

Journal of the House

Monday, May 5, 2014

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

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Message from Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House that on the second day of May, 2014, he approved and signed bills originating in the House of the following titles:

- H. 347 An act relating to veterinary dentistry**
- H. 871 An act relating to miscellaneous pension changes**
- H. 886 An act relating to approval of the adoption and the codification of the charter of the Town of Panton**
- H. 887 An act relating to approval of the adoption and the codification of the charter of the town of East Montpelier**

Message from the Senate No. 62

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 proposals of amendment to the following Senate bills and has refused to concur therein and asks for Committees of Conference upon the disagreeing votes of the two Houses to which the President announced the appointment as members of such Committees on the part of the Senate:

S. 234. An act relating to Medicaid coverage for home telemonitoring services.

Senator Pollina
Senator Lyons
Senator Ayer

S. 241. An act relating to binding arbitration for State employees.

Senator Baruth
Senator Cummings
Senator Doyle

Pursuant to the request of the House for Committees of Conference on the disagreeing votes of the two Houses on the following House bills the President announced the appointment as members of such Committees on the part of the Senate:

H. 297. An act relating to duties and functions of the Department of Public Service.

Senator Bray
Senator Ashe
Senator MacDonald.

H. 735. An act relating to Executive Branch and Judiciary fees.

Senator MacDonald
Senator Bray
Senator French.

H. 884. An act relating to miscellaneous tax changes.

Senator Ashe
Senator MacDonald
Senator Mullin.

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 56. Senate concurrent resolution designating May 11–17 as Women’s Lung Health Week in Vermont.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 341. House concurrent resolution congratulating Marc Chabot on winning State and national teaching awards.

H.C.R. 342. House concurrent resolution honoring Ron Hance for his leadership of the Heritage Family Credit Union.

H.C.R. 343. House concurrent resolution honoring Betty Kinsman for her pioneering leadership of the Springfield Area Parent Child Center.

H.C.R. 344. House concurrent resolution honoring Francis Whitcomb of Albany as an extraordinary citizen, educator, and as Vermont's active community member of the year.

H.C.R. 345. House concurrent resolution congratulating 10th grade composer Susalina Francy on the Vermont Symphony Orchestra's premier of *Beowulf's Last Battle*.

H.C.R. 346. House concurrent resolution designating April 29, 2014 as Alzheimer's Awareness Day in Vermont.

H.C.R. 347. House concurrent resolution congratulating Lisa Bianconi on being selected as a Grammy Music Educator Award finalist.

H.C.R. 348. House concurrent resolution congratulating the 2013 St. Johnsbury All-Star Babe Ruth 14 and Under Vermont championship baseball team.

H.C.R. 349. House concurrent resolution honoring Prevention Works! VT.

H.C.R. 350. House concurrent resolution celebrating the 25th anniversary of Outright Vermont.

H.C.R. 351. House concurrent resolution honoring Bruce Corwin for his musical leadership of the Brattleboro American Legion Band.

H.C.R. 352. House concurrent resolution congratulating Champlain Valley Union High School on its golden anniversary.

H.C.R. 353. House concurrent resolution honoring Grace Worcester Greene of Berlin for inspiring children to read and discover their local public library.

H.C.R. 354. House concurrent resolution congratulating the Vermont Arts Council on its 50th anniversary and designating 2015 as the Year of the Arts in Vermont.

H.C.R. 355. House concurrent resolution congratulating Jacob Cady and David Gratton on their age group championships in the Elks Vermont and New England Hoop Shoots.

Message from the Senate No. 63

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

Mr. Speaker:

I am directed to inform the House that:

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

S. 308. An act relating to regulating precious metal dealers.

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

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

H. 225. An act relating to a statewide policy on the use of and training requirements for electronic control devices.

H. 497. An act relating to the open meeting law.

H. 790. An act relating to Reach Up eligibility.

H. 877. An act relating to repeal of report requirements that are at least five years old.

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

Remarks Journalized

On motion of **Rep. Russell of Rutland City**, the following remarks by **Rep. Devereux of Mount Holly** were ordered printed in the Journal:

“Mr. Speaker:

You just heard the Resolution that recognized today as the 150th anniversary of the Battle of the Wilderness. A two-day Battle that was the deadliest day during the Civil War for the State of Vermont. We heard a month ago about this battle from the member from Georgia, so I will not talk about the battle, but share some several interesting facts, and mention three brothers from Mount Holly.

This afternoon at 4 p.m., a church bell will ring in Ludlow, made by a man that had apprenticed with Paul Revere. The bell had also been used when union troops won a battle or after a soldier's funeral. And It certainly rang after the death of Abraham Lincoln.

My great-great-grandfather, an officer in the First Vermont Brigade was wounded during this battle for the third time in the war. Most of the officers in the Second Vermont Volunteer Regiment were killed or wounded during the two-day battle.

First Lieutenant Ethan Allen Priest laid on the Battlefield for two cold nights before his wounds were treated. His older brother Darius, also serving, was preparing a letter to their parents, if Allen, died from his wounds. But he slowly recovered and returned to the family farm in Mount Holly, where he married, had 9 children, and lived another 29 years.

Darius was wounded less than a week later at Spotsylvania near the "Bloody Angle". Soon after they returned home to heal, their younger brother, Charles Wesley, enlisted in the same regiment as a replacement. He was wounded at the Battle of Cedar Creek that October, and also recovered. He owned the Mechanicsville General Store in what is now Belmont Village. The same store that my grandmother ran during the Depression and World War 2, and that my father took over when he returned from the service. Charles Wesley also served as postmaster just like my father, and he even served one term as the State Rep. from Mount Holly.

Charles Wesley Priest was known as Uncle Wesley to many in the community, and he lived until 1932. He had eight other brothers and sisters, who had large families. My father knew him as young boy as the white bearded man that led the Decoration Day parade from the one-room schoolhouse to the cemetery to honor his fellow Civil War Veterans. Uncle Wesley wanted to make sure that these men who had helped save the union would not be forgotten.

So when I leave here, one of the first things I will do as a Cemetery Commissioner is to make sure all the small flags are placed near our veterans graves before Memorial Day. I hope as you drive by the cemeteries in our communities that you will take a moment to notice, as I do, those many small flags.

Joint Resolution Read Third Time and Adopted

J.R.H. 19

Joint resolution, entitled

Joint resolution relating to encouraging New Hampshire to enact laws protecting emergency responders from across state lines;

Was taken up, read the third time and adopted on the part of the House.

Third Reading; Bills Passed in Concurrence with Proposal of Amendment

Senate bills of the following titles were severally taken up, read the third time and passed in concurrence with proposal of amendment:

S. 28

Senate bill, entitled

An act relating to gender-neutral nomenclature for the identification of parents on birth certificates;

S. 168

Senate bill, entitled

An act relating to making miscellaneous amendments to laws governing municipalities;

S. 218

Senate bill, entitled

An act relating to temporary employees;

S. 221

Senate bill, entitled

An act relating to providing statutory purposes for tax expenditures;

Third Reading; Bill Passed in Concurrence

S. 195

Senate bill, entitled

An act relating to increasing the penalties for second or subsequent convictions for disorderly conduct, and creating a new crime of aggravated disorderly conduct

Was taken up, read the third time and passed in concurrence.

Third Reading; Bill Passed in Concurrence

S. 225

Senate bill, entitled

An act relating to a report on recommended changes in the structure of Vermont State employment in order to reduce employment-related stress

Was taken up, read the third time and passed in concurrence.

Proposal of Amendment Agreed to; Third Reading Ordered**S. 202**

Rep. Ellis of Waterbury, for the committee on Natural Resources and Energy, to which had been referred Senate bill, entitled

An act relating to the energy efficiency charge

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

First: In Sec. 1, 30 V.S.A. § 209, in subdivision (d)(3)(B), by striking out the third sentence and inserting in lieu thereof a new third sentence to read:

In setting the amount of the charge and its allocation, the Board shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy demand, consumption, and expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and ~~the value of~~ targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value.

Second: In Sec. 1, 30 V.S.A. § 209, in subdivision (d)(3)(C), in the first sentence, after "the use of fossil fuels for" by inserting space before "heating" and after "such as air source" by inserting or geothermal before "heat pumps".

Third: In Sec. 1, 30 V.S.A. § 209, in subdivision (d)(3)(C), in subdivision (i), after "electric ratepayers" by inserting as a whole.

Fourth: In Sec. 1, 30 V.S.A. § 209, in subdivision (d)(3)(C), by striking out subdivision (iii) and inserting in lieu thereof a new subdivision (iii) to read:

(iii) will result in a net reduction in State energy consumption and greenhouse gas emissions on a life-cycle basis and will not have a detrimental impact on the environment through other means such as release of refrigerants or disposal. In making a finding under this subdivision, the Board shall consider the use of the technology at all times of year and any likely new electricity demand created by such use;

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.

Committee of Conference Appointed

S. 241

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 binding arbitration for State employees

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

Rep. Moran of Wardsboro

Rep. Weed of Enosburgh

Rep. O'Sullivan of Burlington

Favorable Report; Consideration Interrupted by Recess

S. 316

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

An act relating to child care providers

Reported in favor of its passage.

Rep. Keenan of St. Albans City, for the committee on Appropriations, reported the bill without recommendation.

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

Recess

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

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

Consideration Resumed; Third Reading Ordered

S. 316

Consideration resumed on House bill, entitled

An act relating to child care providers

Thereupon, **Rep. Dickinson of St. Albans Town** moved that the bill be recommitted to the committee in Appropriations.

Pending the question, Shall the bill be recommitted to the committee on Appropriations? **Rep. Dickinson of St. Albans Town** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be recommitted to the committee on Appropriations? was decided in the negative. Yeas, 55. Nays, 81.

Those who voted in the affirmative are:

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|---------------------------------|---------------------------|---------------------------|
| Batchelor of Derby | Gage of Rutland City | Nuovo of Middlebury |
| Bissonnette of Winooski | Gallivan of Chittenden | O'Brien of Richmond |
| Bouchard of Colchester | Goodwin of Weston | Quimby of Concord |
| Brennan of Colchester | Greshin of Warren | Ralston of Middlebury |
| Burditt of West Rutland | Helm of Fair Haven | Savage of Swanton |
| Campion of Bennington | Higley of Lowell | Scheuermann of Stowe |
| Canfield of Fair Haven | Hubert of Milton | Shaw of Pittsford |
| Carr of Brandon | Johnson of Canaan | Shaw of Derby |
| Condon of Colchester | Juskiewicz of Cambridge | Smith of New Haven |
| Consejo of Sheldon | Kilmartin of Newport City | Stevens of Shoreham |
| Cross of Winooski | Koch of Barre Town | Strong of Albany |
| Cupoli of Rutland City | Komline of Dorset | Terenzini of Rutland Town |
| Devereux of Mount Holly | Krebs of South Hero | Trieber of Rockingham |
| Dickinson of St. Albans Town | Larocque of Barnet | Turner of Milton * |
| Donaghy of Poultney | Lawrence of Lyndon | Van Wyck of Ferrisburgh |
| Donahue of Northfield | Lewis of Berlin | Wilson of Manchester |
| Fagan of Rutland City | Marcotte of Coventry | Winters of Williamstown |
| Feltus of Lyndon | McFaun of Barre Town | Wright of Burlington |
| | Morrissey of Bennington | |

Those who voted in the negative are:

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| Ancel of Calais | Deen of Westminster | Jerman of Essex |
| Bartholomew of Hartland | Donovan of Burlington | Jewett of Ripton |
| Beyor of Highgate | Ellis of Waterbury | Johnson of South Hero |
| Botzow of Pownal | Emmons of Springfield | Keenan of St. Albans City |
| Burke of Brattleboro | Evans of Essex | Kitzmiller of Montpelier |
| Buxton of Tunbridge | Fay of St. Johnsbury | Klein of East Montpelier |
| Christie of Hartford | Fisher of Lincoln | Krowinski of Burlington |
| Clarkson of Woodstock | Frank of Underhill | Lanpher of Vergennes |
| Cole of Burlington | French of Randolph | Lenes of Shelburne |
| Connor of Fairfield | Grad of Moretown | Lippert of Hinesburg |
| Copeland-Hanzas of Bradford | Haas of Rochester | Macaig of Williston |
| Corcoran of Bennington | Head of South Burlington | Malcolm of Pawlet |
| Dakin of Chester | Heath of Westford | Manwaring of Wilmington |
| Davis of Washington | Hebert of Vernon | Marek of Newfane |
| | Hooper of Montpelier | Martin of Springfield |

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| Martin of Wolcott | Potter of Clarendon | Toll of Danville * |
| Masland of Thetford | Pugh of South Burlington | Townsend of South |
| McCarthy of St. Albans City | Rachelson of Burlington | Burlington |
| McCormack of Burlington | Ram of Burlington | Vowinkel of Hartford |
| McCullough of Williston | Russell of Rutland City | Waite-Simpson of Essex |
| Michelsen of Hardwick | Ryerson of Randolph | Walz of Barre City |
| Miller of Shaftsbury | Sharpe of Bristol | Weed of Enosburgh |
| Mook of Bennington | South of St. Johnsbury | Wizowaty of Burlington |
| Moran of Wardsboro | Stevens of Waterbury | Woodward of Johnson |
| O'Sullivan of Burlington | Stuart of Brattleboro | Yantachka of Charlotte |
| Pearson of Burlington | Sweaney of Windsor | Young of Glover |
| Peltz of Woodbury | Till of Jericho | Zagar of Barnard |
| Poirier of Barre City | Toleno of Brattleboro | |

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

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| Branagan of Georgia | Kupersmith of South | Partridge of Windham |
| Browning of Arlington | Burlington | Pearce of Richford |
| Conquest of Newbury | Mitchell of Fairfax | Spengler of Colchester |
| Hoyt of Norwich | Mrowicki of Putney | Webb of Shelburne |
| Huntley of Cavendish | Myers of Essex | |

Rep. Toll of Danville explained her vote as follows:

“Mr. Speaker:

My no vote on this motion reflects my belief that this bill needs to be decided on by the full legislative body, so that 150 voices are heard, and its fate not determined by a committee of 11.”

