Journal of the House

Thursday, May 9, 2013

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

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Rules Suspended; Bill Recommitted

S. 40

On motion of **Rep. Donovan of Burlington**, the rules were suspended and Senate bill, entitled

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

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending the reading of the report of the committee on Education, on motion of **Rep. Donovan of Burlington**, the bill was recommitted to the committee on Education.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 129

Rep. Marcotte of Coventry, for the committee on Commerce and Economic Development, to which had been referred Senate bill, entitled

An act relating to workers' compensation liens

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. § 7 is added to read:

§ 7. POWERS OF COMMISSIONER

In addition to all other powers granted the Commissioner by this title, the Commissioner or designee may, upon presenting appropriate credentials, at reasonable times and without disrupting critical business operations, enter and inspect any place of business or employment, question any employees, and investigate any facts, conditions, or matters necessary and material to the administration of chapters 9 and 17 of this title. The Commissioner shall inform the employer of his or her right to refuse entry. If entry is refused, the Commissioner may apply to the Civil Division of the Superior Court of Washington County for an order to enforce the rights given the Commissioner under this section.

Sec. 2. 21 V.S.A. § 397 is added to read:

§ 397. WORKPLACE POSTINGS AND EMPLOYER REQUIREMENTS

(a) The Department of Labor shall develop and include in its workplace posters information regarding the rights of employees to unemployment compensation, workers compensation, wages and overtime pay, workplace safety and protections, and misclassification of employees. The information shall also contain contact information for individuals to inquire about their rights and obligations and to file complaints or inquire about employment classification status. This information shall be provided in English or other languages required by the Commissioner. The posters shall be posted by employers in a conspicuous location at the worksite.

(b) Employers who violate this section shall be subject to an administrative penalty of up to $100.00 per violation.

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

§ 643a. DISCONTINUANCE OF BENEFITS

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

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

Sec. 4. 21 V.S.A. § 655 is amended to read:

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

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the ~~commissioner~~ Commissioner, the employee shall submit to examination, at reasonable times and places, by a duly licensed physician or surgeon designated and paid by the employer. The employee may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a licensed health care provider designated and paid by the employee present at the examination. The employer may make an audio recording of the examination. The right of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit to or in any way obstructs the examination, the

employee's right to prosecute any proceeding under the provisions of this chapter shall be suspended until the refusal or obstruction ceases, and compensation shall not be payable for the period which the refusal or obstruction continues. The physician shall provide a report of the examination to the employee at the same time any report is provided to the employer.

Sec. 5. 21 V.S.A. § 678 is amended to read:

§ 678. COSTS; ATTORNEY FEES

(a) Necessary costs of proceedings under this chapter, including deposition expenses, subpoena fees, and expert witness fees, shall be assessed by the ~~commissioner~~ Commissioner against the employer or its workers' compensation carrier when the claimant prevails. The ~~commissioner~~ Commissioner may allow the claimant to recover reasonable ~~attorney~~ attorney's fees when the claimant prevails. Costs shall not be taxed or allowed either party except as provided in this section.

(b) In appeals to the ~~superior or supreme courts~~ Superior or Supreme Court, if the claimant prevails, he or she shall be entitled to reasonable ~~attorney~~ attorney's fees as approved by the ~~court~~ Court, necessary costs, including deposition expenses, subpoena fees, and expert witness fees, and interest at the rate of 12 percent per annum on that portion of any award the payment of which is contested. Interest shall be computed from the date of the award of the ~~commissioner~~ Commissioner.

* * *

Sec. 6. 21 V.S.A. § 692 is amended to read:

§ 692. PENALTIES; FAILURE TO INSURE; ~~STOP-WORK~~ STOP-WORK ORDERS

(a) Failure to insure. If after a hearing under section 688 of this title, the ~~commissioner~~ Commissioner determines that an employer has failed to comply with the provisions of section 687 of this title, the employer shall be assessed an administrative penalty of not more than $100.00 for every day for the first seven days the employer neglected to secure liability and not more than $150.00 for every day thereafter. In addition to any other remedies and proceedings authorized by this chapter, the Commissioner may bring an action in the Civil Division of the Superior Court. The remedies available in a civil action, including attachment and trustee process, shall be available for the collection of any fines, penalties, and amounts assessed under this chapter

(b) Stop-work orders. If an employer fails to comply with the provisions of section 687 of this title after investigation by the ~~commissioner~~ Commissioner,

the ~~commissioner~~ Commissioner shall issue an emergency order to that employer to stop work until the employer has secured workers' compensation insurance. If the ~~commissioner~~ Commissioner determines that issuing a stop-work order would immediately threaten the safety or health of the public, the ~~commissioner~~ Commissioner may permit work to continue until the immediate threat to public safety or health is removed. The ~~commissioner~~ Commissioner shall document the reasons for permitting work to continue, and the document shall be available to the public. In addition, the employer shall be assessed an administrative penalty of not more than $250.00 for every day that the employer fails to secure workers' compensation coverage after the ~~commissioner~~ Commissioner issues an order to obtain insurance and may also be assessed an administrative penalty of not more than $250.00 for each employee for every day that the employer fails to secure workers' compensation coverage as required in section 687 of this title. When a stop-work order is issued, the ~~commissioner~~ Commissioner shall post a notice at a conspicuous place on the work site of the employer informing the employees that their employer failed to comply with the provisions of section 687 of this title and that work at the work site has been ordered to cease until workers' compensation insurance is secured. The stop-work order shall be rescinded as soon as the ~~commissioner~~ Commissioner determines that the employer is in compliance with section 687 of this title. An employer against whom a stop-work order has been issued is prohibited from contracting, directly or indirectly, with the ~~state~~ State or any of its subdivisions for a period of up to three years following the date of the issuance of the stop-work order, as determined by the ~~commissioner~~ Commissioner in consultation with the ~~commissioner of buildings and general services or the secretary of transportation~~ Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate. Either the ~~secretary or the commissioner~~ Secretary or Commissioner, as appropriate, shall be consulted in any contest of the prohibition of the employer from contracting with the ~~state~~ State or its subdivisions.

(c) The Commissioner may issue an order of conditional release from a stop-work order upon a finding that the employer has secured the required workers' compensation coverage and has agreed to remit periodic payments to satisfy any penalties assessed under this chapter pursuant to a written payment arrangement approved by the Commissioner. If the Commissioner issues an order of conditional release, the employer's failure to meet any term or condition of the order or to make periodic payments shall result in the immediate reinstatement of the stop-work order and the entire unpaid balance of the penalty shall become due immediately.

(d) A stop-work order issued against an employer shall apply to any successor employer that has substantially common ownership, management, or control as the employer on whom the stop-work order was issued and is engaged in the same or similar trade or activity.

(e) The Commissioner may bring an action in the Civil Division of the Superior Court of Washington County or in the county in which the employer has its principal office or is continuing to work in violation of the stop-work order to enjoin any employer from violating a stop-work order until the employer establishes that it is in compliance with this chapter and has paid any penalty assessed by the Commissioner.

(f) Penalty for violation of stop-work order. In addition to any other penalties, an employer who violates a stop-work order described in subsection (b) of this section is subject to:

(1) A civil penalty of not more than $5,000.00 for the first violation and a civil penalty of not more than $10,000.00 for a second or subsequent violation; or

(2) A criminal fine of not more than $10,000.00 or imprisonment for not more than 180 days, or both.

Sec. 7. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The ~~judicial bureau~~ Judicial Bureau shall have jurisdiction of the following matters:

* * *

(20) ~~Violations of 21 V.S.A. § 692(c)(1).~~ [Deleted.]

* * *

Sec. 8. 21 V.S.A. § 1253 is amended to read:

§ 1253. ELIGIBILITY

The ~~commissioner~~ Commissioner shall make all determinations for eligibility under this chapter. An individual shall be eligible for up to 26 weekly payments when the ~~commissioner~~ Commissioner determines that the individual voluntarily left work due to circumstances directly resulting from domestic and sexual violence, provided the individual:

(1) Leaves employment for one of the following reasons:

* * *

(D) The individual is physically or emotionally unable to work as a result of experiencing domestic or sexual violence as certified by a medical professional. The certification shall be reviewed by the Commissioner every six weeks and may be renewed until the individual is able to work or the benefits are exhausted.

* * *

Sec. 9. 21 V.S.A. § 1254 is amended to read:

§ 1254. CONDITIONS

An individual shall be eligible to receive payments with respect to any week, only if the ~~commissioner~~ Commissioner finds that the individual complies with all of the following requirements:

(1) ~~Files~~ files a claim certifying that he or she did not work during the week~~.~~;

(2) ~~Is~~ is not eligible for unemployment compensation benefits~~.~~; and

(3) ~~Is taking steps to become employed~~ is working with the Department to determine work readiness and taking reasonable steps as determined by the Commissioner to become employed.

Sec. 10. 21 V.S.A. § 1255 is amended to read:

§ 1255. PROCEDURES

(a) The ~~commissioner~~ Commissioner or designee shall review all claims for payment and shall promptly provide written notification to the individual of any claim that is denied and the reasons for the denial.

(b) Within 30 days after receipt of a denial, the individual may appeal the determination to the ~~commissioner~~ Commissioner by requesting a review of the decision. On appeal to the Commissioner the individual may provide supplementary evidence to the record. The ~~commissioner~~ Commissioner shall review the record within seven working days after the notice of the appeal is filed and promptly notify the individual in writing of the ~~commissioner's~~ Commissioner's decision. The decision of the ~~commissioner~~ Commissioner shall become final unless an appeal to the ~~supreme court~~ Supreme Court is taken within 30 days of the date of the ~~commissioner's~~ Commissioner's decision.

