Journal of the House

Tuesday, April 30, 2013

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rabbi Jan Salzman of Ohavi Zedek Synagogue, Burlington, Vt.

Pledge of Allegiance

Page Emma Pearson of North Hero led the House in the Pledge of Allegiance.

Message from the Senate No. 53

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

Mr. Speaker:

I am directed to inform the House that:

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

H. 2. An act relating to the Governor's Snowmobile Council.

H. 95. An act relating to unclaimed life insurance benefits.

H. 105. An act relating to adult protective services reporting requirements.

H. 377. An act relating to neighborhood planning and development for municipalities with designated centers.

H. 513. An act relating to the Department of Financial Regulation.

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

The Governor has informed the Senate that on the twenty-six day of April, 2013, he approved and signed bills originating in the Senate of the following titles:

S. 3. An act relating to allowing participation in out-of-state contests requiring a fee to enter.

S. 144. An act relating to the St. Albans state office building.

S. 159. An act relating to various amendments to Vermont's land use control law and related statutes.

House Bill Introduced

H. 540

By Reps. Christie of Hartford, Burditt of West Rutland, Deen of Westminster, Donahue of Northfield, Lippert of Hinesburg, Pearson of Burlington, Scheuermann of Stowe, Sweaney of Windsor, Botzow of Pownal, Brennan of Colchester, Campion of Bennington, Conquest of Newbury, Cupoli of Rutland City, Fisher of Lincoln, Kilmartin of Newport City, Koch of Barre Town, Komline of Dorset, Marek of Newfane, Martin of Springfield, Peltz of Woodbury, Ram of Burlington, Spengler of Colchester, Townsend of South Burlington, Wilson of Manchester and Zagar of Barnard,

House bill, entitled

An act relating to regulating the use of drones;

To the committee on Rules.

Bill Referred to Committee on Ways and Means

S. 157

House bill, entitled

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

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Joint Resolution Placed on Calendar

J.R.H. 9

Joint resolution authorizing the 2013 Green Mountain Boys' State educational program to use the State House

Offered by: Representatives Lawrence of Lyndon, Gage of Rutland City, Koch of Barre Town, and Marcotte of Coventry

Whereas, the American Legion Department of Vermont sponsors annually the Green Mountain Boys' State program which provides an opportunity for boys in high school to study the workings of state government in Montpelier, and

Whereas, as part of their visit to the state's capital city, the boys conduct a mock legislative session in the State House, and

Whereas, this is an invaluable educational experience that provides firsthand knowledge about the legislative process, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the State House for the Green Mountain Boys' State program on Thursday, June 20, 2013, from 9:30 a.m. to 4:30 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Department of Vermont headquarters in Montpelier.

Which was read and, in the Speaker's discretion, placed on the Calendar for action on the next legislative day under Rule 52.

Third Reading; Bill Passed in Concurrence With Proposal of Amendment

S. 30

Senate bill, entitled

An act relating to siting of electric generation plants

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

Proposal of Amendment Agreed to; Third Reading Ordered

S. 150

Rep. Brennan of Colchester, for the committee on Transportation, to which had been referred Senate bill, entitled

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

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:

* * * Definitions * * *

Sec. 1. 23 V.S.A. § 4(11) is amended to read:

(11) "Enforcement officers" shall include:

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

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

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

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

(11) "Enforcement officers" shall include:

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

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

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

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

(42) "Transporter" shall mean a person engaged in the business of delivering vehicles of a type required to be registered hereunder from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer, and includes persons regularly engaged in the business of towing trailer coaches, owned by them or temporarily in their custody, on their

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

* * * Placards for Persons with Disabilities * * *

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

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

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

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

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

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

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

* * * Temporary Registrations * * *

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

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

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

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

§ 371. TRAILER AND SEMI-TRAILER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 301. PERSONS REQUIRED TO REGISTER

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

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

§ 301. PERSONS REQUIRED TO REGISTER

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

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

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

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

* * *

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

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

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

* * * Biennial Motorboat Registration * * *

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

§ 3305. FEES

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

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

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

* * *

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

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

* * *

(f) Every registration certificate awarded under this subchapter shall continue in effect ~~for one year from the first day of the month of issue~~ as prescribed in subsection (b) of this section unless sooner ended under this

chapter. The registration certificate may be renewed by the owner in the same manner provided for in securing the initial certificate.

* * *

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

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

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

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

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

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

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

subsection 614(c) or 615(a) of this title. When a learner's permit or junior operator's license is so recalled, it shall be reinstated upon expiration of a specific term, and, if required by the ~~commissioner~~ Commissioner, when the person has passed a reexamination approved by the ~~commissioner~~ Commissioner.

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

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

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

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

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

§ 614. RIGHTS UNDER LICENSE

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

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

(c) During the first three months of operation, the holder of a junior operator's license is restricted to driving alone or with a licensed parent or guardian, licensed or certified driver education instructor, or licensed person at least 25 years of age. During the following three months, a junior operator may additionally transport family members. No person operating with a junior operator's license shall transport more passengers than there are safety belts unless he or she is operating a vehicle that has not been manufactured with a

federally approved safety belt system. A person convicted of operating a motor vehicle in violation of this subsection shall be subject to a penalty of not more than $50.00, and his or her license shall be recalled for a period of 90 days. The provisions of this subsection may be enforced only if a law enforcement officer has detained the operator for a suspected violation of another traffic offense.

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

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

§ 615. UNLICENSED OPERATORS

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

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

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

Sec. 12. REPEAL

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

* * * Nondriver Identification Cards * * *

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

§ 115. NONDRIVER IDENTIFICATION CARDS

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

* * *

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

* * *

* * * License Certificates * * *

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

§ 603. APPLICATION FOR AND ISSUANCE OF LICENSE

(a)(1) The ~~commissioner~~ Commissioner or his or her authorized agent may license operators and junior operators when an application, on a form prescribed by the ~~commissioner~~ Commissioner, signed and sworn to by the applicant for the license, is filed with him or her, accompanied by the required

license fee and any valid license from another state or Canadian jurisdiction is surrendered.

(2) The ~~commissioner~~ Commissioner may, however, in his or her discretion, refuse to issue a license to any person whenever he or she is satisfied from information given him or her by credible persons, and upon investigation, that the person is mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license, under the provisions of this subsection or section 605 of this title, shall be entitled to hearing as provided in sections 105-107 of this title.

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

* * *

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

§ 610. LICENSE CERTIFICATES

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

* * *

(c) Each license certificate issued to a first-time applicant and each subsequent renewal by that person shall be issued with the photograph or imaged likeness of the licensee included on the certificate. The ~~commissioner~~ Commissioner shall determine the locations where photographic licenses may be issued. ~~A photographic motor vehicle operator's license issued under this subsection to an individual under the age of 30 shall include a magnetic strip~~

~~that includes only the name, date of birth, height, and weight of the licensee.~~ A person issued a license under this subsection that contains an imaged likeness may renew his or her license by mail. Except that a renewal by a licensee required to have a photograph or imaged likeness under this subsection must be made in person so that an updated imaged likeness of the person is obtained no less often than once every eight years.

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

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

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

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

(b) In addition to any other requirement of law or rule, before an enhanced license may be issued to a person, the person shall present for inspection and copying satisfactory documentary evidence to determine identity and United States citizenship. An application shall be accompanied by: a photo identity document, documentation showing the person's date and place of birth, proof of the person's Social Security number, and documentation showing the person's principal residence address. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation be placed on the enhanced license. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the identification card shall include the term "veteran" on its face. To be issued, an enhanced license must meet the same requirements as those for the issuance

of a United States passport. Before an application may be processed, the documents and information shall be verified as determined by the ~~commissioner~~ Commissioner. Any additional personal identity information not currently required by the U.S. Department of Homeland Security shall need the approval of either the ~~general assembly~~ General Assembly or the ~~legislative committee on administrative rules~~ Legislative Committee on Administrative Rules prior to the implementation of the requirements.

(c) No person shall compile or maintain a database of electronically readable information derived from an operator's license, junior operator's license, enhanced license, learner permit, or nondriver identification card. This prohibition shall not apply to a person who accesses, uses, compiles, or maintains a database of the information for law enforcement or governmental purposes or for the prevention of fraud or abuse or other criminal conduct.

* * *

* * * Driver Training Instructors * * *

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

§ 705. QUALIFICATIONS FOR INSTRUCTOR'S LICENSE

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

(1) not have been convicted of:

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

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

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

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

* * *

* * * Operating on Closed Highways * * *

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

§ 1112. CLOSED HIGHWAYS

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

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

(c) A municipal, county, or state entity that deploys police, fire, ambulance, rescue, or other emergency services in order to aid a stranded operator of a vehicle, or to move a disabled vehicle, operated on a closed highway in violation of this section, may recover from the operator in a civil action the cost of providing the services, if at the time of the violation a sign satisfying the requirements of subsection (b) of this section was installed.