Rep. Turner of Milton explained his vote as follows:

“Mr. Speaker:

The committee on appropriations failed us on this bill. Committee leadership choosing to ignore their responsibility on this bill by taking no action after learning what this bill would cost the state is very disappointing. A bill that we know will add an additional \$9.6 million dollars in upward pressures to the FY16 budget, a budget that is already projected to have a gap exceeding \$70 million dollars. Their unwillingness to make the difficult decision is an attack on the integrity of the legislative process and our VT institution.

Thank you.”

Pending the question, Shall the bill be read a third time? **Rep. Clarkson of Woodstock** 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, 70. Nays, 64.

Those who voted in the affirmative are:

| | | |
|--------------------------------|-----------------------------|---------------------------------|
| Ancel of Calais | Head of South Burlington | Peltz of Woodbury |
| Bartholomew of Hartland | Heath of Westford | Poirier of Barre City |
| Botzow of Pownal | Hebert of Vernon | Potter of Clarendon |
| Burke of Brattleboro | Hooper of Montpelier | Rachelson of Burlington * |
| Buxton of Tunbridge | Jerman of Essex | Ram of Burlington |
| Campion of Bennington | Jewett of Ripton | Russell of Rutland City |
| Christie of Hartford | Kitzmiller of Montpelier | Ryerson of Randolph |
| Clarkson of Woodstock * | Klein of East Montpelier | Sharpe of Bristol |
| Cole of Burlington | Krowinski of Burlington | South of St. Johnsbury |
| Copeland-Hanzas of Bradford | Lanpher of Vergennes | Stevens of Waterbury |
| Davis of Washington | Lippert of Hinesburg | Stuart of Brattleboro |
| Deen of Westminster | Macaig of Williston | Sweaney of Windsor |
| Donovan of Burlington | Marek of Newfane | Till of Jericho |
| Ellis of Waterbury | Martin of Wolcott | Toleno of Brattleboro |
| Emmons of Springfield | Masland of Thetford | Toll of Danville |
| Evans of Essex | McCarthy of St. Albans City | Townsend of South Burlington |
| Fay of St. Johnsbury | McCormack of Burlington | Vowinkel of Hartford |
| Fisher of Lincoln | McCullough of Williston | Waite-Simpson of Essex |
| Frank of Underhill | Michelsen of Hardwick | Weed of Enosburgh |
| French of Randolph | Miller of Shaftsbury | Wizowaty of Burlington |
| Gallivan of Chittenden | Moran of Wardsboro | Woodward of Johnson |
| Grad of Moretown | Nuovo of Middlebury | Yantachka of Charlotte |
| Haas of Rochester | O'Sullivan of Burlington | Zagar of Barnard |
| | Pearson of Burlington | |

Those who voted in the negative are:

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| Batchelor of Derby | Donaghy of Poultney | Larocque of Barnet |
| Beyor of Highgate | Donahue of Northfield | Lawrence of Lyndon |
| Bissonnette of Winooski | Fagan of Rutland City | Lewis of Berlin * |
| Bouchard of Colchester | Feltus of Lyndon | Malcolm of Pawlet |
| Brennan of Colchester | Gage of Rutland City | Manwaring of Wilmington |
| Burditt of West Rutland | Goodwin of Weston | Marcotte of Coventry |
| Canfield of Fair Haven | Greshin of Warren | Martin of Springfield |
| Carr of Brandon | Helm of Fair Haven | McFaun of Barre Town * |
| Condon of Colchester | Higley of Lowell | Mook of Bennington |
| Connor of Fairfield | Hubert of Milton | Morrissey of Bennington * |
| Consejo of Sheldon | Johnson of South Hero | O'Brien of Richmond |
| Corcoran of Bennington | Johnson of Canaan | Pearce of Richford |
| Cross of Winooski | Juskiewicz of Cambridge | Quimby of Concord |
| Cupoli of Rutland City | Keenan of St. Albans City | Ralston of Middlebury |
| Dakin of Chester | Kilmartin of Newport City * | Savage of Swanton |
| Devereux of Mount Holly | Koch of Barre Town | Scheuermann of Stowe |
| Dickinson of St. Albans Town | Komline of Dorset | Shaw of Pittsford |
| | Krebs of South Hero | Shaw of Derby |

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| Smith of New Haven | Trieber of Rockingham | Winters of Williamstown |
| Stevens of Shoreham | Van Wyck of Ferrisburgh | Wright of Burlington |
| Strong of Albany | Walz of Barre City | Young of Glover |
| Terenzini of Rutland Town | Wilson of Manchester | |

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

| | | |
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| Branagan of Georgia | Kupersmith of South | Partridge of Windham |
| Browning of Arlington | Burlington | Pugh of South Burlington |
| Conquest of Newbury | Lenes of Shelburne | Spengler of Colchester |
| Hoyt of Norwich | Mitchell of Fairfax | Turner of Milton |
| Huntley of Cavendish | Mrowicki of Putney | Webb of Shelburne |
| | Myers of Essex | |

Rep. Clarkson of Woodstock explained her vote as follows:

“Mr. Speaker:

We talk about the importance of children being well launched in life and yet we show how much we value the people responsible for this work by paying them quite poorly – on average about \$18k a year.

The vast majority of these employers are women. This bill creates a big tent under which women, who largely work alone, can negotiate together.

Unions are good for women. Unions improve women’s’ income.

I support these women, these employees and their wonderful important work.”

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

“Mr. Speaker:

I vote ‘No’! Put the taxpayers’ money where our mouth is! We should set the rates and qualifications for subsidies if we really care about the families and children. We shouldn’t talk about ‘women negotiating’. We should do it ourselves. That is what we were sent here to do!”

Rep. Lewis of Berlin explained her vote as follows:

“Mr. Speaker:

I oppose this bill because 76% of the licensed home child care providers in VT oppose it. I am here to represent my constituents AND be thoughtful of the overall impact on Vermonters. Any budget increase is passed on to our taxpayers.”

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

“Mr. Speaker:

I vote ‘no’ because I have never heard of a union that is made up of owners of a business – that are going to negotiate for their customers to get more money from the state so the owners can pay themselves more money for their service. I believe in the right to bargain but not for this reason.”

Rep. Morrissey of Bennington explained her vote as follows:

“Mr. Speaker:

Today I vote ‘no’ on S.316. My vote is based on the fact that the most important and powerful committee in this State House, the Appropriations Committee, chose to send this bill to the floor without a recommendation. I can only wonder why this committee would not do their job to say “yeah” or ‘nay” on this important piece of legislation. It is clear that this committee had serious questions and concerns about this bill; however, we will never know. The fiscal note highlights many of the concerns which should have been articulated by Appropriations to this Chamber. The Human Services Committee should also have had a review of this Bill. It is most disappointing that the committee process and government transparency is certainly not alive and well under the Golden Dome.”

Rep. Rachelson of Burlington explained her vote as follows:

“Mr. Speaker:

The people who care for and educate our infants, toddlers and children have one of the most important jobs and deserve to be paid better than they are. The current subsidy rates are not acceptable. It is my hope that this bill will not have the unintended consequence of making it even harder than it already is for children who are on subsidy to get access to quality childcare.

I have grave concerns voting for a bill that will cost money that is not earmarked because some other vulnerable populations will be affected.”

Senate Proposal of Amendment Concurred in

H. 823

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

An act relating to encouraging growth in designated centers and protecting natural resources

First: In Sec. 1, 10 V.S.A. § 6001 (definitions), in subdivision (16)(A) (existing settlement), in subdivision (ii), after “an existing”, by striking out “community”.

Second: In Sec. 1, 10 V.S.A. § 6001 (definitions), by striking out subdivision (36) in its entirety and inserting in lieu thereof a new subdivision (36) to read as follows:

(36) “Strip development” means linear commercial development along a public highway that includes three or more of the following characteristics: broad road frontage, predominance of single-story buildings, limited reliance on shared highway access, lack of connection to any existing settlement except by highway, lack of connection to surrounding land uses except by highway, lack of coordination with surrounding land uses, and limited accessibility for pedestrians. In determining whether a proposed development or subdivision constitutes strip development, the District Commission shall consider the topographic constraints in the area in which the development or subdivision is to be located.

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

Sec. 2. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Before granting a permit, the ~~district commission~~ District Commission shall find that the subdivision or development:

* * *

(5)(A) Will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports and airways, and other means of transportation existing or proposed.

(B) As appropriate, will incorporate transportation demand management strategies and provide safe access and connections to adjacent lands and facilities and to existing and planned pedestrian, bicycle, and transit networks and services. In determining appropriateness under this subdivision (B), the District Commission shall consider whether such a strategy, access, or connection constitutes a measure that a reasonable person would take given the type, scale, and transportation impacts of the proposed development or subdivision.

* * *

(9) Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a ~~district commission~~ District Commission.

* * *

~~(L) Rural growth areas. A permit will be granted for the development or subdivision of rural growth areas when it is demonstrated by the applicant that in addition to all other applicable criteria provision will be made in accordance with subdivisions (9)(A) "impact of growth," (G) "private utility service," (H) "costs of scattered development" and (J) "public utility services" of subsection (a) of this section for reasonable population densities, reasonable rates of growth, and the use of cluster planning and new community planning designed to economize on the cost of roads, utilities and land usage. Settlement patterns. To promote Vermont's historic settlement pattern of compact village and urban centers separated by rural countryside, a permit will be granted for a development or subdivision outside an existing settlement when it is demonstrated by the applicant that, in addition to all other applicable criteria, the development or subdivision:~~

~~(i) will make efficient use of land, energy, roads, utilities, and other supporting infrastructure; and~~

~~(ii) (I) will not contribute to a pattern of strip development along public highways; or~~

~~(II) if the development or subdivision will be confined to an area that already constitutes strip development, will incorporate infill as defined in 24 V.S.A. § 2791 and is designed to reasonably minimize the characteristics listed in the definition of strip development under subdivision 6001(36) of this title.~~

Fourth: By striking out Secs. 3, 4, and 5 in their entirety and inserting in lieu thereof new Secs. 3, 4, and 5 to read as follows:

Sec. 3. 10 V.S.A. § 6086b is added to read:

§ 6086b. DOWNTOWN DEVELOPMENT; FINDINGS

Notwithstanding any provision of this chapter to the contrary, each of the following shall apply to a development or subdivision that is completely within a downtown development district designated under 24 V.S.A. chapter 76A and for which a permit or permit amendment would otherwise be required under this chapter:

(1) In lieu of obtaining a permit or permit amendment, a person may request findings and conclusions from the District Commission, which shall approve the request if it finds that the development or subdivision will meet subdivisions 6086(a)(1) (air and water pollution), (2) (sufficient water available), (3) (burden on existing water supply), (4) (soil erosion), (5) (traffic), (8) (aesthetics, historic sites, rare and irreplaceable natural areas), (8)(A) (endangered species; necessary wildlife habitat), (9)(B) (primary agricultural soils), (9)(C) (productive forest soils), (9)(F) (energy conservation), and (9)(K) (public facilities, services, and lands) of this title.

(2) The request shall be complete as to the criteria listed in subdivision (1) of this subsection and need not address other criteria of subsection (a) of this section.

(A) The requestor shall file the request in accordance with the requirements of subsection 6084(a) of this title and the requestor shall provide a copy of the request to each agency and department listed in subdivision (3) of this section.

(B) Within five days of the request's filing, the District Coordinator shall determine whether the request is complete. Within five days of the date the District Coordinator determines the request to be complete, the District Commission shall provide notice of the complete request to each person required to receive a copy of the filing under subdivision (2)(A) of this section and to each adjoining property owner and shall post the notice and a copy of the request on the Board's web page. The computation of time under this subdivision (2)(B) shall exclude Saturdays, Sundays, and State legal holidays.

(3) Within 30 days of receiving notice of a complete request:

(A) The State Historic Preservation Officer or designee shall submit a written recommendation on whether the improvements will have an undue adverse effect on any historic site.

(B) The Commissioner of Public Service or designee shall submit a written recommendation on whether the improvements will meet or exceed the applicable energy conservation and building energy standards under subdivision 6086(a)(9)(F) of this title.

(C) The Secretary of Transportation or designee shall submit a written recommendation on whether the improvements will have a significant impact on any highway, transportation facility, or other land or structure under the Secretary's jurisdiction.

(D) The Commissioner of Buildings and General Services or designee shall submit a written recommendation on whether the improvements will have a significant impact on any adjacent land or facilities under the Commissioner's jurisdiction.

(E) The Secretary of Natural Resources or designee shall submit a written recommendation on whether the improvements will have a significant impact on any land or facilities under its jurisdiction or on any important natural resources, other than primary agricultural soils. In this subdivision (E), "important natural resources" shall have the same meaning as under 24 V.S.A. § 2791.

(F) The Secretary of Agriculture, Food and Markets or designee shall submit a written recommendation on whether the improvements will reduce or convert primary agricultural soils and on whether there will be appropriate mitigation for any reduction in or conversion of those soils.