Sec. 11. 21 V.S.A. § 1314a is amended to read:

§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION; PENALTIES

* * *

(g) Notwithstanding any other provisions of this section, the ~~commissioner~~ Commissioner may where practicable require of employing units ~~with 25 or more employees~~ that the reports required to be filed pursuant to subsections (a) through (d) of this section be filed in an electronic media form.

Sec. 12. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY~~; EMPLOYEE PAID $1,000.00 OR LESS DURING BASE PERIOD~~

* * *

(d) Notwithstanding any other provision of law, the following shall apply to assignment of rates and transfers of experience:

(1) If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is substantially common ownership, management, or control of the two employers, the ~~employment~~ unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom such business is so transferred. The rates of both employers shall be recalculated and made effective immediately upon the date of the transfer of trade or business.

* * *

Sec. 13. 21 V.S.A. § 1451 is amended to read:

§ 1451. DEFINITIONS

~~For the purpose of this subchapter~~ As used in this subchapter:

(1) "Affected unit" means a specific plan, department, shift, or other definable unit consisting of not less than five employees to which an approved short-time compensation plan applies.

(2) "Defined benefit plan" means a plan described in 26 U.S.C. § 414(j).

(3) "Defined contribution plan" means a plan described in 26 U.S.C. § 414(i).

(4) "Short-time compensation" or "STC" means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan as distinguished from the unemployment benefits otherwise

payable under the conventional unemployment compensation provisions of this chapter.

~~(3)~~(5) "Short-time compensation plan" means a plan of an employer under which there is a reduction in the number of hours worked by employees of an affected unit rather than ~~temporary~~ layoffs. The term "~~temporary~~ layoffs" for this purpose means the total separation of one or more workers in the affected unit ~~for an indefinite period expected to last for more than two months but not more than six months~~.

~~(4)~~(6) "Short-time compensation employer" means an employer who has one or more employees covered by an approved "Short-Time Compensation Plan." "Short-time compensation employer" ~~includes~~ means an employer with ~~experience-rating records~~ an experience rating record ~~and~~ or an employer who makes payments in lieu of ~~tax~~ contributions to the unemployment compensation trust fund and that meets all of the following criteria:

(A) ~~Has~~ has five or more employees covered by an approved short-time compensation plan~~.~~;

(B) ~~Is~~ is not delinquent in the payment of contributions or reimbursement, or in the reporting of wages~~.~~; and

(C) ~~Is~~ is not a negative balance employer. For the purposes of this section, a negative balance employer is an employer who has for three or more consecutive calendar years immediately prior to applying for the STC plan paid more in unemployment benefits to its employees than it has contributed to its unemployment insurance account. In the event that an employer has been a negative balance employer for three consecutive years, the employer shall be ineligible for participation unless the ~~commissioner~~ Commissioner grants a waiver based upon extenuating economic conditions or other good cause.

~~(5)~~(7) "Usual weekly hours of work" means the normal hours of work for full-time ~~and regular~~ or part-time employees in the affected unit when that unit is operating on its ~~normally full-time basis not less than 30 hours and~~ regular basis not to exceed 40 hours and not including hours of overtime work.

~~(6)~~(8) "Unemployment compensation" means the unemployment benefits payable under this chapter other than short-time compensation and includes any amounts payable pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

~~(7)~~(9) "Fringe benefits" means benefits, including health insurance, retirement benefits, paid vacations and holidays, sick leave, and similar benefits that are incidents of employment.

~~(8)~~(10) "Intermittent employment" means employment that is not continuous but may consist of intervals of weekly work and intervals of no weekly work.

~~(9)~~(11) "Seasonal employment" means employment with an employer who experiences at least a 20-percent difference between its highest level of employment during a particular season and its lowest level of employment during the off-season in each of the previous three years as reported to the ~~department~~ Department, or employment with an employer on a temporary basis during a particular season.

Sec. 14. 21 V.S.A. § 1452 is amended to read:

§ 1452. CRITERIA FOR APPROVAL

(a) An employer wishing to participate in an STC program shall submit a ~~department of labor~~ Department of Labor electronic application or a signed written short-time compensation plan to the ~~commissioner~~ Commissioner for approval. The ~~commissioner~~ Commissioner may approve an STC plan only if the following criteria are met:

* * *

(3) the plan ~~outlines to the commissioner the extent to which fringe benefits, including health insurance, of employees participating in the plan may be reduced, which shall be factored into the evaluation of the business plan for resolving the conditions that lead to the need for the STC plan~~ provides that if the employer provides fringe benefits, including health benefits and retirement benefits under a defined benefit plan or contributions under a defined contribution plan, to any employee whose workweek is reduced under the program, that the benefits will continue to be provided to employees participating in the short-time compensation program under the same terms and conditions as though the workweek had not been reduced. However, reductions in the benefits of short-time compensation plan participants are permitted to the extent that the reductions also apply to nonparticipant employees;

* * *

(5) the plan certifies that the aggregate reduction in work hours is in lieu of ~~temporary total~~ layoffs of one or more workers which would have resulted in an equivalent reduction in work hours and which the c~~ommissioner~~

Commissioner finds would have caused an equivalent dollar amount to be payable in unemployment compensation;

* * *

(7) the identified workweek reduction is applied consistently throughout the duration of the plan unless otherwise approved by the ~~department~~ Department. The plan shall not subsidize seasonal employers during the off-season;

* * *

(11) the plan certifies that the collective bargaining agent or agents for the employees, if any, have agreed to participate in the program. If there is no bargaining unit, the employer specifies how he or she will notify the employees in the affected group and work with them to implement the program once the plan is approved; ~~and~~

(12) ~~in addition to subdivisions (1) through (11) of this section, the commissioner shall take into account any other factors which may be pertinent to the approval and proper implementation of the plan~~ the plan describes the manner in which the requirements of this section will be implemented and where feasible how notice will be given to an employee whose workweek is to be reduced and an estimate of the number of layoffs that would have occurred absent the ability to participate in the short-time compensation program and any other information that the U.S. Secretary of Labor determines is appropriate; and

(13) the employer certifies that the plan is consistent with employer obligations under applicable state and federal laws.

(b) In the event of any conflict between any provisions of sections 1451–1460 of this title, or the regulations implemented pursuant to these sections, and applicable federal law, the federal law shall prevail and the provision shall be deemed invalid.

Sec. 15. 21 V.S.A. § 1457 is amended to read:

§ 1457. ELIGIBILITY

(a) An individual is eligible to receive STC benefits with respect to any week only if, in addition to eligibility for monetary entitlement, the ~~commissioner~~ Commissioner finds that:

(1) the individual is employed during that week as a member of an affected unit under an approved short-time compensation plan which was in effect for that week;

(2) the individual is able to work and is available for the normal work week with the short-time employer;

(3) notwithstanding any other provisions of this chapter to the contrary, an individual is deemed unemployed in any week for which remuneration is payable to him or her as an employee in an affected unit for less than his or her normal weekly hours of work as specified under the approved short-time compensation plan in effect for the week;

(4) notwithstanding any other provisions of this chapter to the contrary, an individual shall not be denied STC benefits for any week by reason of the application of provisions relating to availability for work and active search for work with an employer other than the short-time employer.

(b) Eligible employees may participate, as appropriate, in training, including employer-sponsored training or worker training funded under the Workforce Investment Act of 1998, to enhance job skills if the program has been approved by the Department.

Sec. 16. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(14) "Worker" and "employee" means an individual who has entered into the employment of, or works under contract of service or apprenticeship with, an employer. Any reference to a worker who has died as the result of a work injury shall include a reference to the worker's dependents, and any reference to a worker who is a minor or incompetent shall include a reference to the minor's committee, guardian, or next friend. The term "worker" or "employee" does not include:

* * *

(I) An individual who receives foster care payments excluded from the definition of gross income under Section 131 of Title 26 of the Internal Revenue Code.

* * *

Sec. 17. INFORMATION AND EDUCATION; INDEPENDENT CONTRACTOR STATUS

The Commissioner shall conduct a comprehensive information and education campaign regarding independent contractor status. The campaign

shall address the tests for determining independent contractor status under Vermont law, the rights and responsibilities of employers and employees under Vermont law, including wage and hour laws, workers' compensation and unemployment compensation requirements, information regarding the misclassification and miscoding laws, including the requirements for employers to comply with those laws and the penalties for failing to do so, and other information the Commissioner determines is necessary and appropriate.

Sec. 18. STUDY; UNEMPLOYMENT COMPENSATION; WORKERS' COMPENSATION; JOB TRAINING

(a) The Department of Labor in consultation with interested parties shall evaluate and make recommendations regarding:

(1) whether the principles of fairness, equity, proportionality, affordability, and fiscal responsibility embodied in 2010 Acts and Resolves No. 124 would be affected if any changes are made to the act. Specifically, the Department shall study the potential impacts to employers, employees, and the trust fund if changes are made to certain aspects of the unemployment compensation system, including the earnings disregard, the one-week waiting period, the weekly benefit amount, and the taxable wage base. The Department shall study these potential impacts as they relate to paying off the trust fund debt and establishing the fund's solvency.

