of Hartland	Cheney of Norwich	Consejo of Sheldon
Bissonnette of Winooski	Christie of Hartford	Copeland-Hanzas of
Botzow of Pownal	Clarkson of Woodstock	Bradford
Brennan of Colchester	Cole of Burlington	Corcoran of Bennington
Burke of Brattleboro	Condon of Colchester	Cross of Winooski
Buxton of Tunbridge	Connor of Fairfield	Dakin of Chester

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Deen of Westminster	Kupersmith of South Burlington	Rachelson of Burlington
Donahue of Northfield	Lanpher of Vergennes	Ralston of Middlebury
Donovan of Burlington	Larocque of Barnet	Ram of Burlington
Ellis of Waterbury	Lawrence of Lyndon	Russell of Rutland City *
Emmons of Springfield	Lenes of Shelburne	Sharpe of Bristol
Evans of Essex	Macaig of Williston	Spengler of Colchester
Fay of St. Johnsbury	Malcolm of Pawlet	Stevens of Waterbury
Feltus of Lyndon	Manwaring of Wilmington	Stevens of Shoreham
Fisher of Lincoln	Marcotte of Coventry	Stuart of Brattleboro
Frank of Underhill	Marek of Newfane	Sweaney of Windsor
French of Randolph	Martin of Springfield	Taylor of Barre City
Gallivan of Chittenden	Martin of Wolcott *	Till of Jericho
Goodwin of Weston	Masland of Thetford	Toleno of Brattleboro
Grad of Moretown	McCarthy of St. Albans City	Toll of Danville
Haas of Rochester	McCormack of Burlington	Townsend of Randolph
Head of South Burlington	McCullough of Williston	Townsend of South Burlington
Heath of Westford	Michelsen of Hardwick	Trieber of Rockingham
Hooper of Montpelier	Miller of Shaftsbury	Vowinkel of Hartford
Huntley of Cavendish	Mook of Bennington	Waite-Simpson of Essex
Jerman of Essex	Moran of Wardsboro	Webb of Shelburne
Jewett of Ripton	Mrowicki of Putney *	Weed of Enosburgh
Johnson of South Hero	Nuovo of Middlebury	Wilson of Manchester
Juskiewicz of Cambridge	O'Brien of Richmond	Winters of Williamstown
Keenan of St. Albans City	O'Sullivan of Burlington	Wizowaty of Burlington
Kilmartin of Newport City *	Partridge of Windham	Wright of Burlington
Kitzmiller of Montpelier	Pearson of Burlington	Yantachka of Charlotte
Klein of East Montpelier	Peltz of Woodbury	Young of Glover
Komline of Dorset	Potter of Clarendon	Zagar of Barnard
Krebs of South Hero	Pugh of South Burlington	
Krowinski of Burlington		

Those who voted in the negative are:

Batchelor of Derby	Hebert of Vernon	Quimby of Concord
Beyor of Highgate	Helm of Fair Haven	Savage of Swanton *
Bouchard of Colchester	Higley of Lowell	Scheuermann of Stowe
Browning of Arlington	Hubert of Milton	Shaw of Pittsford
Burditt of West Rutland	Johnson of Canaan	Shaw of Derby
Canfield of Fair Haven	Koch of Barre Town	Smith of New Haven
Cupoli of Rutland City	Lewis of Berlin	Strong of Albany
Devereux of Mount Holly	McFaun of Barre Town	Terenzini of Rutland Town
Dickinson of St. Albans Town	Mitchell of Fairfax	Turner of Milton
Donaghy of Poultney	Morrissey of Bennington	Van Wyck of Ferrisburgh
Fagan of Rutland City	Myers of Essex	Woodward of Johnson
Gage of Rutland City	Pearce of Richford	
	Poirier of Barre City	

Those members absent with leave of the House and not voting are:

Branagan of Georgia	Carr of Brandon	Davis of Washington
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Greshin of Warren

Lippert of Hinesburg

South of St. Johnsbury

**Rep. Kilmartin of Newport City** explained his vote as follows:

“Mr. Speaker:

I vote ‘yes’ because highways and roads know no party label. Regardless of your political values and persuasion, if you cannot get there, you cannot practice them. I apologize to my committee for not being present for the committee vote this morning. Had I been present I would have voted ‘yes.’”