(4) Any person may submit written comments or ask for a hearing within 30 days of the date on which the District Commission issues notice of a complete request. If the person asks for a hearing, the person shall include a petition for party status in the submission. The petition for party status shall meet the requirements of subdivision 6085(c)(2) of this title.

(5) The District Commission shall not hold a hearing on the request unless it determines that there is a substantial issue under one or more applicable criteria that requires a hearing. The District Commission shall hold any hearing within 20 days of the end of the comment period specified in subdivisions (3) and (4) of this section. Subdivisions 6085(c)(1)–(5) of this title shall govern participation in a hearing under this section.

(6) The District Commission shall issue a decision within 60 days of issuing notice of a complete request under this section or, if it holds a hearing, within 15 days of adjourning the hearing. The District Commission shall send a copy of the decision to each State agency listed in subdivision (3) of this section, to the municipality, to the municipal and regional planning commissions for the municipality, and to each person that submitted a comment, requested a hearing, or participated in the hearing, if any. The decision may include conditions that meet the standards of subsection 6086(c) of this title.

(7) The requestor may waive the time periods required under subdivisions (3), (4), and (6) of this section as to one or more agencies, departments, the District Commission, the District Coordinator, or other persons. Such a waiver shall extend the applicable and subsequent time

periods by the amount of time waived. In the absence of a waiver under this subdivision, the failure of a State agency to file a written determination or a person to submit a comment or ask for a hearing within the time periods specified in subdivisions (3) and (4) of this section shall not delay the District Commission's issuance of a decision on a complete request.

Sec. 4. 10 V.S.A. § 6081(v) is added to read:

(v) A permit or permit amendment shall not be required for a development or subdivision in a designated downtown development district for which the District Commission has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the District Commission under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the District Commission has issued such findings and conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change.

Sec. 5. [Deleted.]

Fifth: By striking out Sec. 6 in its entirety and inserting in lieu thereof:

Sec. 6. [Deleted.]

Sixth: By striking out Secs. 7 and 8 in their entirety and inserting in lieu thereof new Secs. 7 and 8 to read as follows:

Sec. 7. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(10) 10 V.S.A. chapter 151, relating to land use, and including findings and conclusions issued under section 6086b of this title;

* * *

* * * Nonappeal, Recommendation to District Commission * * *

Sec. 8. 10 V.S.A. § 8504 is amended to read:

§ 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

(a) Act 250 and agency appeals. Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the Secretary, the Natural Resources Board, or a ~~district commission~~ District Commission under the provisions of law listed in section 8503 of this title, or any party by right, may appeal to the Environmental Division, except for an act or decision of the Secretary under subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

* * *

Seventh: In Sec. 13 (wastewater rules; amendment), after “the Agency of Natural Resources shall amend its” by inserting the word application prior to “form”.

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 217

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

An act relating to smoking in lodging establishments, hospitals, and child care facilities, and on State lands

First: In Sec. 2, 18 V.S.A. § 1741, by striking out subdivision (2)(R) in its entirety and relettering the remaining subdivisions to be alphabetically correct.

Second: In Sec. 3, 18 V.S.A. § 1742, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The possession of lighted tobacco products in any form is prohibited in:

(1) the common areas of all enclosed indoor places of public access and publicly owned buildings and offices;

(2) all enclosed indoor places in lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, including sleeping quarters and adjoining rooms rented to guests;

(3) designated smoke-free areas of property or grounds owned by or leased to the State; and

(4) any other area within 25 feet of State-owned buildings and offices, except that to the extent that any portion of the 25-foot zone is not on State property, smoking is prohibited only in that portion of the zone that is on State property unless the owner of the adjoining property chooses to designate his or her property smoke-free.

Third: By striking out Sec. 4, 16 V.S.A. § 140, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 16 V.S.A. § 140 is amended to read:

§ 140. TOBACCO USE PROHIBITED ON PUBLIC SCHOOL GROUNDS

No person shall be permitted to use tobacco or tobacco substitutes as defined in 7 V.S.A. § 1001 on public school grounds and no student shall be permitted to use tobacco or at public school sponsored functions. Each public school board shall adopt policies prohibiting the possession and use of tobacco products by students at all times while under the supervision of school staff. These policies shall Public school boards may adopt policies that include confiscation and appropriate referrals to law enforcement authorities.

Fourth: By striking out Sec. 8, effective date, and inserting in lieu thereof two new sections to be numbered Secs. 8 and 9 to read as follows:

Sec. 8. 7 V.S.A. § 1012 is added to read:

§ 1012. LIQUID NICOTINE; PACKAGING

(a) Unless specifically preempted by federal law, no person shall manufacture, regardless of location, for sale in; offer for sale in; sell in or into the stream of commerce in; or otherwise introduce into the stream of commerce in Vermont:

(1) any liquid or gel substance containing nicotine unless that product is contained in child-resistant packaging; or

(2) any nicotine liquid container unless that container constitutes child-resistant packaging.

(b) As used in this section:

(1) "Child-resistant packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

(2) “Nicotine liquid container” means a bottle or other container of a nicotine liquid or other substance containing nicotine which is sold, marketed, or intended for use in a tobacco substitute. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco substitute if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

Sec. 9. EFFECTIVE DATES

(a) Secs. 1–7 and this section shall take effect on July 1, 2014.

(b) Sec. 8 (liquid nicotine; packaging) shall take effect on January 1, 2015.

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 270

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

An act relating to providing access to publicly funded prekindergarten education

First: In Sec. 1, 16 V.S.A. § 829, subsection (e), subdivision (10), in the first sentence, after the word “monitor” by inserting the words and evaluate and in the third sentence, by striking out the word “assess” and inserting in lieu thereof the word evaluate

and in subsection (e), by striking out subdivision (12) (Head Start) in its entirety

Second: In Sec. 3, subsection (a), in the first sentence, by striking out the year “2015” and inserting in lieu thereof the year 2016

and in subsection (b), by striking out the following: “2015, 2016, and 2017” and inserting in lieu thereof the following: 2016, 2017, and 2018

Third: By inserting a new section to be Sec. 3b to read as follows:

Sec. 3b. PREKINDERGARTEN REGIONS; PROCESS AND CRITERIA

The Agencies of Education and of Human Services, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, the Vermont Principals’ Association, the Vermont-NEA, and the Building Bright Futures Council created in 33 V.S.A. chapter 46, shall develop a detailed proposal outlining the process and criteria by which the Agencies will determine the prekindergarten region of a school district if requested to do so pursuant to Sec. 1, 16 V.S.A. § 829(h)(2), of this act. The Agencies shall

present the proposal to the House and Senate Committees on Education on or before January 15, 2015. The Agencies shall also present any recommendations for amendments to statute, including repeal of or amendments to subsection (h).

Fourth: By striking out Sec. 5 (effective date) in its entirety and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. EFFECTIVE DATE

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

Which proposal of amendment was considered and concurred in.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 40

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

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. INTERIM STUDY OF HIGHER EDUCATION FUNDING; REPORT

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

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

(1) one faculty member and one staff member of the University of Vermont to be appointed by United Professions American Federation of Teachers Vermont and the University of Vermont Staff Council, respectively;

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

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

(c) Powers and duties.

(1) The subcommittee shall develop proposed policies to:

(A) lower student and family costs and debt so that the State Colleges and the University are more affordable for Vermonters; and

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

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

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

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

(C) administrative as compared to instructional spending, and how institutional spending impacts student costs;

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

(E) how to minimize the financial impact of living expenses on student costs; and

(F) any information available from the State Colleges and the University regarding the impact of Vermont State College and University of Vermont graduates on Vermont's economy and on job creation and retention.

(d) On or before January 15, 2015, the subcommittee shall report to the General Assembly on its findings and any recommendations for legislative action.

(e) The subcommittee may meet no more than six times between July 1, 2014 and January 15, 2015 for the purposes of this interim study. For attendance at meetings during adjournment of the General Assembly, legislative members of the subcommittee shall be entitled to compensation and reimbursement for expenses under 2 V.S.A. § 406, and other members of the subcommittee who are not employees of the State of Vermont may be

reimbursed at the per diem rate under 32 V.S.A. § 1010 if not otherwise compensated or benefited.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Miller of Shaftsbury, for the committee on Appropriations, recommended that the House propose to the Senate to amend the bill as recommended by the committee on Education.

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 offered by the committee on Education agreed to and third reading ordered.

Report of Committee of Conference Adopted

H. 526

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill, entitled

An act relating to the establishment of lake shoreland protection standards

Respectfully reported that it has met and considered the same and recommended that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS AND LEGISLATIVE INTENT

The General Assembly finds and declares that:

(1) Clean water is essential in Vermont's quality of life.

(2) Preserving, protecting, and restoring the water quality of all lakes, ponds, rivers, and streams are necessary for the clean water, recreation, economic opportunity, wildlife habitat, and ecological value that such waters provide.

(3) Currently, there are multiple pressures on the protection of the water quality of the State's surface waters.

(4) The State has responded to the multiple pressures on water quality by implementing regulatory programs for stormwater, wastewater, and agricultural runoff, but water quality issues remain that need addressing.

(5) Vermont's lakes are among the State's most valuable and fragile economic and natural resources, and the protection of naturally vegetated shorelands adjacent to lakes is necessary to prevent water quality degradation, maintain healthy habitat, and promote flood resilience.

(6) Naturally vegetated shorelands and implementation of best management practices in lands adjacent to lakes function to:

(A) intercept and infiltrate surface water runoff, wastewater, and groundwater flows from upland sources;

(B) remove or minimize the effects of nutrients, sediment, organic matter, pesticides, and other pollutants;

(C) moderate the temperature of shallow water habitat;

(D) maintain the conditions that sustain the full support of aquatic biota, wildlife, and aquatic habitat uses; and

(E) promote stability and flood resilience by protecting shoreline banks from erosion.

(7) Healthy lakes and adjacent shorelands:

(A) support Vermont's tourism economy and promote widespread recreational opportunities, including swimming, boating, fishing, and hunting;

(B) support property values and tax base; and

(C) reduce human health risks.

(8) According to the Agency of Natural Resources Water Quality Remediation, Implementation, and Funding Report in 2013, review of the development, protection, and stabilization of shorelands is necessary because of the importance of shorelands to the health of lakes.

(9) A lake or pond of more than 10 acres is located in 184 of the State's 251 municipalities. However, only 48 municipalities have shoreland zoning that requires vegetative cover. Scientifically based standards for impervious surface and cleared area adjacent to lakes are necessary to protect and maintain the integrity of water quality and aquatic and shoreland habitat, while also allowing for reasonable development of shorelands.

(10) The shorelands of the State owned by private persons remain private property, and this act does not extend the common-law public trust doctrine to private shoreland that is not currently public trust land. The State has an interest in protecting lakes and adjacent shorelands in a manner that respects existing rights of property owners to control access to land they own in lake shorelands, and the regulation of the creation of new impervious

surface or cleared area in the shoreland areas should not and does not affect the ability of property owners to control access to their lands.

(11) In order to fulfill the State's role as trustee of its waters and promote public health, safety, and the general welfare, it is in the public interest for the General Assembly to establish lake shoreland protection standards for impervious surface and cleared area in the shorelands adjacent to the State's lakes.

Sec. 2. 10 V.S.A. chapter 49A is added to read:

CHAPTER 49A. LAKE SHORELAND PROTECTION STANDARDS

§ 1441. PURPOSE

The purposes of this chapter shall be to:

(1) provide clear and adaptable standards for the creation of impervious surface or cleared area in lands adjacent to lakes;

(2) prevent degradation of water quality in lakes and preserve natural stability of shoreline;

(3) protect aquatic biota and protect habitat for wildlife and aquatic life;

(4) mitigate, minimize, and manage any impact of new impervious surface and new cleared area on the lakes of the State;

(5) mitigate the damage that floods and erosion cause to development, structures, and other resources in the lands adjacent to lakes;

(6) accommodate creation of cleared areas and impervious surfaces in protected shoreland areas in a manner that allows for reasonable development of existing parcels;

(7) protect shoreland owners' access to, views of, and use of the State's lakes; and

(8) preserve and further the economic benefits and values of lakes and their adjacent shorelands.

§ 1442. DEFINITIONS

As used in this chapter:

(1) "Agency" means the Agency of Natural Resources.

(2) "Best management practices" means approved activities, maintenance procedures, and other practices to prevent or reduce the effects of impervious surface or cleared area on water quality and natural resources.

(3) “Cleared area” means an area where existing vegetative cover, soil, tree canopy, or duff is permanently removed or altered. Cleared area shall not mean management of vegetative cover conducted according to the requirements of section 1447 of this title.

(4) “Duff” means leaf litter plus small fragments of plants and organic debris that provide a spongy substrate that absorbs the energy of falling water and allows runoff to infiltrate soil.

(5) “Expansion” means an increase or addition of impervious surface or cleared area.

(6) “Grass lawn” means land maintained in continuous plant coverage of grasses and similar plants that are closely and regularly mowed, including meadow or pasture on nonagricultural land. “Grass lawn” does not include pasture cropland, land used to grow sod, or similar land used for agricultural production.

(7) “Habitable structure” means a permanent assembly of materials built for the support, shelter, or enclosure of persons, animals, goods, or property, including a dwelling, a commercial or industrial building, and driveways, decks, and patios attached or appurtenant to a dwelling or commercial or industrial building. “Habitable structure” shall not mean a motor home, as that term is defined under 32 V.S.A. § 8902, tents, lean-tos, or other temporary structures.

(8) “Highway” shall have the same meaning as in 19 V.S.A. § 1(12).

(9) “Impervious surface” means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.

(10) “Lake” means a body of standing water, including a pond or a reservoir, which may have natural or artificial water level control. Private ponds shall not be considered lakes.