(2) whether the annual report on trust fund solvency required by 21 V.S.A. § 1309 is providing appropriate and sufficient information regarding the long-term health and solvency of the unemployment compensation trust fund, or whether further measures are required to provide information necessary to achieve and maintain solvency.

(3) whether any structural, administrative, or procedural changes should be made to the workers' compensation system, including changes that would increase the affordability and regional competitiveness of workers' compensation insurance for employers while ensuring fairness for beneficiaries.

(4) whether the agencies and departments of state government are in compliance with required workers' compensation and unemployment compensation coverage related to their contracts with designated agencies and other subcontractors.

(5) whether the current workers' compensation system can better incentivize and promote healthy and safe work environments through information, education, and collaboration with employers, insurers, and

employees; and whether private and public training programs and enforcement divisions could be better utilized to achieve improved safety in workplaces.

(6) the benefits and feasibility of developing and implementing a job training program for persons collecting unemployment benefits in Vermont that allows the Department to place persons collecting unemployment into job sites for job training and skill development in order to enhance the individual's job prospects and career development. The Department shall examine conformity issues with federal and state unemployment and wage and hour laws. The Commissioner shall solicit public input and engage interested parties from the business and labor communities in determining the benefits of a job training program.

(7) how workers' compensation cases are resolved under 21 V.S.A. § 624(e), including whether the operation of workers' compensation liens may or may not result in an equitable distribution of third party payments to the employer and employee, and the equities and appropriateness of using third party payments as an advance on any future workers' compensation benefits.

(8) whether there should be any limitations placed on how independent medical examinations are conducted, including their timing and location.

(9) whether school district employees who are not federally exempted from unemployment compensation should be included in Vermont's unemployment compensation system and be eligible for benefits during periods of layoff.

(b) The Department shall examine whether existing state and federal laws would allow a student who is under the age of 18 and enrolled at a regional technical center to gain practical working experience outside the classroom setting. The Department shall make recommendations to enhance the learning experience of students enrolled at regional technical centers by providing practical work experiences while also maintaining adequate health and safety protections.

(c) The Department, in consultation with the Agency of Commerce and Community Development and interested parties, shall evaluate and make recommendations regarding whether the current workers' compensation system and other relevant employment laws are suited to the needs of an evolving workforce. As part of the evaluation, the Department shall consider Vermont's growing knowledge-based economic sector, the future of the Vermont economy, and changing workforce habits. The Department shall make recommendations regarding how to modernize the employment laws to meet employer and employee needs while maintaining employee protections.

(d) The Department shall report its findings and any recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before December 15, 2013.

Sec. 19. WORKERS' COMPENSATION PREMIUMS

The Department of Financial Regulation in consultation with the Department of Labor shall study the issue of workers' compensation premiums increasing as a result of an employee completing a job-related safety course. The Department of Financial Regulation shall investigate how workers' compensation premiums can be decreased or kept at a steady rate for employers who are providing approved safety and health training to employees.

Sec. 20. 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 and the recommendation of proposal of amendment agreed to and third reading ordered.

Third Reading; Bill Passed

H. 543

House bill, entitled

An act relating to records and reports of the Auditor of Accounts

Was taken up, read the third time and passed.

Third Reading; Bill Passed in Concurrence With Proposal of Amendment

S. 130

Senate bill, entitled

An act relating to encouraging flexible pathways to secondary school completion

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

Joint Resolution Adopted

J.R.H. 12

Joint resolution, entitled

Joint resolution expressing concern regarding the public policy implications

of the proposed Trans-Pacific Partnership Agreement;

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

Bill Read Second Time; Consideration Interrupted by Recess

H. 112

Rep. Zagar of Barnard, for the committee on Agriculture and Forest Products, to which had been referred House bill, entitled

An act relating to the labeling of food produced with genetic engineering

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

Sec. 1. FINDINGS

The General Assembly finds and declares that:

(1) U.S. federal law does not provide for the regulation of the safety and labeling of food that is produced with genetic engineering, as evidenced by the following:

(A) U.S. federal labeling and food and drug laws do not require manufacturers of food produced with genetic engineering to label such food as genetically engineered.

(B) As indicated by the testimony of Dr. Robert Merker, a U.S. Food and Drug Administration (FDA) Supervisory Consumer Safety Officer, the FDA has statutory authority to require labeling of food products, but does not consider genetically engineered foods to be materially different from their traditional counterparts to justify such labeling.

(C) No formal FDA policy on the labeling of genetically engineered foods has been adopted. Currently, the FDA only provides nonbinding guidance on the labeling of genetically engineered foods, including a 1992 draft guidance regarding the need for the FDA to regulate labeling of food produced from genetic engineering and a 2001 draft guidance for industry regarding voluntary labeling of food produced from genetic engineering.

(D) The FDA regulates genetically engineered foods in the same way it regulates foods developed by traditional plant breeding.

(E) Under its regulatory framework, the FDA does not independently test the safety of genetically engineered foods. Instead, manufacturers may submit safety research and studies, the majority of which the manufacturers finance or conduct. The FDA reviews the manufacturers' research and reports through a voluntary safety consultation, and issues a letter to the manufacturer

acknowledging the manufacturer's conclusion regarding the safety of the genetically engineered food product being tested.

(F) The FDA does not use meta-studies or other forms of statistical analysis to verify that the studies it reviews are not biased by financial or professional conflicts of interest.

(G) There is a lack of consensus regarding the validity of the research and science surrounding the safety of genetically engineered foods, as indicated by the fact that there are peer-reviewed studies published in international scientific literature showing negative, neutral, and positive health results.

(H) There have been no long-term or epidemiologic studies in the United States that examine the safety of human consumption of genetically engineered foods.

(I) Independent scientists are limited from conducting safety and risk-assessment research of genetically engineered materials used in food products due to industry restrictions on the use for research of those genetically engineered materials used in food products.

(2) Genetically engineered foods are increasingly available for human consumption, as evidenced by the fact that:

(A) it is estimated that up to 80 percent of the processed foods sold in the United States are at least partially produced from genetic engineering; and

(B) according to the U.S. Department of Agriculture, in 2012, genetically engineered soybeans accounted for 93 percent of U.S. soybean acreage, and genetically engineered corn accounted for 88 percent of U.S. corn acreage.

(3) Genetically engineered foods pose potential risks to health, safety, agriculture, and the environment, as evidenced by the following:

(A) Independent studies in laboratory animals indicate that the ingestion of genetically engineered foods may lead to health problems such as gastrointestinal damage, liver and kidney damage, reproductive problems, immune system interference, and allergic responses.

(B) The genetic engineering of plants and animals may cause unintended consequences. The use of genetic engineering to manipulate genes by inserting them into organisms is an imprecise process. Mixing plant, animal, bacteria, and viral genes through genetic engineering in combinations that cannot occur in nature may produce results that lead to adverse health or environmental consequences.

(C) The use of genetically engineered crops is increasing in commodity agricultural production practices. Genetically engineered crops promote large-scale monoculture production, which contributes to genetic homogeneity, loss of biodiversity, and increased vulnerability of crops to pests, diseases, and variable climate conditions.

(D) Genetically engineered crops that include pesticides may adversely affect populations of bees, butterflies, and other nontarget insects.

(E) Cross-pollination of or cross-contamination by genetically engineered crops may contaminate organic crops and prevent organic farmers and organic food producers from qualifying for organic certification under federal law.

(F) Cross-pollination from genetically engineered crops may have an adverse effect on native flora and fauna. The transfer of unnatural deoxyribonucleic acid to wild relatives can lead to displacement of those native plants, and in turn, displacement of the native fauna dependent on those wild varieties.

(4) For multiple health, personal, cultural, religious, environmental, and economic reasons, the State of Vermont finds that food produced from genetic engineering should be labeled as such, as evidenced by the following:

(A) Public opinion polls conducted by the Center for Rural Studies at the University of Vermont indicate that a large majority of Vermonters want foods produced with genetic engineering to be labeled as such.

(B) Because genetic engineering, as regulated by this act, involves the direct injection of genes into cells, the fusion of cells, or the hybridization of genes that does not occur in nature, labeling foods produced with genetic engineering as "natural," "naturally made," "naturally grown," "all natural," or other similar descriptors is inherently misleading, poses a risk of confusing or deceiving consumers, and conflicts with the general perception that "natural" foods are not genetically engineered.

(C) Persons with certain religious beliefs object to producing foods using genetic engineering because of objections to tampering with the genetic makeup of life forms and the rapid introduction and proliferation of genetically engineered organisms and, therefore, need food to be labeled as genetically engineered in order to conform to religious beliefs and comply with dietary restrictions.

(D) Requiring that foods produced through genetic engineering be labeled as such will create additional market opportunities for those producers who are not certified as organic and whose products are not produced from

genetic engineering. Such additional market opportunities will also contribute to vibrant and diversified agricultural communities.

(E) Labeling gives consumers information they can use to make informed decisions about what products they would prefer to purchase.

(5) Because both the FDA and the U.S. Congress do not require the labeling of food produced with genetic engineering, the State should require food produced with genetic engineering to be labeled as such in order to serve the interests of the State, notwithstanding limited exceptions, to prevent inadvertent consumer deception, prevent potential risks to human health, promote food safety, protect cultural and religious practices, protect the environment, and promote economic development.

