

Journal of the House

Wednesday, May 1, 2013

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

Devotional Exercises

Devotional exercises were conducted by Rep. Sarah Buxton of Tunbridge, Vt.

Message from Governor

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

Mr. Speaker:

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

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

H. 511 An act relating to automated sales suppression devices, also known as "zappers"

House Bill Introduced

H. 541

By Reps. Jerman of Essex and Waite-Simpson of Essex,
House bill, entitled

An act relating to approval of amendments to the charter of the Village of Essex Junction;

To the committee on Government Operations.

Bill Referred to Committee on Ways and Means

H. 534

House bill, entitled

An act relating to approval of amendments to the charter of the City of Winooski

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

Joint Resolution Adopted in Concurrence

J.R.S. 29

By Senators Baruth and Benning,

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

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, May 3, 2013, it be to meet again no later than Tuesday, May 7, 2013.

Was taken up read and adopted in concurrence.

Bill Amended; Third Reading Ordered

H. 535

Rep. Mook of Bennington, for the committee on Government Operations, to which had been referred House bill, entitled

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

Reported in favor of its passage when amended as follows:

In Sec. 2, in 24 V.S.A. chapter 162, in § 6 (open meetings), by striking out the last sentence in its entirety and inserting in lieu thereof the following: “No executive session shall be held except in accordance with the terms of the general law.”

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 Government Operations agreed to.

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

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

Which was agreed to and third reading of the bill ordered.

**Proposal of Amendment Agreed to; Bill Read Third Time and
Passed in Concurrence with Proposal of Amendment**

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, **Rep. Kilmartin of Newport City** moved to propose to the Senate to amend the bill as follows:

In Sec. 1, 15 V.S.A. § 751(b), in subdivision (8), by adding a new subdivision (C) to read: “(C) The court shall honor the provisions of any spendthrift clause as it applies to a party’s interest in an irrevocable trust or inheritance.”

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

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Bill Amended; Read Third Time; Passed

H. 270

House bill, entitled

An act relating to providing access to publicly funded prekindergarten education

Was taken up, and pending third reading of the bill, **Rep. Nuovo of Middlebury** moved to amend the bill as follows:

In Sec. 1, 16 V.S.A. § 829, subsection (b), in subdivision (2)(A), by striking out “subsection (d)” and inserting in lieu thereof “subsections (d) and (h)”

Which was agreed to.

Pending the question, Shall the bill pass? **Rep. Hebert of Vernon** 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 pass? was decided in the affirmative. Yeas, 95. Nays, 43.

Those who voted in the affirmative are:

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

Those who voted in the negative are:

Batchelor of Derby	Donahue of Northfield	Krebs of South Hero
Beyor of Highgate	Fagan of Rutland City	Lawrence of Lyndon
Bouchard of Colchester	Feltus of Lyndon	Lewis of Berlin
Brennan of Colchester	Gage of Rutland City	Manwaring of Wilmington *
Browning of Arlington	Goodwin of Weston	Marcotte of Coventry
Canfield of Fair Haven	Hebert of Vernon	Moran of Wardsboro
Clarkson of Woodstock	Helm of Fair Haven	Morrissey of Bennington
Condon of Colchester	Higley of Lowell	Quimby of Concord
Consejo of Sheldon	Hubert of Milton	Savage of Swanton
Corcoran of Bennington	Johnson of Canaan	Scheuermann of Stowe
Devereux of Mount Holly	Koch of Barre Town	Smith of New Haven
Donaghy of Poultney	Komline of Dorset	Strong of Albany

Terenzini of Rutland Town	Van Wyck of Ferrisburgh	Zagar of Barnard
Toll of Danville	Weed of Enosburgh *	
Turner of Milton	Winters of Williamstown	

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

Burditt of West Rutland	Lippert of Hinesburg	Spengler of Colchester
Cheney of Norwich	Mitchell of Fairfax	Taylor of Barre City
Christie of Hartford	Poirier of Barre City	Townsend of Randolph
Grad of Moretown	Shaw of Derby	

Rep. Klein of East Montpelier explained his vote as follows:

“Mr. Speaker:

I did vote yes because I believe in the benefits of early education. However, I am concerned about adding to the educational structure without a comprehensive evaluation of the system and the structure as a whole. I don’t know how long our current educational structure will remain viable.”

Rep. Manwaring of Wilmington explained her vote as follows:

“Mr. Speaker:

Last week we were asked to support a bill, H.538, that through several strategies sought to constrain spending on education thus also contain increases in property taxes. Yet this bill we've just passed, H.270, mandates increased spending by our schools which will exert upward pressure on property taxes, despite its promise of long term value.

That we can pass two bills in quick succession, one of which cancels impacts of the other, is the best argument yet for the need to reassess the construct of our education Finance system. And when we do, I hope we will consider the following:

How money gets out of the Education Fund is fundamentally a different question than how it gets into the Fund. While the principle of Equity is important in raising taxes, it should not be the driving principle in spending money. We don’t use equity to evaluate other State spending. We assess need and look for outcomes.

We need to decide once and for all whether the State wants to take over and run our schools, which is where the arc of the present Education Fund construct wants to go.

If our local communities are to continue to run our schools, which is where the work to educate our children is done, then we need to embrace that reality

for its value and enable and empower our schools to deliver 21st century skills to all Vermont's children.

And perhaps most importantly, we need a holistic system of funding and outcomes that is transparent, where every Vermont taxpayer sees what his or her investment in education tax dollars is buying, where every taxpayer, parent, student and citizen can see the value of public education, which is arguably our most important public good."

Rep. Pearson of Burlington explained his vote as follows:

"Mr. Speaker:

Empowering parents to make choices for their young children sounds like a no-brainer. But taking public dollars to pay for private education is a dangerous principle. In the end the powerful benefits of universal pre-k and the need for greater access earn my vote but I remain concerned that we are turning a corner that will ultimately undermine our public education system."

Rep. Weed of Enosburg explained her vote as follows:

"Mr. Speaker:

I wholeheartedly support pre-k but cannot support any more educational taxes, or any taxes in addition to what we already approved this year. My district has the highest unemployment rate in the state. We must look at new revenue sources when we implement new programs, other than from the taxpayers."

**Bill Read the Third Time and Passed; Rules Suspended and
the Bill was Messaged to Senate Forthwith**

H. 483

House bill, entitled

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

Was taken up, read the third time and passed.

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

Proposal of Amendment Agreed to; Consideration Interrupted by Recess

S. 77

Senate bill, entitled

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

Was taken up and pending third reading of the bill, **Rep. Till of Jericho**, moved to amend the House proposal of amendment as follows:

In Sec. 1, in 18 V.S.A. § 5294, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) A health care facility or health care provider shall not subject a physician, nurse, or other 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.

Which was agreed to.

Pending third reading of the bill, **Rep. Till of Jericho**, moved to amend the House proposal of amendment as follows:

In Sec. 1, in 18 V.S.A. § 5281, by striking out subdivision (13) in its entirety and inserting in lieu thereof a new subdivision (13) to read:

(13)(A) "Prescribing physician" means the physician whom the patient has designated to have primary responsibility for the care of the patient, who meets the requirements of subdivision (B) of this subdivision (13) 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.

(B) In order to prescribe medication to a qualified patient to hasten his or her death in accordance with this chapter, a physician shall have a special endorsement from the Board of Medical Practice or Board of Osteopathic Physicians and Surgeons, as applicable, on his or her license indicating that the physician is qualified to prescribe such medication. Each physician carrying an endorsement under this section shall complete at least one hour of continuing medical education (CME) per two-year licensing period in each of the fields of palliative care and pain management, in addition to any other CME on these topics required by law or by rule.

Pending the question, Shall the House proposal of amendment be amended as recommended by Rep. Till of Jericho? **Rep. Savage of Swanton** 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 proposal of amendment be amended as recommended by Rep. Till of Jericho? was decided in the negative. Yeas, 35. Nays, 100.