(11) “Management road” shall have the same meaning as in 19 V.S.A. § 1(13).

(12) “Mean water level” means the mean water level of a lake as defined in the Mean Water Level Rules of the Agency of Natural Resources adopted under 29 V.S.A. § 410.

(13) “Parcel” means a portion of land or a tract of land with defined boundaries created by dividing the land by sale, gift, lease, mortgage

foreclosure, court-ordered partition or decree, or filing of a plat, plan, or deed in the records of the municipality where the act of division occurred.

(14) "Private pond" means a body of standing water that is a natural water body of not more than 20 acres located on property owned by a person or an artificial water body of any size located on property owned by one person. A "private pond" shall include a reservoir specifically constructed for one of the following purposes: snowmaking storage, golf course irrigation, stormwater management, or fire suppression.

(15) "Private road" means a road or street other than a highway, as that term is defined in 19 V.S.A. § 1(12), that is owned by one or more persons and that is used as a means of travel from a highway to more than one parcel of land.

(16) "Project" means an act or activity that results in cleared area or the creation of impervious surface in a protected shoreland area.

(17) "Protected shoreland area" means all land located within 250 feet of the mean water level of a lake that is greater than 10 acres in surface area.

(18) "Secretary" means the Secretary of Natural Resources or the Secretary's duly authorized representative.

(19) "Slope" means the vertical rise divided by the horizontal run of a plane expressed as a percentage.

(20) "State forest highway" shall have the same meaning as in 19 V.S.A. § 1(19).

(21) "Stormwater runoff" means precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.

(22) "Vegetative cover" means mixed vegetation within the protected shoreland area, consisting of trees, shrubs, groundcover, and duff. "Vegetative cover" shall not mean grass lawns, noxious weeds designated by the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 84, or nuisance plants, such as poison ivy and poison oak, designated by the Secretary of Natural Resources.

§ 1443. INDIVIDUAL PERMIT REQUIREMENT FOR IMPERVIOUS
SURFACE OR CLEARED AREA IN A PROTECTED
SHORELAND AREA

(a) Permit requirement. A person shall not create cleared area or impervious surface in a protected shoreland area without a permit from the Secretary issued under this section, except for activities authorized to occur without a permit under section 1446 of this title.

(b) Permit issuance. The Secretary shall issue a permit under this section if the proposed impervious surface or cleared area meets the requirements of section 1444 or 1445 of this title.

(c) Permit process.

(1) A person applying for a permit shall do so on a form provided by the Secretary. The application shall be posted on the Agency's website.

(2) A person applying for a permit shall provide notice, on a form provided by the Secretary, to the municipal clerk of the municipality in which the construction of impervious surface or creation of cleared area is located at the time the application is filed with the Secretary.

(3) The Secretary shall provide an opportunity for written comment, regarding whether an application complies with the requirements of this chapter or any rule adopted by the Secretary, for 30 days following receipt of the application.

(d) Permit condition. A permit issued under this section may include permit conditions, including authorizing a permittee, no more frequently than two times per year, to clear vegetative cover within three feet of both sides of a footpath within the protected shoreland area in order to allow access to the mean water level for maintenance or repair of recreational structures or for other activity approved by the Secretary.

(e) Permit term. Individual permits issued under this section shall be for an indefinite term, provided that the permittee complies with the requirements of the permit and takes no additional action for which an individual permit is required.

(f) Recording. A permit or registration issued under this chapter shall, for the purposes of having the permit or registration run with the land, be recorded in the land records of the municipality in which the impervious surface or cleared area is located.

(g) Public recreational areas. Notwithstanding the requirements of sections 1444 and 1445 of this title, the Secretary shall issue a permit under this chapter for a public recreational area project if the permit applicant demonstrates and the Secretary finds that:

(1) the recreational activity provides access to the water for the general public and promotes the public trust uses of the water;

(2) the impervious surface or cleared area is necessary to achieve the recreational purpose of the project, and the project must be constructed within the protected shoreland area to achieve its recreational function; and

(3) the project conforms with best management practices approved by the Secretary that protect the habitat and water quality of the lake while achieving the public recreational purposes.

§ 1444. PERMIT STANDARDS

(a) Permit standards; generally. Except for permits issued under section 1445 of this title, the Secretary shall issue a permit under this chapter if the permit applicant, including the State of Vermont, demonstrates that:

(1) cleared area or impervious surface shall be located at least 100 feet from the mean water level, except for for shoreland stabilization measures designed to repair or prevent erosion or flood risks and approved by the Secretary;

(2) cleared area or impervious surface within the protected shoreland area shall be located on a site:

(A) with a slope of less than 20 percent; or

(B) that will have a stable slope with minimal erosion and minimal negative impacts to water quality;

(3)(A) no more than 20 percent of the protected shoreland area of the parcel shall consist of impervious surface; or

(B) best management practices will be used to manage, treat, and control erosion due to stormwater runoff from that portion of impervious surface that exceeds 20 percent of the protected shoreland area;

(4)(A) no more than 40 percent of the protected shoreland area of the parcel shall consist of cleared area, including area cleared for the purposes of creating impervious surface; or

(B) best management practices will be used to provide erosion control, bank stability, and wildlife habitat functionally equivalent to that which would be provided by clearing less than 40 percent of the protected shoreland area; and

(5) vegetative cover shall be managed according to the requirements of section 1447 of this title.

(b) Repair of highway, State forest highway, management road, or private road. Under this chapter, when the repair, emergency repair, or replacement of a highway, management road, State forest highway, or private road results in the construction, creation, or expansion of impervious surface or cleared area on a property adjacent to the highway, management road, State forest highway, or private road, the impervious surface or cleared area constructed or created on the adjacent property shall not be calculated as square footage of impervious surface or cleared area for purposes of permitting or registration under this chapter.

(c) Calculation of area. Under this chapter, the area of constructed, created, or expanded impervious surface or cleared area shall be the square footage as measured on a horizontal plane.

§ 1445. NONCONFORMING PARCELS; PERMIT STANDARDS

(a) Permit for nonconforming parcels. A permit applicant shall comply with the requirements of subsection (b) of this section if the applicant cannot meet the standard required under subdivision 1444(a)(1) of this title on a parcel of land in existence on July 1, 2014, due to one of the following limitations:

(1) parcel size;

(2) the site characteristic or site limitations of the parcel, including presence of highway or rights of way and soil type; or

(3) application of municipal setback requirement in a municipal bylaw adopted on or before July 1, 2014.

(b) Permit standards for nonconforming parcels.

(1) For a parcel on which there is no habitable structure, the cleared area or impervious surface shall be as far as possible from the mean water level, and at a minimum shall be no less than 25 feet from the mean water level, except for shoreland stabilization measures designed to repair or prevent erosion or flood risks and approved by the Secretary.

(2) For a parcel on which a habitable structure is located, the expansion of any portion of the structure within 100 feet of the mean water level shall be on the side of the structure farthest from the lake, unless the Secretary determines that:

(A) expansion on an alternate side of the structure will have an impact on water quality that is equivalent to or less than expansion of the structure on the side farthest from the lake; and

(B) the structure is not expanded toward the mean water level.

(3) Cleared area or impervious surface within the protected shoreland area shall be located on a site:

(A) with a slope of less than 20 percent; or

(B) that the permit applicant demonstrates will have a stable slope with minimal erosion and minimal negative impacts to water quality.

(4)(A) No more than 20 percent of the protected shoreland area of the parcel shall consist of impervious surface; or

(B) The permit applicant shall demonstrate that best management practices will be used to manage, treat, and control erosion due to stormwater runoff from that portion of impervious surface that exceeds 20 percent of the protected shoreland area.

(5)(A) No more than 40 percent of the protected shoreland area of the parcel shall consist of cleared area, including area cleared for the purposes of creating an impervious surface; or

(B) The permit applicant shall demonstrate that best management practices will be used to provide erosion control, bank stability, and wildlife habitat functionally equivalent to that which would be provided by clearing less than 40 percent of the protected shoreland area.

(c) Vegetation maintenance on nonconforming parcels. A permit issued under this section for creation of cleared area or impervious surface on a nonconforming parcel shall not require compliance with the requirements of section 1447 for the management of vegetative cover.

(d) Application process. An applicant for a permit under this section shall submit to the Secretary a form that identifies the basis of the nonconformity on the parcel. The Secretary may issue a permit under this section to an applicant who meets the requirements of subsection (b) of this section.

§ 1446. REGISTERED PROJECTS; EXEMPTIONS FROM PERMITTING

(a)(1) Registered projects. The following projects in a protected shoreland area do not require a permit under section 1444 or 1445 of this title:

(A) The creation of no more than 100 square feet of impervious surface or cleared area, or a combination of impervious surface or cleared area, within 100 feet of the mean water level, provided that:

(i) the owner of the property on which the impervious surface or cleared area is created registers with the Secretary, on a form provided by the Secretary that contains the name of the property owner, the address of the

property, and a certification that the project meets the requirements of this subsection (a);

(ii) the impervious surface or cleared area is located at least 25 feet from the mean water level; and

(iii) vegetative cover shall be managed according to the requirements of section 1447 of this title.

(B) The creation of 500 square feet or less of impervious surface, cleared area, or a combination of impervious surface and cleared area, provided that:

(i) the owner of the property on which the impervious surface or cleared area is created registers with the Secretary a form provided by the Secretary that contains the name of the property owner, the address of the property, and a certification that the project meets the requirements of this subsection;

(ii) the impervious surface or cleared area is at least 100 feet from the mean water level;

(iii) any proposed cleared area or area within the protected shoreland area where an impervious surface shall be sited has a slope of less than 20 percent;

(iv) after the completion of the project, the protected shoreland area shall consist of no more than 20 percent impervious surface; and

(v) after the completion of the project, the protected shoreland area shall consist of no more than 40 percent cleared area, including any area cleared for the purposes of creating impervious surface.

(2) Limit on registration per parcel. A person shall not use the registration process under this subsection to create more than a maximum total per parcel of:

(A) 100 square feet of impervious surface or cleared area within 100 feet of the mean water level; and

(B) 500 square feet of impervious surface or cleared area within the protected shoreland area that is at least 100 feet from the mean water level.

(3) Effect of registration. A registration shall take effect 15 days after being filed with the Secretary, unless the Secretary requests that the person registering submit additional information that the Secretary considers necessary or the Secretary notifies the person registering that an individual permit is required.

(4) Term. Registrations shall be for an indefinite term, provided that the person complied with the requirements of this subsection and takes no action for which an individual permit is required.

(b) Exemptions. The following activities in a protected shoreland area do not require a permit under section 1444 or 1445 of this title:

(1) Management of vegetative cover. Management of vegetative cover conducted in compliance with section 1447 of this title.

(2) Removal of vegetation for recreational purposes. The cutting or removal of no more than 250 square feet of the existing vegetation under three feet in height within 100 feet of the mean water level to allow for recreational use in the protected shoreland area, provided that:

(A) the cutting or removal of vegetation occurs at least 25 feet from the mean water level; and

(B) other ground cover, including leaf litter and the forest duff layer, shall not be removed from the area in which cutting occurs.

(3) Maintenance of lawns. The maintenance, but not the enlargement, of lawns, gardens, landscaped areas, and beaches in existence as of July 1, 2014.

(4) Creation of footpaths. The creation of one footpath per parcel with a width of no greater than six feet that provides access to the mean water level. Under this subdivision, a footpath includes stairs, landings, or platforms within the authorized six-foot width.

(5) Construction within footprint. Construction within the footprint of an impervious surface, existing as of July 1, 2014, that does not result in a net increase in the amount of impervious surface on a parcel.

(6) Silvicultural activities. Silvicultural activities in a protected shoreland area if the silvicultural activities are in compliance with:

(A) a forest management plan, approved by the Commissioner of Forests, Parks and Recreation, for the land in the protected shoreland area in which the silvicultural activities occur; and

(B) the accepted management practices adopted by the Commissioner of Forests, Parks and Recreation under section 2622 of this title.

(7) Agricultural activities. Agricultural activities on land in agricultural production on July 1, 2014, provided that:

(A) no impervious surface shall be created or expanded in a protected shoreland area except: when no alternative outside the protected shoreland area exists, the construction of a best management practice is necessary to abate an agricultural water quality issue, and the best management practice is approved by the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 215; and

(B) the agricultural activities within the protected shoreland area comply with the rules adopted by the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 215 regarding agricultural water quality, including accepted agricultural practices, best management practices, medium and small farm operation, and large farm operation.

(8) Transportation infrastructure and private roads. The maintenance, emergency repair, repair, and replacement of:

(A) Transportation infrastructure by the Vermont Agency of Transportation or by a municipality.

(B) A private road that does not require a permit under section 1264 of this title, provided that emergency repair, repair, and replacement of the private road shall comply with the applicable water quality best management practices approved by the Secretary under 19 V.S.A. § 996 and incorporated within the Vermont Agency of Transportation town road and bridge standards for controlling stormwater runoff and direct discharges to State waters. The requirement to comply with the water quality best management practices shall apply even if the municipality in which the private road is located has not adopted the town road and bridge standards. Under this subdivision, expansion of a private road in order to allow for passage of emergency vehicles shall be considered repair that does not require a permit under section 1443 of this title.

(9) Railroad activities. Railroad activities and facilities within the jurisdiction of federal law.

(10) Parcel intersected by public highway. The creation or expansion of impervious surface or cleared area on a parcel within the protected shoreland area when the parcel is intersected by a highway and the impervious surface or cleared area is created or expanded on that portion of the parcel on the side of the highway away from the mean water level.