Sec. 2. 9 V.S.A. chapter 82A is added to read:

CHAPTER 82A: LABELING OF FOOD PRODUCED WITH GENETIC ENGINEERING

§ 3041. PURPOSE

It is the purpose of this chapter to:

(1) Public health and food safety. Promote food safety and protect public health by enabling consumers to avoid the potential risks associated with genetically engineered foods, and serve as a risk management tool enabling consumers, physicians, and scientists to identify unintended health effects resulting from the consumption of genetically engineered foods.

(2) Environmental impacts. Assist consumers who are concerned about the potential effects of genetic engineering on the environment to make informed purchasing decisions.

(3) Consumer confusion and deception. Reduce and prevent consumer confusion and deception and promote the disclosure of factual information on food labels to allow consumers to make informed decisions.

(4) Promoting economic development. Create additional market opportunities for those producers who are not certified organic and whose products are not produced using genetic engineering and to enable consumers to make informed purchasing decisions.

(5) Protecting religious and cultural practice. Provide consumers with data from which they may make informed decisions for personal, religious, moral, cultural, or ethical reasons.

§ 3042. DEFINITIONS

As used in this chapter:

(1) "Consumer" shall have the same meaning as in subsection 2451a(a) of this title.

(2) "Enzyme" means a protein that catalyzes chemical reactions of other substances without itself being destroyed or altered upon completion of the reactions.

(3) "Genetic engineering" is a process by which a food is produced from an organism or organisms in which the genetic material has been changed through the application of:

(A) in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) techniques and the direct injection of nucleic acid into cells or organelles; or

(B) fusion of cells (including protoplast fusion) or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells or protoplasts do not fall within the same taxonomic group, in a way that does not occur by natural multiplication or natural recombination.

(4) "In vitro nucleic acid techniques" means techniques, including recombinant DNA or ribonucleic acid techniques, that use vector systems and techniques involving the direct introduction into the organisms of hereditary materials prepared outside the organisms such as micro-injection, chemoporation, electroporation, micro-encapsulation, and liposome fusion.

(5) "Organism" means any biological entity capable of replication, reproduction, or transferring of genetic material.

(6) "Processed food" means any food other than a raw agricultural commodity and includes any food produced from a raw agricultural commodity that has been subjected to processing such as canning, smoking, pressing, cooking, freezing, dehydration, fermentation, or milling.

(7) "Processing aid" means:

(A) a substance that is added to a food during the processing of the food but that is removed in some manner from the food before the food is packaged in its finished form;

(B) a substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; or

(C) a substance that is added to a food for its technical or functional effect in the processing but is present in the finished food at levels that do not have any technical or functional effect in that finished food.

(8) "Raw agricultural commodity" means any food in its raw or natural state, including any fruit that is washed, colored, or otherwise treated in its unpeeled natural form prior to marketing.

§ 3043. LABELING OF FOOD PRODUCED WITH GENETIC ENGINEERING

(a) Except as set forth in section 3044 of this title, food shall be labeled as produced entirely or in part from genetic engineering if it is a product:

(1) offered for retail sale in Vermont; and

(2) entirely or partially produced with genetic engineering.

(b) If a food is required to be labeled under subsection (a) of this section, it shall be labeled as follows:

(1) in the case of a raw agricultural commodity, on the package offered for retail sale, with the clear and conspicuous words, "produced with genetic engineering" or "genetically engineered" on the front of the package of the commodity or in the case of any such commodity that is not separately packaged or labeled, on a label appearing on the retail store shelf or bin in which the commodity is displayed for sale; or

(2) in the case of any processed food that contains a product or products of genetic engineering, in clear and conspicuous language on the front or back of the package of the food, with the words "partially produced with genetic engineering" or "may be partially produced with genetic engineering."

(c) Except as set forth under section 3044 of this title, a food produced entirely or in part from genetic engineering shall not be labeled on the product, in signage, or in advertising as "natural," "naturally made," "naturally grown," "all natural," or any words of similar import that would have a tendency to mislead a consumer.

(d) This law shall not be construed to require:

(1) the listing or identification of any ingredient or ingredients that were genetically engineered; or

(2) the placement of the term "genetically engineered" immediately preceding any common name or primary product descriptor of a food.

§ 3044. EXEMPTIONS

The following foods shall not be subject to the labeling requirements of section 3043 of this title:

(1) Food consisting entirely of or derived entirely from an animal which has not itself been produced with genetic engineering, regardless of whether the animal has been fed or injected with any food or drug produced with genetic engineering.

(2) A raw agricultural commodity or processed food derived from it that has been grown, raised, or produced without the knowing and intentional use of food or seed produced with genetic engineering. Food will be deemed to be as described in this subdivision only if the person otherwise responsible for complying with the requirements of subsection 3043(a) of this title with respect to a raw agricultural commodity or processed food obtains, from whomever sold the commodity or food to that person, a sworn statement that the commodity or food has not been knowingly or intentionally produced with genetic engineering and has been segregated from and has not been knowingly or intentionally commingled with food that may have been produced with genetic engineering at any time. In providing such a sworn statement, any person may rely on a sworn statement from his or her own supplier that contains the affirmation set forth in this subdivision.

(3) Any processed food which would be subject to subsection 3043(a) of this title solely because it includes one or more processing aids or enzymes produced with genetic engineering.

(4) Any beverage that is subject to the provisions of Title 7.

(5) Until July 1, 2019, any processed food that would be subject to subsection 3043(a) of this title solely because it includes one or more materials that have been produced with genetic engineering, provided that the genetically engineered materials in the aggregate do not account for more than nine-tenths of one percent of the total weight of the processed food.

(6) Food that an independent organization has verified has not been knowingly and intentionally produced from or commingled with food or seed produced with genetic engineering. The Office of the Attorney General, after consultation with the Department of Health, shall approve by procedure the independent organizations from which verification shall be acceptable under this section.

(7) Food that has been lawfully certified to be labeled, marketed, and offered for sale as "organic" pursuant to the federal Organic Food Products Act of 1990 and the regulations promulgated pursuant thereto by the U.S. Department of Agriculture.

(8) Food that is not packaged for retail sale and that is:

(A) a processed food prepared and intended for immediate human consumption; or

(B) served, sold, or otherwise provided in any restaurant or other food establishment, as defined in 18 V.S.A. § 4301, that is primarily engaged in the sale of food prepared and intended for immediate human consumption.

(9) Medical food, as that term is defined in 21 U.S.C. § 360ee(b)(3).

§ 3045. RETAILER LIABILITY

(a) A retailer shall not be liable for the failure to label a processed food as required by section 3043 of this title, unless:

(1) the retailer is the producer or manufacturer of the processed food; or

(2) the retailer sells the processed food under a brand it owns, but the food was produced or manufactured by another producer or manufacturer.

(b) A retailer shall not be held liable for failure to label a raw agricultural commodity as required by section 3043 of this title, provided that the retailer, within 20 days of any proposed enforcement action or notice of violation, obtains a sworn statement in accordance with subdivision 3044(2) of this title.

§ 3046. SEVERABILITY

If any provision of this subchapter or its application to any person or circumstance is held invalid or in violation of the Constitution or laws of the United States or in violation of the Constitution or laws of Vermont, the invalidity or the violation shall not affect other provisions of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are severable.

§ 3047. PENALTIES; ENFORCEMENT

(a) A violation of this chapter is deemed to be a violation of section 2453 of this title.

(b) The Attorney General shall have the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and consumers shall have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title.

Sec. 3. EFFECTIVE DATE

This act shall take effect on the first occurring of the following two dates:

(1) 18 months after two other states enact legislation with requirements substantially comparable to the requirements of this act for the labeling of food produced from genetic engineering; or

(2) July 1, 2015.

Rep. Conquest of Newbury, for the committee on Judiciary, recommended that the bill ought to pass when amended, as recommended by the committee on Agriculture and Forest Products.

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

Pending the question, Shall the bill be amended, as recommended by the committee on Agriculture and Forest Products?

Recess

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

At eleven o'clock and fifty minutes in the forenoon, the Speaker called the House to order.

Consideration Resumed; Bill Amended;
Consideration Interrupted by Recess

H. 112

Consideration resumed on House bill, entitled

An act relating to the labeling of food produced with genetic engineering;

The recurring question, Shall the bill be aemnded as recommended by the committee on Agriculture and Forest Products was agreed to on a Division vote. Yeas, 63. Nays, 27.

Pending the question, Shall the bill be read the third time? **Reps. Michelsen of Hardwick, Toleno of Brattleboro and Zagar of Barnard** moved that the bill be amended as follows:

First: In Sec. 2, in 9 V.S.A. § 3043(a), by striking "food shall be labeled" where it appears and inserting in lieu thereof "food purchased by a retailer after July 1, 2015 shall be labeled"

and in 9 V.S.A. § 3046, by striking the word "subchapter" where it appears and inserting in lieu thereof "chapter" and by striking the word "section" where it appears and inserting the word "chapter"

Second: By striking Sec. 3 in its entirety and adding Secs. 3 and 4 to read:

Sec. 3. ATTORNEY GENERAL RULEMAKING; LABELING OF FOOD PRODUCED WITH GENETIC ENGINEERING

The Attorney General is authorized to adopt by rule requirements for the implementation of Sec. 2 of this act, including a requirement that the label required for food produced from genetic engineering include a disclaimer that the Food and Drug Administration does not consider foods produced from genetic engineering to be materially different from other foods. Any rule adopted under this section shall not go into effect until the effective date of this act.