Those who voted in the affirmative are:

Batchelor of Derby

Bouchard of Colchester

Buxton of Tunbridge

Canfield of Fair Haven	Hebert of Vernon	Quimby of Concord
Carr of Brandon	Hubert of Milton	Ralston of Middlebury
Cross of Winooski	Huntley of Cavendish	Savage of Swanton
Dakin of Chester	Johnson of Canaan	Scheuermann of Stowe
Dickinson of St. Albans Town	Keenan of St. Albans City	Shaw of Pittsford
Donaghy of Poultney	Komline of Dorset	Smith of New Haven
Evans of Essex	Larocque of Barnet	Strong of Albany
Fagan of Rutland City	Lawrence of Lyndon	Till of Jericho
Gage of Rutland City	McFaun of Barre Town	Van Wyck of Ferrisburgh
Greshin of Warren	Mook of Bennington	Wilson of Manchester
	Morrissey of Bennington	Yantachka of Charlotte

Those who voted in the negative are:

Ancel of Calais	Higley of Lowell	Partridge of Windham
Bartholomew of Hartland	Hooper of Montpelier	Pearce of Richford
Beyor of Highgate	Jerman of Essex	Pearson of Burlington
Bissonnette of Winooski	Jewett of Ripton	Peltz of Woodbury
Botzow of Pownal	Johnson of South Hero	Potter of Clarendon
Branagan of Georgia	Kilmartin of Newport City	Pugh of South Burlington
Brennan of Colchester	Kitzmiller of Montpelier	Rachelson of Burlington
Browning of Arlington	Klein of East Montpelier	Ram of Burlington
Burke of Brattleboro	Koch of Barre Town	Russell of Rutland City
Campion of Bennington	Krebs of South Hero	Sharpe of Bristol
Christie of Hartford	Krowinski of Burlington	South of St. Johnsbury
Clarkson of Woodstock	Lanpher of Vergennes	Stevens of Waterbury
Cole of Burlington	Lenes of Shelburne	Stevens of Shoreham
Condon of Colchester	Lewis of Berlin	Stuart of Brattleboro
Conquest of Newbury	Lippert of Hinesburg	Sweaney of Windsor
Consejo of Sheldon	Macaig of Williston	Taylor of Barre City
Corcoran of Bennington	Malcolm of Pawlet	Terenzini of Rutland Town
Davis of Washington	Manwaring of Wilmington	Toleno of Brattleboro
Deen of Westminster	Marcotte of Coventry	Toll of Danville
Donahue of Northfield	Marek of Newfane	Townsend of South Burlington
Donovan of Burlington	Martin of Springfield	Trieber of Rockingham
Ellis of Waterbury	Martin of Wolcott	Turner of Milton
Emmons of Springfield	Masland of Thetford	Vowinkel of Hartford
Fay of St. Johnsbury	McCarthy of St. Albans City	Waite-Simpson of Essex
Feltus of Lyndon	McCormack of Burlington	Webb of Shelburne
Fisher of Lincoln	McCullough of Williston	Weed of Enosburgh
Frank of Underhill	Michelsen of Hardwick	Winters of Williamstown
French of Randolph	Miller of Shaftsbury	Wizowaty of Burlington
Gallivan of Chittenden	Moran of Wardsboro	Woodward of Johnson
Goodwin of Weston	Mrowicki of Putney	Wright of Burlington
Grad of Moretown	Myers of Essex	Young of Glover
Haas of Rochester	Nuovo of Middlebury	Zagar of Barnard
Head of South Burlington	O'Brien of Richmond	
Heath of Westford	O'Sullivan of Burlington	

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

Burditt of West Rutland	Devereux of Mount Holly	Poirier of Barre City
Cheney of Norwich	Helm of Fair Haven	Shaw of Derby
Connor of Fairfield	Juskiewicz of Cambridge	Spengler of Colchester
Copeland-Hanzas of Bradford	Kupersmith of South Burlington	Townsend of Randolph
Cupoli of Rutland City	Mitchell of Fairfax	

Rep. Till of Jericho explained his vote as follows:

“Mr. Speaker:

We’re asking a lot of certain doctors. Without this amendment we are asking physicians who find this practice completely unethical, and believe this has no place in medical practice, to counsel patients about their full range of options including physician assisted suicide.”

Pending the question, Shall the bill be read the third time?

Recess

At one o'clock and thirty minutes in the afternoon, the Speaker declared a recess until one o'clock and fifty minutes in the afternoon.

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

Consideration Resumed; Consideration Interrupted by Recess

S. 77

Consideration resumed on Senate bill, entitled

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

Pending third reading of the bill, **Rep. Yantachka of Charlotte** moved to amend the House proposal of amendment as follows:

In Sec. 1, in 18 V.S.A. § 5293, by adding a subsection (c) to read:

(c)(1) Notwithstanding any provision of law to the contrary, a health care provider’s actions to dispense medication to hasten death in accordance with this chapter and a qualified patient’s actions to ingest the medication shall not be considered to be health care for any purpose under the law, including the purpose of providing coverage 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.

Thereupon, **Rep. Yantachka of Charlotte** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Rep. Wright of Burlington** moved to amend the House proposal of amendment as follows:

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

Sec. 1. **ADVISORY REFERENDUM ON PHYSICIAN-ASSISTED SUICIDE/DEATH WITH DIGNITY**

(a) There shall be submitted to the voters, on a ballot prepared by the Secretary of State at the general election in November 2014, the question:

Shall the General Assembly enact a law similar to S.77, “An act relating to patient choice and control at end of life” as introduced during the 2013–2014 session of the Vermont General Assembly, establishing the process known as “physician-assisted suicide” or “death with dignity”?

(b) The results of the vote required by subsection (a) of this section shall be submitted to the Clerk of the House of Representatives and the Secretary of the Senate.

Pending the question, Shall the House proposal of amendment be amended as recommended by Rep. Wright of Burlington? **Rep. Wright 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 House proposal of amendment be amended as recommended by Rep. Wright of Burlington? was decided in the negative. Yeas, 50. Nays, 93.

Those who voted in the affirmative are:

Batchelor of Derby	Burditt of West Rutland	Dickinson of St. Albans
Beyor of Highgate	Canfield of Fair Haven	Town
Bissonnette of Winooski	Condon of Colchester	Donaghy of Poultney
Bouchard of Colchester	Consejo of Sheldon	Donahue of Northfield
Branagan of Georgia	Cupoli of Rutland City	Fagan of Rutland City
Brennan of Colchester	Devereux of Mount Holly	Feltus of Lyndon

Gage of Rutland City	Lawrence of Lyndon	Savage of Swanton
Hebert of Vernon	Lewis of Berlin	Scheuermann of Stowe
Helm of Fair Haven	Marcotte of Coventry	Shaw of Pittsford
Higley of Lowell	McFaun of Barre Town	Smith of New Haven
Hubert of Milton	Morrissey of Bennington	South of St. Johnsbury
Johnson of Canaan	Myers of Essex	Strong of Albany
Juskiewicz of Cambridge	O'Brien of Richmond	Terenzini of Rutland Town
Kilmartin of Newport City	Pearce of Richford	Van Wyck of Ferrisburgh
Koch of Barre Town	Poirier of Barre City	Winters of Williamstown
Komline of Dorset	Quimby of Concord	Wright of Burlington *
Larocque of Barnet	Ralston of Middlebury	Young of Glover

Those who voted in the negative are:

Ancel of Calais	Head of South Burlington	Nuovo of Middlebury
Bartholomew of Hartland	Heath of Westford	O'Sullivan of Burlington
Browning of Arlington	Hoopier of Montpelier	Partridge of Windham
Burke of Brattleboro	Huntley of Cavendish	Pearson of Burlington
Buxton of Tunbridge	Jerman of Essex	Peltz of Woodbury
Campion of Bennington	Jewett of Ripton	Potter of Clarendon
Carr of Brandon	Johnson of South Hero	Pugh of South Burlington
Cheney of Norwich	Keenan of St. Albans City	Rachelson of Burlington
Christie of Hartford	Kitzmiller of Montpelier	Ram of Burlington
Clarkson of Woodstock	Klein of East Montpelier	Russell of Rutland City
Cole of Burlington	Krebs of South Hero	Sharpe of Bristol
Connor of Fairfield	Krowinski of Burlington	Spengler of Colchester
Conquest of Newbury	Kupersmith of South Burlington	Stevens of Waterbury
Copeland-Hanzas of Bradford	Lanpher of Vergennes	Stevens of Shoreham
Corcoran of Bennington	Lenes of Shelburne	Stuart of Brattleboro
Cross of Winooski	Lippert of Hinesburg	Sweaney of Windsor
Dakin of Chester	Macaig of Williston	Taylor of Barre City
Davis of Washington	Malcolm of Pawlet	Till of Jericho
Deen of Westminster	Manwaring of Wilmington	Toleno of Brattleboro
Donovan of Burlington	Marek of Newfane *	Toll of Danville
Ellis of Waterbury	Martin of Wolcott	Townsend of South Burlington
Emmons of Springfield	Masland of Thetford	Trieber of Rockingham
Evans of Essex	McCarthy of St. Albans City	Vowinkel of Hartford
Fay of St. Johnsbury	McCormack of Burlington	Waite-Simpson of Essex
Fisher of Lincoln	McCullough of Williston	Webb of Shelburne
Frank of Underhill	Michelsen of Hardwick	Weed of Enosburgh
French of Randolph	Miller of Shaftsbury	Wilson of Manchester
Goodwin of Weston	Mook of Bennington	Wizowaty of Burlington
Grad of Moretown	Moran of Wardsboro	Woodward of Johnson
Greshin of Warren	Mrowicki of Putney	Yantachka of Charlotte
Haas of Rochester		Zagar of Barnard

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

Botzow of Pownal
Gallivan of Chittenden

Mitchell of Fairfax
Shaw of Derby

Townsend of Randolph
Turner of Milton

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

This amendment would have destroyed all the work to date of this House and prevented any bill from being adopted for at least a year. Beyond that, it asked about voter support for a bill ‘similar’ to the original version of S.77. How many people voting on that would even have read S.77? The likely answer is none. If passed, how would our Members then interpret ‘similar’? The honest answer is any way they choose. This amendment called for a process without any real understanding from beginning to end.”

Rep. Wright of Burlington explained his vote as follows:

“Mr. Speaker:

This amendment would have given Vermonters the right to weigh in on this issue for the first time. Citizens would have clearly known what they were voting on because it would have been debated vigorously across the state. I trust Vermonters and their ability to cast informed votes.”

Pending third reading of the bill, **Rep. Poirier of Barre City** moved to amend the House proposal of amendment as follows:

In Sec. 1, 18 V.S.A. § 5281, by adding a new subdivision (6) to read as follows:

(6) “Health care” means any treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition, including services provided pursuant to a physician’s order, and services to assist in activities of daily living provided by a health care provider or in a health care facility or residential care facility.

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

Pending the question, Shall the House proposal of amendment be amended, as recommended, by Rep. Poirier of Barre City?

Recess

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

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

**Consideration Resumed; Proposal of Amendment Agreed to;
Bill Read Third Time and Passed**

S. 77

Consideration resumed on Senate bill, entitled

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

Thereupon, the recurring question, Shall the House proposal of amendment be amended, as recommended, by **Rep. Poirier of Barre City**? Was disagreed to on a Division Vote. Yeas, 26. Nays, 93

Pending third reading of the bill, **Rep. Kilmartin of Newport City** moved to amend the House proposal of amendment as follows:

First: In Sec. 1, in 18 V.S.A. § 5281, by adding a subdivision (17) to read:

(17) "Constitutionally guaranteed rights" means those rights set forth in the Vermont Constitution in Article I, Section 1.

Second: In Sec. 1, by adding 18 V.S.A. § 5298a to read:

§ 5298a. PERSONAL EXERCISE OF CONSTITUTIONALLY GUARANTEED RIGHTS

(a) Notwithstanding any provision of this chapter to the contrary, decisions, actions, products, and services made or consumed pursuant to this chapter shall be considered only the personal exercise of the individual's natural, inherent, and unalienable rights of enjoying and defending liberty, and pursuing and obtaining happiness, as guaranteed by the Vermont Constitution in Article I, Section 1. Under no circumstances shall decisions, actions, products, or services made or consumed pursuant to this chapter be considered health care or health treatment, or to establish a health care provider-patient relationship.

(b) Any death caused by the personal exercise of the qualified patient's guaranteed constitutional rights set forth in subsection (a) of this section shall list the cause of death on the death certificate as "death by the personal exercise of the Vermont constitutionally guaranteed rights of the decedent."

Pending the question, Shall the House proposal of amendment be amended as recommended by Rep. Kilmartin on Newport City? **Rep. Kilmartin of Newport 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 proposal of amendment be amended as

recommended by Rep. Kilmartin on Newport City? was decided in the negative. Yeas, 41. Nays, 105.

Those who voted in the affirmative are:

Batchelor of Derby	Gage of Rutland City	Morrissey of Bennington
Beyor of Highgate	Hebert of Vernon	Myers of Essex
Bouchard of Colchester	Helm of Fair Haven	Pearce of Richford
Branagan of Georgia	Higley of Lowell	Poirier of Barre City
Brennan of Colchester	Hubert of Milton	Quimby of Concord
Burditt of West Rutland	Johnson of Canaan	Savage of Swanton
Canfield of Fair Haven	Juskiewicz of Cambridge	Shaw of Pittsford
Cupoli of Rutland City	Kilmartin of Newport City	Smith of New Haven
Devereux of Mount Holly	Koch of Barre Town	Strong of Albany
Dickinson of St. Albans Town	Larocque of Barnet	Terenzini of Rutland Town
Donaghy of Poultney	Lawrence of Lyndon	Turner of Milton
Fagan of Rutland City	Lewis of Berlin	Van Wyck of Ferrisburgh
Feltus of Lyndon	Marcotte of Coventry	Winters of Williamstown
	McFaun of Barre Town	Wright of Burlington

Those who voted in the negative are:

Ancel of Calais	Evans of Essex	Macaig of Williston
Bartholomew of Hartland	Fay of St. Johnsbury	Malcolm of Pawlet
Bissonnette of Winooski	Fisher of Lincoln	Manwaring of Wilmington
Botzow of Pownal	Frank of Underhill	Marek of Newfane
Browning of Arlington	French of Randolph	Martin of Springfield
Burke of Brattleboro	Gallivan of Chittenden	Martin of Wolcott
Buxton of Tunbridge	Goodwin of Weston	Masland of Thetford
Campion of Bennington	Grad of Moretown	McCarthy of St. Albans City
Carr of Brandon	Greshin of Warren	McCormack of Burlington
Cheney of Norwich	Haas of Rochester	McCullough of Williston
Christie of Hartford	Head of South Burlington	Michelsen of Hardwick
Clarkson of Woodstock	Heath of Westford	Miller of Shaftsbury
Cole of Burlington	Hooper of Montpelier	Mook of Bennington
Condon of Colchester	Huntley of Cavendish	Moran of Wardsboro
Connor of Fairfield	Jerman of Essex	Mrowicki of Putney
Conquest of Newbury	Jewett of Ripton	Nuovo of Middlebury
Consejo of Sheldon	Johnson of South Hero	O'Brien of Richmond
Copeland-Hanzas of Bradford	Keenan of St. Albans City	O'Sullivan of Burlington
Corcoran of Bennington	Kitzmiller of Montpelier	Partridge of Windham
Cross of Winooski	Klein of East Montpelier	Pearson of Burlington
Dakin of Chester	Komline of Dorset	Peltz of Woodbury
Davis of Washington	Krebs of South Hero	Potter of Clarendon
Deen of Westminster	Krowinski of Burlington	Pugh of South Burlington
Donahue of Northfield	Kupersmith of South Burlington	Rachelson of Burlington
Donovan of Burlington	Lanpher of Vergennes	Ralston of Middlebury
Ellis of Waterbury	Lenes of Shelburne	Ram of Burlington
Emmons of Springfield	Lippert of Hinesburg	Russell of Rutland City
		Scheuermann of Stowe

Sharpe of Bristol	Till of Jericho	Webb of Shelburne
South of St. Johnsbury	Toleno of Brattleboro	Weed of Enosburgh
Spengler of Colchester	Toll of Danville	Wilson of Manchester
Stevens of Waterbury	Townsend of South	Wizowaty of Burlington
Stevens of Shoreham	Burlington	Woodward of Johnson
Stuart of Brattleboro	Trieber of Rockingham	Yantachka of Charlotte
Sweaney of Windsor	Vowinkel of Hartford	Young of Glover
Taylor of Barre City	Waite-Simpson of Essex	Zagar of Barnard

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

Mitchell of Fairfax	Shaw of Derby	Townsend of Randolph
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Pending third reading of the bill, **Rep. Waite-Simpson of Essex** moved to amend the House proposal of amendment as follows:

In Sec. 1, 18V.S.A. § 5295 by striking out “5294(b)” and inserting in lieu thereof “5294(c)”

Which was agreed to.

