

---

**Rules Suspended; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence; Bill Messaged**

**H. 431.**

Pending entry on the Calendar for notice, on motion of Senator Sears, the rules were suspended and House bill entitled:

An act relating to extending the implementation date of certain employment-related disclosure requirements.

Was taken up for immediate consideration.

Senator Sears, for the Committee on Judiciary, to which the bill was referred, reported recommending that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Sears, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

Thereupon, on motion of Senator Sears, the rules were suspended, and the bill was ordered messaged to the House forthwith.

**Bill Referred**

House bill of the following title was read the first time and referred:

**H. 441.**

An act relating to making appropriations for the support of government.

To the Committee on Appropriations.

**Message from the House No. 40**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 335.** An act relating to amending the charter of the town of Barre.

**H. 444.** An act relating to approval of amendments to the charter of the city of Burlington.

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

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

**J.R.S. 24.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

**Adjournment**

On motion of Senator Mazza, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

---

**THURSDAY, MARCH 31, 2011**

Pursuant to Rule 8 of the Senate Rules, in the absence of the President and the President *pro tempore*, the time for convening of the Senate having been set at eleven o'clock and thirty minutes, the Senate was called to order by John H. Bloomer, Jr., Secretary of the Senate.

**Adjournment**

On motion of Senator Mazza, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

---

**FRIDAY, APRIL 1, 2011**

Pursuant to Rule 8 of the Senate Rules, in the absence of the President (who was Acting Governor in the absence of the Governor) and the President *pro tempore*, the time for convening of the Senate having been set at eleven o'clock and thirty minutes, the Senate was called to order by John H. Bloomer, Jr., Secretary of the Senate.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Message from the House No. 41**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 254.** An act relating to consumer protection.

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

---

**Presiding Officer Elected**

Thereupon, pursuant to the provisions of Rule 8 of the Senate Rules, in the absence of the President and the President *pro tempore*, the Senate proceeded to the election of an acting President *pro tempore* to preside.

Nominations being in order, Senator Carris nominated Senator Richard T. Mazza to be acting President *pro tempore*.

There being no further nominations, on motion of Senator Carris, the nominations were closed, and the Assistant Secretary was instructed to cast one ballot for Senator Richard T. Mazza to serve as presiding officer until the return of the President or the President *pro tempore*.

**Senator Mazza Assumes the Chair****Pages Honored**

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with letters of appreciation.

Katie Barker of Burlington  
Tanmatra Bhanti of Brattleboro  
Amanda Dean of Pownal  
Celia Feal-Staub of Putney  
Alyssa Higgins of East Fairfield  
Lindsey Maloney of Northfield  
Alexander Pasanen of South Burlington  
Dylan Rick of Chelsea  
Luke Strohbehn of Norwich  
Victoria Svec of East Dummerston

**Senate Resolution Placed on Calendar****S.R. 8.**

Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Campbell, McCormack, Illuzzi, Galbraith, Ashe, Ayer, Baruth, Brock, Carris, Cummings, Flory, Fox, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, Miller, Nitka, Pollina, Sears, Snelling, Westman, and White,

**S.R. 8.** Senate resolution expressing support for the collective bargaining rights of public employees.

*Whereas*, public servants are our friends, neighbors, and constituents, and through their carrying out our legislative enactments, they enable us to meet our commitments to all citizens, and

*Whereas*, historically, labor unions are responsible for the civilized working conditions we take for granted, including the 40-hour work weeks, laws pertaining to child labor and health and safety conditions, overtime pay, and health insurance and pension coverage, and

*Whereas*, as a central part of our democracy, labor unions are the bulwark of assuring a strong middle-class society, and collective bargaining is neither a weapon nor a bludgeon but rather an enlightened method to resolve disagreements in good faith, and

*Whereas*, the state of Wisconsin recently passed legislation eliminating that state's employees' right to bargain collectively except for "base wages" of one year's duration and even then only for increases that do not exceed the consumer price index unless a voter referendum to the contrary is approved, and

*Whereas*, the same act also terminates entirely the collective bargaining rights of the University of Wisconsin System, the University of Wisconsin Hospitals and Clinics Authority, and certain home care and child health care providers, and