(11) Wastewater systems and potable water supplies. Installation, maintenance, repair, or replacement of a wastewater system or potable water supply permitted by the Agency of Natural Resources under chapter 64 of this title.

(12) Stormwater treatment. Discharges of stormwater, stormwater treatment facilities or practices, including repair or maintenance, permitted by the Agency of Natural Resources under section 1264 of this title.

(13) Utility projects and utility lines.

(A) The construction of projects that require a certificate of public good under 30 V.S.A. § 248 subject to the Agency of Natural Resources Riparian Buffer Guidance for Act 250 and Section 248 projects.

(B) The routine repair and maintenance of utility lines and structures including vegetation maintenance in utility line corridors, in a protected shoreland area that are subject to 30 V.S.A. § 248, chapter 151 of this title, or a vegetation management plan approved by the Agency in a protected shoreland area. Vegetation management practices in a protected shoreland area shall be performed in accordance with a vegetation management plan approved by the Agency of Natural Resources.

(C) The emergency repair of utility lines and poles in protected shoreland areas, provided that such repair minimizes adverse impacts to vegetation in the protected shoreland area.

(14) Act 250 permit. Projects which have received a permit pursuant to chapter 151 of this title.

(15) Designated downtowns and village centers. Projects in downtowns and village centers designated pursuant to 24 V.S.A. chapter 76A.

(16) Urban and industrial redevelopment. Construction, creation, or expansion of impervious surface or cleared area within a protected shoreland area, provided that:

(A) the area in which the impervious surface or cleared area will be constructed, created, or expanded is:

(i) urban or industrial in nature;

(ii) contains as of July 1, 2014 impervious surface or cleared area; and

(iii) has been designated by municipal bylaw for redevelopment.

(B) the municipality has adopted a shoreland bylaw or ordinance that:

(i) is at least as stringent as the permitting requirements and exemptions of this chapter; or

(ii) requires best management practices or other controls that are, as determined by the Secretary, functionally equivalent to compliance with the permitting requirements and exemptions of this chapter.

(17) Mosquito control. Where mosquito populations create a public health hazard, as that term is defined in 18 V.S.A. § 2, physical practices or activities approved by the Secretary that create cleared area or remove vegetative cover in order to reduce mosquito breeding habitat, provided that any activity authorized under this subdivision shall comply with the Vermont Wetlands Rules.

(c) Application of vegetative cover requirements. Activities authorized under subdivisions (b)(2)–(13) of this section shall not be required to comply with the requirements for the management of vegetative cover under section 1447 of this title.

§ 1447. LAKE SHORELAND VEGETATION PROTECTION

STANDARDS

(a) Within 100 feet of the mean water level, cutting of trees is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. Vegetation management that occurs within the protected shoreland area and that is conducted according to the requirements of this section shall not be counted toward the cleared area on a parcel.

(b) A “well-distributed stand of trees” shall be defined as maintaining a minimum rating score of 12, in each 25-foot by 25-foot area within 100 feet of the mean water level, as determined by the following rating system.

| <u>(1) Diameter of tree at 4-1/2 feet above</u> | <u>Points</u> |
|---|---------------|
| <u>ground level (inches)</u> | |
| <u>2–< 4 in.</u> | <u>1</u> |
| <u>4–< 8 in.</u> | <u>2</u> |
| <u>8–< 12 in.</u> | <u>4</u> |
| <u>12 in. or greater</u> | <u>8</u> |

(2) The following shall govern in applying this point system:

(A) 25-foot by 25-foot plots shall be established for vegetation management purposes.

(B) Each successive plot must be adjacent to but not overlap a previous plot.

(C) Any plot not containing the required points must have no vegetative cover removed unless the removal is allowed pursuant to a registration or individual permit.

(D) Any plot containing the required points may have trees removed down to the minimum points allowed.

(E) Existing vegetative cover under three feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or as allowed pursuant to a registration or individual permit.

(F) Pruning of tree branches on the bottom one-third of a tree's height is allowed.

(G) Removal of dead, diseased, or unsafe trees shall be allowed regardless of points.

(c) As used in this section, "other natural vegetation" means retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches in diameter at four and one-half feet above ground level for each 25-foot by 25-foot area. If five saplings do not exist, no woody stems less than two inches in diameter can be removed until five saplings have been planted or rooted in the plot.

§ 1448. MUNICIPAL DELEGATION

(a) Municipal shoreland bylaws or ordinances. The Secretary shall delegate authority to permit the construction, creation, or expansion of impervious surface or cleared area under this chapter to a municipality that has adopted a shoreland bylaw or ordinance if:

(1) the municipality adopts a bylaw or ordinance regulating construction of impervious surface or creation of cleared area in a protected shoreland area;

(2) the municipal bylaw or ordinance is, as determined by the Secretary, functionally equivalent to the requirements under sections 1444, 1445, 1446, and 1447 of this title; and

(3) the Secretary determines that the municipality provides adequate resources for administration and enforcement of the bylaw or ordinance.

(b) Delegation agreement.

(1) Delegation under subsection (a) of this section shall be by agreement between the Secretary and the delegated municipality. The delegation agreement shall set the terms for revocation of delegation.

(2) Under the delegation agreement, the Secretary and the municipality may agree, in instances where a delegated municipality does not or cannot address noncompliance, that the Secretary, after consultation with the municipality, may institute enforcement proceedings under chapter 201 of this title.

(3) The delegation agreement shall require the municipality to:

(A) have or establish a process for accepting, reviewing, and processing applications and issuing permits for construction of impervious surface or creation of cleared area in protected shoreland areas;

(B) take timely and appropriate enforcement actions;

(C) commit to reporting annually to the Secretary on a form and date determined by the Secretary;

(D) comply with all other requirements of the rules adopted under this chapter; and

(E) cure any defects in such bylaw or ordinance or in the administration or enforcement of such bylaw or ordinance upon notice of a defect from the Secretary.

(4) A municipality that seeks delegation under subsection (a) of this section shall be presumed to satisfy the requirements of this subsection for a permit process and enforcement if the municipality has designated a municipal zoning administrator or other municipal employee or official as responsible for the permitting and enforcement of the construction, creation, or expansion of impervious surface or cleared area within the municipality.

§ 1449. COORDINATION OF AGENCY OF NATURAL RESOURCES'

PERMITTING OF ACTIVITIES IN PROTECTED SHORELAND AREAS

(a) Coordination of permitting in protected shoreland area. During technical review of a permit application for a wastewater system, potable water supply, stormwater discharge, or stormwater treatment facility that is proposed to be located in a protected shoreland area and that does not require a permit under this chapter, the Agency division issuing the wastewater system, potable water supply, stormwater discharge, or stormwater treatment facility permit shall consult with the Agency's Lakes and Ponds Section regarding practices or activities that could reduce the impact of the proposed activity on the protected shoreland area or water quality of lakes adjacent to the protected shoreland area.

(b) Agency guidance or procedure. The Agency may formalize the consultation process required by this section in a guidance document or internal agency procedure.

§ 1450. MUNICIPAL ZONING BYLAW OR ORDINANCE

(a) Construction of impervious surface or creation of cleared area occurring outside protected shoreland areas. Construction of impervious surface or creation of cleared area occurring outside a protected shoreland area shall conform to duly adopted municipal zoning bylaws and applicable municipal ordinances and shall not be subject to regulation by the Secretary of Natural Resources under this chapter.

(b) Existing municipal bylaws and ordinances. The requirements of this chapter are in addition to existing municipal bylaws and ordinances, and proposed construction of impervious surface or creation of cleared area within the protected shoreland area shall comply with all relevant, existing municipal, State, and federal requirements.

§ 1451. RULEMAKING

The Secretary may adopt rules necessary for the purposes of implementing, administering, or enforcing the requirements of this chapter, including best management practices for the construction of impervious surfaces or the creation of cleared area in a protected shoreland area, including standards for:

(1) managing vegetative cover that may be required as a best management practice in order to ensure that some level of the required vegetative cover is maintained in the protected shoreland area;

(2) allowing reasonable use of the protected shoreland area subject to a vegetative cover requirement for construction, creation, or expansion of an impervious surface or cleared area;

(3) minimizing and mitigating the creation of an impervious surface or cleared area in a protected shoreland area.

§ 1452. EDUCATION AND OUTREACH; CITIZEN'S GUIDE

The Secretary shall conduct ongoing education and outreach to assist Vermont citizens with understanding and complying with the requirements of this chapter. The education and outreach activities shall include publication on or before January 1, 2015 of a Citizen's Guide to Shoreland Protection, which shall provide easily understood instructions on the requirements of this chapter, how to apply for a permit or registration, and the activities that are exempt from or otherwise not subject to the requirements of this chapter.

Sec. 3. 10 V.S.A. § 8003(a) is amended to read:

(a) The ~~secretary~~ Secretary may take action under this chapter to enforce the following statutes:

* * *

(22) 10 V.S.A. chapter 164A, collection and disposal of mercury-containing lamps; ~~and~~

(23) 24 V.S.A. § 2202a, relating to a municipality's adoption and implementation of a solid waste implementation plan that is consistent with the State Solid Waste Plan; and

(24) 10 V.S.A. chapter 49A, relating to lake shoreland protection standards.

Sec. 4. VOLUNTARY SHORELAND EROSION CONTROL

CERTIFICATION

(a) Voluntary certification. Beginning on January 1, 2016, the Agency of Natural Resources, in consultation with the Associated General Contractors of Vermont, shall offer an optional shoreland erosion control certification program. The program shall include training related to development activities in a shoreland area, including best management practices for erosion control, clearance of vegetation, and construction of impervious surfaces in shoreland areas. The voluntary certification program shall be offered until January 1, 2018.

(b) Report. On or before January 1, 2018, the Secretary of Natural Resources shall report to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources regarding the voluntary shoreland erosion control certification program created in subsection (a) of this section. The report shall include:

(1) a general summary and evaluation of the program's success, including an overview of the number of persons certified by the program and the projects constructed by certified persons;

(2) a recommendation of whether the State and the Associated General Contractors of Vermont should continue the shoreland erosion control certification program, including whether to make the erosion control certification program mandatory and whether to allow certified persons to certify compliance with the shoreland protection standards in this chapter in lieu of obtaining the permit required under 10 V.S.A. § 1444 or 1445; and

(3) any other recommendations for improving the program.

Sec. 5. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(R) chapter 32 (flood hazard areas).

(S) chapter 49A (lake shoreland protection standards).

* * *

Sec. 6. 3 V.S.A. § 2822(j)(32) is added to read:

(32) For projects taking place in a protected shoreland area that require:

(A) a registration under 10 V.S.A. § 1446: \$100.00.

(B) a permit under 10 V.S.A. §§ 1443, 1444, and 1445: \$125.00 plus \$0.50 per square foot of impervious surface.

Sec. 7. REPORT ON PROGRESS OF LAKE SHORELAND PROTECTION PROGRAM

On or before January 15, 2016, the Secretary of Natural Resources shall submit to the Senate Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources a report regarding implementation by the Agency of Natural Resources of the Lake Shoreland Protection Program under 10 V.S.A. chapter 49A. The report shall include:

(1) the number of lake shoreland protection registrations and permits issued by the Agency;

(2) the number of lots, if any, denied a shoreland protection registration or permit and the rationale for the denial of each application;

(3) an evaluation of the performance of the Lake Shoreland Protection Program, including the time frame for issuance of permits and landowner compliance;

(4) a list of the towns the Secretary delegated to implement the Lake Shoreland Protection Program, and a list of the towns that were denied delegation, including the rationale for denial;

(5) an evaluation of whether implementation of the Lake Shoreland Protection Program has achieved or is achieving the purposes of the Program set forth under 10 V.S.A. § 1441, including preventing degradation of water quality, preserving natural shoreline stability, protecting aquatic biota, protecting habitat for wildlife and aquatic life, and mitigating sediment and nutrient runoff to surface waters;

(6) the permit and registration fees collected by the Agency;

(7) the cost to the Agency of implementing the Lake Shoreland Protection Program; and

(8) any recommendations to improve the Lake Shoreland Protection Program, including how and whether to allow the use of off-site mitigation to offset the adverse impacts of creation or expansion of an impervious surface or cleared area on the water quality of lakes or on protected shoreland areas.

Sec. 8. 10 V.S.A. § 1454 is amended to read:

§ 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC
NUISANCE SPECIES

(a) No person shall transport an aquatic plant or aquatic plant part, zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), or other aquatic nuisance species identified by the ~~secretary~~ Secretary by rule to or from any Vermont waters on the outside of a vehicle, boat, personal watercraft, trailer, or other equipment. This section shall not restrict proper harvesting or other control activities undertaken for the purpose of eliminating or controlling the growth or propagation of aquatic plants, zebra mussels, quagga mussels, or other aquatic nuisance species.

(b) The ~~secretary~~ Secretary may grant exceptions to persons to allow the transport of aquatic plants, zebra mussels, quagga mussels, or other aquatic nuisance species for scientific or educational purposes. When granting exceptions, the ~~secretary~~ Secretary shall take into consideration both the value of the scientific or educational purpose and the risk to Vermont surface waters posed by the transport and ultimate use of the specimens. A letter from the ~~secretary~~ Secretary authorizing the transport must accompany the specimens during transport.

(c) A violation of this section may be brought by any law enforcement officer, as that term is defined in 23 V.S.A. § 4(11), in the Environmental Division of the Superior Court. When a violation is brought by an enforcement officer other than an environmental enforcement officer employed by the Agency of Natural Resources, the enforcement officer shall submit to the Secretary a copy of the citation for purposes of compliance with the public participation requirements of section 8020 of this title.