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **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 pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 81. Nays, 64.

Those who voted in the affirmative are:

Bartholomew of Hartland	Frank of Underhill	Krowinski of Burlington
Botzow of Pownal	French of Randolph *	Lenes of Shelburne
Burke of Brattleboro	Gallivan of Chittenden	Lippert of Hinesburg
Buxton of Tunbridge	Goodwin of Weston	Macaig of Williston
Campion of Bennington	Grad of Moretown	Manwaring of Wilmington
Carr of Brandon *	Greshin of Warren	Marek of Newfane
Cheney of Norwich	Haas of Rochester	Martin of Springfield
Clarkson of Woodstock	Head of South Burlington	Masland of Thetford
Cole of Burlington *	Heath of Westford	McCormack of Burlington
Condon of Colchester	Hooper of Montpelier	McCullough of Williston
Conquest of Newbury	Huntley of Cavendish	Michelsen of Hardwick
Consejo of Sheldon	Jerman of Essex	Miller of Shaftsbury
Davis of Washington	Jewett of Ripton	Mook of Bennington
Deen of Westminster	Johnson of South Hero	Mrowicki of Putney
Ellis of Waterbury	Kitzmiller of Montpelier	Nuovo of Middlebury
Emmons of Springfield	Klein of East Montpelier	O'Brien of Richmond
Fay of St. Johnsbury	Komline of Dorset	O'Sullivan of Burlington
Fisher of Lincoln	Krebs of South Hero	Partridge of Windham

Pearson of Burlington	Sweaney of Windsor	Webb of Shelburne
Peltz of Woodbury	Taylor of Barre City	Weed of Enosburgh
Pugh of South Burlington	Till of Jericho *	Wilson of Manchester
Rachelson of Burlington	Toleno of Brattleboro	Wizowaty of Burlington
Ram of Burlington	Toll of Danville	Woodward of Johnson
Sharpe of Bristol	Townsend of South	Yantachka of Charlotte *
Spengler of Colchester	Burlington	Young of Glover
Stevens of Waterbury	Trieber of Rockingham	Zagar of Barnard
Stevens of Shoreham	Vowinkel of Hartford	
Stuart of Brattleboro	Waite-Simpson of Essex	

Those who voted in the negative are:

Ancel of Calais	Evans of Essex	McCarthy of St. Albans City
Batchelor of Derby *	Fagan of Rutland City	McFaun of Barre Town
Beyor of Highgate	Feltus of Lyndon	Moran of Wardsboro
Bissonnette of Winooski	Gage of Rutland City	Morrissey of Bennington
Bouchard of Colchester	Hebert of Vernon	Myers of Essex
Branagan of Georgia	Helm of Fair Haven	Pearce of Richford
Brennan of Colchester	Higley of Lowell	Poirier of Barre City
Browning of Arlington	Hubert of Milton	Potter of Clarendon
Burditt of West Rutland	Johnson of Canaan	Quimby of Concord
Canfield of Fair Haven	Juskiewicz of Cambridge	Ralston of Middlebury
Christie of Hartford	Keenan of St. Albans City	Russell of Rutland City
Connor of Fairfield	Kilmartin of Newport City	Savage of Swanton
Corcoran of Bennington	Koch of Barre Town	Scheuermann of Stowe
Cross of Winooski	Kupersmith of South	Shaw of Pittsford *
Cupoli of Rutland City	Burlington	Smith of New Haven
Dakin of Chester	Lanpher of Vergennes	South of St. Johnsbury
Devereux of Mount Holly	Larocque of Barnet	Strong of Albany
Dickinson of St. Albans	Lawrence of Lyndon	Terenzini of Rutland Town
Town	Lewis of Berlin	Turner of Milton
Donaghy of Poultney	Malcolm of Pawlet	Van Wyck of Ferrisburgh *
Donahue of Northfield *	Marcotte of Coventry	Winters of Williamstown
Donovan of Burlington	Martin of Wolcott	Wright of Burlington

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

Copeland-Hanzas of Bradford	Mitchell of Fairfax Shaw of Derby	Townsend of Randolph
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Rep. Batchelor of Derby explained her vote as follows:

“Mr. Speaker:

Death should be between the physician, the patient and his or her God. It is not up to us to decide when we die. I cannot support S.77.”

Rep. Burditt of West Rutland explained his vote as follows:

“Mr. Speaker:

The state cannot giveth. The state cannot take away. I had a choice before this bill. I have a choice after – my choice.”

Rep. Carr of Brandon explained his vote as follows:

“Mr. Speaker:

I vote for this bill because it compels no one and permits anyone to follow their own dictates and beliefs. I believe in choice.”

Rep. Christie of Hartford explained his vote as follows:

“Mr. Speaker:

I voted no in obligation to my faith. Two weeks ago in Burlington I was knighted into the Knights of Columbus Knight of the 3rd degree.”

Rep. Cole of Burlington explained her vote as follows:

“Mr. Speaker:

Options - people with wealth can find them, poor people have a harder time.

Some of the people we represent now have family members who live in many locations far away. At the end of life there are a minority of people for which available pain medication is not sufficient. How can we not legally allow them and their doctors to figure out what is most merciful and loving for them.

I received a strange call saying it'd be hard cleaning up after someone who shoots themselves. Pass death with dignity so they can get medication and so they don't have to clean up the blood after someone shoots themselves.

Please let people Die in Peace with options.”

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

This bill creates a complex government structure to support and sanction the actions of a person to deliberately provide a deadly drug to another person for the explicit purpose of helping them to kill themselves. No matter what compassion drives it, it creates an unprecedented breach in the balance between individual rights and the common good. Is one unintended death, one irreversible mistake, directly caused by our actions today, worth it? I do not believe so.”

Rep. French of Randolph explained her vote as follows:

“Mr. Speaker:

I voted yes on this bill to give dying Vermonters a full range of choices regarding their final days and hours of life. Most Vermonters will never fully use this bill, but for any who gain a measure of comfort because they have that full range of choices available to them, I am thankful to have been a part of making that possible.”

Rep. Shaw of Pittsford explained his vote as follows:

“Mr. Speaker:

My no vote is extremely personal. This is not a legislative issue for me.”

Rep. Till of Jericho explained his vote as follows:

“Mr. Speaker:

I do not see the bright ethical line between what S.77 proposes and current practice. In both cases medical judgments are made about quality of life and life expectancy, medications are ordered, and medications which expedite death are given.

In medical ethics the number one tenet is autonomy. When autonomy conflicts with ‘first do no harm’, autonomy is more important. This bill gives dying patients more autonomy.”

Rep. Van Wyck of Ferrisburgh explained his vote as follows:

“Mr. Speaker:

This bill in the final stages is not about health care, nor about the withdrawal of extraordinary medical intervention. This is the State’s construction of physician assisted suicide by the prescription of a lethal dose of a controlled drug.