*Whereas*, although a Wisconsin state judge has enjoined enforcement of this law based on the failure of the legislature to observe Wisconsin's advance notice requirements for public meetings, the legislative and executive desire to enact this measure remains strong, and it is still possible that this or a similar measure may yet become law, and

*Whereas*, other states are also proposing to roll back collective bargaining rights, and the matter is now on the forefront of legislative consideration in Ohio and Indiana, and

*Whereas*, collective bargaining is a fundamental right in accordance with Article 23 of the Universal Declaration of Rights of which the United States is a signatory, and

*Whereas*, the International Labor Organization, of which the United States is a member, in its Declaration of Fundamental Principles and Rights at Work defines the freedom of association and the effective recognition of the right to collectively bargain as essential rights of workers, and

*Whereas*, the American Baptist Church, the Episcopal Church, the Central Conference of American Rabbis, the Evangelical Lutheran Church of America, the Presbyterian Church, the Roman Catholic Church, the United Methodist Church, the United Church of Christ, and the United Universalists Association of Congregations as well as other religious organizations support the rights of employees to bargain collectively, and

*Whereas*, the United States of America is a union of many disparate states that collectively work together for their mutual well-being on many different levels, *now therefore be it*

***Resolved by the Senate:***

That the Senate of the State of Vermont, despite these hard economic times, recognize the great value of all public sector employees and reaffirm the legitimacy of their right to bargain collectively by sitting down with their employer in an atmosphere of mutual respect, *and be it further*

***Resolved:*** That workers in all states, regardless of economic sector and job title or responsibility, must have a basic right to organize and bargain collectively for a fair and just outcome, *and be it further*

***Resolved:*** That the Secretary of the Senate be directed to send a copy of this resolution to Indiana Governor Mitch Daniels, Ohio Governor John Kasich, Wisconsin Governor Scott Walker, and all labor unions in Vermont.

Thereupon, in the discretion of the President, under Rule 51, the resolution was placed on the Calendar for action the next legislative day.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 335.**

An act relating to amending the charter of the town of Barre.

To the Committee on Government Operations.

**H. 444.**

An act relating to approval of amendments to the charter of the city of Burlington.

To the Committee on Government Operations.

**Recess**

On motion of Senator White the Senate recessed until the fall of the gavel.

**Called to Order**

The Senate was called to order by the acting President *pro tempore*.

**Rules Suspended; Third Readings Ordered, Rules Suspended; Bills  
Passed in Concurrence; Bills Messaged**

**H. 335.**

Pending entry on the Calendar for notice, on motion of Senator White, the rules were suspended and House bill entitled:

An act relating to amending the charter of the town of Barre.

Was taken up for immediate consideration.

Senator Pollina, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator White, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and pass in concurrence.

Thereupon, on motion of Senator White, the rules were suspended and the bill was ordered messaged to the House forthwith.

**H. 444.**

Pending entry on the Calendar for notice, on motion of Senator White, the rules were suspended and House bill entitled:

An act relating to approval of amendments to the charter of the city of Burlington.

Was taken up for immediate consideration.

Senator Flory, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator White, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and pass in concurrence.

Thereupon, on motion of Senator White, the rules were suspended and the bill was ordered messaged to the House forthwith.

**Message from the House No. 42**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 443.** An act relating to the state's transportation program.

**H. 446.** An act relating to capital construction and state bonding.

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

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 108.** House concurrent resolution congratulating the winning teams at the 4th annual Jr. Iron Chef VT competition.

**H.C.R. 109.** House concurrent resolution congratulating the 2011 Barre Blades Pee Wee B hockey team on winning the Vermont State Amateur Hockey Association championship.

**H.C.R. 110.** House concurrent resolution congratulating Amanda Eldridge on winning the 2010 Positive Youth Sports Alliance of Essex's coach of the year award.

**H.C.R. 111.** House concurrent resolution congratulating Meigan Clark on winning the 2011 Vermont state spelling bee.

**H.C.R. 112.** House concurrent resolution honoring the women and girls associated with the Wells River Congregational Church.

**H.C.R. 113.** House concurrent resolution congratulating the 2011 Norwich University Cadets NCAA Division III championship women's ice hockey team.

**H.C.R. 114.** House concurrent resolution congratulating the 2011 Poultney High School Blue Devils Division IV championship basketball team.