Sec. 9. TRANSITION

A permit or registration under 10 V.S.A. chapter 49A for the creation of impervious surface or cleared area within a protected shoreland area shall not be required on a parcel of land for a project for which:

(1) all necessary State, local, or federal permits have been obtained prior to the effective date of this act and the permit holder takes no subsequent act that would require a permit or registration under 10 V.S.A. chapter 49A; or

(2) a complete application for all applicable local, State, and federal permits has been submitted on or before the effective date of this act, provided that the applicant does not subsequently file an application for a permit amendment that would require a permit under 10 V.S.A. chapter 49A and substantial construction of the impervious surface or cleared area commences within two years of the date on which all applicable local, State, and federal permits become final.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

COMMITTEE ON THE PART OF
THE SENATE

SEN. ROBERT M. HARTWELL
SEN. DIANE B. SNELLING
SEN. JOHN S. RODGERS

COMMITTEE ON THE PART OF
THE HOUSE

REP. DAVID L. DEEN
REP. ROBERT C. KREBS
REP. STEVE BEYOR

Pending the question, Shall the report of the committee of conference be adopted? **Rep. Van Wyck of Ferrisburgh** 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 report of the committee of conference be adopted? was decided in the affirmative. Yeas, 93. Nays, 42.

Those who voted in the affirmative are:

Ancel of Calais
Bartholomew of Hartland
Beyor of Highgate

Bissonnette of Winooski
Botzow of Pownal
Burke of Brattleboro

Buxton of Tunbridge
Campion of Bennington
Carr of Brandon

| | | |
|--------------------------|-----------------------------|--------------------------|
| Christie of Hartford | Johnson of South Hero | Pearce of Richford |
| Clarkson of Woodstock | Keenan of St. Albans City | Pearson of Burlington |
| Cole of Burlington | Kitzmiller of Montpelier | Peltz of Woodbury * |
| Connor of Fairfield | Klein of East Montpelier | Pugh of South Burlington |
| Consejo of Sheldon | Komline of Dorset | Rachelson of Burlington |
| Corcoran of Bennington | Krebs of South Hero | Ralston of Middlebury |
| Dakin of Chester | Krowinski of Burlington | Ram of Burlington |
| Davis of Washington | Lanpher of Vergennes | Russell of Rutland City |
| Deen of Westminster | Lawrence of Lyndon | Ryerson of Randolph |
| Donahue of Northfield | Lenes of Shelburne | Sharpe of Bristol |
| Donovan of Burlington | Lippert of Hinesburg | Stevens of Waterbury |
| Ellis of Waterbury | Macaig of Williston | Stuart of Brattleboro |
| Emmons of Springfield | Manwaring of Wilmington | Sweaney of Windsor |
| Evans of Essex | Marek of Newfane | Till of Jericho |
| Fay of St. Johnsbury | Martin of Springfield | Toleno of Brattleboro |
| Feltus of Lyndon | Martin of Wolcott | Toll of Danville |
| Fisher of Lincoln | Masland of Thetford | Trieber of Rockingham |
| Frank of Underhill | McCarthy of St. Albans City | Vowinkel of Hartford |
| French of Randolph | McCormack of Burlington | Waite-Simpson of Essex |
| Gallivan of Chittenden | McCullough of Williston | Walz of Barre City |
| Grad of Moretown | McFaun of Barre Town | Webb of Shelburne |
| Greshin of Warren | Michelsen of Hardwick | Weed of Enosburgh |
| Haas of Rochester | Miller of Shaftsbury | Wilson of Manchester |
| Head of South Burlington | Mook of Bennington | Wizowaty of Burlington |
| Heath of Westford | Moran of Wardsboro | Woodward of Johnson |
| Hooper of Montpelier | Nuovo of Middlebury | Wright of Burlington |
| Jerman of Essex | O'Brien of Richmond | Yantachka of Charlotte |
| Jewett of Ripton | O'Sullivan of Burlington | Zagar of Barnard |

Those who voted in the negative are:

| | | |
|---------------------------------|---------------------------|---------------------------|
| Batchelor of Derby | Goodwin of Weston | Quimby of Concord |
| Bouchard of Colchester | Hebert of Vernon | Savage of Swanton |
| Brennan of Colchester | Higley of Lowell | Scheuermann of Stowe |
| Burditt of West Rutland | Hubert of Milton | Shaw of Pittsford |
| Canfield of Fair Haven | Johnson of Canaan | Shaw of Derby |
| Condon of Colchester | Juskiewicz of Cambridge | Smith of New Haven |
| Conquest of Newbury | Kilmartin of Newport City | South of St. Johnsbury |
| Cross of Winooski | Koch of Barre Town | Stevens of Shoreham |
| Cupoli of Rutland City | Larocque of Barnet | Strong of Albany |
| Devereux of Mount Holly | Lewis of Berlin | Terenzini of Rutland Town |
| Dickinson of St. Albans Town | Malcolm of Pawlet | Van Wyck of Ferrisburgh |
| Donaghy of Poultney | Marcotte of Coventry | Winters of Williamstown |
| Fagan of Rutland City | Morrissey of Bennington | Young of Glover |
| Gage of Rutland City | Poirier of Barre City | |
| | Potter of Clarendon | |

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

| | | |
|--------------------------------|----------------------|------------------------|
| Branagan of Georgia | Huntley of Cavendish | Partridge of Windham |
| Browning of Arlington | Kupersmith of South | Spengler of Colchester |
| Copeland-Hanzas of Bradford | Burlington | Townsend of South |
| Helm of Fair Haven | Mitchell of Fairfax | Burlington |
| Hoyt of Norwich | Mrowicki of Putney | Turner of Milton |
| | Myers of Essex | |

Rep. Peltz of Woodbury explained his vote as follows:

“Mr. Speaker:

Woodbury has more lakes and ponds than any other town in VT. Lakes and ponds of sufficient size are public domain and the quality of water is the state’s responsibility. I voted ‘yes’ on H.526 because it protects our open water and lets towns regulate and protect the shorelands.”

Member Replaced on Committee of Conference

H. 735

The Speaker announced that he has appointed **Rep. Masland of Thetford** as Chair and has appointed **Rep. Ram of Burlington** to replace **Rep. Branagan of Georgia** on the Committee of Conference on House bill, entitled

An act relating to Executive Branch and Judiciary fees

Member Replaced on Committee of Conference

H. 884

The Speaker announced that he has appointed **Rep. Johnson of Canaan** to replace **Rep. Branagan of Georgia** on the Committee of Conference on House bill, entitled

An act relating to miscellaneous tax changes

Committee of Conference Appointed

S. 234

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 Medicaid coverage for home telemonitoring services

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

Rep. Pearson of Burlington
Rep. Gage of Rutland City
Rep. O'Brien of Richmond

Recess

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

At seven o'clock and twenty minutes in the evening, 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 House proposal of amendment to Senate bill of the following title:

S. 239. An act relating to the regulation of toxic substances.

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 proposal of amendment to House bill of the following title:

H. 483. An act relating to adopting revisions to Article 9 of the Uniform Commercial Code.

And has concurred therein.

The Senate has considered House proposals of amendment to the following Senate bills and has refused to concur therein and asks for Committees of Conference upon the disagreeing votes of the two Houses to which the President announced the appointment as members of such Committees on the part of the Senate:

S. 252. An act relating to financing for Green Mountain Care.

Senator Ashe
Senator Ayer
Senator Kitchel

S. 287. An act relating to involuntary treatment and medication.

Senator White
Senator Ayer
Senator Sears

S. 299. An act relating to sampler flights.

Senator Mullin
Senator Bray
Senator Collins

S. 314. An act relating to miscellaneous amendments to laws related to motor vehicles.

Senator Mazza
Senator Flory
Senator Sears.

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

H. 88

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

An act relating to parental rights and responsibilities involving a child conceived as a result of a sexual assault

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

Sec. 1. 15 V.S.A. § 665 is amended to read:

§ 665. RIGHTS AND RESPONSIBILITIES ORDER; BEST INTERESTS OF THE CHILD

(a) In an action under this chapter, the ~~court~~ Court shall make an order concerning parental rights and responsibilities of any minor child of the parties. The ~~court~~ Court may order parental rights and responsibilities to be divided or shared between the parents on such terms and conditions as serve the best interests of the child. When the parents cannot agree to divide or share parental rights and responsibilities, the ~~court~~ Court shall award parental rights and responsibilities primarily or solely to one parent.

(b) In making an order under this section, the ~~court~~ Court shall be guided by the best interests of the child, and shall consider at least the following factors:

-
- (1) the relationship of the child with each parent and the ability and disposition of each parent to provide the child with love, affection, and guidance;
 - (2) the ability and disposition of each parent to assure that the child receives adequate food, clothing, medical care, other material needs, and a safe environment;
 - (3) the ability and disposition of each parent to meet the child's present and future developmental needs;
 - (4) the quality of the child's adjustment to the child's present housing, school, and community and the potential effect of any change;
 - (5) the ability and disposition of each parent to foster a positive relationship and frequent and continuing contact with the other parent, including physical contact, except where contact will result in harm to the child or to a parent;
 - (6) the quality of the child's relationship with the primary care provider, if appropriate given the child's age and development;
 - (7) the relationship of the child with any other person who may significantly affect the child;
 - (8) the ability and disposition of the parents to communicate, cooperate with each other, and make joint decisions concerning the children where parental rights and responsibilities are to be shared or divided; and
 - (9) evidence of abuse, as defined in section 1101 of this title, and the impact of the abuse on the child and on the relationship between the child and the abusing parent.

* * *

(f) The State has a compelling interest in not forcing a victim of sexual assault or sexual exploitation to continue an ongoing relationship with the perpetrator of the abuse. Such continued interaction can have traumatic psychological effects on the victim, making recovery more difficult, and negatively affect the victim's ability to parent and to provide for the best interests of the child. Additionally, the State recognizes that a perpetrator may use the threat of pursuing parental rights and responsibilities to coerce a victim into not reporting or assisting in the prosecution of the perpetrator for the sexual assault or sexual exploitation, or to harass, intimidate, or manipulate the victim.

(1) The Court may enter an order awarding sole parental rights and responsibilities to a parent and denying all parent-child contact with the other parent if the Court finds by clear and convincing evidence that the nonmoving parent was convicted of sexually assaulting the moving parent and the child was conceived as a result of the sexual assault. As used in this subdivision, sexual assault shall include sexual assault as provided in 13 V.S.A. § 3252(a), (b), (d), and (e), aggravated sexual assault as provided in 13 V.S.A. § 3253, and aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and similar offenses in other jurisdictions.

(A) An order issued in accordance with this subdivision (f)(1) shall be permanent and shall not be subject to modification.

(B) Upon issuance of a rights and responsibilities order pursuant to this subdivision (f)(1), the Court shall not issue a parent-child contact order and shall terminate any existing parent-child contact order concerning the child and the nonmoving parent.

(2) The Court may enter an order awarding sole parental rights and responsibilities to one parent and denying all parent-child contact between the other parent and a child if the Court finds that such an order is in the best interest of the child and finds by clear and convincing evidence that the child was conceived as a result of the nonmoving parent sexually assaulting or sexually exploiting the moving parent. A conviction is not required under this subdivision and the Court may consider other evidence of sexual assault or sexual exploitation in making its determination.

(A) For purposes of this subdivision (f)(2):

(i) sexual assault shall include sexual assault as provided in 13 V.S.A. § 3252, aggravated sexual assault as provided in 13 V.S.A. § 3253, aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and similar offenses in other jurisdictions; and

(ii) sexual exploitation shall include sexual exploitation of an inmate as provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in 13 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A. § 1379, and similar offenses in other jurisdictions.

(B) Except as provided in subdivision (f)(2)(C), the Court shall not issue a parent-child contact order in a case in which a parental rights and responsibilities order has been issued pursuant to this subdivision (f)(2) and

any existing parent-child contact order concerning the child and the nonmoving parent shall be terminated.

(C) A party may file a motion for modification of the order only upon a showing of extraordinary, real, substantial, and unanticipated change of circumstances.

(3) Issuance of an order in pursuant to this subsection shall not affect the right of the custodial parent to seek child support from the noncustodial parent.

Sec. 2. 15 V.S.A. § 668 is amended to read:

§ 668. MODIFICATION OF ORDER

(a) On motion of either parent or any other person to whom custody or parental rights and responsibilities have previously been granted, and upon a showing of real, substantial and unanticipated change of circumstances, the ~~court~~ Court may annul, vary, or modify an order made under this subchapter if it is in the best interests of the child, whether or not the order is based upon a stipulation or agreement.

* * *

(c) A final order related to parental rights and responsibilities and parent child contact issued pursuant to subdivision 665(f)(1) of this title shall not be subject to modification. A party may file a motion for modification of an order related to parental rights and responsibilities and parent child contact issued pursuant to subdivision 665(f)(2) of this title only upon a showing of extraordinary, real, substantial, and unanticipated change of circumstances.

Sec. 3. 13 V.S.A. § 2651(3) is amended to read:

(3) “Commercial sex act” means any ~~sex~~ sexual act, sexual conduct, or sexually explicit performance on account of which anything of value is promised to, given to, or received by any person.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

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

In Sec. 1, 15 V.S.A. § 665, in subdivision (f)(2), in the first sentence, by striking out “finds that such an order is in the best interest of the child and” and in the first sentence, before the period, by inserting and the Court finds by a

preponderance of the evidence that such an order is in the best interest of the child

Which was agreed to.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 269

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

An act relating to business consumer protection and data security breaches

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

In Sec. 1, in 9 V.S.A. § 2435(b)(4), in subdivision (B), by striking out “phone” and inserting in lieu thereof telephone and by inserting a new Sec. 2 to read:

Sec. 2. 8 V.S.A. § 3666 is added to read:

§ 3666. RULES; METHODS OF NOTICE

Notwithstanding the requirements under sections 3883, 4226, and 4714 of this title, the Commissioner of Financial Regulation shall adopt rules specifying the methods by which a notice to a party required under section 3880, 3881, 4224, 4225, 4712, or 4713 of this title shall be given.

and by renumbering the remaining section to be numerically correct.