**Rep. Martin of Wolcott** explained her vote as follows:

“Mr. Speaker:

While I was hoping to find an alternative way to raise money to meet the federal match, I vote yes. Our communities rely heavily on state funding for aid for local highways, bridge and paving grants. Good infrastructure is essential for our economy.”

**Rep. Mrowicki of Putney** explained his vote as follows:

“Mr. Speaker:

Recently a constituent asked if we really have to fix all the roads in Vermont. I think we do and until someone comes up with a better way to figure out how to pay for fixing our roads and bridges, I will support the work of your committee and vote yes.”

**Rep. Russell of Rutland** explained his vote as follows:

“Mr. Speaker:

I vote ‘yes’ in support of Vermont’s future which will be brighter with investment in our state’s infrastructure.”

**Rep. Savage of Swanton** explained his vote as follows:

“Mr. Speaker:

As we are all aware our transportation infrastructure is the heart and soul of our economy and our State. We should not neglect it nor should we short change our other obligations to pay for it. I appreciate the hard work of the Transportation Committee; they have worked long and hard, many hours in offering this amendment this morning. However I cannot support this bill because I cannot support some of the choices to fund this bill. Many of my constituents and over 13000 other Vermonters have expressed their opposition to the increase in the gas tax and now the diesel tax. Working Vermonters

again will be the brunt of this choice to raise the gas and diesel taxes. Our small businesses along the NH and MA borders are already at a significant disadvantage and this will make it worse.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

#### **Recess**

At nine o'clock and fifteen minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock in the afternoon, the Speaker called the House to order.

#### **Orders of the Day Interrupted**

**Rep. Turner of Milton** moved to interrupt the Orders of the Day to introduce resolutions and for announcements, which was agreed to.

#### **Joint Resolution Adopted in Concurrence**

##### **J.R.S. 28**

By Senators Baruth and Benning,

**J.R.S. 28.** Joint resolution relating to weekend adjournment.

#### ***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, April 26, 2013, it be to meet again no later than Tuesday, April 30, 2013.

Was taken up read and adopted in concurrence.

#### **Bill Amended; Third Reading Ordered**

##### **H. 403**

**Rep. Haas of Rochester**, for the committee on Human Services, to which had been referred House bill, entitled

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

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

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

- (1) the Secretary of Human Services;
- (2) the Commissioner of Health;
- (3) the Commissioner of Disabilities, Aging, and Independent Living;
- (4) the Commissioner of Mental Health;
- (5) the Commissioner of Corrections;
- (6) the Commissioner of Vermont Health Access;
- (7) the Commissioner for Children and Families;
- (8) the Office of the Attorney General;
- (9) the Mental Health Care Ombudsman;
- (10) the Court Administrator;
- (11) the Vermont Council of Developmental and Mental Health Services;
- (12) Vermont Legal Aid’s Mental Health Law Project;
- (13) the Executive Director of the Vermont Developmental Disabilities Council;

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- (14) the Executive Director of the Vermont Human Rights Commission;
  - (15) Disability Rights Vermont;
  - (16) Vermont Psychiatric Survivors;
  - (17) Office of the Defender General's Prisoners' Rights Office; and
  - (18) other interested stakeholders.

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

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

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

(d) The Study Committee shall consider:

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

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

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

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

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

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

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

(e) On or before December 15, 2013, the Study Committee shall provide a written report containing any proposed legislation and its findings and

recommendations, including the need for future action, to the House Committees on Appropriations, on Corrections and Institutions, on Human Services, and on Judiciary and to the Senate Committees on Appropriations, on Health and Welfare, and on Judiciary. In addition to the Study Committee's findings and recommendations, the report shall:

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

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

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

#### Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

**Rep. Manwaring of Wilmington**, for the committee in Appropriations moved to amend the report of the committee on Human Services as follows:

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

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

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

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

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

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

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Human Services and Appropriations agreed to.