Sec. 4. EFFECTIVE DATE

(a) This section and Sec. 3 (Attorney General rulemaking) of this act shall take effect on passage.

(b) Secs. 1 (findings) and 2 (labeling of food produced with genetic engineering) of this act shall take effect on the first occurring of the following two dates:

(1) 18 months after two other states enact legislation with requirements substantially comparable to the requirements of this act for the labeling of food produced from genetic engineering; or

(2) July 1, 2015.

Which was agreed to.

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

Recess

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

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

Message from the Senate No. 64

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. 200. An act relating to civil penalties for possession of marijuana.

H. 240. An act relating to Executive Branch fees.

H. 450. An act relating to expanding the powers of regional planning commissions.

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 House proposal of amendment to Senate bill of the following title:

S. 150. An act relating to miscellaneous amendments to laws related to motor vehicles.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

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

S. 155. An act relating to creating a strategic workforce development needs assessment and strategic plan.

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 Bray
Senator Doyle
Senator Collins

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

H. 169. An act relating to relieving employers' experience-rating records.

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 Commiteee on the part of the Senate:

Senator Mullin
Senator Bray
Senator Galbraith

Committee of Conference Appointed

S. 155

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to creating a strategic workforce development needs assessment and strategic plan

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Kupersmith of South Burlington
Rep. Marcotte of Coventry
Rep. Young of Glover

Committee of Conference Appointed

H. 169

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on House bill, entitled

An act relating to relieving employers' experience-rating records

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. Kitzmiller of Montpelier

Consideration Resumed; Third Reading Ordered

H. 112

Consideration resumed on House bill, entitled

An act relating to the labeling of food produced with genetic engineering;

Pending the recurring question, Shall the bill be read a third time? **Rep. Partridge of Windham** 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, 107. Nays, 38.

Those who voted in the affirmative are:

Ancel of Calais
Bartholomew of Hartland
Bissonnette of Winooski
Botzow of Pownal
Browning of Arlington
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
Conquest of Newbury
Copeland-Hanzas of Bradford
Corcoran of Bennington
Cross of Winooski
Cupoli of Rutland City
Dakin of Chester
Davis of Washington
Deen of Westminster
Devereux of Mount Holly
Donahue of Northfield
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
Hebert of Vernon
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
Krebs of South Hero
Krowinski of Burlington
Kupersmith of South 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
Martin of Wolcott
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 *
Nuovo of Middlebury
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
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
Scheuermann of Stowe *
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
Toll of Danville
Townsend of Randolph
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
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
Canfield of Fair Haven
Condon of Colchester
Connor of Fairfield
Consejo of Sheldon
Dickinson of St. Albans Town
Donaghy of Poultney
Fagan of Rutland City
Feltus of Lyndon
Gage of Rutland City
Helm of Fair Haven
Higley of Lowell *
Hubert of Milton *
Johnson of Canaan
Kilmartin of Newport City *
Koch of Barre Town *
Komline of Dorset
Larocque of Barnet
Lewis of Berlin

Marcotte of Coventry	Quimby of Concord	Terenzini of Rutland Town
Mitchell of Fairfax *	Russell of Rutland City *	Turner of Milton
Morrissey of Bennington	Savage of Swanton	Van Wyck of Ferrisburgh
Myers of Essex	Shaw of Derby	Winters of Williamstown
Pearce of Richford	Smith of New Haven	Wright of Burlington

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

Klein of East Montpelier	Strong of Albany
Lawrence of Lyndon	Young of Glover

Rep. Ellis of Waterbury explained her vote as follows:

"Mr. Speaker:

The labeling of genetically-engineered foods will promote the free flow of information, the marketplace of ideas and the discovery of truth, ideals that are embodied in, and protected by, the 1st Amendment of the U.S. Constitution. Vermont won the mercury-labeling case. This bill, too, can survive a constitutional challenge. I vote yes."

Rep. Fay of St. Johnsbury explained her vote as follows:

"Mr. Speaker:

I vote yes. Members opposed to genetically engineered food labeling have likened concerns about health risks to baseless conspiracy theories. Biotech companies could put all this to rest by simply submitting their products for legitimate, independent testing. Instead, we're asked to take them at their word. The revolving door between the regulators and the industry they are appointed to regulate gives me no confidence. In the absence of these checks and balances, we have the right to clear labeling so that consumers can make informed choices about what we eat and what we feed our children."

Rep. Goodwin of Weston explained his vote as follows:

"Mr. Speaker:

I voted yes with the sincere hope that this bill will be transformed by amending modification to a bill I can vote for again."

Rep. Grad of Moretown explained her vote as follows:

"Mr. Speaker:

My yes vote is to support the legitimate and strong state interests set forth in this bill of food safety, public health, economic development, environmental protection and the prevention of consumer confusion and deception."

Rep. Higley of Lowell explained his vote as follows:

"Mr. Speaker:

I'm not opposed to knowing what's in our food products but I believe we are going about it the wrong way by supporting this particular bill."

Rep. Hubert of Milton explained his vote as follows:

"Mr. Speaker:

I voted no.as we are doing this backwards, making 85% change instead of promoting the 15%who are doing it now."

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

"Mr. Speaker:

I vote 'no' for several reasons:

1. The laudable goal of fully informed food buying decisions by Vermonters will not be achieved by this bill. This bill misleads the consuming public into a false sense of security. The goal can be achieved cost-effectively by making it easier for gmo-free producers and retailers to label their products 'gmo free' or 'no gmo ingredients'.

2. The real gmo problems lay with Supreme Court decisions allowing genetic alteration of life forms to be patented commercially, while allowing the owners of those patents to defy antitrust considerations. The lack of Court or Congressional imposed restrictions, including restrictions on vertical monopolies on gmo seeds, fertilizers, pesticides, and end products, the current trespass perversions and unconscionable contract provisions, etc., prevent an individual state from untying the existing federal Gordian knot.

3. With this bill, Vermont is going to offend the First Amendment, interstate commerce clause and federal exclusivity over patents, copyrights, and other intellectual property. Congress enhanced the Gordian knot by recently granting huge liability exemptions to Monsanto and other predatory corporations, which are already close to monopolizing, and jeopardizing the security of, our food chain through gmos.

4. Finally, for the second day in a row, this House parades on the stage of the theatre of the absurd. While this bill has a marginally greater chance of surviving court challenge than the caps on Super-Pacs, the difference, between a million-to-one and five-hundred-thousand-to-one, is statistically insignificant. If we get hit with Plaintiff's attorney's fees to the tune of several million dollars, Vermont consumers and taxpayers are twice the victims of consumer fraud perpetrated by those who claim to protect them and their purse.

For the second day, we send the House hearse down the street with its undignified occupants wearing the proverbial 'Emperor's new clothes.'

Quite a picture, indeed!"

Rep. Koch of Barre Town explained his vote as follows:

"Mr. Speaker:

While I fully support the intent of this bill, I cannot vote for it, because I believe it is unlikely to survive a court challenge to its constitutionality.

No other state has passed a similar bill; they all seem to be waiting for Vermont to go first and 'lead the nation.' What they mean is that they don't want to risk their taxpayers' money – they want us to risk Vermonters' money. That is a 5 to 10 million dollar risk, and one that I am not willing to take.

Have we learned nothing from our losses in the rBST, campaign finance, and data mining cases?"

Rep. Lippert of Hinesburg explained his vote as follows:

"Mr. Speaker:

When we passed Civil Unions, we were told that Vermont would be boycotted and that our tourism industry would die.

When we passed mercury labeling requirements, we were told that fluorescent lightbulbs would no longer be for sale in Vermont to light our homes and offices.

Now we are told that if we pass GE labeling, we will lose our boxes of corn flakes and face empty grocery store shelves.

Let us move forward and lead the nation once again.

I vote yes, once again, without fear."

Rep. Mitchell of Fairfax explained his vote as follows:

"Mr. Speaker:

I voted no on this bill with the idea that there is no need to put Vermont in a $10 million jeopardy. Let others lead and we can follow for a change."

Rep. Mrowicki of Putney explained his vote as follows:

Plain and simple, Vermonters are asking for the right to know what is in their food. I vote yes so Vermonters know we're listening."

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

"Mr. Speaker:

I vote 'no' as I am concerned with possible job losses in my Rutland district. In addition, I have concern that this legislation may expose the state to costs through possible litigation."

Rep. Scheuermann of Stowe explained her vote as follows:

"Mr. Speaker:

I vote yes on this bill with significant reservations. While I wholeheartedly support full transparency in this regard, I am very concerned about the estimated 5-10 million dollars of Vermont taxpayer money that will be at risk for an all-but-certain lawsuit.

I also have significant concerns about the effects it will have on our state's thriving specialty food industry. I am hopeful that when the Senate takes this legislation up next year, they will take into consideration these concerns and modify it accordingly so that it is a bill everybody can support."

Rep. Shaw of Pittsford explained his vote as follows:

"Mr. Speaker:

My constituents have spoken and my yes vote indicates their wishes."

Rep. Spengler of Colchester explained her vote as follows:

"Mr. Speaker:

I'm looking forward to truth in labeling as my European cousins are able to enjoy. Thank you Monsanto for supporting European GMO labeling."

Rep. Wizowaty of Burlington explained her vote as follows:

"Mr. Speaker:

I believe we have carefully and thoroughly vetted the constitutional issues raised and have ended with an excellent, defensible bill that promotes the public welfare. I am proud of our work."