* * * DUI Suspensions; Credit * * *

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

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

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

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

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

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

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

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

(1) Sirens or blue or blue and white signal lamps, or a combination of these, may be authorized for all law enforcement vehicles~~,~~ owned or leased by a law enforcement agency ~~or,~~ a certified law enforcement officer ~~and if~~, or the Vermont Criminal Justice Training Council. If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a.

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

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

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

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

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

* * *

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

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

§ 4174. VERMONT MOTOR VEHICLE ARBITRATION BOARD

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

* * *

* * * Traffic Violations; Judicial Bureau * * *

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

§ 1105. ANSWER TO COMPLAINT; DEFAULT

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

* * *

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

* * *

* * * Texting While Driving; Penalties * * *

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

§ 1099. TEXTING PROHIBITED

* * *

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

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

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

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

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

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

(a) Definition. As used in this section, "hands-free use" means the use of a portable electronic device without use of either hand and outside the immediate

proximity of the user's ear, by employing an internal feature of, or an attachment to, the device.

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

(1) to hands-free use, or

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

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

* * * Assessment of Points * * *

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

§ 2502. POINT ASSESSMENT; SCHEDULE

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

(1) Two points assessed for:

* * *

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

* * *

(4) Five points assessed for:

* * *

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

* * *

* * * Prohibited Idling of Motor Vehicles * * *

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

§ 1110. PROHIBITED IDLING OF MOTOR VEHICLES

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

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

(A) a military vehicle; an ambulance; a police, fire, or rescue vehicle; or another vehicle used in a public safety or emergency capacity idles as necessary for the conduct of official operations;

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

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

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

(E) idling is necessary to operate safety equipment such as windshield defrosters, and operation of the equipment is needed to address specific safety concerns;

(F) idling of the primary propulsion engine is needed to power work-related mechanical, hydraulic, or electrical operations other than propulsion, such as mixing or processing cargo or straight truck refrigeration, and the motor vehicle is idled to power such work-related operations;

(G) a motor vehicle of a model year prior to 2018 with an occupied sleeper berth compartment is idled for purposes of air-conditioning or heating during a rest or sleep period;

(H) a motor vehicle idles as necessary for maintenance, service, repair, or diagnostic purposes or as part of a state or federal inspection; or

(I) a school bus idles on school grounds in compliance with rules adopted pursuant to the provisions of subsection 1282(f) of this title.

(b) Operation of an auxiliary power unit, generator set, or other mobile idle reduction technology is an alternative to operating the primary propulsion engine of a motor vehicle and is not subject to the prohibition of subdivision (a)(1) of this section.

(c) In addition to the exemptions set forth in subdivision (a)(2) of this section, the Commissioner of Motor Vehicles, in consultation with the Secretary of Natural Resources, may adopt rules governing times or circumstances when operation of the primary propulsion engine of a stationary motor vehicle is reasonably required.

(d) A person adjudicated of violating subdivision (a)(1) of this section shall be:

(1) assessed a penalty of not more than $10.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), for a first violation;

(2) assessed a penalty of not more than $50.00 for a second violation; and

(3) assessed a penalty of not more than $100.00 for a third or subsequent violation.

Sec. 29. 16 V.S.A. § 1045 is amended to read:

§ 1045. DRIVER TRAINING COURSE

* * *

(d) All driver education courses shall include instruction on the adverse environmental, health, economic, and other effects of unnecessary idling of motor vehicles and on the law governing prohibited idling of motor vehicles.

* * * Veteran Indicator on Commercial Driver Licenses * * *

Sec. 30. 23 V.S.A. § 4110(a)(5) is amended to read:

(5) The person's signature, as well as a space for the applicant to request that a "veteran" designation be placed on a commercial driver license. An

applicant who requests a veteran designation shall provide a Department of Defense Form 214, or other proof of veteran status specified by the Commissioner.

Sec. 31. 23 V.S.A. § 4111 is amended to read:

§ 4111. COMMERCIAL DRIVER LICENSE

(a) Contents of license. A commercial driver's license shall be marked "commercial driver license" or "CDL," and shall be, to the maximum extent practicable, tamper proof, and shall include~~, but not be limited to~~ the following information:

* * *

(12) A veteran designation if a veteran, as defined in 38 U.S.C. § 101(2), requests the designation and provides proof of veteran status as specified in subdivision 4110(a)(5) of this title, and if the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions.

* * *

* * * Effective Dates and Sunsets * * *

Sec. 32. EFFECTIVE DATES AND SUNSETS

(a) This section and Sec. 22 of this act (administrative support for the Motor Vehicle Arbitration Board) shall take effect on passage.

(b)(1) Sec. 1 of this act shall take effect on July 1, 2013, if the deletion of "liquor investigators" from the definition of "enforcement officers" provided for in 2011 Acts and Resolves No. 17, Sec. 4 takes effect on or before July 1, 2013.

(2) Sec. 2 of this act shall take effect on July 1, 2013, if the deletion of "liquor investigators" from the definition of "enforcement officers" provided for in 2011 Acts and Resolves No. 17, Sec. 4 does not take effect on or before July 1, 2013.

(c) Secs. 25, 26, and 28, and in Sec. 27, § 2502(a)(1)(LL) and (a)(4)(D) of this act shall take effect on January 1, 2014.

(d) Secs. 6a, 6c, and 6e of this act shall take effect on July 1, 2018.

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

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 and when further amended as follows:

First: By striking Sec. 6 in its entirety and inserting in lieu thereof the following:

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

§ 371. TRAILER AND SEMI-TRAILER

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

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

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

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

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

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

Second: By striking Secs. 6a, 6b, 6c, 6d, and 6e in their entirety

Third: In Sec. 32, by striking subsection (d) in its entirety, and by relettering subsection (e) to be subsection (d)

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.

Bill Amended; Third Reading Ordered

H. 483

Rep. Carr of Brandon, for the committee on Commerce and Economic Development, to which had been referred House bill, entitled

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

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

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

Article 9. Secured Transactions

Part 1. Applicability, Definitions, and General Concepts

* * *

§ 9-102. DEFINITIONS AND INDEX OF DEFINITIONS

(a) In this article:

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

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

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

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

(A) authenticated by a secured party;

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

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

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

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

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

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

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

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

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

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

(6) "As-extracted collateral" means:

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

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

(ii) attaches to the minerals as extracted; or

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

(7) "Authenticate" means:

(A) to sign; or

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

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

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

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) a person that holds an agricultural lien;

(C) a consignor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) transmitting goods by pipeline or sewer; or

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

* * *

§ 9-105. CONTROL OF ELECTRONIC CHATTEL PAPER

(a) A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

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

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

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

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

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

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

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

* * *

Part 3. Perfection and Priority

§ 9-307. LOCATION OF DEBTOR

* * *

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

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

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

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

* * *

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

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

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

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

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

* * *

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

* * *

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

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

(2) If a security interest perfected by a financing statement that is effective under subdivision (1) of this subsection becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in subsection 9-301(1) or 9-305(c) of this title or the expiration of

the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

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

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

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

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

* * *

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

* * *

(d) A licensee of a general intangible or a buyer, other than a secured party, of ~~accounts, electronic chattel paper, general intangibles, or investment property~~ collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if

the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

* * *

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

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

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

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

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

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

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

(4) the record is recorded.

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

§ 9-503. NAME OF DEBTOR AND SECURED PARTY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) if the debtor is an individual to whom subdivision (4) of this subsection does not apply, only if the financing statement provides the

individual name of the debtor or the surname and first personal name of the debtor; and

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

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

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

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

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

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

* * *

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

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

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

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

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

* * *

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

* * *

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

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

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

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

* * *

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

* * *

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

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

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or

abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

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

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

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

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

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

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

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

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

☐ being administered by a Decedent's Personal Representative

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

☐ Public-Finance Transaction ☐ Manufactured-Home Transaction

☐ A Debtor is a Transmitting Utility

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

☐ Agricultural Lien ☐ Non-UCC Filing

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

☐ Bailee/Bailor ☐ Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

[UCC FINANCING STATEMENT (Form UCC1)]

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS

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

9a. ORGANIZATION'S NAME

OR 9b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

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

10a. ORGANIZATION'S NAME

OR 10b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

	ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR			SUFFIX
10c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

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

	11a. ORGANIZATION'S NAME				
OR	11b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)		SUFFIX
11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY	

12. ADDITIONAL SPACE FOR ITEM 4 (Collateral)

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

17. MISCELLANEOUS:

[UCC FINANCING STATEMENT ADDENDUM (Form UCC1Ad)]

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

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

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

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

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

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

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

5. ☐ PARTY INFORMATION CHANGE:

Check one of these two boxes:

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

AND

Check one of these three boxes to:

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

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

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

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

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

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

name)

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

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

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

Indicate collateral:

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

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

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

10. OPTIONAL FILER REFERENCE DATA:

[UCC FINANCING STATEMENT AMENDMENT (Form UCC3)]

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS

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

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

12a. ORGANIZATION'S NAME

OR	12b. INDIVIDUAL'S SURNAME		
	FIRST PERSONAL NAME		
	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX	**THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**

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

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

14. ADDITIONAL SPACE FOR ITEM 8 (Collateral)

15. This FINANCING STATEMENT AMENDMENT:
- ☐ covers timber to be cut
- ☐ covers as-extracted collateral
- ☐ is filed as a fixture filing

16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):

17. Description of real estate:

18. MISCELLANEOUS:

[UCC FINANCING STATEMENT AMENDMENT ADDENDUM (Form UCC3Ad)]

* * *

§ 9-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY

* * *

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

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

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

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

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

* * *

Part 8. TRANSITION PROVISIONS FOR 2010 AMENDMENTS

§ 9-801. EFFECTIVE DATE

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

§ 9-802. SAVINGS CLAUSE

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

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

§ 9-803. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE

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

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

§ 9-804. SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE

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

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

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

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

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

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

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

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

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

(B) June 30, 2018.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and provided the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) the filing is necessary under this section:

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

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

§ 9-809. PRIORITY

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

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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

Proposal of Amendment Agreed to; Third Reading Ordered

J.R.S. 14

Rep. Toleno of Brattleboro, for the committee on Agriculture and Forest Products, to which had been referred Joint resolution, entitled

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

Reported in favor of its passage when amended as follows:

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

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

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

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

The resolution, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Agriculture and Forest Products agreed to and third reading ordered.

Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed

H. 39

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

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

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

* * * Electronic Filings and Case Management * * *

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

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

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

* * *

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

§ 11a. ELECTRONIC FILING AND ISSUANCE

(a) As used in this section:

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

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

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

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

confidential documents to individuals explicitly authorized to access such confidential documents.

(5) "Electronic issuance" means:

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

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

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

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

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

§ 225. RATE SCHEDULES

(a) Within a time to be fixed by the board, each company subject to the provisions of this chapter shall file with the ~~department~~ Department and the Board, with separate filings to the ~~directors for regulated utility planning and public advocacy~~ Directors for Regulated Utility Planning and for Public Advocacy, schedules which shall be open to public inspection, showing all rates including joint rates for any service performed or any product furnished by it within the ~~state~~ State, and as a part thereof shall file the rules and regulations that in any manner affect the tolls or rates charged or to be charged for any such service or product. Those schedules, or summaries of the schedules approved by the ~~department~~ Department, shall be published by the company in two newspapers with general circulation in the ~~state~~ State within 15 days after such filing. A change shall not thereafter be made in any such schedules, including schedules of joint rates or in any such rules and regulations, except upon 45 days notice to the ~~board and to the department of public service~~ Board and the Department, and such notice to parties affected by such schedules as the ~~board~~ Board shall direct. The ~~board~~ Board shall consider

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

(b) Immediately upon receipt of notice of a change in a rate schedule filed by a company, the ~~department~~ Department shall investigate the justness and reasonableness of that change. At least 15 days prior to the date on which the change is to become effective, the ~~department~~ Department shall either report to the ~~board~~ Board the results of its investigations together with its recommendation for acceptance of the change, or it shall notify the ~~board~~ Board and other parties that it opposes the change. If the ~~department of public service~~ Department reports its acceptance of the change in rates, the ~~board~~ Board may accept the change, or it may on its own motion conduct an investigation into the justness and reasonableness of the change, or it may order the ~~department~~ Department to appear before it to justify its recommendation to accept the change. In no event shall a change go into effect without the approval of the ~~board~~ Board, except when a rate change is suspended and temporary or permanent rates are allowed to go into effect pursuant to subsection 226(a) or 227(a) of this title. The ~~board~~ Board shall consider the ~~department's~~ Department's recommendation and take action pursuant to sections 226 and 227 of this title before the date on which the changed rate is to become effective. In the event that the ~~department~~ Department opposes the change, the ~~board~~ Board shall hear evidence on the matter and make such orders as justice and law require. In any hearing on a change in rates, whether or not opposed by the ~~department~~ Department, the ~~board~~ Board may request the appearance of the ~~attorney general~~ Attorney

General or appoint a member of the Vermont ~~bar~~ Bar to represent the public or the ~~state~~ State.

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

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

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

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

* * *

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

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

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

(D) Notice of the public hearing shall be published and maintained on the board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

(E) The ~~agency of natural resources~~ Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall

provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the ~~byways advisory council~~ Byways Advisory Council in such a proceeding.

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

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

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

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

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

* * *

(f) However~~, the~~:

(1) The petitioner shall submit a notice of intent to construct such a facility within the State to the municipal and regional planning commissions at least six months prior to an application for a certificate of public good under this section. The Board shall specify by rule the content of such a notice of intent, which shall be designed to provide a reasonable description of the facility to be built, its size and location, and related infrastructure to be constructed. A notice of intent under this subdivision shall not be required for

a facility that the Board determines to be eligible for treatment under subsection (j) (facilities of limited size and scope) of this section.

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

Sec. 6a. APPLICATION

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

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

* * *

* * * Participation in Federal Proceedings * * *

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

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

* * * Coordination of Energy Planning * * *

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

§ 202. ELECTRICAL ENERGY PLANNING

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

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

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

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

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

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

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

next succeeding ~~five-year~~ six-year period, and long-term sustainable strategies for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont.

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

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

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

(E) Vermont electric transmission companies;

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

(G) industrial customer representatives;

(H) commercial customer representatives;

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

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

(K) other interested state agencies; and

(L) other energy providers.

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

demand, including load fluctuation, supplies, costs, and its plan to meet that demand and such other information as the ~~director~~ Director deems desirable.

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

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

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

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

(i) It shall be a goal of the electrical energy plan to assure, by 2028, that at least 60 MW of power are generated within the ~~state~~ State by combined heat and power (CHP) facilities powered by renewable fuels ~~or by nonqualifying SPEED resources,~~ as defined in section 8002 of this title. In order to meet this goal, the plan shall include incentives for development and strategies to identify locations in the ~~state~~ State that would be suitable for CHP. The plan shall include strategies to assure the consideration of CHP potential during any process related to the expansion of natural gas services in the ~~state~~ State.

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

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

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

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

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

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

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

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

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

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

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

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

Sec. 10. INTENT; RETROACTIVE APPLICATION

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

* * * Smart Meter Report * * *

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

(c) Reports.

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

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

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

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

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

(2) The reports shall be based on electric company data requested by and provided to the ~~commissioner of public service~~ Commissioner of Public Service and shall be in a form and in a manner the ~~commissioner~~ Commissioner deems necessary to accomplish the purposes of this subsection. The reports shall be submitted to the ~~senate committees on finance~~ Senate Committees on Finance and on ~~natural resources and energy~~ Natural Resources and Energy and the ~~house committees on commerce and economic development~~ House Committees on Commerce and Economic Development and on ~~natural resources and energy~~ Natural Resources and Energy.

* * * Joint Energy and Utility Committee * * *

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

CHAPTER 17. JOINT ENERGY AND UTILITY COMMITTEE

§ 601. CREATION OF COMMITTEE; MEETINGS

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

(b) The ~~committee~~ Committee shall elect a chair, ~~vice-chair~~ vice chair, and clerk and shall adopt rules of procedure. The ~~chair~~ Chair shall rotate biennially between the ~~house~~ House and the ~~senate~~ Senate members. The ~~committee~~ Committee may meet during a session of the ~~general assembly~~ General Assembly at the call of the ~~chair~~ Chair or a majority of the members of the ~~committee~~ Committee. The ~~committee~~ Committee may meet no more than

four times during adjournment ~~subject to approval of the speaker of the house and the president pro tempore of the senate~~, except that the Speaker of the House and the President Pro Tempore of the Senate may approve one or more additional meetings of the Committee during adjournment.

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

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

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

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

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

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

§ 603. ~~FUNCTIONS~~ DUTIES

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

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

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

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

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

(1) the Public Service Board;

(2) the Commissioner of Public Service;

(3) ratepayers and advocacy groups;

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

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

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

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

* * *

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

Sec. 13. REPORT; NEW ELECTRIC TRANSMISSION FACILITIES

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

(1) An assessment of:

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

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

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

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

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

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

* * * Public Service Board Ratemaking * * *

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

(h) When the Public Service Board has authorized an increase in rates expressly to prevent the bankruptcy or financial instability of a utility, any excess rates incurred above what ordinarily would have been incurred under a traditional cost-of-service methodology shall be returned to ratepayers in the form of a credit or refund, in a manner to be determined by the Board, and shall not be recoverable in future rates charged to ratepayers.