The House oath states: ‘I will not propose, or assent to, any bill, vote or resolution, which shall appear to me injurious to the people...’ This bill is beyond injurious; it is lethal. Physician assisted suicide will be a cancer in Vermont’s health care system – just like it is now in Oregon’s.”

Rep. Yantachka of Charlotte explained his vote as follows:

“Mr. Speaker:

This bill does not encourage suicide. Rather, it encourages someone suffering from a terminal illness to consider feasible alternatives, through an informed decision-making process through their own free will. If they decide

to continue to hasten their death, it will be with a choice of methods based on medical knowledge.”

Message from the Senate No. 55

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

Mr. Speaker:

I am directed to inform the House that:

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

H. 528. An act relating to revenue changes for fiscal year 2014 and fiscal year 2015.

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

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

S. 88

Senate bill, entitled

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

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

**Bill Amended, Read Third Time and Passed in
Concurrence with Proposal of Amendment**

S. 150

Senate bill, entitled

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

Was taken up and pending third reading of the bill, **Rep. McCarthy of St. Albans City** moved to propose to the Senate to amend the bill as follows:

By striking Sec. 3 in its entirety and inserting in lieu thereof the following:

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 the following, provided that the transportation and delivery of motor vehicles is a common and usual incident to ~~the repossession of motor vehicles in connection with~~ their business: persons towing overwidth trailers owned by them in connection with their business; persons whose business is the repossession of motor vehicles; and persons whose business involves moving vehicles from the place of business of a registered dealer to another registered dealer, leased vehicles to the lessor at the expiration of the lease, or vehicles purchased at the place of auction of an auction dealer to the purchaser. ~~For purposes of~~ As used in this subdivision, "short-term rental" shall mean a period of less than one year. Additionally, as used in this subdivision, "repossession" shall include the transport of a repossessed vehicle to a location specified by the lienholder or owner at whose direction the vehicle was repossessed. 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.

Which was agreed to. Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

**Third Reading; Joint Resolution Adopted in Concurrence
With Proposal of Amendment**

J.R.S. 14

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

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

Proposal of Amendment Agreed to; Third Reading Ordered

S. 59

Rep. Stevens of Waterbury, for the committee on General, Housing and Military Affairs, to which had been referred Senate bill, entitled

An act relating to independent direct support providers

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

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

Sec. 1. 21 V.S.A. chapter 20 is added to read:

CHAPTER 20. INDEPENDENT DIRECT SUPPORT

PROVIDERS

§ 1631. DEFINITIONS

As used in this chapter:

(1) “Board” means the State Labor Relations Board established by 3 V.S.A. § 921.

(2) “Collective bargaining” or “bargaining collectively” means the process by which the State and the exclusive representative of the independent direct support providers negotiate mandatory subjects of bargaining identified in subsection 1634(b) of this chapter, or any other mutually agreed subjects of bargaining not in conflict with state or federal law, with the intent to arrive at an agreement which, when reached, shall be legally binding on all parties.

(3) “Collective bargaining service fee” means a fee deducted by the State from the compensation of an independent direct support provider who is not a member of the exclusive representative of independent direct support providers, which is paid to the exclusive representative. The collective bargaining service fee shall not exceed 85 percent of the amount payable as dues by members of the exclusive representative, and shall be deducted in the same manner as dues are deducted from the compensation of members of the

exclusive representative, and shall be used to defray the costs incurred by the labor organization in fulfilling its duty to represent independent direct support providers in their relations with the State.

(4) “Exclusive representative” means the labor organization that has been certified under this chapter and has the right to represent independent direct support providers for the purpose of collective bargaining.

(5) “Grievance” means the exclusive representative’s formal written complaint regarding the improper application of one or more terms of the collective bargaining agreement, the failure to abide by any agreement reached, or the discriminatory application of a rule or regulation, which has not been resolved to a satisfactory result through informal discussion with the State.

(6) “Independent direct support provider” means any individual who provides home- and community based services to a service recipient and is employed by the service recipient, shared living provider, or surrogate.

(7) “Labor organization” means an organization of any kind in which independent direct support providers participate and which exists, in whole or in part, for the purpose of representing independent direct support providers.

(8) “Service recipient” means a person who receives home- and community-based services under the Choices for Care Medicaid waiver, the Attendant Services Program (ASP), the Children’s Personal Care Service Program, the Developmental Disabilities Services Program, or any successor program or similar program subsequently established.

(9) “Shared living provider” means a person who operates under a contract with an authorized agency and provides individualized home support for one or two people who live in his or her home. An authorized agency includes a designated agency for developmental services.

(10) “Surrogate” means a service recipient’s authorized family member, legal guardian, or a person identified in a written agreement as having responsibility for the care of a service recipient.

§ 1632. RIGHTS OF INDEPENDENT DIRECT SUPPORT PROVIDERS

Independent direct support providers shall have the right to:

(1) organize, form, join, or assist a labor organization for the purposes of collective bargaining without interference, restraint, or coercion;

(2) bargain collectively through their chosen representatives;

(3) engage in concerted activities for the purpose of supporting or engaging in collective bargaining or other mutual aid or protection;

(4) pursue grievances through the exclusive representative as provided in this chapter; and

(5) refrain from any or all such activities, subject to the requirements of subdivision 1634(b)(3) of this chapter.

§ 1633. RIGHTS OF THE STATE

Subject to the rights guaranteed by this chapter and subject to all other applicable laws, rules, and regulations, nothing in this chapter shall be construed to interfere with the right of the State to:

(1) carry out the statutory mandate and goals of the Agency of Human Services and to utilize personnel, methods, and means in the most appropriate manner possible;

(2) with the approval of the Governor, take whatever action may be necessary to carry out the mission of the Agency of Human Services in an emergency situation;

(3) comply with federal and state laws and regulations;

(4) enforce regulations and regulatory processes;

(5) develop regulations and regulatory processes that do not impair existing contracts, subject to the duty to bargain over mandatory subjects of bargaining and to the rulemaking authority of the General Assembly and the Human Services Board; and

(6) solicit and accept for use any grant of money, services, or property from the federal government, the State, or any political subdivision or agency of the State, including federal matching funds, and to cooperate with the federal government or any political subdivision or agency of the State in making an application for any grant.

§ 1634. ESTABLISHMENT OF LIMITED COLLECTIVE BARGAINING;

SCOPE OF BARGAINING

(a) Independent direct support providers, through their exclusive representative, shall have the right to bargain collectively with the State, through the Governor's designee, under this chapter.

(b) Mandatory subjects of bargaining under this section shall be limited to:

(1) compensation rates, workforce benefits, and payment methods and procedures, except that independent direct support providers shall not be eligible to participate in the State's retirement system or the Vermont state employee health plan solely by virtue of bargaining under this chapter;

(2) professional development and training, except that the issue of whether the State may choose directly to create and administer a professional development or training program shall be a permissive subject of bargaining;

(3) the collection and disbursement of dues or fees to the exclusive representative, provided that a collective bargaining service fee may not be required of nonmembers unless the exclusive representative has established and maintained a procedure to provide nonmembers with:

(A) an audited financial statement that identifies the major categories of expenses, and divides them into chargeable and nonchargeable expenses; and

(B) an opportunity to object to the amount of the agency fee sought, any amount reasonably in dispute to be placed in escrow, subject to prompt review and determination by the board to resolve any objection over the amount of the collective bargaining fee, as provided for in subsection (d) of this section.

(4) procedures for resolving grievances against the State, provided that the final step of any negotiated grievance procedure, if required, shall be a hearing and final determination by the board in accordance with board rules and regulations; and

(5) access to job referral opportunities within covered programs, except that the issue of whether the State may choose directly to create and administer a referral registry shall be a permissive subject of bargaining.