Pending the question, Shall the bill be amended as recommended by the committee on Human Services, as amended? **Rep. Batchelor of Derby** moved to amend the report of the committee on Human Services, as amended, as follows:

Sec. 1, subsection (b), by inserting a new subdivision (17) after subdivision (16) to read as follows:

(17) Vermont League of Cities and Towns;

and by renumbering the remaining subdivisions to be numerically correct

Which was agreed to.

Thereupon, the recommendation of amendment offered by the committee on Human Services, as amended, was agreed to and third reading ordered.

#### **Third Reading; Bills Passed**

House bills of the following titles were severally taken up, read the third time and passed:

#### **H. 54**

House bill, entitled

An act relating to Public Records Act exemptions

#### **H. 226**

House bill, entitled

An act relating to the regulation of underground storage tanks

#### **H. 517**

House bill, entitled

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

#### **Third Reading; Bill Passed in Concurrence With Proposal of Amendment**

#### **S. 47**

Senate bill, entitled

An act relating to protection orders and second degree domestic assault



Was taken up, read the third time and passed in concurrence with proposal of amendment.

**Third Reading; Bill Passed in Concurrence  
With Proposal of Amendment**

**S. 161**

Senate bill, entitled

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

Was taken up, read the third time and passed in concurrence with proposal of amendment.

**Bill Amended; Third Reading Ordered**

**H. 450**

**Rep. Townsend of Randolph**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to expanding the powers of regional planning commissions

Reported in favor of its passage when amended as follows:

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

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

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

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

(C) at the request of one or more member municipalities, act as an escrow agent and hold funds related to a municipal capital project or a project subject to a municipal land use permit in an escrow account, including taxes to be paid by the project, fines, and developer fees. Funds so held shall be segregated in a special account for each project on the books of the regional

planning commission and, within each project account, by municipality. However, this subdivision (C) shall not confer authority on a regional planning commission to hold tax increment revenues received from a tax increment financing district under chapter 53, subchapter 5 of this title; and

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

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

Regional planning commissions may apply for, receive, and expend monies from any source, public or private, including, without limitation, grants, loans, and funds made available by the participating municipalities, and by the agency of commerce and community development an agency or department of the State of Vermont, out of state funds appropriated to that agency or department for this purpose.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

### **Proposal of Amendment Agreed to; Third Reading Ordered**

#### **S. 151**

**Rep. Kilmartin of Newport City**, for the committee on Ways and Means, to which had been referred Senate bill, entitled

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

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By inserting a new Sec. 2 to read:

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

(d) The ~~commissioner~~ Commissioner may authorize background investigations for potential employees that may include criminal, traffic, and financial records checks; provided, however, that the potential employee is notified and has the right to withdraw his or her name from application. Additionally, employees who are ~~authorized to manufacture or produce~~ involved in the manufacturing or production of operators' licenses and identification cards, including enhanced licenses, or who have the ability to affect the identity information that appears on a license or identification card, or current employees who will be assigned to such positions, shall be subject to

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

and by renumbering the remaining section to be numerically correct.

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

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the report of the committees on Transportation and Ways and Means agreed to and third reading ordered.

#### **Action on Bill Postponed**

#### **H. 535**

House bill, entitled

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

Was taken up and pending the reading of the report of the committee on Government Operations, on motion of **Rep. Mook of Bennington**, action on the bill was postponed until the next Tuesday, April 30, 2013.