Sec. 15. APPLICATION

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

* * * Effective Date * * *

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Carr of Brandon** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Botzow of Pownal
Rep. Marcotte of Coventry
Rep. Klein of East Montpelier

Proposal of Amendment Agreed to; Third Reading Ordered

S. 88

Rep. Till of Jericho, for the committee on Health Care, to which had been referred Senate bill, entitled

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

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

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

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.

Bill Read Second Time; Consideration Interrupted by Recess

H. 270

Rep. Buxton of Tunbridge, for the committee on Education, to which had been referred House bill, entitled

An act relating to providing access to publicly funded prekindergarten education

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

TO THE HOUSE OF REPRESENTATIVES:

The Committee on Education to which was referred House Bill No. 270 entitled "An act relating to providing access to publicly funded prekindergarten education" respectfully reports that it has considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

§ 829. PREKINDERGARTEN EDUCATION~~; RULES~~

(a) Definitions. As used in this section:

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

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

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

(b) Access to publicly funded prekindergarten education.

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

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

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

(i) a prequalified private provider; or

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

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

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

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

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

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

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

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

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

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

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

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

(1) On behalf of a resident prekindergarten child, a district shall pay tuition for prekindergarten education for ten hours per week for 35 weeks annually to a prequalified private provider or to a public school outside the district that is prequalified pursuant to subsection (c) of this section; provided, however, that the district shall pay tuition for weeks that are within the district's academic year. Tuition paid under this section shall be at a statewide rate, which may be adjusted regionally, that is established annually through a process jointly developed and implemented by the Agencies of Education and of Human Services. A district shall pay tuition upon:

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

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

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

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

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

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

(1) ~~To ensure that, before a school district begins or expands a prekindergarten education program that intends to enroll students who are included in its average daily membership, the district engage the community in a collaborative process that includes an assessment of the need for the program in the community and an inventory of the existing service providers; provided, however, if a district needs to expand a prekindergarten education program in order to satisfy federal law relating to the ratio of special needs children to children without special needs and if the law cannot be satisfied by any one or more qualified service providers with which the district may already contract, then the district may expand an existing school-based program without engaging in a community needs assessment.~~ To permit private providers that are not prequalified pursuant to subsection (c) of this section to create new or continue existing partnerships with school districts through which the school district provides supports that enable the provider to fulfill the requirements of subsection (c), and through which the district may or may not make in-kind payments as a component of the statewide tuition established under this section.

(2) ~~To ensure that, if a school district begins or expands a prekindergarten education program that intends to include any of the students~~

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

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

(4) To establish a process by which:

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

(B) a district:

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

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

(C) a provider that has received tuition payments under this section on behalf of a prekindergarten child notifies a district that the child is no longer enrolled.

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

meets all established quality standards and to allow for regional adjustments to the rate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Prekindergarten ~~0.46~~ 0.5

Elementary or kindergarten 1.0

Secondary 1.13

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

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

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

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

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

Sec. 4. QUALITY STANDARDS

(a) The Agencies of Education and of Human Services shall review existing quality standards for prekindergarten education programs and may initiate rulemaking under 3 V.S.A. chapter 25 to require higher standards of quality; provided, however, that no new standards shall take effect earlier than July 1, 2015. Changes to the quality standards shall be designed to ensure that programs are based on intentional, evidence-based practices that create a developmentally appropriate environment and support the delivery of an

engaging program that supports the social, emotional, intellectual, language, literacy, and physical development of prekindergarten children.

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

Sec. 5. CONSTITUTIONALITY

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

Sec. 6. EFFECTIVE DATE

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

Rep. Greshin of Warren, for the committee on Ways and Means, recommended that the report of the committee on Education be amended as follows:

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

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

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

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

Rep. Johnson of North Hero for the committee on Appropriations recommended that the report of the committee on Education be amended as follows:

First: In Sec. 1, 16 V.S.A. § 829, subsection (e), in subdivision (10), after the first period, by inserting a new sentence to read: "The Agency and

Department shall be required to report annually to the General Assembly in January."

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

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

Pending the question, Shall the bill be amended as recommended by the committee on Education, as amended? **Rep. Buxton of Tunbridge** moved to amend the report of the committee on Education, as amended, as follows:

First: In Sec. 1, 16 V.S.A. § 829, by adding a new subsection to be subsection (h) to read:

(h) Geographic limitations.

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

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

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

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

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

(3) If a school board chooses to pay tuition to providers solely within its prekindergarten region, and if a resident prekindergarten child is unable to

access publicly funded prekindergarten education within that region, then the child's parent or guardian may request and in its discretion the district may pay tuition at the statewide rate for a prekindergarten education program operated by a prequalified provider located outside the prekindergarten region.

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

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

Sec. 4a. REPORT ON ENROLLMENT AND ACCESS

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

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

Pending the question, Shall the report of the committee on Education, as amended, be amended as recommended by **Rep. Buxton of Tunbridge**?

Recess

At eleven o'clock and forty-five minutes in the forenoon, the Speaker declared a recess until one o'clock and forty-five minutes in the afternoon.

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

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 270

Consideration resumed on House bill, entitled

An act relating to providing access to publicly funded prekindergarten education;

Pending the recurring question, Shall the bill be amended as recommended by Rep. Buxton of Tunbridge? **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 bill be amended as

recommended by Rep. Buxton of Tunbridge? was decided in the affirmative. Yeas, 97. Nays, 46.

Those who voted in the affirmative are:

Ancel of Calais
Bartholomew of Hartland
Bissonnette of Winooski
Botzow of Pownal
Browning of Arlington
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Carr of Brandon
Christie of Hartford
Clarkson of Woodstock
Cole of Burlington
Connor of Fairfield
Conquest of Newbury
Copeland-Hanzas of Bradford
Cross of Winooski
Cupoli of Rutland City
Dakin of Chester
Davis of Washington
Deen of Westminster
Donovan of Burlington
Ellis of Waterbury
Emmons of Springfield
Evans of Essex
Fay of St. Johnsbury
Feltus of Lyndon
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gallivan of Chittenden
Goodwin of Weston
Grad of Moretown
Haas of Rochester
Head of South Burlington
Heath of Westford
Helm of Fair Haven
Hooper of Montpelier
Huntley of Cavendish
Jewett of Ripton
Johnson of South Hero
Juskiewicz of Cambridge
Keenan of St. Albans City
Kitzmiller of Montpelier
Klein of East Montpelier
Krowinski of Burlington
Kupersmith of South Burlington
Lanpher of Vergennes
Lenes of Shelburne
Lewis of Berlin
Lippert of Hinesburg
Macaig of Williston
Malcolm of Pawlet
Marek of Newfane
Martin of Springfield
Martin of Wolcott
Masland of Thetford
McCarthy of St. Albans City
McCormack of Burlington
McCullough of Williston
Michelsen of Hardwick
Miller of Shaftsbury
Moran of Wardsboro
Mrowicki of Putney
Nuovo of Middlebury
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
Pearce of Richford
Pearson of Burlington
Peltz of Woodbury
Poirier of Barre City
Potter of Clarendon
Pugh of South Burlington
Rachelson of Burlington
Ralston of Middlebury
Ram of Burlington
Russell of Rutland City
Sharpe of Bristol
South of St. Johnsbury
Spengler of Colchester
Stevens of Waterbury
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toleno of Brattleboro
Townsend of South Burlington
Trieber of Rockingham
Vowinkel of Hartford
Waite-Simpson of Essex
Webb of Shelburne
Weed of Enosburgh
Wilson of Manchester
Wizowaty of Burlington
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

Those who voted in the negative are:

Batchelor of Derby
Beyor of Highgate
Bouchard of Colchester
Branagan of Georgia
Brennan of Colchester
Burditt of West Rutland
Cheney of Norwich
Condon of Colchester
Consejo of Sheldon
Corcoran of Bennington
Devereux of Mount Holly
Dickinson of St. Albans Town
Donaghy of Poultney
Donahue of Northfield
Fagan of Rutland City
Gage of Rutland City
Greshin of Warren
Hebert of Vernon
Higley of Lowell
Hubert of Milton
Jerman of Essex
Johnson of Canaan
Kilmartin of Newport City

Koch of Barre Town	Mook of Bennington	Stevens of Shoreham
Komline of Dorset	Morrissey of Bennington	Strong of Albany
Krebs of South Hero	Myers of Essex	Terenzini of Rutland Town
Larocque of Barnet	Quimby of Concord	Toll of Danville
Lawrence of Lyndon	Savage of Swanton	Turner of Milton
Manwaring of Wilmington	Scheuermann of Stowe	Van Wyck of Ferrisburgh
Marcotte of Coventry	Shaw of Pittsford	Winters of Williamstown
McFaun of Barre Town	Smith of New Haven	

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

Canfield of Fair Haven	Shaw of Derby	Woodward of Johnson
Mitchell of Fairfax	Townsend of Randolph	Wright of Burlington

Pending the question, Shall the bill be amended as recommended by the committee on Education, as amended? **Rep. Browning of Arlington** moved to amend the report of the committee on Education, as amended, as follows:

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

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

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

* * *

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

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

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

* * *

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

Sec. 6. EFFECTIVE DATES

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

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

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

Which was disagreed to.