**H.C.R. 115.** House concurrent resolution congratulating the 2011 Windsor High School Yellow Jackets Division III championship girls' basketball team.

**H.C.R. 116.** House concurrent resolution congratulating the 2011 Middlebury Union High School Tigers Division II championship boys' ice hockey team.

**H.C.R. 117.** House concurrent resolution commemorating the 30th anniversary of the Medicare hospice program.

**H.C.R. 118.** House concurrent resolution congratulating the 2011 Lamoille Union High School Lancers Division II girls' basketball championship team.

**H.C.R. 119.** House concurrent resolution congratulating the Winooski High School Spartans Division III championship boys' basketball team.

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

**House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were by rule adopted in concurrence:

By Representative Stevens and others,

**H.C.R. 108.**

House concurrent resolution congratulating the winning teams at the 4th annual Jr. Iron Chef VT competition.

By Representative Toll and others,

By Senators Benning, Cummings, Doyle, Kitchel and Pollina,

**H.C.R. 109.**

House concurrent resolution congratulating the 2011 Barre Blades Pee Wee B hockey team on winning the Vermont State Amateur Hockey Association championship.

By Representative Waite-Simpson and others,

**H.C.R. 110.**

House concurrent resolution congratulating Amanda Eldridge on winning the 2010 Positive Youth Sports Alliance of Essex's coach of the year award.

By Representatives Ralston and Nuovo,

By Senators Ayer and Giard,

**H.C.R. 111.**

House concurrent resolution congratulating Meigan Clark on winning the 2011 Vermont state spelling bee.

By Representative Conquest,

**H.C.R. 112.**

House concurrent resolution honoring the women and girls associated with the Wells River Congregational Church.



---

By Representatives Donahue and Grad,  
By Senators Cummings, Doyle and Pollina,

**H.C.R. 113.**

House concurrent resolution congratulating the 2011 Norwich University Cadets NCAA Division III championship women's ice hockey team.

By Representatives Donaghy and Malcolm,  
By Senators Carris, Flory, Mullin and Nitka,

**H.C.R. 114.**

House concurrent resolution congratulating the 2011 Poultney High School Blue Devils Division IV championship basketball team.

By Representative Sweaney and others,  
By Senators Campbell, McCormack and Nitka,

**H.C.R. 115.**

House concurrent resolution congratulating the 2011 Windsor High School Yellow Jackets Division III championship girls' basketball team.

By Representatives Ralston and Nuovo,  
By Senators Ayer and Giard,

**H.C.R. 116.**

House concurrent resolution congratulating the 2011 Middlebury Union High School Tigers Division II championship boys' ice hockey team.

By All Members of the House,  
By All Members of the Senate,

**H.C.R. 117.**

House concurrent resolution commemorating the 30th anniversary of the Medicare hospice program.

By Representative Woodward and others,  
By Senator Westman,

**H.C.R. 118.**

House concurrent resolution congratulating the 2011 Lamoille Union High School Lancers Division II girls' basketball championship team.

By Representative Atkins and others,

**H.C.R. 119.**

House concurrent resolution congratulating the Winooski High School Spartans Division III championship boys' basketball team.

**Adjournment**

On motion of Senator Carris, the Senate adjourned, to reconvene on Tuesday, April 5, 2011, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 24.

---

**TUESDAY, APRIL 5, 2011**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Terry Dorsett of Barre.

**Pledge of Allegiance**

The President then led the members of the Senate in the pledge of allegiance.

**Bills Referred to Committee on Appropriations**

Senate and House bills of the following titles, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 17.** An act relating to medical marijuana dispensaries.

**S. 78.** An act relating to the advancement of cellular, broadband, smart grid, and other technology infrastructure in Vermont.

**S. 86.** An act relating to requiring that postretirement adjustments to retirement allowances be made pursuant to the Northeast Region Consumer Price Index.

**H. 275.** An act relating to the recently deployed veteran tax credit.

**Joint Senate Resolution Adopted on the Part of the Senate**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Carris and Mullin,

**J.R.S. 25.** Joint resolution relating to weekend adjournment.

---

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

That when the two Houses adjourn on Friday, April 8, 2011, it be to meet again no later than Tuesday, April 12, 2011.