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.

Proposal of Amendment Agreed to; Read Third Time and Passed

S. 184

Senate bill, entitled

An act relating to eyewitness identification policy

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

First: In Sec. 3, 20 V.S.A. § 2366, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(e) As used in this subsection, the phrase “roadside stop data” shall not be construed to include a driver’s name or any other personally identifying

information. On or before September 1, 2014, every State, local, county, and municipal law enforcement agencies that employ one or more certified law enforcement officers are encouraged to work with the Vermont Association of Chiefs of Police to extend the collection of roadside stop race data uniformly throughout state law enforcement agencies, with the goal of obtaining uniform roadside stop race data for analysis agency shall collect roadside stop data, including the age, gender, and race of drivers. Law enforcement agencies shall work with the Vermont Criminal Justice Training Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Reports and analysis of roadside stop data shall be public. A record which includes roadside stop data shall not be subject to public inspection or copying under the Public Records Act, shall not be released, and shall not be subject to subpoena or discoverable in any civil or criminal proceeding unless it is redacted to remove the driver's name and any other personally identifying information, except that a driver shall be entitled to obtain a record that includes roadside stop data pertaining to himself or herself in the course of a civil or criminal proceeding to which the driver is a party.

Second: By inserting a new section to be Sec. 3a to read:

Sec. 3a. 1 V.S.A. § 317(c)(5)(B) is amended to read:

(B) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public. However, roadside stop data as described in 20 V.S.A. § 2366(e) shall either be deidentified or redacted prior to release of any ticket, citation, or complaint arising from a traffic stop if required under 20 V.S.A. § 2366(e):

Pending the question, Shall the House proposal of amendment be amended as recommended by Rep. Kilmartin of Newport City? **Rep. Lippert of Hinesburg** moved to substitute an amendment for the amendment proposed by Rep. Kilmartin of Newport City, as follows:

In Sec. 3, 20 V.S.A. § 2366, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read:

(e) On or before September 1, 2014, every State, local, county, and municipal law enforcement agencies that employ one or more certified law enforcement officers are encouraged to work with the Vermont Association of Chiefs of Police to extend the collection of roadside stop race data uniformly

throughout state law enforcement agencies, with the goal of obtaining uniform roadside stop race data for analysis agency shall collect roadside stop data consisting of the following: the age, gender, and race of the driver; the reason for the stop; the type of search conducted, if any; the evidence located, if any; and the outcome of the stop. Law enforcement agencies shall work with the Vermont Criminal Justice Training Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

Pending the question, Shall the amendment offered by Rep. Lippert of Hinesburg be substituted for the amendment offered by Rep. Kilmartin of Newport City? **Rep. Kilmartin of Newport City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the amendment offered by Rep. Lippert of Hinesburg be substituted for the amendment offered by Rep. Kilmartin of Newport City? was decided in the affirmative. Yeas, 93. Nays, 34.

Those who voted in the affirmative are:

| | | |
|-----------------------------|---------------------------|-----------------------------|
| Bartholomew of Hartland | Gallivan of Chittenden | McCarthy of St. Albans City |
| Bissonnette of Winooski | Goodwin of Weston | McCormack of Burlington |
| Botzow of Pownal | Grad of Moretown | McCullough of Williston |
| Burke of Brattleboro | Greshin of Warren | Michelsen of Hardwick |
| Buxton of Tunbridge | Haas of Rochester | Miller of Shaftsbury |
| Campion of Bennington | Head of South Burlington | Mook of Bennington |
| Carr of Brandon | Heath of Westford | Moran of Wardsboro |
| Christie of Hartford | Helm of Fair Haven | Nuovo of Middlebury |
| Cole of Burlington | Hooper of Montpelier | O'Brien of Richmond |
| Connor of Fairfield | Jerman of Essex | O'Sullivan of Burlington * |
| Conquest of Newbury | Jewett of Ripton | Partridge of Windham |
| Copeland-Hanzas of Bradford | Johnson of South Hero | Pearson of Burlington |
| Corcoran of Bennington | Keenan of St. Albans City | Peltz of Woodbury |
| Dakin of Chester | Kitzmiller of Montpelier | Poirier of Barre City |
| Davis of Washington | Klein of East Montpelier | Potter of Clarendon |
| Deen of Westminster | Krebs of South Hero | Pugh of South Burlington |
| Donahue of Northfield | Krowinski of Burlington | Rachelson of Burlington |
| Donovan of Burlington | Lanpher of Vergennes | Ralston of Middlebury |
| Ellis of Waterbury | Lenes of Shelburne | Ram of Burlington |
| Emmons of Springfield | Lippert of Hinesburg * | Russell of Rutland City |
| Evans of Essex | Macaig of Williston | Ryerson of Randolph |
| Fay of St. Johnsbury | Malcolm of Pawlet | Sharpe of Bristol |
| Fisher of Lincoln | Manwaring of Wilmington | South of St. Johnsbury |
| Frank of Underhill | Marek of Newfane | Stevens of Waterbury |
| French of Randolph | Martin of Springfield | Stevens of Shoreham |
| | Martin of Wolcott | Stuart of Brattleboro |

| | | |
|-----------------------|------------------------|------------------------|
| Sweaney of Windsor | Waite-Simpson of Essex | Woodward of Johnson |
| Till of Jericho | Walz of Barre City | Yantachka of Charlotte |
| Toleno of Brattleboro | Webb of Shelburne | Young of Glover |
| Toll of Danville | Weed of Enosburgh | Zagar of Barnard |
| Trieber of Rockingham | Wilson of Manchester | |
| Vowinkel of Hartford | Wizowaty of Burlington | |

Those who voted in the negative are:

| | | |
|---------------------------------|---------------------------|---------------------------|
| Batchelor of Derby | Fagan of Rutland City | McFaun of Barre Town |
| Beyor of Highgate | Feltus of Lyndon | Morrissey of Bennington |
| Bouchard of Colchester | Gage of Rutland City | Pearce of Richford |
| Brennan of Colchester | Higley of Lowell | Quimby of Concord |
| Burditt of West Rutland | Hubert of Milton | Savage of Swanton |
| Canfield of Fair Haven | Johnson of Canaan | Scheuermann of Stowe |
| Consejo of Sheldon | Juskiewicz of Cambridge | Shaw of Pittsford |
| Cupoli of Rutland City | Kilmartin of Newport City | Smith of New Haven |
| Devereux of Mount Holly | Larocque of Barnet | Terenzini of Rutland Town |
| Dickinson of St. Albans Town | Lawrence of Lyndon | Van Wyck of Ferrisburgh * |
| Donaghy of Poultney * | Lewis of Berlin | Wright of Burlington |
| | Marcotte of Coventry | |

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

| | | |
|-----------------------|----------------------|-------------------------|
| Ancel of Calais | Huntley of Cavendish | Myers of Essex |
| Branagan of Georgia | Koch of Barre Town | Shaw of Derby |
| Browning of Arlington | Komline of Dorset | Spengler of Colchester |
| Clarkson of Woodstock | Kupersmith of South | Strong of Albany |
| Condon of Colchester | Burlington | Townsend of South |
| Cross of Winooski | Masland of Thetford | Burlington |
| Hebert of Vernon | Mitchell of Fairfax | Turner of Milton |
| Hoyt of Norwich | Mrowicki of Putney | Winters of Williamstown |

Rep. Christie of Hartford explained his vote as follows:

“Mr. Speaker:

With all due respect, I understand Representative Kilmartin’s amendment. But what recourse would I have if I found out while talking to Representative Consejo that I was stopped 3 times while driving through town and he was stopped also in the same town.”

Rep. Donaghy of Poultney explained his vote as follows:

“Mr. Speaker:

I find it rather insulting and challenging to the integrity of the professional law enforcement agencies throughout this state to require their police officers, via statute, to record the personal profile of each person who is the subject of a

roadside stop. What we're saying in essence with this bill is we don't trust you on your own to root out racial bias in your departments, if indeed it even exists. The debate on this floor last week demonstrated a very clear bias... one that is anti-police.

And further, Mr. Speaker, as a former police officer, I find it bad public policy to codify by legislation the manner in which police agencies conduct investigations, including how line-ups and interviews or interrogations of suspects are conducted. Police agencies throughout this country have adopted professional accepted best practices on their own without having them imposed upon them by a legislative micro-managed mandate. Best practices change. Must we revisit and amend this statute each of these times?"

Rep. Lippert of Hinesburg explained his vote as follows:

"Mr. Speaker:

I am pleased that Vermont law enforcement, especially the Vermont State Police, values and embraces bias free policing and the collection and analysis of roadside stop race data. We are fortunate to have Vermont law enforcement leading the way."

Rep. O'Sullivan of Burlington explained her vote as follows:

"Mr. Speaker:

I voted in favor in compliance with the recommendations from every single law enforcement agency that participated in the 2008 briefings before the Vermont Advisory committee to the U.S. Commission on Civil rights. Further in support of the ACLU's request that every single piece of data should be public."

Rep. Wyck of Ferrisburgh explained his vote as follows:

"Mr. Speaker:

Though I support most anti-bias measures, I voted against this bill due to its invasive reporting requirements.

This part of the cure is worse than the disease.

The overall effect will mentally handcuff far too many hard working police officers during the legal performance of their duties and lead to the degradation of public safety – the basic duty of government.

The public is better served by increased patrols rather than endless meetings and reports concerning statistical anomalies.

There are better compliance indicators."

Thereupon, the proposal of amendment, as substituted, was agreed to.

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

Proposal of Amendment Agreed to; Third Reading Ordered

S. 256

Rep. Lippert of Hinesburg, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to the solemnization of a marriage by a Judicial Bureau hearing officer

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. 18 V.S.A. § 5144 is amended to read:

§ 5144. PERSONS AUTHORIZED TO SOLEMNIZE MARRIAGE

(a) Marriages may be solemnized by a ~~supreme court justice~~ Supreme Court Justice, a ~~superior~~ Superior judge, a judge of ~~probate~~ Probate, an assistant judge, a justice of the peace, a magistrate, a Judicial Bureau hearing officer, an individual who has registered as an officiant with the Vermont ~~secretary of state~~ Secretary of State pursuant to section 5144a of this title, a member of the clergy residing in this ~~state~~ State and ordained or licensed, or otherwise regularly authorized thereunto by the published laws or discipline of the general conference, convention, or other authority of his or her faith or denomination, or by such a clergy person residing in an adjoining state or country, whose parish, church, temple, mosque, or other religious organization lies wholly or in part in this ~~state~~ State, or by a member of the clergy residing in some other state of the United States or in the Dominion of Canada, provided he or she has first secured from the ~~probate division of the superior court~~ Probate Division of the Superior Court in the unit within which the marriage is to be solemnized a special authorization, authorizing him or her to certify the marriage if the ~~probate~~ Probate judge determines that the circumstances make the special authorization desirable. Marriage among the Friends or Quakers, the Christadelphian Ecclesia, ~~and~~ the Baha'i Faith may be solemnized in the manner heretofore used in such societies.

* * *

Sec. 2. RECIPROCAL BENEFICIARIES; REPEAL; INTENT

(a) The stated purpose of the reciprocal beneficiaries is to provide two persons who are blood-relatives or related by adoption the opportunity to establish a consensual reciprocal beneficiaries relationship so they may receive the benefits and protections and be subject to the responsibilities that are granted to spouses in specific areas. Since enactment in 2000, no reciprocal beneficiary relationship has been established in Vermont.

(b) 15 V.S.A. chapter 25 is repealed (reciprocal beneficiaries).

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

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

Third Reading; Bill Passed in Concurrence With Proposal of Amendment

S. 295

Senate bill, entitled

An act relating to pretrial services, risk assessments, and criminal justice programs

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

Action on Bill Postponed

H. 681

Senate bill, entitled

An act relating to the professional regulation for veterans, military service members, and military spouses

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

Action on Bill Postponed

S. 211

Senate bill, entitled

An act relating to permitting of sewage holding and pumpout tanks for public buildings

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

Action on Bill Postponed

S. 220

Senate bill, entitled

An act relating to furthering economic development

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

Action on Bill Postponed

H. 612

House bill, entitled

An act relating to Gas Pipeline Safety Program penalties

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

Action on Bill Postponed

H. 882

House bill, entitled

An act relating to compensation for certain State employees

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

Committee of Conference Appointed

S. 252

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 financing for Green Mountain Care

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

Rep. Fisher of Lincoln
Rep. Ancel of Calais
Rep. Copeland-Hanzas of Bradford

Committee of Conference Appointed

S. 314

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 miscellaneous amendments to laws related to motor vehicles

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

Rep. Potter of Clarendon
Rep. Brennan of Colchester
Rep. Grad of Moretown

Proposal of Amendment Agreed to and Recommitted to Committee

S. 213

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

An act relating to an employee's use of benefits

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. EMPLOYEE USE OF BENEFITS STUDY

(a) Creation. There is created an Employee Use of Benefits Study Committee to study the issue of no-fault employment policies.