Thereupon, the report of the committee on Education, as amended, was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Donovan of Burlington** 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, 97. Nays, 43.

Those who voted in the affirmative are:

Ancel of Calais
Bartholomew of Hartland
Bissonnette of Winooski
Botzow of Pownal
Branagan of Georgia
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Carr of Brandon
Christie of Hartford
Connor of Fairfield
Conquest of Newbury
Copeland-Hanzas of Bradford
Cross of Winooski
Cupoli of Rutland City
Dakin of Chester
Davis of Washington
Deen of Westminster
Dickinson of St. Albans Town
Donovan of Burlington
Ellis of Waterbury
Emmons of Springfield
Evans of Essex
Fay of St. Johnsbury
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gallivan of Chittenden
Goodwin of Weston
Grad of Moretown
Greshin of Warren
Haas of Rochester
Head of South Burlington
Heath of Westford
Hooper of Montpelier
Huntley of Cavendish
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Juskiewicz of Cambridge
Keenan of St. Albans City
Kitzmiller of Montpelier
Klein of East Montpelier
Krowinski of Burlington
Kupersmith of South Burlington
Lanpher of Vergennes
Larocque of Barnet
Lenes of Shelburne
Lippert of Hinesburg
Macaig of Williston
Malcolm of Pawlet
Marek of Newfane
Martin of Springfield
Masland of Thetford
McCarthy of St. Albans City
McCormack of Burlington
McCullough of Williston
McFaun of Barre Town
Michelsen of Hardwick
Miller of Shaftsbury
Mook of Bennington
Mrowicki of Putney
Myers of Essex
Nuovo of Middlebury
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
Pearce of Richford
Peltz of Woodbury
Poirier of Barre City
Potter of Clarendon
Pugh of South Burlington
Rachelson of Burlington
Ralston of Middlebury
Ram of Burlington
Russell of Rutland City
Sharpe of Bristol
Shaw of Pittsford
South of St. Johnsbury
Spengler of Colchester
Stevens of Waterbury
Stevens of Shoreham
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toleno of Brattleboro
Townsend of South Burlington
Trieber of Rockingham
Vowinkel of Hartford
Waite-Simpson of Essex
Webb of Shelburne
Wilson of Manchester
Wizowaty of Burlington
Wright of Burlington

Yantachka of Charlotte Young of Glover

Those who voted in the negative are:

Beyor of Highgate
Bouchard of Colchester *
Brennan of Colchester
Browning of Arlington
Burditt of West Rutland
Cheney of Norwich
Clarkson of Woodstock
Condon of Colchester
Consejo of Sheldon
Corcoran of Bennington
Devereux of Mount Holly
Donaghy of Poultney
Donahue of Northfield
Fagan of Rutland City
Feltus of Lyndon
Gage of Rutland City
Hebert of Vernon
Helm of Fair Haven
Higley of Lowell
Hubert of Milton
Johnson of Canaan
Koch of Barre Town
Komline of Dorset
Krebs of South Hero
Lawrence of Lyndon
Lewis of Berlin
Manwaring of Wilmington
Marcotte of Coventry
Moran of Wardsboro
Morrissey of Bennington
Pearson of Burlington
Quimby of Concord
Savage of Swanton
Scheuermann of Stowe
Smith of New Haven
Strong of Albany
Terenzini of Rutland Town
Toll of Danville
Turner of Milton
Van Wyck of Ferrisburgh
Weed of Enosburgh
Winters of Williamstown
Zagar of Barnard

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

Batchelor of Derby
Canfield of Fair Haven
Cole of Burlington
Kilmartin of Newport City
Martin of Wolcott
Mitchell of Fairfax
Shaw of Derby
Townsend of Randolph
Woodward of Johnson

Rep. Bouchard of Colchester explained his vote as follows:

"Mr. Speaker:

Pre-K funding is a local school board decision. We already took away one school board decision last week. Pretty soon we will not need local school boards.

Rep. Cupoli of Rutland City explained his vote as follows:

"Mr. Speaker:

As we say in Rutland City - 'Kids First.' This bill will provide a brighter future for our kids."

Rep. Spengler of Colchester explained her vote as follows:

"Mr. Speaker:

Every child in Vermont should have an equal educational opportunity. This bill helps to move Vermont closer to this shared belief and will save taxpayers money in the long term."

Message from the Senate No. 54

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 adopted joint resolution of the following title:

J.R.S. 29. Joint resolution relating to weekend adjournment.

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

Bill Read Second Time; Consideration Interrupted by Recess

S. 77

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

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

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

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

Sec. 1. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. RIGHTS OF QUALIFIED PATIENTS

SUFFERING A TERMINAL CONDITION

§ 5281. DEFINITIONS

As used in this chapter:

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

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

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

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

(A) is capable; and

(B) does not have impaired judgment.

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

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

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

(8) "Hospice care" means a program of care and support provided by a Medicare-certified hospice provider to help an individual with a terminal condition to live comfortably by providing palliative care, including effective pain and symptom management. Hospice care may include services provided by an interdisciplinary team that are intended to address the physical, emotional, psychosocial, and spiritual needs of the individual and his or her family.

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

(A) the patient's medical diagnosis;

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

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

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

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

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

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

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

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

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

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

(i) is capable;

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

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

(iv) is enrolled in hospice care; and

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

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

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

§ 5282. REQUESTS FOR MEDICATION

(a) In order to qualify under this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

§ 5283. PRESCRIBING PHYSICIAN; DUTIES

The prescribing physician shall perform all the following:

(1) determine whether a patient:

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

(B) is capable;

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

(D) is enrolled in hospice care;

(E) is making an informed decision; and

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

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

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

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

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

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

(A) the patient's medical diagnosis;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) with the patient's written consent:

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

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

§ 5284. MEDICAL CONSULTATION REQUIRED

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

§ 5285. REFERRAL FOR EVALUATION

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

§ 5286. INFORMED DECISION

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

§ 5287. RECOMMENDED NOTIFICATION

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

§ 5288. RIGHT TO RESCIND

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

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

§ 5289. WAITING PERIOD

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

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

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

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

§ 5290. MEDICAL RECORD DOCUMENTATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 5291. REPORTING REQUIREMENT

(a) The Department of Health shall require:

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

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

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

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

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

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

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

(A) being a burden to family or caregivers;

(B) the financial implications of treatment; and

(C) inadequate pain control;

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

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

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

§ 5292. SAFE DISPOSAL OF UNUSED MEDICATIONS

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

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

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

§ 5293. PROHIBITIONS; CONTRACT CONSTRUCTION; INSURANCE POLICIES

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

(b) The sale, procurement, or issue of any life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be conditioned

upon or affected by the making or rescinding of a request by a person for medication to hasten his or her death in accordance with this chapter or the act by a qualified patient to hasten his or her death pursuant to this chapter. Neither shall a qualified patient's act of ingesting medication to hasten his or her death have an effect on a life, health, or accident insurance or annuity policy.

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

§ 5294. LIMITATIONS ON ACTIONS

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

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

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

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

(e) A health care provider shall not be under any duty, whether by contract, by statute, or by any other legal requirement, to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter. If a health care provider is unable or unwilling to carry out a patient's request in accordance with this chapter and the patient transfers his or her care to a new health care provider, the previous health care provider, upon request, shall transfer a copy of the patient's relevant medical records to the new health care provider. A decision by a health care provider not to participate in the provision of medication to a qualified patient shall not constitute the abandonment of the patient or unprofessional conduct under 26 V.S.A. § 1354.

§ 5295. HEALTH CARE FACILITY EXCEPTION

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

§ 5296. LIABILITIES AND PENALTIES

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

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

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

§ 5297. FORM OF THE WRITTEN REQUEST

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

REQUEST FOR MEDICATION TO HASTEN MY DEATH

I, _____ , am an adult of sound mind.