**Committee Bills Introduced**

Senate committee bills of the following titles were severally introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

**S. 104.**

By the Committee on Health and Welfare,

An act relating to modifications to the ban on gifts by manufacturers of prescribed products.

**S. 105.**

By the Committee on Agriculture,

An act relating to miscellaneous agricultural subjects.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 254.**

An act relating to consumer protection.

To the Committee on Rules.

**H. 443.**

An act relating to the state's transportation program.

To the Committee on Transportation.

**H. 446.**

An act relating to capital construction and state bonding.

To the Committee on Institutions.

**Bill Amended; Bill Passed****S. 53.**

Senate bill entitled:

An act relating to the number of prekindergarten children included within a school district's average daily membership.

Was taken up.

Thereupon, pending third reading of the bill, Senator Mullin moved to amend the bill by striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read:

**Sec. 2. EFFECTIVE DATE; FISCAL YEAR 2012 IMPACT**

(a) This section shall take effect on passage.

(b) Sec. 1 of this act shall take effect on July 1, 2011.

(c) Notwithstanding 16 V.S.A. § 4010(h), this act shall be implemented so that the fiscal year 2012 equalized pupil calculation is revised to reflect the amendments in Sec. 1 of this act.

(d) Upon passage of this act, school districts may take all necessary actions to prepare to offer prekindergarten education by or through public schools as authorized under this act and 16 V.S.A. § 829.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

**Bill Amended; Third Reading Ordered**

**S. 15.**

Senator Miller, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to insurance coverage for midwifery services and home births.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4099d is added to read:

**§ 4099d. MIDWIFERY COVERAGE; HOME BIRTHS**

(a) A health insurance plan or health benefit plan providing maternity benefits shall also provide coverage for services rendered by a midwife licensed pursuant to chapter 85 of Title 26 or an advanced practice registered nurse licensed pursuant to chapter 28 of Title 26 who is certified as a nurse midwife for services within the licensed midwife's or certified nurse midwife's scope of practice and provided in a hospital or other health care facility or at home.

(b) Coverage for services provided by a licensed midwife or certified nurse midwife shall not be subject to any greater co-payment, deductible, or

coinsurance than is applicable to any other similar benefits provided by the plan.

#### Sec. 2. DATA SUBMISSION

Each midwife licensed pursuant to chapter 85 of Title 26 and each advanced practice registered nurse licensed pursuant to chapter 28 of Title 26 who is certified as a nurse midwife shall submit data to the database maintained by the Division of Research of the Midwives Alliance of North America regarding each home birth in Vermont for which he or she is the attending midwife.

#### Sec. 3. DEPARTMENT OF HEALTH; REPORTING REQUIREMENT

(a) The department of health shall access the database maintained by the Division of Research of the Midwives Alliance of North America to obtain information relating to care provided in Vermont by midwives licensed pursuant to chapter 85 of Title 26 and by advanced practice registered nurses licensed pursuant to chapter 28 of Title 26 who are certified as nurse midwives.

(b) No later than March 15 of each year from 2012 through 2016, inclusive, the commissioner of health or designee shall provide testimony to the house committee on health care and the senate committee on health and welfare regarding the activities of licensed midwives and certified nurse midwives performing home births and providing prenatal and postnatal care in a nonmedical environment during the preceding year. The testimony shall include the number of home births in Vermont, the number of hospital transports associated with home births, the treatment of high-risk patients, and other relevant data, as well as the level of compliance of the licensed midwives and certified nurse midwives with the laws and rules governing their scope of practice.

#### Sec. 4. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on October 1, 2011, and shall apply to all health insurance plans and health benefit plans on and after October 1, 2011, on such date as a health insurer issues, offers, or renews the plan, but in no event later than October 1, 2012.

(b) The remaining sections of this act shall take effect on passage.

Senator Fox, for the Committee on Finance, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Health and Welfare, with the following amendment thereto:

In Sec. 1. 8 VSA §4099d by adding a subsection (c) to read as follows:

(c) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid, the Vermont health access plan, and any other public health care assistance program offered or administered by the state or by any subdivision or instrumentality of the state. The term shall not include policies or plans providing coverage for specific disease or other limited benefit coverage.

And that when so amended the bill ought to pass.

Senator Miller, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon the recommendation of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Finance.

Thereupon, the pending question, Shall the bill be amended as recommended by the Health and Welfare, as amended?, was agreed to.