(c) For the purpose of this chapter, the obligation to bargain collectively is the performance of the mutual obligation of the State and the exclusive representative of the independent direct support providers to meet at reasonable times and confer in good faith with respect to all matters bargainable under the provisions of this chapter; but the failure or refusal of either party to agree to a proposal, or to change or withdraw a lawful proposal, or to make a concession shall not constitute, or be evidence of direct or indirect, a breach of this obligation. Nothing in this chapter shall be construed to require either party during collective bargaining to accede to any proposal or proposals of the other party.

(d) Any dispute raised by a nonmember concerning the amount of a collective bargaining service fee, as provided for under subdivision (b)(3) of this section, may be grieved to the State Labor Relations Board which shall review and determine such matter promptly, in accordance with the Board's rules.

§ 1635. ELECTION; BARGAINING UNIT

(a) Petitions and elections shall be conducted pursuant to the procedures provided in 3 V.S.A. §§ 941 and 942, except that only one bargaining unit shall exist for independent direct support providers, and the exclusive representative shall be the exclusive representative for the purpose of grievances.

(b) A representation election for independent direct support providers conducted by the Board shall be by mail ballot.

(c) The bargaining unit for purposes of collective bargaining pursuant to this chapter shall be one statewide unit of independent direct support providers. Eligible independent direct support providers shall have the right to participate in a representation election but shall not have the right to vote on or otherwise determine the collective bargaining unit. Eligible independent direct support providers shall all be independent direct support providers who have been paid for providing home- and community-based services within the previous 180 days.

(d) At least quarterly the State shall compile and maintain a list of names and addresses of all independent direct support providers who have been paid for providing home- and community-based services to service recipients within the previous 180 days. The list shall not include the names of any recipient, or indicate that an independent direct support provider is a relative of a recipient or has the same address as a recipient. The State shall, upon request, provide within seven days the most recent list of independent direct support providers in its possession to any organization which has as one of its primary purposes the collective bargaining representation of independent direct support providers in their relations with state or other public entities. This obligation shall include providing the most recent list, upon request, to any labor organization certified as the exclusive representative under this chapter.

§ 1636. MEDIATION; FACT-FINDING; LAST BEST OFFER

(a) If, after a reasonable period of negotiation, the representative of the collective bargaining unit and the State reach an impasse, the Board, upon petition of either party, may authorize the parties to submit their differences to mediation. Within five days after receipt of the petition, the Board shall

appoint a mediator who shall communicate with the parties and attempt to mediate an amicable settlement. A mediator shall be of high standing and not actively connected with labor or management.

(b) If, after a reasonable period of time, no fewer than 15 days after the appointment of a mediator, the impasse is not resolved, the mediator shall certify to the Board that the impasse continues.

(c) The Board shall appoint a fact finder who has been mutually agreed upon by the parties. If the parties fail to agree on a fact finder within five days, the Board shall appoint a neutral third party to act as a fact finder pursuant to rules adopted by the Board. A member of the Board or any individual who has actively participated in mediation proceedings for which fact-finding has been called shall not be eligible to serve as a fact finder under this section, unless agreed upon by the parties.

(d) The fact finder shall conduct hearings pursuant to rules of the Board. Upon request of either party or of the fact finder, the Board may issue subpoenas of persons and documents for the hearings and the fact finder may require that testimony be given under oath and may administer oaths.

(e) Nothing in this section shall prohibit the fact finder from endeavoring to mediate the dispute at any time prior to issuing recommendations.

(f) The fact finder shall consider the following factors in making a recommendation:

(1) the needs and welfare of consumers, including their interest in greater access to quality services;

(2) the nature and needs of the personal care assistance program;

(3) the interest and welfare of independent direct support providers;

(4) the history of negotiation between the parties, including those leading to the proceedings;

(5) changes in the cost of living; and

(6) generally accepted labor-management relations practices in Vermont.

(g) Upon completion of the hearings provided in subsection (d) of this section, the fact finder shall file written findings and recommendations with both parties.

(h) The costs of witnesses and other expenses incurred by either party in fact-finding proceedings shall be paid directly by the parties incurring them.

and the costs and expenses of the fact finder shall be divided equally by the parties. The fact finder shall be paid a rate mutually agreed upon by the parties for each day or any part of a day while performing fact-finding duties and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of his or her duties. A statement of fact-finding per diem and expenses shall be certified by the fact finder and submitted to the Board for approval. The Board shall provide a copy of approved fact-finding costs to each party with its order apportioning half of the total to each party for payment. Each party shall pay its half of the total within 15 days after receipt of the order. Approval by the Board of fact-finding and the fact finder's costs and expenses and its order for payment shall be final as to the parties.

(i) If the dispute remains unresolved 20 days after transmittal of findings and recommendations, each party shall submit to the Board its last best offer on all disputed issues as a single package. Each party's last best offer shall be certified to the Board by the fact finder. The board may hold hearings and consider the recommendations of the fact finder. Within 30 days of the certifications, the Board shall select between the last best offers of the parties, considered in their entirety without amendment, and shall determine its cost. The Board shall not issue an order under this subsection that: (1) is in conflict with any statute; (2) is in conflict with any rule unless the rule relates to a mandatory subject of bargaining; or (3) determines an issue that is not a mandatory subject of bargaining. The Board shall determine the cost of the agreement selected and recommend to the General Assembly its choice with a request for appropriation. If the General Assembly appropriates sufficient funds, the agreement shall become effective and legally binding at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly, and the agreement with the negotiated changes shall become effective and binding at the beginning of the next fiscal year. No portion of any agreement shall become effective separately without the mutual consent of the parties.

§ 1637. GENERAL DUTIES AND PROHIBITED CONDUCT

(a) The State and the independent direct support providers and their representatives shall make every reasonable effort to make and maintain agreements concerning matters allowed under this chapter and to settle all disputes, whether arising out of the application of those agreements or disputes concerning the agreements. All disputes shall, upon request of either party, be considered within 15 days of the request or at such times as may be mutually

agreed to and if possible settled with all expedition in conference between representatives designated and authorized to confer by the State or the independent direct support providers. This obligation does not compel either party to make any agreements or concessions.

(b) It shall be an unfair labor practice for the State to:

(1) Interfere with, restrain, or coerce independent direct support providers in the exercise of their rights under this chapter or by any law, rule, or regulation.

(2) Dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it.

(3) Discriminate in regard to referral practices or eligibility for work opportunities within covered programs for an independent direct support provider, or to encourage or discourage membership in any labor organization.

(4) Take negative action against an independent direct support provider because the provider has taken actions demonstrating his or her support for a labor organization, including signing a petition, grievance, or affidavit or giving testimony under this chapter.

(5) Refuse to bargain collectively in good faith with the exclusive representative.

(6) Discriminate against an independent direct support provider based on race, color, creed, religion, age, gender, sexual orientation, gender identity, or national origin, or because the provider is a qualified individual with a disability.

(c) It shall be an unfair labor practice for a labor organization to:

(1) Restrain or coerce independent direct support providers in the exercise of the rights guaranteed them by law, rule, or regulation. However, a labor organization may prescribe its own rules with respect to the acquisition or retention of membership, provided such rules are not discriminatory.

(2) Refuse to bargain collectively in good faith with the State.

(3) Cause, or attempt to cause, the State to discriminate against an independent direct support provider in violation of subsection (b) of this section.

(4) Threaten to or cause a provider to strike or curtail the provider's services in recognition of a picket line of any employee or labor organization.

(d) An independent direct support provider shall not strike or curtail his or her services in recognition of a picket line of any employee or labor organization.

§ 1638. PREVENTION OF UNFAIR PRACTICES

(a) The Board may prevent the State or a labor organization from engaging in any unfair labor practice listed in section 1637 of this title. Whenever a charge is made that the State or a labor organization has engaged in or is engaging in any unfair labor practice, the Board may issue and cause to be served upon that party a complaint stating the charges in that respect and containing a notice of hearing before the Board at a place and time therein fixed at least seven days after the complaint is served. The Board may amend the complaint at any time before it issues an order based thereon. No complaint shall issue based on any unfair labor practice occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the party against whom such charge is made, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the U.S. Armed Forces, in which event the six-month period shall be computed from the day of his or her discharge.