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**Proposal of Amendment Agreed to; Third Reading Ordered****S. 1**

**Rep. Wizowaty of Burlington**, for the committee on Judiciary, to which had been referred Senate bill, entitled

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

Reported in favor of its passage in concurrence with proposal of amendment as follows:

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

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

(a)(1) A Criminal Justice Consensus Cost-Benefit Working Group is established to develop collaboratively a criminal and juvenile justice cost-benefit model for Vermont for the purpose of providing policymakers with the information necessary to weigh the pros and cons of various strategies and programs, and enable them to identify options that are not only cost-effective, but also have the greatest net social benefit. The model will be used to estimate the costs related to the arrest, prosecution, defense, adjudication, and correction of criminal and juvenile defendants, and victimization of citizens by defendants.

(2) The Working Group shall:

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

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

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

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

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

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

(ii) updating cost estimates; and

(iii) updating throughput data for the model.

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

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

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

(1) the Administrative Judge or designee;

(2) the Chief Legislative Fiscal Officer or designee;

(3) the Attorney General or designee;

(4) the Commissioner of Corrections or designee;

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

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

(7) the Defender General or designee;

(8) the Commissioner of Public Safety or designee;

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

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

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

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

(c) On or before November 15, 2013, the Working Group shall report its preliminary findings to the Senate Committee on Judiciary, the House

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Committee on Judiciary, and the House Committee on Corrections and Institutions. The Working Group shall issue a final report to the General Assembly on or before January 1, 2014.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

**Action on Bill Postponed**

**H. 270**

House bill, entitled

An act relating to providing access to publicly funded prekindergarten education

Was taken up and pending the reading of the report of the committee on Education, on motion of **Rep. Buxton of Tunbridge**, action on the bill was postponed until the next legislative day.

**Message from the Senate No. 48**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

**H. 510.** An act relating to the State's transportation program and miscellaneous changes to the State's transportation laws.

And has concurred therein.

**Message from the Senate No. 49**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

**S. 119.** An act relating to amending perpetual conservation easements.

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

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

**H. 280.** An act relating to payment of wages.

**H. 401.** An act relating to municipal and regional planning and flood resilience.

**H. 406.** An act relating to listers and assessors.

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

The Senate has considered a bill originating in the House of the following title:

**H. 527.** An act relating to approval of the adoption and the codification of the charter of the Town of Northfield.

And has passed the same in concurrence.

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

**S. 104.** An act relating to expedited partner therapy.

And has concurred therein.

**Bill Read Second Time; Consideration Interrupted by Recess**

**H. 538**

**Rep. Sharpe of Bristol** spoke for the committee on Ways and Means.

House bill entitled

An act relating to making miscellaneous amendments to education funding laws

**Rep. Winters of Williamstown**, for the committee on Appropriations, recommended that the bill ought to pass when amended as follows:

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

(3) incentives for compliance; and

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

Having appeared on the Calendar one day for notice, was taken up and read the second time.

### **Recess**

At two o'clock and ten minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At three o'clock and forty-five minutes in the afternoon, the Speaker called the House to order.

### **Consideration Resumed; Bill Amended and Third Reading Ordered**

#### **H. 538**

Consideration resumed on House bill entitled

An act relating to making miscellaneous amendments to education funding laws

Thereupon, the recommendation of amendment offered by the committee on Appropriations agreed to.

Pending the question, Shall the bill be read the third time? **Reps. Donovan of Burlington, Juskiewicz of Cambridge and Davis of Washington** moved to amend the bill as follows:

First: By striking out Secs. 3 through 5 in their entirety and inserting in lieu thereof three new sections to be Secs. 3 through 5 to read:

#### **Sec. 3. SMALL SCHOOL QUALITY; STUDY**

The Secretary of Education shall examine the quality of opportunities and the educational outcomes for students enrolled in schools that receive small school support pursuant to 16 V.S.A. § 4015. In particular, the Secretary shall compare outcomes for students qualifying for free or reduced-price school meals who are enrolled in small schools versus the outcomes for the same population of students who are enrolled in larger Vermont schools. The Secretary shall also compare the success in postsecondary training and education of students who attended small schools and those who did not. The Secretary shall consider whether and to what extent the quality of education provided should be considered when determining whether a school district should remain eligible for small school support if support were limited to schools based on geographic necessity and other factors. On or before January



15, 2014, the Secretary shall submit a report to the House and Senate Committees on Education detailing the results of this study and presenting recommendations for any changes to statute or rule.