Thereupon, third reading of the bill was ordered.

### **Third Reading Ordered**

#### **S. 100.**

Senator Westman, for the Committee on Finance, to which was referred Senate Committee bill entitled:

An act relating to making miscellaneous amendments to education laws.

Reported that the bill ought to pass.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

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

#### **S. 52.**

Consideration was resumed on Senate bill entitled:

An act relating to protect employees from abuse at work.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, was agreed to.

Thereupon, third reading of the bill was ordered.

### **Third Readings Ordered**

#### **H. 85.**

Senator Illuzzi, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to recognition of the Nulhegan Band of the Coosuk Abenaki Nation as a Native American Indian tribe.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

#### **H. 86.**

Senator Illuzzi, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to recognition of the Elnu Abenaki tribe as a Native American Indian tribe.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

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

#### **H. 236.**

Senator Snelling, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to limitation of prosecutions for sexual abuse of a vulnerable adult.

Reported recommending that the Senate propose to the House that after passage the title of the bill be amended to read as follows:

An act relating to extending the limitation of prosecutions for sexual abuse of a vulnerable adult.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

### **Senate Resolution Adopted**

#### **S.R. 8.**

Senate resolution entitled:

Senate resolution expressing support for the collective bargaining rights of public employees.

Having been placed on the Calendar for action, was taken up and adopted on a roll call, Yeas 27, Nays 1.

Senator Carris having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Giard, Hartwell, Illuzzi, Kitchel, Kittell, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

**The Senator who voted in the negative was:** \*Benning.

**Those Senators absent and not voting were:** Galbraith, Lyons.

\*Senator Benning explained his vote as follows:

“Mr. President, I support the right of public workers to organize, but I do not support telling the people of Wisconsin what to do when voting.”

#### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, April 5, 2011.

---

WEDNESDAY, APRIL 6, 2011

The Senate was called to order by the President.

#### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.



---

**Bill Referred to Committee on Finance****S. 104.**

Senate Committee bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to modifications to the ban on gifts by manufacturers of prescribed products.

**Bill Referred to Committee on Appropriations****S. 105.**

Senate Committee bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to miscellaneous agricultural subjects.

**Message from the Governor****Appointments Referred**

A message was received from the Governor, by Alexandra MacLean, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Lindholm, Justin of Rutland - Member of the Fish and Wildlife Board, - from March 24, 2011, to February 28, 2017.

To the Committee on Natural Resources and Energy.

Hover, Caprice of Rutland - Member of the Vermont State Housing Authority, - from March 1, 2011, to February 29, 2016.

To the Committee on Economic Development, Housing and General Affairs.

Kreitzer, Jerry of Rutland - Member of the Children and Family Council for Prevention Programs, - from March 24, 2011, to February 28, 2014.

To the Committee on Health and Welfare.

Boyd-Hill, Shirley of Fairfax - Member of the Children and Family Council for Prevention Programs, - from March 24, 2011, to February 28, 2014.

To the Committee on Health and Welfare.

Burns, Cailie of Burlington - Member of the Children and Family Council for Prevention Programs, - from March 1, 2011, to February 28, 2014.

To the Committee on Health and Welfare.

Clifford, Eric of Starksboro - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from March 31, 2011, to February 28, 2014.

To the Committee on Natural Resources and Energy.

Fisher, Lori of Williston - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from March 1, 2011, to February 28, 2014.

To the Committee on Natural Resources and Energy.

Germain, Maurice of Colchester - Member of the Transportation Board, - from March 1, 2011, to February 28, 2014.

To the Committee on Transportation.

Gobeille, Al of Shelburne - Member of the Travel Information Council, - from March 24, 2011, to February 28, 2013.

To the Committee on Transportation.

Hansen, Paul of South Alburg - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from March 1, 2011, to February 28, 2014.

To the Committee on Natural Resources and Energy.

Hayden, Mary of Barre - Member of the Children and Family Council for Prevention Programs, - from March 1, 2011, to February 28, 2014.

To the Committee on Health and Welfare.

LaBarge, John of South Hero - Member of the Travel Information Council, - from March 1, 2011, to February 28, 2013.

To the Committee on Transportation.