Rep. Zagar of Barnard explained his vote as follows:

"Mr. Speaker:

I want to believe that genetically engineered foods are perfectly safe and have been sufficiently tested and regulated, for my sake and the sake of everyone else I know who consumes them because of their unacknowledged presence in most of the food we eat. But I don't. I have a right and a reason to know what I'm being sold in a free market."

Read Third Time and Passed in Concurrence with Proposal of Amendmenmt

S. 152

Senate bill, entitled

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

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. 13, 18 V.S.A. chapter 229, in section 9603, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) The Office of the Health Care Advocate shall be able to speak on behalf of the interests of health care and health insurance consumers and to carry out all duties prescribed in this chapter without being subject to any disciplinary or retaliatory action; provided, however, that nothing in this subsection shall limit the authority of the Agency of Administration to enforce the terms of the contract.

Theruepon, **Rep. Till of Jericho** asked and was granted leave of the House to withdraw his amendment.

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

In Sec. 29, Repeal, by inserting before the period "on January 1, 2014"

Which was agreed to.

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

By adding Secs. 12a–12c to read as follows:

* * * Participation in the Exchange to be Voluntary * * *

Sec. 12a. 33 V.S.A. § 1811 is amended to read:

§ 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL EMPLOYERS

(a) As used in this section:

(1) "Health benefit plan" means a health insurance policy, a nonprofit hospital or medical service corporation service contract, or a health maintenance organization health benefit plan ~~offered through the Vermont health benefit exchange and~~ issued to an individual or to an employee of a

small employer. The term does not include coverage only for accident or disability income insurance, liability insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, credit-only insurance, coverage for on-site medical clinics, or other similar insurance coverage in which benefits for health services are secondary or incidental to other insurance benefits as provided under the Affordable Care Act. The term also does not include stand-alone dental or vision benefits; long-term care insurance; specific disease or other limited benefit coverage, Medicare supplemental health benefits, Medicare Advantage plans, and other similar benefits excluded under the Affordable Care Act.

* * *

(b) ~~No person may provide a health benefit plan to an individual or small employer unless the plan is offered through the Vermont health benefit exchange and complies with the provisions of this subchapter.~~ [Deleted.]

* * *

Sec. 12b. 2011 Acts and Resolves No. 48, Sec. 2 is amended to read:

Sec. 2. STRATEGIC PLAN; UNIVERSAL AND UNIFIED HEALTH SYSTEM

(a) Vermont must begin to plan now for health care reform, including simplified administration processes, payment reform, and delivery reform, in order to have a publicly financed program of universal and unified health care operational after the occurrence of specific events, including the receipt of a waiver from the federal Exchange requirement from the U.S. Department of Health and Human Services. A waiver will be available in 2017 under the provisions of existing law in the Patient Protection and Affordable Care Act (Public Law 111-148) ("Affordable Care Act"), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and may be available in 2014 under the provisions of two bills, H.R. 844 and S.248, introduced in the 112th Congress. In order to begin the planning efforts, the ~~director of health care reform in the agency of administration~~ Director of Health Care Reform in the Agency of Administration shall establish a strategic plan, which shall include time lines and allocations of the responsibilities associated with health care system reform, to further the containment of health care costs, to further Vermont's existing health care system reform efforts as described in 3 V.S.A. § 2222a and to further the following:

* * *

(2)(A) As provided in Sec. 4 of this act, no later than ~~November~~ October 1, 2013, the Vermont ~~health benefit exchange~~ Health Benefit Exchange established in 33 V.S.A. chapter 18, subchapter 1 shall begin enrolling individuals and ~~small~~ employers with 50 or fewer employees for coverage beginning January 1, 2014. Beginning January 1, 2014, the Commissioner of Financial Regulation may require qualified health benefit plans to be sold to individuals and small groups through the Vermont Health Benefit Exchange, provided that the Commissioner shall also allow qualified and nonqualified plans that comply with the required provision of the Affordable Care Act to be sold to individuals and small groups outside the Exchange. The intent of the ~~general assembly~~ General Assembly is to establish the Vermont ~~health benefit exchange~~ Health Benefit Exchange in a manner such that it may become the foundation for Green Mountain Care.

* * *

(3) ~~As provided in Sec. 4 of this act, no~~ No later than October 1, 2015, the Vermont Health Benefit Exchange established in 33 V.S.A. chapter 18, subchapter 1 shall make plans available to employers with 100 or fewer employees for coverage beginning January 1, 2016. No later than ~~November~~ October 1, 2016, the Vermont ~~health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1~~ Health Benefit Exchange shall ~~begin enrolling~~ make plans available to large employers for coverage beginning January 1, 2017.

* * *

Sec. 12c. 2012 Acts and Resolves No. 171, Sec. 41a is amended to read:

Sec. 41a. TRANSITIONAL PROVISIONS; IMPLEMENTATION

* * *

(c) ~~Notwithstanding Sec. 41(i) of this act, repealing 8 V.S.A. §§ 4080a and 4080b, the department of financial regulation and the Green Mountain Care board may continue to approve rates and forms for nongroup and small group health insurance plans under the statutes and rules in effect prior to the date of repeal if the Vermont health benefit exchange is not operational by January 1, 2014 and the department of Vermont health access or a health insurer is unable to facilitate enrollment in health benefit plans through another mechanism, including paper enrollment. In the alternative, the department of financial regulation may allow individuals and small employers to extend coverage under an existing health insurance plan. The department of financial regulation and the Green Mountain Care board shall maintain their authority pursuant to this subsection until the exchange is able to enroll all qualified~~

~~individuals and small employers who apply for coverage through the exchange.~~ [Deleted.]

* * *

(e) Notwithstanding the provisions of 8 V.S.A. §§ 4080a(d)(1) and 4080b(d)(1), a health insurer shall not be required to guarantee acceptance of any individual, employee, or dependent on or after January 1, 2014 for a small group plan offered pursuant to 8 V.S.A. § 4080a or a nongroup plan offered pursuant to 8 V.S.A. § 4080b ~~except as required by the department of financial regulation or the Green Mountain Care board, or both, pursuant to subsection (c) of this section~~.

* * *

Thereupon, **Rep. Deen of Westminster** raised a Point of Order in that the proposal of amendment is not germane to the bill, which the Speaker ruled well taken.

Theruepon, **Rep. Browning of Arlington** moved to suspend the rules to allow consideration of a non-germane amendment.

Pending the question, Shall the House suspend its rules to take up consideration of a non-germane amendment? **Rep. Browning of Arlington** 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 suspend its rules to take up consideration of a non-germane amendment? was decided in the negative. Yeas, 39. Nays, 98.

Those who voted in the affirmative are:

Batchelor of Derby
Beyor of Highgate
Bouchard of Colchester
Browning of Arlington *
Burditt of West Rutland
Canfield of Fair Haven
Condon of Colchester
Cupoli of Rutland City
Devereux of Mount Holly
Dickinson of St. Albans Town
Donahue of Northfield
Fagan of Rutland City
Gage of Rutland City
Hebert of Vernon
Higley of Lowell
Hubert of Milton
Johnson of Canaan
Juskiewicz of Cambridge
Kilmartin of Newport City
Koch of Barre Town
Komline of Dorset
Larocque of Barnet
Lewis of Berlin
Marcotte of Coventry
McFaun of Barre Town
Morrissey of Bennington
Myers of Essex
Quimby of Concord
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford
Shaw of Derby
Smith of New Haven
Stevens of Shoreham
Terenzini of Rutland Town
Turner of Milton *
Van Wyck of Ferrisburgh
Winters of Williamstown
Wright of Burlington

Those who voted in the negative are:

Bartholomew of Hartland
Bissonnette of Winooski
Botzow of Pownal
Branagan of Georgia
Brennan of Colchester
Burke of Brattleboro
Buxton of Tunbridge
Campion of Bennington
Carr of Brandon
Cheney of Norwich
Clarkson of Woodstock
Cole of Burlington
Connor of Fairfield
Conquest of Newbury
Consejo of Sheldon
Corcoran of Bennington
Cross of Winooski
Dakin of Chester
Davis of Washington
Deen of Westminster
Donaghy of Poultney
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
Greshin of Warren
Haas of Rochester
Head of South Burlington
Helm of Fair Haven
Hooper of Montpelier
Huntley of Cavendish
Jerman of Essex
Jewett of Ripton
Keenan of St. Albans City
Kitzmiller of Montpelier
Krebs of South Hero
Krowinski of Burlington
Kupersmith of South Burlington
Lanpher of Vergennes
Lenes of Shelburne
Macaig of Williston
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Martin of Wolcott
Masland of Thetford
McCarthy of St. Albans City
McCormack of Burlington
McCullough of Williston
Miller of Shaftsbury
Mitchell of Fairfax
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney
Nuovo of Middlebury
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
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
Toll of Danville
Townsend of Randolph
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:

Ancel of Calais
Christie of Hartford
Copeland-Hanzas of Bradford
Heath of Westford
Johnson of South Hero
Klein of East Montpelier
Lawrence of Lyndon
Lippert of Hinesburg
Michelsen of Hardwick
O'Brien of Richmond
Poirier of Barre City
Strong of Albany

Rep. Browning of Arlington explained her vote as follows:

"Mr. Speaker:

I vote yes to at least consider reducing uncertainty and increasing choice for Vermonters by making participation in the proposed Health Benefits Exchange voluntary instead of mandatory. We do not know if the new website system will be ready and we need a better backup for Vermonters in place NOW."