Sec. 4. [Deleted.]

Sec. 5. [Deleted.]

Second: In Sec. 13 (effective dates), by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) Sec. 3 (small schools study) of this act shall take effect on passage.

Which was agreed to.

Pending the question, Shall the bill be read the third time? **Rep. Donovan of Burlington** moved to amend the bill as follows:

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

Sec. 12. STUDENT-TO-STAFF RATIOS

(a) The Secretary of Education shall collect data necessary to inform development of a comprehensive plan to establish minimum student-to-staff ratios, student-to-administrator ratios, student-to-classroom teacher ratios, and student-to-teacher ratios in public elementary and secondary schools and supervisory unions in a manner that promotes educational opportunities and outcomes for students in Vermont.

(b) As used in this section:

(1) "Teacher" includes any person licensed to be employable as a teacher who is employed as a teacher and is providing direct instruction to students in one or more elementary or secondary grades.

(2) "Administrator" includes any person employed as a superintendent, assistant superintendent, principal, assistant principal, special education director, essential early education director, or Title I coordinator.

(3) "Staff" includes all paid personnel employed by a school district or supervisory union, but shall exclude:

(A) central services business office personnel;

(B) operations and maintenance personnel;

(C) transportation personnel;

(D) food service personnel; and

(E) enterprise or community service operations personnel.

(c) At a minimum, the Secretary's data shall be sufficient to inform development of a comprehensive plan that might include:

(1) mandatory minimum ratios at the district or the school level, which may include variations by grade, school size, and other factors;

(2) mandatory minimum ratios at the supervisory union level;

(3) incentives for compliance; and

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

(d) On or before January 15, 2014, the Secretary shall present the data to the House and Senate Committees on Appropriations and on Education, the House Committee on Ways and Means, and the Senate Committee on Finance.

Which was agreed to.

Pending the question, Shall the bill be read the third time? **Reps. Ellis of Waterbury and Stevens of Waterbury** moved to amend the bill as follows:

First: After Sec. 7, by adding a new section to be Sec. 7a to read:

Sec. 7a. 32 V.S.A. § 5401(13) is amended to read:

(13) “District spending adjustment” means the greater of: one or a fraction in which the numerator is the district’s education spending plus excess spending, per equalized pupil, for the school year; and the denominator is the base education amount for the school year, as defined in 16 V.S.A. § 4001.

(A) For a district that pays tuition to a public school or an approved independent school or both for all of its resident students in any year and ~~which~~ that has decided by a majority vote of its school board to opt into this provision, the district spending adjustment shall be the average of the district spending adjustment calculated under this subdivision for the previous year and for the current year. Any district opting for a two-year average under this subdivision may not opt out of such treatment, and the averaging shall continue until the district no longer qualifies for such treatment.

(B) The Secretary has the discretion, on an annual basis, to exclude a district’s excess spending from the calculation of its district spending adjustment if:

(i) the district voted affirmatively within the previous three years to merge with one or more other districts;

(ii) the proposed merger failed due to the negative vote of one or more of the other districts; and

(iii) the district certifies to the Secretary that it is continuing to pursue opportunities to merge with one or more other districts.

Second: In Sec. 13, by adding a new subsection to be subsection (f) to read:

(f) Sec. 7a of this act shall take effect on passage and shall apply to education budgets for fiscal years 2014 through 2017.

and by relettering the remaining subsections to be alphabetically correct.

Which was disagreed to on a Division Vote: Yeas, 23. Nays, 98.