Lawyer, Tanya of Bristol - Member of the Children and Family Council for Prevention Programs, - from March 1, 2011, to February 28, 2014.

To the Committee on Health and Welfare.

Moore, Julie of Middlesex - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from March 24, 2011, to February 28, 2014.

To the Committee on Natural Resources and Energy.

Naud, Mark of South Hero - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from March 24, 2011, to February 29, 2012.

To the Committee on Natural Resources and Energy.

O'Hagan, Karen of Winooski - Member of the Vermont State Lottery Commission, - from March 24, 2011, to February 28, 2014.

To the Committee on Economic Development, Housing and General Affairs.

Sheil, Robert of Montpelier - Member of the Children and Family Council for Prevention Programs, - from March 1, 2011, to February 28, 2014.

To the Committee on Health and Welfare.

Young, Sheri B. of Orwell - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from March 1, 2011, to February 28, 2014.

To the Committee on Natural Resources and Energy.

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

#### **S. 90.**

Senator Pollina, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to respectful language in state statutes in referring to people with disabilities.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

#### **Sec. 1. RESPECTFUL LANGUAGE STUDY**

(a) The agency of human services shall convene a working group to propose guidelines for using respectful language when referring to people with disabilities. In convening the working group, the agency shall invite the participation of two representatives from the Vermont coalition for disability rights, two representatives from Green Mountain self-advocates, one representative from the Vermont center for independent living, one representative from Vermont psychiatric survivors, one representative from the human rights commission, and two people appointed by the governor, at least one of whom shall be a high school student. In preparing its recommendations, the working group shall:

(1) identify words that should not be used in Vermont statutes and suggest in their place words that reflect positive views of people with disabilities;

(2) avoid using any language that changes the meaning or intent of state statutes;

(3) identify specific statutes that should be addressed by the general assembly;

(4) select wording that does not conflict with federal law; and

(5) develop guidelines to support state government agencies and departments to use respectful language in all areas of conducting business.

(b) By November 1, 2011, the working group shall report to the house committee on government operations and the senate committee on government operations the group's findings and recommendations, including any recommended legislation to address its findings and recommendations.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

## **Bill Amended; Bill Passed**

### **S. 77.**

Senate bill entitled:

An act relating to water testing of private wells.

Was taken up.

Thereupon, pending third reading of the bill, Senator Illuzzi moved to amend the bill as follows:

First: In Sec. 2, 10 V.S.A. § 1981, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) The secretary, after consultation with the department of health, the wastewater and potable water supply technical advisory committee, the Vermont association of realtors, the Vermont home inspectors' association, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, after construction or drilling of a well, the well test required under subsection (a) of this section shall be conducted;

(2) who shall be authorized to conduct the well test required under subsection (a) of this section, provided that the rule shall include licensed well drillers among those authorized to conduct the test;

(3) how well samples will be delivered for testing, including the form and information to be submitted with the well sample;

(4) a current, nationally-recognized accreditation or approval that an in-state or out-of-state laboratory shall possess in order to conduct a well test required under subsection (a) of this section; and

(5) any other requirements necessary to implement the requirements of this section.

Second: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 3 (disclosure of educational material), and 4 (department of health; education and outreach) of this act shall take effect upon passage.

(b) Sec. 2 (testing of private wells) of this act shall take effect upon passage, except that 10 V.S.A. § 1981(a) (well test requirement) and 10 V.S.A. § 1981(d) (well test reports) shall take effect on July 1, 2012.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Brock moved to amend the bill in Sec. 2, 10 V.S.A. § 1981, by striking the first sentence of subsection (a) in its entirety and inserting in lieu thereof the following:

(a) After construction of a newly drilled well intended for use as a potable water supply, the owner of the property on which the well is located shall test the well for the parameters set forth in subsection (b) of this section.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

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

**S. 34.**

Consideration was resumed on Senate bill entitled:

An act relating to the collection and disposal of mercury-containing lamps.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Natural Resources?, was decided in the affirmative.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Illuzzi moved to amend the bill as follows:

First: In Sec. 1, 10 V.S.A. § 7151, by inserting a new subdivision (10) to read as follows:

(10) “Stewardship organization” means an organization, association, or entity that has developed a system, method, or other mechanism which assumes the responsibilities, obligations, and liabilities under this chapter of multiple manufacturers of mercury-containing lamps.