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

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

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

INITIAL ONE:

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

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

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

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

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

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

Signed: _____ Dated: _____

AFFIRMATION OF WITNESSES

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

(1) the person signing this request:

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

(B) signed this request in our presence;

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

(2) that neither of us:

(A) is under 18 years of age;

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

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

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

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

Witness 1/Date _____

Witness 2/Date _____

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

§ 5298. STATUTORY CONSTRUCTION

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

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

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

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

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

§ 2004. FALSE WITNESSING

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

Sec. 4. EFFECTIVE DATES

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

Rep. Waite-Simpson of Essex, for the committee on Judiciary, recommended that the bill ought to pass when amended as recommended by the committee on Human Services, and when further amended as follows:

First: In Sec. 1, 18 V.S.A. § 5281, by adding a new subdivision (9) to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 5293. PROHIBITIONS; INSURANCE POLICIES

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

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

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

§ 5294. LIMITATIONS ON ACTIONS

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

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

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

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

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

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

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

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

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

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

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

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

§ 5299. NO EFFECT ON PALLIATIVE SEDATION

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

Fifteenth: By striking Sec. 2 in its entirety

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

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

Pending the question, Shall the report of the committee on Human Services, as amended, be agreed to? **Rep. Koch of Barre Town** moved consideration on the bill be postponed indefinitely.

Pending the question, Shall the House postpone action on the bill indefinitely? **Rep. Koch of Barre Town** 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 postpone action on the bill indefinitely? was decided in the negative. Yeas, 51. Nays, 90.

Those who voted in the affirmative are:

Batchelor of Derby
Beyor of Highgate
Bissonnette of Winooski
Bouchard of Colchester
Branagan of Georgia
Brennan of Colchester
Browning of Arlington
Burditt of West Rutland
Connor of Fairfield
Cross of Winooski
Cupoli of Rutland City
Devereux of Mount Holly
Dickinson of St. Albans Town
Donaghy of Poultney
Donahue of Northfield
Evans of Essex
Fagan of Rutland City
Feltus of Lyndon
Gage of Rutland City
Hebert of Vernon
Helm of Fair Haven
Higley of Lowell
Hubert of Milton
Johnson of Canaan
Juskiewicz of Cambridge
Keenan of St. Albans City
Kilmartin of Newport City
Koch of Barre Town
Larocque of Barnet
Lawrence of Lyndon
Lewis of Berlin
McCarthy of St. Albans City
McFaun of Barre Town
Moran of Wardsboro
Morrissey of Bennington
Myers of Essex
Pearce of Richford
Poirier of Barre City
Potter of Clarendon
Quimby of Concord
Ralston of Middlebury
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford
Smith of New Haven
South of St. Johnsbury
Strong of Albany
Terenzini of Rutland Town
Turner of Milton
Van Wyck of Ferrisburgh
Winters of Williamstown

Those who voted in the negative are:

Ancel of Calais
Bartholomew of Hartland
Botzow of Pownal
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Carr of Brandon
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Condon of Colchester
Conquest of Newbury
Consejo of Sheldon
Copeland-Hanzas of Bradford
Corcoran of Bennington
Dakin of Chester
Davis of Washington
Deen of Westminster
Donovan of Burlington
Ellis of Waterbury
Emmons of Springfield
Fay of St. Johnsbury
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gallivan of Chittenden
Goodwin of Weston
Grad of Moretown
Greshin of Warren

Haas of Rochester
Head of South Burlington
Heath of Westford
Hooper of Montpelier
Huntley of Cavendish
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Kitzmiller of Montpelier
Klein of East Montpelier
Komline of Dorset
Krebs of South Hero
Krowinski of Burlington
Lanpher of Vergennes
Lenes of Shelburne
Lippert of Hinesburg
Macaig of Williston
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Masland of Thetford
McCormack of Burlington
McCullough of Williston
Michelsen of Hardwick
Miller of Shaftsbury
Mook of Bennington
Mrowicki of Putney
Nuovo of Middlebury
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
Pearson of Burlington
Peltz of Woodbury
Pugh of South Burlington
Rachelson of Burlington
Ram of Burlington
Russell of Rutland City *
Sharpe of Bristol
Spengler of Colchester
Stevens of Waterbury
Stevens of Shoreham
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toleno of Brattleboro
Toll of Danville
Townsend of South Burlington
Trieber of Rockingham
Vowinkel of Hartford
Waite-Simpson of Essex
Webb of Shelburne
Weed of Enosburgh
Wilson of Manchester
Wizowaty of Burlington
Woodward of Johnson
Wright of Burlington
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

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

Canfield of Fair Haven
Cole of Burlington
Kupersmith of South Burlington
Marcotte of Coventry
Martin of Wolcott
Mitchell of Fairfax
Shaw of Derby
Townsend of Randolph

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

"Mr. Speaker:

I vote "no" to suspend debate. The very essence of debate is the Vermont way."

Recess

At six o'clock and forty-five minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At seven o'clock and fifty-five minutes in the evening, the Speaker called the House to order.

Consideration Resumed; Proposal of Amendment Agreed to and Third Reading Ordered

S. 77

Consideration resumed on Senate bill, entitled

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

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Human Services, as amended? **Rep. Morrissey of Bennington** moved to amend the report of the committee on Human Services, as amended, as follows:

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

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

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

(a) The Department of Health shall require:

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

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

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

Which was disagreed to.

Pending the question, Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Human Services, as amended? **Rep. Gage of Rutland City** moved to amend the report of the committee on Human Services, as amended, as follows:

In Sec. 1, in 18 V.S.A. § 5291, as follows:

First: By striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) The Department of Health shall require:

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

(2)(A) That any physician who writes a prescription pursuant to this chapter provides all underlying information necessary to ensure that the Department can generate the statistical report required by subsection (d) of this section. Except as provided in subdivision (B) of this subdivision (2), all information shall be provided based on the prescribing physician's firsthand observations and information provided directly from the qualified patient to the physician, and the prescribing physician shall sign a written verification of the information reported.

(B) The prescribing physician may obtain information related to subdivisions (d)(5), (8), (11), (12), (13), and (15) of this section from secondhand sources if the physician indicates on the written verification that the qualified patient refused to provide the prescribing physician with notice or an opportunity to be present at the time of the qualified patient's death.

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

Second: By striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read:

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

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

(2) the length of time between a qualified patient's first being diagnosed with the underlying illness and the date of the patient's first request, written or oral, for medication to hasten death in accordance with this chapter;

(3) the duration of the relationship between the qualified patient and the prescribing physician prior to the patient's first request, written or oral, for medication and at the time the prescription was written;

(4) whether a referral for evaluation was made pursuant to section 5285 of this title and, if so, the outcome;

(5) the location where the qualified patient took the medication prescribed in accordance with this chapter and the place of death;

(6) the medication prescribed to hasten death in accordance with this chapter;

(7) the length of time between the qualified patient's first request, written or oral, for medication to hasten death in accordance with this chapter and the date the prescription was filled;

(8) the length of time between the date the prescription was filled and the qualified patient's ingestion of the medication to hasten death in accordance with this chapter;

(9) whether one or more health care providers were present at the time the qualified patient ingested medication to hasten death in accordance with this chapter;

(10) whether one or more health care providers were present at the time of the qualified patient's death;

(11) whether qualified patients experienced any complications from ingesting medication prescribed pursuant to this chapter;

(12) the length of time, in minutes, between the qualified patient's ingestion of medication to hasten death in accordance with this chapter and the patient's unconsciousness;

(13) the length of time, in minutes, between the qualified patient's ingestion of medication to hasten death in accordance with this chapter and when death occurred;

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

(15) for qualified patients who regained consciousness after ingestion of medication to hasten death:

(A) the length of time between ingestion and consciousness;

(B) the length of time between regaining consciousness and death; and

(C) whether the qualified patient ultimately died from the underlying terminal condition or from a subsequent use of medication to hasten death in accordance with this chapter;

(16) reasons given by qualified patients for their use of medication to hasten their deaths in accordance with this chapter, according to one or more of the following categories:

(A) losing autonomy;

(B) reduced ability to engage in activities making life enjoyable;

(C) loss of dignity;

(D) losing control of bodily functions;

(E) concerns about being a burden on family, friends, or caregivers;

(F) current inadequate pain control;

(G) concerns about future inadequate pain control; and

(H) concerns about the financial implications of treatment.

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

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

Which was disagreed to.

Pending the question, Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Human Services, as amended? **Rep. Bouchard of Colchester** moved to amend the report of the committee on Human Services, as amended, as follows:

In Sec. 1, in 18 V.S.A. § 5291, by adding a subsection (e) to read:

(e) A physician who writes a prescription pursuant to this chapter and fails to comply with one or more of the reporting requirements set forth in this section shall be assessed an administrative penalty of $1,000.00 by the Department of Health for each qualified patient for whom the required information was not fully and accurately reported.

Which was disagreed to.

Pending the question, Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Human Services, as amended? **Rep. Poirier of Barre City** moved to amend the report of the committee on Human Services, as amended, as follows:

First: In Sec. 1, in 18 V.S.A. § 5293, by adding a subsection (c) to read:

(c)(1) Actions taken by patients and health care providers in accordance with the provisions of this act shall not be considered to be health care for any purpose under the law, including the purpose of providing coverage related, directly or indirectly, to the provision of medication to hasten death under any health insurance plan or, to the extent permitted under federal law, Medicaid.