Pending the question, Shall the bill be read the third time? **Rep. Sharpe of Bristol** moved to amend the bill as follows:

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

Sec. 13. 16 V.S.A. § 836 is amended to read:

§ 836. TUITION OVERCHARGE OR UNDERCHARGE

(a) Annually, on or before November 1, the ~~commissioner~~ Secretary shall inform each ~~school board of a receiving public school, each board of trustees of a receiving approved independent school for which the commissioner has calculated a net cost per pupil,~~ receiving school district and each sending school district in Vermont of the calculated net cost per elementary or secondary pupil in the receiving schools. Each ~~school board or board of trustees of a receiving school~~ receiving district shall then determine whether it overcharged or undercharged any sending district for tuition charges and shall notify the district by December 15 of the same year of the amount due or the amount to be refunded or credited.

(b) If the sending district has paid tuition charges in excess of three percent of the calculated net cost per elementary or secondary pupil and is not sending enough students to the receiving ~~school district~~ receiving district to use the overcharge funds as credit against tuition, the ~~school board or board of trustees of the receiving school~~ receiving district shall refund the overcharge money by July 31. ~~However, interest; provided, however, that the refund shall be equal to the amount of the overcharge that is between three percent and ten percent of the net cost per pupil. Interest~~ owed the sending district on overcharge monies shall begin to accrue on December 1, at the rate of one-half percent per month.

(c) If the receiving district has undercharged tuition in an amount three percent or more than the calculated net cost per elementary or secondary pupil, ~~the school board or the board of trustees of the sending school~~ the sending district shall pay the ~~amount of the undercharge~~ receiving district in an amount equal to the amount of the undercharge that is between three percent and ten percent of the net cost per pupil. If payment is not made by July 31 of the year following the year in which the undercharge was determined, interest owed the ~~sending receiving~~ receiving district on ~~overcharge moneys~~ undercharge monies shall begin to accrue on August 1, at the rate of one percent per month.

and by renumbering the remaining section to be numerically correct.

Which was agreed to.

Pending the question, Shall the bill be read the third time? **Rep. Cross of Winooski** moved to amend the bill as follows:

By striking Secs. 2 and 6 through 11 in their entirety

Which was disagreed to.

Pending the question, Shall the bill be read a third time? **Rep. Greshin of Warren** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 110. Nays, 24.

Those who voted in the affirmative are:

Ancel of Calais	Cupoli of Rutland City	Heath of Westford
Bartholomew of Hartland	Dakin of Chester	Helm of Fair Haven
Beyor of Highgate	Deen of Westminster	Higley of Lowell
Bissonette of Winooski	Devereux of Mount Holly	Hooper of Montpelier
Botzow of Pownal	Dickinson of St. Albans	Hubert of Milton
Bouchard of Colchester	Town	Huntley of Cavendish
Brennan of Colchester	Donaghy of Poultney	Jerman of Essex
Burditt of West Rutland	Donahue of Northfield	Jewett of Ripton
Buxton of Tunbridge	Ellis of Waterbury	Johnson of South Hero
Campion of Bennington	Emmons of Springfield	Johnson of Canaan
Canfield of Fair Haven	Evans of Essex	Juskiewicz of Cambridge
Carr of Brandon	Fagan of Rutland City	Keenan of St. Albans City
Cheney of Norwich	Feltus of Lyndon	Kitzmiller of Montpelier
Christie of Hartford	Fisher of Lincoln	Klein of East Montpelier
Cole of Burlington	Frank of Underhill	Koch of Barre Town
Condon of Colchester	French of Randolph	Komline of Dorset
Connor of Fairfield	Gage of Rutland City	Krebs of South Hero
Conquest of Newbury	Gallivan of Chittenden	Krowinski of Burlington
Consejo of Sheldon	Grad of Moretown	Kupersmith of South
Corcoran of Bennington	Greshin of Warren	Burlington