(b) The party complained of shall have the right to file an answer to the original or amended complaint and appear in person or otherwise and present evidence in connection therewith at the time and place fixed in the complaint. In the discretion of the Board, any other person may be permitted to intervene and present evidence in the matter. Any proceeding under this section shall, so far as practicable, be conducted in accordance with rules of evidence used in the courts. The Board shall provide for the making of a transcript of the testimony presented at the hearing.

(c) The Board shall have power to administer oaths and take testimony under oath relative to the matter of inquiry. At any hearing ordered by the Board, the Board shall have the power to subpoena witnesses and to demand the production of books, papers, records, and documents for its examination. Officers who serve subpoenas issued by the Board and witnesses attending hearings conducted by the Board shall receive fees and compensation at the same rates as officers and witnesses in causes before a Criminal Division of the Superior Court, to be paid on vouchers of the Board.

(d) If upon the preponderance of the evidence, the Board finds that any party named in the complaint has engaged in or is engaging in any such unfair labor practice, it shall state its finding of fact in writing and shall issue and cause to be served on that party an order requiring him or her to cease and desist from the unfair labor practice, and to take such affirmative action as will

carry out the policies of this chapter. If upon the preponderance of the evidence, the Board does not find that the party named in the complaint has engaged in or is engaging in any unfair labor practice, it shall state its findings of fact in writing and dismiss the complaint.

(e) In determining whether a complaint shall issue alleging a violation of subdivision 1637(1) or (2) of this title, and in deciding those cases, the same regulations and rules of decision shall apply irrespective of whether or not a labor organization affected is affiliated with a labor organization national or international in scope.

§ 1639. NEGOTIATED AGREEMENT; FUNDING

(a) If the State and the exclusive representative reach an agreement, the Governor shall request from the General Assembly an appropriation sufficient to fund the agreement in the next operating budget. If the General Assembly appropriates sufficient funds, the negotiated agreement shall become effective and binding at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly and shall become effective and legally binding in the next fiscal year.

(b) Collective bargaining agreements shall be for a maximum term of two years and shall not be subject to cancellation or renegotiation during the term except with the mutual consent in writing of both parties, which consent shall be filed with the Board. Upon the filing of such consent, an agreement may be supplemented, cancelled, or renegotiated.

(c) The agreement shall terminate at the expiration of its specified term. Negotiations for a new agreement to take effect upon the expiration of the preceding agreement shall be commenced at any time within one year next preceding the expiration date upon the request of either party and may be commenced at any time previous thereto with the consent of both parties.

(d) In the event the State of Vermont and the collective bargaining unit are unable to arrive at an agreement and there is not an existing agreement in effect, the existing contract shall remain in force until a new contract is ratified by the parties. However, nothing in this subsection shall prohibit the parties from agreeing to a modification of certain provisions of the existing contract which, as amended, shall remain in effect until a new contract is finalized and funded by the General Assembly.

(e) The Board is authorized to enforce compliance with all provisions of a collective bargaining agreement upon complaint of either party. In the event a

complaint is made by either party to an agreement, the Board shall proceed in the manner prescribed in section 1638 of this title relating to the prevention of unfair labor practices.

§ 1640. RIGHTS UNALTERED

(a) A collective bargaining agreement shall not infringe upon any rights of service recipients or their surrogates to hire, direct, supervise, or discontinue the employment of any particular independent direct support provider.

(b) Nothing in this section shall alter the rights and obligations of private sector employers and employees under the National Labor Relations Act, 29 U.S.C. § 151 et seq.

(c) Independent direct support providers shall not be considered state employees for purposes other than collective bargaining, including for purposes of joint or vicarious liability in tort or the limitation on liability in subsection (e) of this section. Independent direct support providers shall not be eligible for participation in the State Employee Retirement System or health care plan solely by virtue of bargaining under this chapter. Nothing in this chapter shall require the State to alter its current practice with respect to independent direct support providers of making payments regarding Social Security and Medicare taxes, federal or state unemployment contributions, or workers' compensation insurance.

(d) Nothing in this chapter shall infringe upon the right of the Judiciary and the General Assembly to make programmatic modifications to the delivery of state services through subsidy or other programs.

(e) The State and its employees shall not be vicariously liable for any act or omission by an independent direct support provider or any claim arising out of the employment relationship between a service recipient and an independent direct service provider, nor shall the State be liable as a joint employer.

§ 1641. RULES AND REGULATIONS

The Board shall make and may amend and rescind and adopt such rules and regulations consistent with this chapter as may be necessary to carry out the provisions of this chapter.

§ 1642. APPEAL

(a) Any person aggrieved by an order or decision of the Board issued under the authority of this chapter may appeal on questions of law to the Supreme Court.

(b) An order of the Board shall not automatically be stayed pending appeal. A stay must first be requested from the Board. The Board may stay the order or any part of it. If the Board denies a stay, then a stay may be requested from the Supreme Court. The Supreme Court or a single justice may stay the order or any part of it and may order additional interim relief.

§ 1643. ENFORCEMENT

(a) Orders of the Board issued under this chapter may be enforced by any party or by the Board by filing a petition with the Civil Division of the Superior Court of Washington County or in the Civil Division of the Superior Court in the county in which the action before the Board originated. The petition shall be served on the adverse party as provided for service of process under the Vermont Rules of Civil Procedure. If, after hearing, the court determines that the Board had jurisdiction over the matter and that a timely appeal was not filed or that an appeal was timely filed and a stay of the Board order or any part of it was not granted or that a Board order was affirmed on appeal in pertinent part by the Supreme Court, the court shall incorporate the order of the Board as a judgment of the court. There is no appeal from that judgment except that a judgment reversing a Board decision on jurisdiction may be appealed to the Supreme Court.

(b) Upon filing of a petition by a party or the Board, the court may grant such temporary relief, including a restraining order, as it deems proper pending formal hearing.

(c) Orders and decisions of the Board shall apply only to the particular case under appeal, but any number of appeals presenting similar issues may be consolidated for hearing with the consent of the Board. The Board shall not modify, add to, or detract from a collective bargaining agreement by any order or decision.

§ 1644. ANTITRUST EXEMPTION

The activities of independent direct support providers and their exclusive representative that are necessary for the exercise of their rights under this chapter shall be afforded state action immunity under applicable federal and state antitrust laws. The State intends that the “state action” exemption to federal antitrust laws be available only to the State, to independent direct support providers, and to their exclusive representative in connection with these necessary activities. Exempt activities shall be actively supervised by the State.

Sec. 2. SELF-DETERMINATION ALLIANCE

(a) There is established a Self-Determination Alliance to advise the State on issues related to stabilizing the independent direct provider workforce and improving the quality of services provided to people with disabilities and elders who manage their services. The alliance shall consist of:

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee;

(2) The Commissioner of Health or designee;

(3) Two service recipients who manage their services under Developmental Disabilities Services, two service recipients who manage their services under Choices for Care Medicaid Waiver, and two recipients who manage their services under Attendant Services Program (ASP), and one service recipient who manages his or her services under the Traumatic Brain Injury Program.

(4) One family member of a service recipient under Children's Personal Care Program and one family member of a service recipient under Developmental Disabilities Services.

(b) All initial appointments to the Alliance shall be made on or before August 1, 2013. The chair shall convene the first meeting on or before September 1, 2013. The chair shall be appointed by the Governor from among its members. Members shall serve coterminously and at the pleasure of their appointing authority. A majority of members of the Self-Determination Alliance shall constitute a quorum for the transaction of any business. The Alliance shall be within the Agency of Human Services for administrative purposes only.

(c) The Self-Determination Alliance shall advise the State regarding issues relating to attracting and retaining a high-quality independent direct support provider workforce to be available to all service recipients, including making recommendations to improve the quality, stability, and availability of the independent direct support provider workforce.

(d) The Secretary of Human Services shall review the recommendations of the Self-Determination Alliance within 30 days of submission, and shall include the recommendations with his or her input to the Governor's collective bargaining designee.