(b) Membership. The Employee Use of Benefits Study Committee shall be composed of the following members:

(1) the Commissioner of Labor or designee;

(2) the Attorney General or designee; and

(3) any members from the business or labor communities or other interested parties that the members listed in subdivisions (1) and (2) of this subsection mutually agree upon, not to exceed seven additional members.

(c) Powers and duties. The Committee shall:

(1) study the issue of no-fault employment policies; and

(2) assess how no-fault employment policies relate to an employee's use of benefits, such as policies addressing attendance incentives, tardiness or unexcused absences, procedures for using sick leave or other benefits, or seniority calculations.

(d) Report. On or before January 15, 2015, the Committee shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing and Military Affairs.

(e) Reimbursement. Members of the Committee shall not be entitled to per diem compensation or reimbursement of expenses.

Sec. 2. 21 V.S.A. § 496b is added to read:

§ 496b. EMPLOYEE USE OF BENEFITS

An employer, employment agency, or labor organization shall not discharge or in any other manner discriminate against or penalize an employee because the employee has used, or attempted to use, accrued employer-provided sick leave. This section shall not diminish any rights under this chapter or pursuant to a collective bargaining agreement.

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 1 shall take effect on passage.

(b) Sec. 2 shall take effect on July 1, 2015.

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

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on General, Housing and Military Affairs? **Reps. Stevens of Shoreham, Connor of Fairfield, and Conquest of Newbury** moved that the House Proposal of Amendment be amended as follows:

In Secs. 2 and 3, by striking the sections in their entirety and inserting in lieu thereof the following:

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Pending the question, Shall the proposal of amendment offered by the committee on General, Housing and Military Affairs be amended, as recommended by Reps. Stevens of Shoreham, et al? **Rep. Moran of Wardsboro** moved to substitute an amendment for the amendment offered by Reps. Stevens of Shoreham, et al, as follows:

By striking Secs. 2 and 3 in their entirety and inserting in lieu thereof the following:

Sec. 2. PURPOSE

The purpose of this act is to promote a healthy work environment by ensuring that employers do not penalize employees who use employer-provided sick leave.

Sec. 3. 21 V.S.A. § 496b is added to read:

§ 496b. EMPLOYEE USE OF BENEFITS

(a) An employer, employment agency, or labor organization shall not discharge or in any other manner discriminate against or penalize an employee because the employee has used, or attempted to use, accrued employer-provided sick leave.

(b) This section shall not:

(1) diminish any rights under this chapter or pursuant to a collective bargaining agreement;

(2) require an employer to provide sick leave or other benefits to employees; or

(3) prohibit the establishment and enforcement of other reasonable workplace policies that relate to an employee's use of benefits, such as policies addressing attendance incentives, tardiness or unexcused absences, procedures for using sick leave or other benefits, or seniority calculations.

(c) The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this section.

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 1 and 2 shall take effect on passage.

(b) Sec. 3 shall take effect on July 1, 2015.

Pending the question, Shall the amendment offered by Rep. Moran of Wardsboro be substituted for the amendment offered by Reps. Stevens of

Shoreman, et al? **Rep. Bouchard of Colchester** moved to commit the bill to the committee on Commerce and Economic Development.

Pending the question, Shall the bill be committed to the committee on Commerce and Economic Development? **Rep. Poirier of Barre City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be committed to the committee on Commerce and Economic Development? was decided in the negative. Yeas, 51. Nays, 72.

Those who voted in the affirmative are:

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|---------------------------------|---------------------------|---------------------------|
| Beyor of Highgate | Frank of Underhill | Morrissey of Bennington |
| Bissonnette of Winooski | Gage of Rutland City | Pearce of Richford |
| Bouchard of Colchester | Goodwin of Weston | Quimby of Concord |
| Brennan of Colchester | Greshin of Warren | Ralston of Middlebury |
| Burditt of West Rutland | Hebert of Vernon | Savage of Swanton |
| Campion of Bennington | Helm of Fair Haven | Scheuermann of Stowe |
| Canfield of Fair Haven | Higley of Lowell | Shaw of Pittsford |
| Christie of Hartford | Hubert of Milton | Smith of New Haven |
| Connor of Fairfield | Johnson of Canaan | Stevens of Shoreham |
| Consejo of Sheldon | Juskiewicz of Cambridge | Terenzini of Rutland Town |
| Corcoran of Bennington | Keenan of St. Albans City | Toll of Danville |
| Cupoli of Rutland City | Kilmartin of Newport City | Van Wyck of Ferrisburgh |
| Dakin of Chester | Krebs of South Hero | Wilson of Manchester |
| Dickinson of St. Albans Town | Larocque of Barnet | Wright of Burlington |
| Donahue of Northfield | Lawrence of Lyndon | Yantachka of Charlotte |
| Fagan of Rutland City | Lewis of Berlin | Young of Glover |
| Feltus of Lyndon | Manwaring of Wilmington | |
| | Marcotte of Coventry | |

Those who voted in the negative are:

| | | |
|--------------------------------|--------------------------|-----------------------------|
| Bartholomew of Hartland | Fisher of Lincoln | Macaig of Williston |
| Botzow of Pownal | French of Randolph | Malcolm of Pawlet |
| Burke of Brattleboro | Gallivan of Chittenden | Marek of Newfane |
| Buxton of Tunbridge | Grad of Moretown | Martin of Springfield |
| Carr of Brandon | Haas of Rochester | Martin of Wolcott |
| Cole of Burlington | Head of South Burlington | McCarthy of St. Albans City |
| Conquest of Newbury | Heath of Westford | McCormack of Burlington |
| Copeland-Hanzas of Bradford | Hooper of Montpelier | McCullough of Williston |
| Davis of Washington | Jerman of Essex | McFaun of Barre Town |
| Deen of Westminster | Jewett of Ripton | Michelsen of Hardwick |
| Donovan of Burlington | Johnson of South Hero | Miller of Shaftsbury |
| Ellis of Waterbury | Kitzmiller of Montpelier | Mook of Bennington |
| Emmons of Springfield | Klein of East Montpelier | Moran of Wardsboro |
| Evans of Essex | Krowinski of Burlington | Nuovo of Middlebury |
| Fay of St. Johnsbury | Lenes of Shelburne | O'Brien of Richmond |
| | Lippert of Hinesburg | O'Sullivan of Burlington |

| | | |
|--------------------------|------------------------|------------------------|
| Partridge of Windham | Sharpe of Bristol | Waite-Simpson of Essex |
| Pearson of Burlington | South of St. Johnsbury | Walz of Barre City |
| Poirier of Barre City | Stevens of Waterbury | Webb of Shelburne |
| Potter of Clarendon | Stuart of Brattleboro | Weed of Enosburgh |
| Pugh of South Burlington | Sweaney of Windsor | Wizowaty of Burlington |
| Rachelson of Burlington | Till of Jericho | Woodward of Johnson |
| Ram of Burlington | Toleno of Brattleboro | Zagar of Barnard |
| Russell of Rutland City | Trieber of Rockingham | |
| Ryerson of Randolph | Vowinkel of Hartford | |

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

| | | |
|-------------------------|-----------------------------------|---------------------------------|
| Ancel of Calais | Huntley of Cavendish | Peltz of Woodbury |
| Batchelor of Derby | Koch of Barre Town | Shaw of Derby |
| Branagan of Georgia | Komline of Dorset | Spengler of Colchester |
| Browning of Arlington | Kupersmith of South Burlington | Strong of Albany |
| Clarkson of Woodstock | Lanpher of Vergennes | Townsend of South Burlington |
| Condon of Colchester | Masland of Thetford | Turner of Milton |
| Cross of Winooski | Mitchell of Fairfax | Winters of Williamstown |
| Devereux of Mount Holly | Mrowicki of Putney | |
| Donaghy of Poultney | Myers of Essex | |
| Hoyt of Norwich | | |

Pending the question, Shall the amendment offered by Rep. Moran of Wardsboro be substituted for the amendment offered by Reps. Stevens of Shoreham and others? **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 amendment offered by Rep. Moran of Wardsboro be substituted for the amendment offered by Reps. Stevens of Shoreham and others? was decided in the affirmative. Yeas, 61. Nays, 61. Thereupon, the Speaker voted Yea to break the tie for 62 Yeas to 61 Nays.

Those who voted in the affirmative are:

| | | |
|--------------------------------|---------------------------|-----------------------------|
| Bartholomew of Hartland | Fay of St. Johnsbury | Klein of East Montpelier |
| Bissonnette of Winooski | Fisher of Lincoln | Krowinski of Burlington |
| Botzow of Pownal | Frank of Underhill | Lenes of Shelburne |
| Burke of Brattleboro | French of Randolph | Lippert of Hinesburg |
| Buxton of Tunbridge | Grad of Moretown | Macaig of Williston |
| Cole of Burlington | Head of South Burlington | Marek of Newfane |
| Copeland-Hanzas of Bradford | Heath of Westford | McCarthy of St. Albans City |
| Davis of Washington | Hooper of Montpelier | McCormack of Burlington |
| Deen of Westminster | Jerman of Essex | McCullough of Williston |
| Donovan of Burlington | Jewett of Ripton | Michelsen of Hardwick |
| Ellis of Waterbury | Johnson of South Hero | Miller of Shaftsbury |
| Emmons of Springfield | Keenan of St. Albans City | Moran of Wardsboro |
| | Kitzmiller of Montpelier | O'Sullivan of Burlington |

| | | |
|--------------------------|------------------------|------------------------|
| Partridge of Windham | Sharpe of Bristol | Vowinkel of Hartford |
| Pearson of Burlington | Smith of Morristown | Waite-Simpson of Essex |
| Poirier of Barre City | South of St. Johnsbury | Walz of Barre City |
| Potter of Clarendon | Stevens of Waterbury | Webb of Shelburne |
| Pugh of South Burlington | Stuart of Brattleboro | Weed of Enosburgh |
| Rachelson of Burlington | Sweaney of Windsor | Wizowaty of Burlington |
| Ram of Burlington | Till of Jericho | Woodward of Johnson |
| Russell of Rutland City | Toleno of Brattleboro | Zagar of Barnard |

Those who voted in the negative are:

| | | |
|---------------------------------|-------------------------|---------------------------|
| Beyor of Highgate | Gallivan of Chittenden | Mook of Bennington |
| Bouchard of Colchester | Goodwin of Weston | Morrissey of Bennington |
| Brennan of Colchester | Greshin of Warren | Nuovo of Middlebury |
| Burditt of West Rutland | Haas of Rochester | O'Brien of Richmond |
| Campion of Bennington | Hebert of Vernon | Pearce of Richford |
| Canfield of Fair Haven | Helm of Fair Haven | Quimby of Concord |
| Carr of Brandon | Higley of Lowell | Ralston of Middlebury |
| Christie of Hartford | Hubert of Milton | Savage of Swanton |
| Connor of Fairfield | Johnson of Canaan | Scheuermann of Stowe |
| Conquest of Newbury | Juskiewicz of Cambridge | Shaw of Pittsford |
| Consejo of Sheldon | Komline of Dorset | Smith of New Haven |
| Corcoran of Bennington | Krebs of South Hero | Stevens of Shoreham |
| Cupoli of Rutland City | Larocque of Barnet | Terenzini of Rutland Town |
| Dakin of Chester | Lawrence of Lyndon | Toll of Danville |
| Dickinson of St. Albans Town | Lewis of Berlin | Trieber of Rockingham |
| Donahue of Northfield | Malcolm of Pawlet | Van Wyck of Ferrisburgh |
| Evans of Essex | Manwaring of Wilmington | Wilson of Manchester |
| Fagan of Rutland City | Marcotte of Coventry | Wright of Burlington |
| Feltus of Lyndon | Martin of Springfield | Yantachka of Charlotte |
| Gage of Rutland City | Martin of Wolcott | Young of Glover |
| | McFaun of Barre Town | |

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

| | | |
|-------------------------|-----------------------------------|---------------------------------|
| Ancel of Calais | Huntley of Cavendish | Peltz of Woodbury |
| Batchelor of Derby | Kilmartin of Newport City | Ryerson of Randolph |
| Branagan of Georgia | Koch of Barre Town | Shaw of Derby |
| Browning of Arlington | Kupersmith of South Burlington | Spengler of Colchester |
| Clarkson of Woodstock | Lanpher of Vergennes | Strong of Albany |
| Condon of Colchester | Masland of Thetford | Townsend of South Burlington |
| Cross of Winooski | Mitchell of Fairfax | Turner of Milton |
| Devereux of Mount Holly | Mrowicki of Putney | Winters of Williamstown |
| Donaghy of Poultney | Myers of Essex | |
| Hoyt of Norwich | | |

Thereupon, **Rep. Head of South Burlington** moved to recommit the bill to the committee on General, Housing and Military Affairs, which was agreed to.

Committee of Conference Appointed**S. 287**

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 involuntary treatment and medication

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

Rep. Koch of Barre Town
Rep. Donahue of Northfield
Rep. Lippert of Hinesburg

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Savage of Swanton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

S. 28

Senate bill, entitled

An act relating to gender-neutral nomenclature for the identification of parents on birth certificates

S. 168

Senate bill, entitled

An act relating to making miscellaneous amendments to laws governing municipalities

S. 184

Senate bill, entitled

An act relating to eyewitness identification policy

S. 218

Senate bill, entitled

An act relating to temporary employees

S. 221

Senate bill, entitled

An act relating to providing statutory purposes for tax expenditures

S. 295

Senate bill, entitled

An act relating to pretrial services, risk assessments, and criminal justice programs

H. 88

House bill, entitled

An act relating to parental rights and responsibilities involving a child conceived as a result of a sexual assault

Adjournment

At ten o'clock and forty-five minutes in the evening, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at ten o'clock in the forenoon.