Rep. Turner of Milton explained his vote as follows:

"Mr. Speaker:

In less than 5 months over 100,000 Vermonters will be forced into buying their health insurance on the health benefit exchange, an entity that as of today does not exist. I want to be sure that there is coverage available when Vermonters need it. We understand that a safety net exists, but what is wrong with allowing people to gradually migrate onto the system over the next 18 months? Thank you."

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

First: In Sec. 1, 8 V.S.A. § 4062, in subdivision (c)(3)(A), following "chapter 229", by inserting "and the Office of the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259"

Second: In Sec. 1, 8 V.S.A. § 4062, in subdivision (c)(3)(B), following "Advocate", by inserting "and the Office of the Mental Health Care Ombudsman"

Third: In Sec. 1, 8 V.S.A. § 4062, in subdivision (d)(2)(B), following "Advocate", by striking out the word "poses" and inserting in lieu thereof "and the Office of the Mental Health Ombudsman pose" and by striking out the word "Office's" and inserting in lieu thereof the word "Offices'"

Fourth: In Sec. 1, 8 V.S.A. § 4062, by striking out subdivision (d)(2)(C), and inserting in lieu thereof a new subdivision (d)(2)(C) to read:

(C) all questions the Board, the Board's contracting actuary, if any, the Department, the Office of the Health Care Advocate, or the Office of the Mental Health Care Ombudsman pose to the insurer and the insurer's responses to those questions.

Fifth: In Sec. 1, 8 V.S.A. § 4062, in subdivision (e)(1)(B), following "Advocate,", by inserting "the Office of the Mental Health Care Ombudsman,"

Sixth: In Sec. 1, 8 V.S.A. § 4062, in subsection (g), following "Advocate,", by inserting "the Office of the Mental Health Care Ombudsman,"

Seventh: By striking out Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. 18 V.S.A. § 9374(f) is amended to read:

(f) In carrying out its duties pursuant to this chapter, the ~~board~~ Board shall seek ~~the~~ advice ~~of the state health care ombudsman established in 8 V.S.A. § 4089w~~ from the Office of the Health Care Advocate and the Office of the Mental Health Care Ombudsman. The ~~state health care ombudsman~~ Offices shall advise the ~~board~~ Board regarding the policies, procedures, and rules established pursuant to this chapter. The ~~ombudsman~~ Offices shall represent the interests of Vermont patients and Vermont consumers of health insurance and may suggest policies, procedures, or rules to the ~~board~~ Board in order to protect patients' and consumers' interests.

Eighth: In Sec. 15, 18 V.S.A. § 9377(e), following "Advocate," by inserting "the Office of the Mental Health Care Ombudsman,"

Ninth: In Sec. 16, 18 V.S.A. § 9410(a)(2), in subdivision (B), following "Advocate,", by inserting "the Office of the Mental Health Care Ombudsman,"

Tenth: In Sec. 17, 18 V.S.A. § 9440(c), in subdivision (9), following "of this title", by inserting ", the Office of the Mental Health Care Ombudsman established pursuant to section 7259 of this title,"

Eleventh: In Sec. 18, 18 V.S.A. § 9445(b), following "Advocate", by inserting ", the Office of the Mental Health Care Ombudsman"

Which was disagreed to on a Division vote: Yeas, 40. Nays, 56.

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **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 bill pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 95. Nays, 40.

Those who voted in the affirmative are:

Bartholomew of Hartland	Cole of Burlington	Fay of St. Johnsbury
Bissonnette of Winooski	Connor of Fairfield	Feltus of Lyndon
Botzow of Pownal	Conquest of Newbury	Fisher of Lincoln
Branagan of Georgia	Consejo of Sheldon	Frank of Underhill
Browning of Arlington	Cross of Winooski	French of Randolph
Burke of Brattleboro	Dakin of Chester	Gallivan of Chittenden
Buxton of Tunbridge	Davis of Washington	Grad of Moretown
Campion of Bennington	Deen of Westminster	Haas of Rochester
Carr of Brandon	Donovan of Burlington	Head of South Burlington
Cheney of Norwich	Ellis of Waterbury	Heath of Westford
Christie of Hartford	Emmons of Springfield	Hooper of Montpelier
Clarkson of Woodstock	Evans of Essex	Huntley of Cavendish

Jerman of Essex
Johnson of South Hero
Keenan of St. Albans City
Kitzmiller of Montpelier
Krebs of South Hero
Krowinski of Burlington
Kupersmith of South 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
Martin of Wolcott
Masland of Thetford
McCormack of Burlington
McCullough of Williston
Miller of Shaftsbury
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney
Nuovo of Middlebury
O'Brien of Richmond
O'Sullivan of Burlington
Partridge of Windham
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
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 Randolph
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 who voted in the negative are:

Batchelor of Derby
Beyor of Highgate
Bouchard of Colchester
Brennan of Colchester
Canfield of Fair Haven
Corcoran of Bennington
Cupoli of Rutland City
Devereux of Mount Holly
Dickinson of St. Albans Town
Donaghy of Poultney
Donahue of Northfield *
Fagan of Rutland City
Gage of Rutland City
Goodwin of Weston
Greshin of Warren
Helm of Fair Haven
Higley of Lowell
Hubert of Milton
Johnson of Canaan
Juskiewicz of Cambridge
Kilmartin of Newport City
Koch of Barre Town
Larocque of Barnet
Lewis of Berlin
Marcotte of Coventry
McFaun of Barre Town
Morrissey of Bennington
Myers of Essex
Pearce of Richford
Quimby of Concord
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford
Shaw of Derby
Smith of New Haven
South of St. Johnsbury
Terenzini of Rutland Town
Turner of Milton
Van Wyck of Ferrisburgh
Wright of Burlington

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

Ancel of Calais
Burditt of West Rutland
Condon of Colchester
Copeland-Hanzas of Bradford
Hebert of Vernon
Klein of East Montpelier
Komline of Dorset
Lawrence of Lyndon
McCarthy of St. Albans City
Michelsen of Hardwick
Mitchell of Fairfax
Smith of Morristown
Strong of Albany
Winters of Williamstown

Rep. Donahue of Northfield explained her vote as follows:

"Mr. Speaker:

I will not vote for a bill that makes a conscious and deliberate statement of exclusion of mental health from the policy discussion table."

Rep. Poirier of Barre City explained his vote as follows:

"Mr. Speaker:

I voted yes because if this bill does not pass there will be no consumer advocacy before the Green Mountain Care Board. This legislature has taken the Department of Financial Regulation out of consumer protection."

**Rules Suspended; Proposal of Amendment Agreed to;
And Third Reading Ordered**

S. 20

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to increasing the statute of limitations for certain sex offenses against children

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Grad of Moretown, for the committee on Judiciary, to which had been referred the bill 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. 13 V.S.A. § 4501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, human trafficking, aggravated human trafficking, murder, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.

(b) Prosecutions for manslaughter, sexual assault, lewd and lascivious conduct, sexual exploitation of children under chapter 64 of this title, sexual abuse of a vulnerable adult, grand larceny, robbery, burglary, embezzlement, forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and felony tax offenses shall be commenced within six years after the commission of the offense, and not after.

(c) Prosecutions for any of the following offenses alleged to have been committed against a child under 18 years of age may be commenced at any time after the commission of the offense:

(1) sexual assault~~,~~;

(2) lewd and lascivious conduct~~,~~;

(3) sexual exploitation of a minor as defined in subsection ~~3258(b)~~ 3258(c) of this title~~,~~; and

(4) lewd or lascivious conduct with a child~~, alleged to have been committed against a child under 18 years of age shall be commenced within the earlier of the date the victim attains the age of 24 or 10 years from the date the offense is reported, and not after. For purposes of this subsection, an offense is reported when a report of the conduct constituting the offense is made to a law enforcement officer by the victim~~.

(d) Prosecutions for arson shall be commenced within 11 years after the commission of the offense, and not after.

(e) Prosecutions for other felonies and for misdemeanors shall be commenced within three years after the commission of the offense, and not after.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to removing the statute of limitations for certain sex offenses against children."

Theruepon, the bill was read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Rules Suspended; Proposal of Amendment Agreed to; And Third Reading Ordered

S. 61

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to alcoholic beverages

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. O'Sullivan of Burlington, for the committee on General, Housing and Military Affairs, to which had been referred the bill reported in favor of its passage in concurrence with proposal of amendment as follows:

First: By striking Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read:

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

§ 2. DEFINITIONS

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

* * *

(19) "Second class license": a license granted by the ~~control commissioners~~ Control Commissioners permitting the licensee to export malt or vinous beverages and to sell malt or vinous beverages to the public for consumption off the premises for which the license is granted.

* * *

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

* * *

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

* * *

(34) "Limited first class license": A license granted by the Control Commissioners permitting the licensee to serve malt or vinous beverages to the public for consumption only on the licensed premises and in accord with the requirements of section 222a of this title.