Sec. 3. SUNSET

Sec. 2 of this act shall be repealed on June 30, 2018. Prior to this date, the members of the Self-Determination Alliance shall review the purpose and membership of the Alliance and report its recommendations on the future role of the Alliance to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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.

Senate Proposal of Amendment Concurred in

H. 2

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

An act relating to the Governor's Snowmobile Council

In Sec. 2 by striking out the phrase "on July 1, 2013" and inserting in lieu thereof on passage

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 513

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

An act relating to the Department of Financial Regulation

First: In Sec. 26, 8 V.S.A. § 3579, by striking out subsection (e) in its entirety and by inserting in lieu thereof a new subsection (e) to read as follows:

(e) No partner or other person rendering the report required by ~~section 3578~~ the annual financial reporting rule adopted by the Commissioner under section 3578a of this title may act in that capacity for more than ~~seven~~ five consecutive years. Upon application by the insurer, the ~~commissioner~~ Commissioner may find that the rotation requirement of this subsection would pose an unreasonable hardship on the insurer and may extend the accountant's period of qualification for an additional term. In making such determinations, the ~~commissioner~~ Commissioner may consider the experience of the retained accountant and the size of his or her business, the premium volume of the insurer, and the number of jurisdictions in which the insurer transacts business,

as provided by the annual financial reporting rule adopted by the Commissioner under section 3578 of this title.

Second: In Sec. 30, 8 V.S.A. § 3684, subdivision (b)(7), by striking out the words “is responsible for and”

Third: In Sec. 31, 8 V.S.A. § 3685, subsection (j), by striking out subdivision (4) in its entirety and by inserting a new subdivision (4) to read as follows:

(4) The board of directors of a domestic insurer shall establish one or more committees composed of a majority of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers. For purposes of this subsection, principal officers shall mean the chief executive officer, the president, and any chief operating officer.

Fourth: In Sec. 33, 8 V.S.A. § 3687, subsection (a), in the first sentence, by striking out the words “All information, documents and copies thereof” and by inserting in lieu thereof Documents, materials, or other information in the possession or control of the Department that are

Fifth: In Sec. 33, 8 V.S.A. § 3687, subsection (f), after “confidential by law and privileged,” by inserting shall not be subject to public inspection and copying under the Public Records Act,

Sixth: By adding a Sec. 35a to read:

Sec. 35a. 8 V.S.A. chapter 159 is redesignated to read:

CHAPTER 159. RISK BASED CAPITAL FOR ~~LIFE AND HEALTH~~ INSURERS

Seventh: In Sec. 36, 8 V.S.A. § 8301, by striking out subdivision (9) in its entirety and by inserting in lieu thereof a new subdivision (9) to read as follows:

~~(10)(9)~~ “Negative trend” means a decreasing marginal difference of total adjusted capital over authorized control level risk based capital, with respect to a life or health insurer or fraternal benefit society, negative trend over a period

of time as determined in accordance with the trend test calculation ~~incorporated~~ included in the life or fraternal risk based capital instructions.

Eighth: By adding a Sec. 51a to read:

Sec. 51a. 8 V.S.A. chapter 141, subchapter 4 is redesignated to read:

Subchapter 4. Special Purpose Financial ~~Captive~~ Insurance Companies

Ninth: In Sec. 66, 8 V.S.A. § 6048o, subsection (a), by striking out the word “chapter” and inserting in lieu thereof the word subchapter

Which proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Concurred in
with a Further Amendment Thereto**

H. 95

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

An act relating to unclaimed life insurance benefits

First: In Sec. 1, 27 V.S.A. § 1244a, subsection (b), after the first sentence, by adding a sentence to read An insurance company may use the full Death Master File once annually and the Death Master File Update Files for the remaining comparisons in the year.

Second: In Sec. 1, 27 V.S.A. § 1244a, by striking out subdivision (b)(1) in its entirety and by inserting in lieu thereof a new subdivision (b)(1) to read as follows:

(1) within 90 days of identifying the match:

(A) complete a good faith effort, which shall be documented by the insurance company, to confirm the death of the insured, annuitant, or retained asset account holder against other available records and information;

(B) review its records to determine whether the deceased insured has purchased any other products with the insurance company; and

(C) determine whether benefits are due in accordance with the applicable policy or contract; and, if benefits are due in accordance with the applicable policy or contract:

(i) use good faith efforts, which shall be documented by the insurance company, to locate the beneficiary or beneficiaries; and

(ii) provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate, if applicable under the policy or contract; and

Third: In Sec. 1, 27 V.S.A. § 1244a, subsection (e), after the words “life insurance policy” by adding , contract,

Fourth: In Sec. 1, 27 V.S.A. § 1244a, subdivision (f)(1), after the words “life insurance policy” by adding or contract,

Fifth: In Sec. 1, 27 V.S.A. § 1244a, subsection (g), after the words “unclaimed life insurance” by adding or annuity death

Sixth: By striking out Sec. 2 (effective date; retroactive application) in its entirety and by inserting in lieu thereof a new Sec. 2 to read:

Sec. 2. 8 V.S.A. § 3802a is added to read:

§ 3802a. POLICYHOLDER INFORMATION

For each group life insurance policy issued under this subchapter, the insurer shall maintain at least the following information for those covered under the policy:

- (1) Social Security Number, if any, name, and date of birth;
- (2) beneficiary designation information;
- (3) coverage eligibility;
- (4) benefit amount; and
- (5) premium payment status.

Seventh: By adding Sec. 3 to read:

Sec. 3. EFFECTIVE DATE; APPLICATION

This act shall take effect on July 1, 2013 and, notwithstanding 1 V.S.A. § 214(b), shall apply to all life insurance policies, annuity contracts, and retained asset accounts in force on or after the effective date, except that Sec. 2 of this act (policyholder information for group life insurance) shall apply only to group life insurance policies issued or renewed on or after the effective date.

Rep. Kupersmithi of South Burlington moved that the House concur in the Senate proposal of amendment with a further amendment thereto as follows:

First: By striking out Sec. 2 (group life policyholder information) in its entirety and by inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. EFFECTIVE DATE; APPLICATION

This act shall take effect on July 1, 2013 and, notwithstanding 1 V.S.A. § 214(b), shall apply to all life insurance policies, annuity contracts, and retained asset accounts in force on or after the effective date.

Second: By striking out Sec. 3 in its entirety

Which was agreed to.

Action on Bill Postponed**H. 105**

House bill, entitled

An act relating to adult protective services reporting requirements

Was taken up and pending the question, Shall the House concur in the the Senate proposal of amendment? on motion of **Rep. Haas of Rochester**, action on the bill was postponed until the next legislative day.

Bill Committed**H. 377**

House bill, entitled

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

Appearing on the Calendar for action, was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Dickinson of St. Albans Town**, the bill was committed to the committee on Commerce and Economic Development.

Joint Resolution Adopted**J.R.H. 9**

Joint resolution, entitled

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

Was taken up and adopted on the part of the House.

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.

Message from the Senate No. 56

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

Mr. Speaker:

I am directed to inform the House that:

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

H. 205. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 474. An act relating to amending the membership and charge of the Government Accountability Committee.

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

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

H. 525. An act relating to approval of amendments to the charter of the Town of Stowe.

H. 529. An act relating to approval of an amendment to the charter of the Winooski Incorporated School District related to the term of district treasurer.

And has passed the same in concurrence.

The Senate has considered House proposals of amendment to Senate bills of the following titles:

S. 151. An act relating to miscellaneous changes to the laws governing commercial motor vehicle licensing and operation.

S. 161. An act relating to mitigation of traffic fines and approval of a DLS Diversion Program contract.

And has concurred therein.

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon House bill of the following title:

H. 131. An act relating to harvesting guidelines and procurement standards.

And has accepted and adopted the same on its part.

The Senate has considered House proposal of amendment to Senate bill entitled:

S. 1. An act relating to consideration of financial cost of criminal sentencing options.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses:

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Ashe

Senator Sears

Senator Benning

Adjournment

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