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Lanpher of Vergennes	Moran of Wardsboro	Taylor of Barre City
Larocque of Barnet	Mrowicki of Putney	Terenzini of Rutland Town
Lawrence of Lyndon	Myers of Essex	Till of Jericho
Lenes of Shelburne	Nuovo of Middlebury	Toleno of Brattleboro
Lewis of Berlin	O'Brien of Richmond	Trieber of Rockingham
Lippert of Hinesburg	O'Sullivan of Burlington	Turner of Milton
Macaig of Williston	Partridge of Windham	Van Wyck of Ferrisburgh
Marek of Newfane	Pearce of Richford	Vowinkel of Hartford
Martin of Springfield	Peltz of Woodbury	Waite-Simpson of Essex
Martin of Wolcott	Pugh of South Burlington	Webb of Shelburne
Masland of Thetford	Ralston of Middlebury	Wilson of Manchester
McCarthy of St. Albans City	Ram of Burlington	Winters of Williamstown
McCormack of Burlington	Russell of Rutland City	Wizowaty of Burlington
McCullough of Williston	Scheuermann of Stowe *	Wright of Burlington
McFaun of Barre Town	Sharpe of Bristol	Yantachka of Charlotte
Miller of Shaftsbury	Shaw of Pittsford	Young of Glover
Mitchell of Fairfax	Stevens of Waterbury	
Mook of Bennington	Sweaney of Windsor	

Those who voted in the negative are:

Batchelor of Derby	Michelsen of Hardwick	Spengler of Colchester
Browning of Arlington	Morrissey of Bennington	Stevens of Shoreham
Burke of Brattleboro	Pearson of Burlington	Toll of Danville
Cross of Winooski	Poirier of Barre City	Townsend of South
Fay of St. Johnsbury	Potter of Clarendon	Burlington
Haas of Rochester	Quimby of Concord	Weed of Enosburgh
Hebert of Vernon	Rachelson of Burlington *	Zagar of Barnard
Malcolm of Pawlet	Savage of Swanton	
Manwaring of Wilmington	Smith of New Haven	

Those members absent with leave of the House and not voting are:

Branagan of Georgia	Goodwin of Weston	Strong of Albany
Clarkson of Woodstock	Head of South Burlington	Stuart of Brattleboro
Copeland-Hanzas of	Kilmartin of Newport City	Townsend of Randolph
Bradford	Marcotte of Coventry	Woodward of Johnson
Davis of Washington	Shaw of Derby	
Donovan of Burlington	South of St. Johnsbury	

**Rep. Browning of Arlington explained her vote as follows:**

“Mr. Speaker:

I vote “no” because although there are useful components of this bill, it does little to address some of the key drivers of education costs and property tax rates. I see the omitted factors as the behavior of the state itself through mandates on schools, through \$200m in tax expenditures within the Education

Fund that drive up base property tax rates and through shorting the General Fund transfer into the Education Fund by over \$20m in each of the last ten years.”

**Rep. Scheuermann of Stowe explained her vote as follows:**

“Mr. Speaker:

While I voted ‘yes’ for this very small step, this is an exceptionally disappointing bill in terms of education funding reform. I am just hopeful that one of these days we will actually listen to, and hear, Vermonters’ pleas for comprehensive education reform and take meaningful action.”

**Rep. Rachelson of Burlington explained her vote as follows:**

“Mr. Speaker:

(Text will appear in 2013 Permanent Journal)

**Senate Proposal of Amendment Concurred in**

**H. 71**

The Senate proposed to the House to amend House bill, entitled

An act relating to tobacco products

First: In Sec. 22, 33 V.S.A. § 1918, in subdivision (f)(1), by striking out the second sentence in its entirety and inserting in lieu thereof the following: The bond shall be issued by a surety company in good standing and authorized to transact business in this State to secure the payment of any escrow due or which may become due from the nonparticipating manufacturer or its United States importer.

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

Sec. 23. EFFECTIVE DATES

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

Which proposal of amendment was considered and concurred in.

**Committee Relieved of Consideration  
and Bill Committed to Other Committee**

**S. 132**

**Rep. Lippert of Hinesburg** moved that the committee on Judiciary be relieved of Senate bill, entitled

An act relating to sheriffs, deputy sheriffs, and the service of process

And that the bill be committed to the committee on Government Operations, which was agreed to.

#### **Adjournment**

At five o'clock and forty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.