Second: By adding Secs. 3a, 3b, and 3c to read:

Sec. 3a. 7 V.S.A. § 222a is added to read:

§ 222a. LIMITED FIRST CLASS LICENSE

(a) Upon the approval of the Board and payment of the license fee, the Control Commissioners may grant to a person for the premises where the person carries on a retail sales business unrelated to food or beverage service a limited first class license authorizing the person to dispense malt or vinous beverages free of charge for consumption on the licensed premises, provided:

(1) the premises are owned or leased by the person and the premises are used primarily by the person for the production and retail sale and service of handmade artisan products;

(2) the premises have secure, adequate, and sanitary space for storing and serving malt or vinous beverages;

(3) the premises have adequate and sanitary space for storage and service of food;

(4) the premises have a designated, distinct, secure interior space of at least 50 square feet which is not generally accessible by the public and only within which malt or vinous beverages may be served to customers designing or purchasing handmade artisan products;

(5) malt or vinous will only be served to customers of the underlying business and no more than five customers may be served simultaneously in the designated space;

(6) no person under the age of 18 shall dispense malt or vinous beverages;

(7) malt or vinous beverages shall not be served to a minor; and

(8) any customer offered malt or vinous beverages shall also be offered food.

(b) As used in this section, "Artisan product" means any product fashioned primarily by hand with the final form and its characteristics shaped by hand by the artisan or craftperson in a skilled or artistic process rather than an assembly line technique.

Sec. 3b. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES; DISPOSITION OF FEES

(a) The following fees shall be paid:

* * *

(23) For a limited first class license, $1,000.00.

* * *

Sec. 3c. 7 V.S.A. § 236 is amended to read:

§ 236. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT; ADMINISTRATIVE PENALTY

* * *

(b) As an alternative to and in lieu of the authority to suspend or revoke any permit or license, the ~~liquor control board~~ Liquor Control Board shall also have the power to impose an administrative penalty of up to $2,500.00 per violation against a holder of a wholesale dealer's license or a holder of a first, second or third class license for a violation of the conditions under which the license was issued or of this title or of any rule or regulation adopted by the ~~board~~ Board. The administrative penalty may be imposed after a hearing before the ~~board~~ Board or after the licensee has been convicted by a court of competent jurisdiction of violating the provisions of this title. The ~~board~~ Board may also impose an administrative penalty under this subsection against a holder of a tobacco license for up to $100.00 for a first violation and up to $1,000.00 for subsequent violations. For the first violation during a tobacco or alcohol compliance check during any three-year period, a licensee shall receive

a warning and be required to attend a department server training class. The Board may also impose an administrative penalty against the holder of a limited first class license of up to $5,000.00 for an initial violation and $10,000.00 for a second and subsequent violation.

* * *

Third: By adding Sec. 2a to read:

Sec. 2a. 7 V.S.A. § 222 is amended to read:

§ 222. FIRST AND SECOND CLASS LICENSES, GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

With the approval of the ~~liquor control board, the control commissioners~~ Liquor Control Board, the Control Commissioners may grant to a retail dealer for the premises where the dealer carries on business the following:

* * *

(2) Upon making application and paying the license fee provided in section 231 of this title, a second class license for the premises where such dealer shall carry on the business which shall authorize such dealer to export malt and vinous beverages and to sell malt and vinous beverages to the public from such premises for consumption off the premises and upon satisfying the ~~liquor control board~~ Board that such premises are leased, rented, or owned by such retail dealers and are safe, sanitary, and a proper place from which to sell malt and vinous beverages. A retail dealer carrying on business in more than one place shall be required to acquire a second class license for each place where he or she ~~hall~~ shall so sell malt and vinous beverages. No malt or vinous beverages shall be sold by a second class licensee to a minor.

* * *

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

Sec. 3. 7 V.S.A. § 230 is amended to read:

§ 230. RESTRICTIONS; FINANCIAL INTERESTS; DISPLAY OF LICENSE; EMPLOYEES

* * *

(b) An individual who is an employee of a wholesale dealer that does not hold a solicitor's permit may also be employed by a first or second class licensee on a paid or voluntary basis, provided that the employee does not exercise any control over, or participate in, the management of the first or

second class licensee's business or business decisions, and that either employment relationship does not result in the exclusion of any competitor wholesale dealer or any brand of alcoholic beverages of a competitor wholesale dealer.

Fifth: By adding Sec. 6a to read:

Sec. 6a. 7 V.S.A. § 561 is amended to read:

§ 561. AUTHORITY OF LIQUOR CONTROL INVESTIGATORS; ARREST FOR UNLAWFULLY MANUFACTURING, POSSESSING, OR TRANSPORTING ALCOHOLIC BEVERAGES; SEIZURE OF PROPERTY

(a) The ~~director of the enforcement division of the department of liquor control~~ Director of the Enforcement Division of the Department of Liquor Control and investigators employed by the ~~liquor control board~~ Liquor Control Board or by the ~~department of liquor control~~ Department of Liquor Control shall be certified as full-time law enforcement officers by the Vermont Criminal Justice Training Council and shall have the same powers and immunities as those conferred on the ~~state police~~ State Police by 20 V.S.A. § 1914.

* * *

Rep. Ram of Burlington, for the committee on Ways and Means, recommended that the recommendation of proposal of amendment offered by the committee on General, Housing and Military Affairs be agreed to.

Thereupon, the bill was read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Message from the Senate No. 65

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

Mr. Speaker:

I am directed to inform the House that:

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

S. 77. An act relating to patient choice and control at end of life.

And has passed the same in concurrence with proposal 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. 65. An act relating to limited immunity from liability for reporting a drug or alcohol overdose.

H. 520. An act relating to reducing energy costs and greenhouse gas emissions.

H. 536. An act relating to the Adjutant and Inspector General and the Vermont National Guard.

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

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

H. 517. An act relating to approval of the adoption and the codification of the charter of the Town of St. Albans.

And has passed the same in concurrence.

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

S. 59. An act relating to independent direct support providers.

And has concurred therein.

The Senate has considered joint resolution originating in the House of the following title:

J.R.H. 11. Joint resolution approving a land exchange or sale in the town of Plymouth and a land transfer in the town of Grand Isle.

And has adopted the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 405

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to manure management and anaerobic digesters

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate proposed to the House to amend the bill in Sec. 1, 30 V.S.A. § 248, in subdivision (q)(1), by striking out the last sentence and inserting in lieu thereof the following:

The certificate shall not be required for the methane digester, the digester influents and non-gas effluents, the buildings and equipment used to handle such influents and non-gas effluents, or the on-farm use of heat and exhaust produced by the generation of electricity, and these components shall not be subject to jurisdiction under this section.

Which proposal of amendment was considered and concurred in.

Rules Suspended; Senate Proposal of Amendment to House Proposal of Amendmetn Concurred in

S. 31

On motion of **Rep. Turner of Milton**, the rules were suspended and 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

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate concured in the House proposal of amendment with the following proposal of amendment thereto:

In Sec. 1, in 15 V.S.A. § 751, subdivision (b)(8), by striking subparagraphs (C) and (D) in their entirety and by relettering the existing subparagraph (E) to be (C) and the existing (F) to be (D)

Which proposal of amendment was considered and concurred in.

Rules Suspended; Bill Read Third Time and Passed in Concurrence with Proposal of Amendment; Rules Suspended and the bill was Ordered Messaged to the Senate Forthwith

S. 61

Senate bill, entitled

An act relating to alcoholic beverages

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence with proposal of amendment. The bill was read the third time and passed in concurrence with

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

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 26

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to technical corrections

Appearing on the Calendar for notice, was taken up for immediate consideration.

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

First: By inserting a new Sec. 6 as follows:

Sec. 6. 10 V.S.A. § 1106(a) is amended to read:

(a) There is hereby established a special fund to be known as the Vermont ~~unsafe dam revolving loan fund~~ Unsafe Dam Revolving Loan Fund which shall be used to provide grants and loans to municipalities, nonprofit entities, and private individuals, pursuant to rules ~~proposed~~ adopted by the ~~agency of natural resources and enacted by the general assembly~~ Agency of Natural Resources, for the reconstruction, repair, removal, breaching, draining, or other action necessary to reduce the threat of a dam or portion of a dam determined to be unsafe pursuant to section 1095 of this chapter.

* * *

Second: In Sec. 24 by striking out the introductory language "2012 Acts and Resolves No. 40, Sec. 12(b)" and inserting in lieu thereof of the following: 2011 Acts and Resolves No. 40, Sec. 12(b), as amended by 2012 Acts and Resolves No. 104, Sec. 8

Third: By inserting a new Sec. 30 as follows:

Sec. 30. LEGISLATIVE COUNCIL; STATUTORY REVISION; PHYSICIAN ASSISTANTS

The Office of Legislative Council, in its statutory revision capacity, is directed to make amendments to the Vermont Statutes Annotated as are necessary to change the term "physician's assistant" to "physician assistant" and the term "physician's assistants" to "physician assistants" and to correct any reference to physician assistant certification to refer instead to physician assistant licensure in order to conform with the change in the terminology of the title of physician assistants and their type of regulation as set forth in 2011

Acts and Resolves No. 61, Sec. 4. Such changes may also be made when new legislation is proposed or in preparing an individual act for codification in the Vermont Statutes Annotated or for publication in the Acts and Resolves.

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

Which proposal of amendment was considered and concurred in.

Committee Relieved of Consideration and Bill Committed to Other Committee

H. 390

Rep. Botzow of Pownal moved that the committee on Commerce and Economic Development be relieved of House bill, entitled

An act relating to elimination periods for long-term care insurance policies

And that the bill be committed to the committee on Human Services, which was agreed to.

Adjournment

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