(2) As used in this subsection, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in section 9402 of this title, as well as, to the extent permitted under federal law, Medicaid and any other public health care assistance programs offered or administered by the State or by any subdivision or instrumentality of the State. The term shall also include policies and plans providing coverage for specified diseases and other limited benefit coverage.

Second: In Sec. 1, in 18 V.S.A. § 5298, in the second sentence, following "constitute", by inserting "health care,"

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by Rep. Poirier of Barre City? **Rep. Poirier of Barre City** 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 propose to the Senate to amend the bill as recommended by Rep. Poirier of Barre City? was decided in the negative. Yeas, 42. Nays, 97.

Those who voted in the affirmative are:

Batchelor of Derby
Bouchard of Colchester
Branagan of Georgia
Brennan of Colchester
Browning of Arlington
Cupoli of Rutland City
Devereux of Mount Holly
Dickinson of St. Albans Town
Donaghy of Poultney
Donahue of Northfield
Fagan of Rutland City
Feltus of Lyndon
Gage of Rutland City
Hebert of Vernon
Helm of Fair Haven
Higley of Lowell
Hubert of Milton
Johnson of Canaan
Juskiewicz of Cambridge
Keenan of St. Albans City
Kilmartin of Newport City
Koch of Barre Town
Komline of Dorset
Larocque of Barnet
Lawrence of Lyndon
Lewis of Berlin
McFaun of Barre Town
Morrissey of Bennington
Myers of Essex
Poirier of Barre City *
Quimby of Concord
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford
Smith of New Haven
Stevens of Shoreham
Strong of Albany
Terenzini of Rutland Town
Turner of Milton
Van Wyck of Ferrisburgh
Winters of Williamstown
Wright of Burlington

Those who voted in the negative are:

Ancel of Calais
Bartholomew of Hartland
Beyor of Highgate
Bissonnette of Winooski
Botzow of Pownal
Burditt of West Rutland
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Carr of Brandon
Cheney of Norwich
Christie of Hartford

Clarkson of Woodstock
Cole of Burlington
Condon of Colchester
Connor of Fairfield
Conquest of Newbury
Consejo of Sheldon
Copeland-Hanzas of Bradford
Corcoran of Bennington
Dakin of Chester
Davis of Washington
Deen of Westminster
Donovan of Burlington
Ellis of Waterbury
Emmons of Springfield
Evans of Essex
Fay of St. Johnsbury
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gallivan of Chittenden
Goodwin of Weston
Grad of Moretown
Greshin of Warren
Haas of Rochester
Head of South Burlington
Heath of Westford
Hooper of Montpelier
Huntley of Cavendish
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Kitzmiller of Montpelier
Klein of East Montpelier
Krebs of South Hero
Krowinski of Burlington
Lanpher of Vergennes
Lenes of Shelburne
Lippert of Hinesburg
Macaig of Williston
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Masland of Thetford
McCarthy of St. Albans City
McCormack of Burlington
McCullough of Williston
Michelsen of Hardwick
Miller of Shaftsbury
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
Pearce of Richford
Pearson of Burlington
Peltz of Woodbury
Potter of Clarendon
Pugh of South Burlington
Rachelson of Burlington
Ralston of Middlebury
Ram of Burlington
Russell of Rutland City
Sharpe of Bristol
Spengler of Colchester
Stevens of Waterbury
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toleno of Brattleboro
Toll of Danville
Townsend of South Burlington
Trieber of Rockingham
Vowinkel of Hartford
Waite-Simpson of Essex
Webb of Shelburne
Weed of Enosburgh
Wilson of Manchester
Wizowaty of Burlington
Woodward of Johnson
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

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

Canfield of Fair Haven
Cross of Winooski
Kupersmith of South Burlington
Marcotte of Coventry
Martin of Wolcott
Mitchell of Fairfax
Nuovo of Middlebury
Shaw of Derby
South of St. Johnsbury
Townsend of Randolph

Rep. Poirier of Barre City explained his vote as follows:

"Mr. Speaker:

I voted 'yes' as I believe this is the precursor to health care rationing in our new health care experiment"

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Human Services, as amended? **Rep. Donahue of Northfield** moved to amend the report of the committee on Human Services, as amended, by striking all after the enacting clause and

inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. PATIENT AUTONOMY AT END OF LIFE

§ 5281. PROTECTION OF PATIENT AUTONOMY AT END OF LIFE

(a) As used in this section:

(1) "Bona fide health care professional–patient relationship" means a treating or consulting relationship in the course of which a health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination.

(2) "Health care professional" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33.

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

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

(b) A patient's right under 12 V.S.A. § 1909(d) to receive answers to any specific question about the foreseeable risks and benefits of medication without the health care professional withholding any requested information exists regardless of the purpose of the inquiry. A health care professional who engages in discussions with a patient related to such risks and benefits in the circumstances described in this section shall not be construed to be assisting in or contributing to a patient's independent decision to self-administer an overdose of medication, and such discussions shall not be used to establish civil or criminal liability or professional disciplinary action.

(c) A health care professional with a bona fide health care professional–patient relationship with a patient who is, within reasonable medical judgment, in the final stages of a terminal condition and who is suffering from symptoms associated with or caused by the condition that have not been reasonably addressed through palliative care shall not be considered to have engaged in unprofessional conduct under 26 V.S.A. § 1354 if the health care professional prescribes medication to the patient for his or her symptoms and the patient makes an independent decision to self-administer an overdose of the medication.

(d) A patient who self-administers an overdose of medication prescribed for that patient pursuant to this section shall not be considered to be a person

exposed to grave physical harm under 12 V.S.A. § 519, and no person shall be subject to civil or criminal liability solely for being present when a patient self-administers an overdose of medication prescribed pursuant to this section or for not acting to prevent the overdose.

(e) A health care professional shall be immune from any civil or criminal liability or professional disciplinary action for actions performed in good faith compliance with the provisions of this section.

(f) A person and his or her beneficiaries shall not be denied benefits under a life insurance policy, as defined in 8 V.S.A. § 3301, for actions taken in accordance with this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on September 1, 2013.

and that after passage the title of the bill be amended to read: "An act relating to protection of patient autonomy at end of life"

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by Rep. Donahue of Northfield? **Rep. Donahue of Northfield** 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 propose to the Senate to amend the bill as recommended by Rep. Donahue of Northfield? was decided in the negative. Yeas, 44. Nays, 94.

Those who voted in the affirmative are:

Batchelor of Derby	Goodwin of Weston	Myers of Essex
Beyor of Highgate	Hebert of Vernon	Pearce of Richford
Bouchard of Colchester	Helm of Fair Haven	Poirier of Barre City
Branagan of Georgia	Higley of Lowell	Quimby of Concord
Browning of Arlington	Hubert of Milton	Ralston of Middlebury
Burditt of West Rutland	Johnson of Canaan	Savage of Swanton
Cupoli of Rutland City	Juskiewicz of Cambridge	Scheuermann of Stowe
Devereux of Mount Holly	Keenan of St. Albans City	Shaw of Pittsford
Dickinson of St. Albans Town	Kilmartin of Newport City	Smith of New Haven
	Koch of Barre Town	Strong of Albany
Donaghy of Poultney	Komline of Dorset	Terenzini of Rutland Town
Donahue of Northfield	Larocque of Barnet	Turner of Milton
Fagan of Rutland City	Lawrence of Lyndon	Van Wyck of Ferrisburgh
Feltus of Lyndon	Lewis of Berlin	Winters of Williamstown
Gage of Rutland City	Morrissey of Bennington	Wright of Burlington

Those who voted in the negative are:

Ancel of Calais	Bissonnette of Winooski	Burke of Brattleboro
Bartholomew of Hartland	Botzow of Pownal	Buxton of Tunbridge

Campion of Bennington
Carr of Brandon
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Cole of Burlington
Condon of Colchester
Connor of Fairfield
Conquest of Newbury
Consejo of Sheldon
Copeland-Hanzas of Bradford
Corcoran of Bennington
Dakin of Chester
Davis of Washington
Deen of Westminster
Donovan of Burlington
Ellis of Waterbury
Emmons of Springfield
Evans of Essex
Fay of St. Johnsbury
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gallivan of Chittenden
Grad of Moretown
Greshin of Warren
Haas of Rochester
Head of South Burlington
Heath of Westford
Hooper of Montpelier
Huntley of Cavendish
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Kitzmiller of Montpelier
Klein of East Montpelier
Krebs of South Hero
Krowinski of Burlington
Lanpher of Vergennes
Lenes of Shelburne
Lippert of Hinesburg
Macaig of Williston
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Masland of Thetford
McCarthy of St. Albans City
McCormack of Burlington
McCullough of Williston
McFaun of Barre Town
Michelsen of Hardwick
Miller of Shaftsbury
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
Pearson of Burlington
Peltz of Woodbury
Potter of Clarendon
Pugh of South Burlington
Rachelson of Burlington
Ram of Burlington
Russell of Rutland City
Sharpe of Bristol
Spengler of Colchester
Stevens of Waterbury
Stevens of Shoreham
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toleno of Brattleboro
Toll of Danville
Townsend of South Burlington
Trieber of Rockingham
Vowinkel of Hartford
Waite-Simpson of Essex
Webb of Shelburne
Weed of Enosburgh
Wilson of Manchester
Wizowaty of Burlington
Woodward of Johnson
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

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

Brennan of Colchester
Canfield of Fair Haven
Cross of Winooski
Kupersmith of South Burlington
Marcotte of Coventry
Martin of Wolcott
Mitchell of Fairfax
Nuovo of Middlebury
Shaw of Derby
South of St. Johnsbury
Townsend of Randolph

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Human Services, as amended? **Rep. Donahue of Northfield** 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 propose to the Senate to amend the bill as recommended by the Committee on Human Services, as further amended? was decided in the affirmative. Yeas, 85. Nays, 53.

Those who voted in the affirmative are:

Ancel of Calais
Bartholomew of Hartland
Botzow of Pownal
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Carr of Brandon
Cheney of Norwich
Christie of Hartford
Clarkson of Woodstock
Cole of Burlington
Condon of Colchester
Conquest of Newbury
Consejo of Sheldon
Copeland-Hanzas of Bradford
Davis of Washington
Deen of Westminster
Ellis of Waterbury
Emmons of Springfield
Fay of St. Johnsbury
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gallivan of Chittenden
Goodwin of Weston
Grad of Moretown
Greshin of Warren
Haas of Rochester
Head of South Burlington
Heath of Westford
Hooper of Montpelier
Huntley of Cavendish
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Kitzmiller of Montpelier
Klein of East Montpelier
Koch of Barre Town
Komline of Dorset
Krebs of South Hero
Krowinski of Burlington
Larocque of Barnet
Lenes of Shelburne
Lippert of Hinesburg
Macaig of Williston
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Masland of Thetford
McCarthy of St. Albans City
McCormack of Burlington
McCullough of Williston
Michelsen of Hardwick
Miller of Shaftsbury
Mook of Bennington
Mrowicki of Putney
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
Pearson of Burlington
Peltz of Woodbury
Pugh of South Burlington
Rachelson of Burlington
Ram of Burlington
Sharpe of Bristol
Spengler of Colchester
Stevens of Waterbury
Stevens of Shoreham
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toleno of Brattleboro
Toll of Danville
Townsend of South Burlington
Trieber of Rockingham
Vowinkel of Hartford
Waite-Simpson of Essex
Webb of Shelburne
Wilson of Manchester
Wizowaty of Burlington
Woodward of Johnson
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

Those who voted in the negative are:

Batchelor of Derby
Beyor of Highgate
Bissonnette of Winooski
Bouchard of Colchester
Branagan of Georgia
Browning of Arlington
Burditt of West Rutland
Connor of Fairfield
Corcoran of Bennington
Cupoli of Rutland City
Dakin of Chester
Devereux of Mount Holly
Dickinson of St. Albans Town
Donaghy of Poultney
Donahue of Northfield
Donovan of Burlington
Evans of Essex
Fagan of Rutland City
Feltus of Lyndon
Gage of Rutland City
Hebert of Vernon
Helm of Fair Haven
Higley of Lowell
Hubert of Milton
Johnson of Canaan
Juskiewicz of Cambridge
Keenan of St. Albans City
Kilmartin of Newport City
Lanpher of Vergennes
Lawrence of Lyndon
Lewis of Berlin
Malcolm of Pawlet
McFaun of Barre Town
Moran of Wardsboro
Morrissey of Bennington
Myers of Essex
Pearce of Richford
Poirier of Barre City
Potter of Clarendon
Quimby of Concord
Ralston of Middlebury
Russell of Rutland City
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford
Smith of New Haven
Strong of Albany

Terenzini of Rutland Town
Turner of Milton
Van Wyck of Ferrisburgh
Weed of Enosburgh
Winters of Williamstown
Wright of Burlington

Those members absent with leave of the House and not voting are:

Brennan of Colchester
Canfield of Fair Haven
Cross of Winooski
Kupersmith of South Burlington
Marcotte of Coventry
Martin of Wolcott
Mitchell of Fairfax
Nuovo of Middlebury
Shaw of Derby
South of St. Johnsbury
Townsend of Randolph

Pending the question, Shall the bill be read a third time? **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 bill be read a third time? was decided in the affirmative. Yeas, 80. Nays, 57.

Those who voted in the affirmative are:

Bartholomew of Hartland
Botzow of Pownal
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Carr of Brandon
Cheney of Norwich
Clarkson of Woodstock
Cole of Burlington
Condon of Colchester
Conquest of Newbury
Consejo of Sheldon
Copeland-Hanzas of Bradford
Davis of Washington
Deen of Westminster
Ellis of Waterbury
Emmons of Springfield
Fay of St. Johnsbury
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gallivan of Chittenden
Goodwin of Weston
Grad of Moretown
Greshin of Warren
Haas of Rochester
Head of South Burlington
Heath of Westford
Hooper of Montpelier
Huntley of Cavendish
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Kitzmiller of Montpelier
Klein of East Montpelier
Komline of Dorset
Krebs of South Hero
Krowinski of Burlington
Lenes of Shelburne
Lippert of Hinesburg
Macaig of Williston
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Masland of Thetford
McCormack of Burlington
McCullough of Williston
Michelsen of Hardwick
Miller of Shaftsbury
Mook of Bennington
Mrowicki of Putney
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
Pearson of Burlington
Peltz of Woodbury
Pugh of South Burlington
Rachelson of Burlington
Ram of Burlington
Sharpe of Bristol
Spengler of Colchester
Stevens of Waterbury
Stevens of Shoreham
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Till of Jericho
Toleno of Brattleboro
Toll of Danville
Townsend of South Burlington
Trieber of Rockingham
Vowinkel of Hartford
Waite-Simpson of Essex
Webb of Shelburne
Wilson of Manchester
Wizowaty of Burlington
Woodward of Johnson
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

Those who voted in the negative are:

Ancel of Calais
Batchelor of Derby
Beyor of Highgate
Bissonnette of Winooski
Bouchard of Colchester
Branagan of Georgia
Browning of Arlington
Burditt of West Rutland
Christie of Hartford
Connor of Fairfield
Corcoran of Bennington
Cupoli of Rutland City
Dakin of Chester
Devereux of Mount Holly
Dickinson of St. Albans Town
Donaghy of Poultney
Donahue of Northfield
Donovan of Burlington
Evans of Essex
Fagan of Rutland City
Feltus of Lyndon
Gage of Rutland City
Hebert of Vernon
Helm of Fair Haven
Higley of Lowell
Hubert of Milton
Johnson of Canaan
Juskiewicz of Cambridge
Keenan of St. Albans City
Kilmartin of Newport City
Koch of Barre Town
Lanpher of Vergennes
Larocque of Barnet
Lawrence of Lyndon
Lewis of Berlin *
Malcolm of Pawlet
McCarthy of St. Albans City
McFaun of Barre Town
Moran of Wardsboro
Morrissey of Bennington
Myers of Essex
Pearce of Richford
Poirier of Barre City
Potter of Clarendon
Quimby of Concord
Ralston of Middlebury
Russell of Rutland City
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford
Smith of New Haven
Strong of Albany
Terenzini of Rutland Town
Turner of Milton
Van Wyck of Ferrisburgh
Weed of Enosburgh
Wright of Burlington

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Kupersmith of South Burlington
Marcotte of Coventry
Martin of Wolcott
Mitchell of Fairfax
Nuovo of Middlebury
Shaw of Derby
South of St. Johnsbury
Townsend of Randolph
Winters of Williamstown

Rep. Lewis of Berlin explained her vote as follows:

"Mr. Speaker:

End of life choices are deeply personal. I was elected to represent my constituents. In the past few days I have received many phone calls regarding this bill and the overwhelming majority have been in opposition; so, therefore, I will respect their opinions and vote "no.'"

Action on Bill Postponed

S. 31

Senate bill, entitled

An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding

Was taken up and pending third reading of the bill, on motion of **Rep. Koch of Barre Town**, action on the bill was postponed until the next legislative day.

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 legislative day.

Action on Bill Postponed

H. 533

House bill, entitled

An act relating to capital construction and state bonding

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Emmons of Springfield**, action on the bill was postponed until the next legislative day.

Adjournment

At eleven o'clock and thirty-five minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at eleven o'clock in the forenoon.