Second: In Sec. 1, 10 V.S.A. § 7154(a), by striking the first full sentence and inserting in lieu thereof the following:

Prior to October 1, 2011, a manufacturer, individually or as a participant in a stewardship organization, shall submit a collection plan to the secretary for review.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Illuzzi moved to amend the bill as follows:

First: By adding a new section to be numbered Sec. 1 to read as follows:

#### Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) Extended producer responsibility programs are an effective method of managing certain types of potentially hazardous waste, such as mercury-containing lamps;

(2) In implementing extended producer responsibility programs, states are often faced with the issue of how to regulate products sold in the state by a manufacturer with no corporate presence in Vermont or the United States.

(3) Under *Huey v. Bates*, 135 Vt. 160 (1977), *Northern Aircraft, Inc. v. Reed*, 154 Vt. 36 (1990), and *Hedges Western Auto Supply Co.*, 161 Vt. 614 (1994), a clear intention by a manufacturer or a distributor to participate in the Vermont market through the sale or purposeful utilization of an in-state distribution system is sufficient to provide the state with jurisdiction over the manufacturer or distributor.

(4) Thus, an extended producer responsibility program for the collection and disposal of mercury containing lamps may regulate a manufacturer or distributor that purposefully and intentionally sells or distributes mercury-containing lamps in Vermont.

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

Second: In renumbered Sec. 1, by striking out 10 V.S.A. § 7159 in its entirety and inserting in lieu thereof a new 10 V.S.A. § 7159 to read as follows:

§ 7159. MERCURY CONTENT STANDARDS

(a) Mercury content standards for lamps. Beginning January 1, 2012, a mercury-containing lamp sold in this state shall satisfy the mercury-content standard for lamps set by California.

(b) Rulemaking; implementation. The agency of natural resources may adopt rules to implement the requirements of this chapter, including exemptions from the mercury content standards established under subsection (a) of this section.

(c) Certificate of compliance.

(1) Beginning April 1, 2012, the secretary may request a manufacturer of a lamp or lamps to submit a certification, supported by technical information, that the manufacturer's lamp or lamps that are sold or offered for sale in the state comply with the standard established under subsection (a) of this section. A manufacturer shall submit a certificate of compliance within 30 days of the secretary's request. If a manufacturer fails to provide a requested certification within 30 days of the request, the manufacturer shall be prohibited from selling lamps or offering lamps for sale in the state.

(2) Upon request of a retailer or other person selling a manufacturer's lamps, a manufacturer shall provide a certification that the manufacturer's lamp or lamps comply with the standard established under subsection (a) of this section. A manufacturer shall provide a certificate of compliance within 30 days of the retailer's request. The certification must specify that the lamp or lamps are not prohibited from sale in the state. If a manufacturer fails to provide a certification under this subdivision (c)(2), the manufacturer shall be prohibited from selling lamps or offering lamps for sale in the state.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Sears moved to amend the bill in Sec. 2, 10 V.S.A. by striking out § 7158 in its entirety and inserting in lieu thereof a new § 7158 to read as follows:

§ 7158. FEES; DISPOSITION

(a) A manufacturer or stewardship organization shall pay \$10,000.00 for each collection plan submitted to the agency for review under section 7154 of this title.

(b) Of the fees collected under subsection (a) of this section, no more than \$20,000.00 shall be retained by the agency annually for the performance of its responsibilities under section 7156 of this title. All fees collected by the agency in a year under subsection (a) of this section in excess of \$20,000.00 a year shall be deposited in the general fund.

Which was agreed to.

Thereupon, the recurring question, Shall the bill be read a third time?, was decided in the affirmative.

### **Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 15.** An act relating to insurance coverage for midwifery services and home births.

**S. 52.** An act relating to protect employees from abuse at work.

**S. 100.** An act relating to making miscellaneous amendments to education laws.

### **Bills Passed in Concurrence**

House bills of the following titles were severally read the third time and passed in concurrence:

**H. 85.** An act relating to recognition of the Nulhegan Band of the Coosuk Abenaki Nation as a Native American Indian tribe.

**H. 86.** An act relating to recognition of the Elnu Abenaki tribe as a Native American Indian tribe.

### **Bill Passed in Concurrence with Proposal of Amendment**

#### **H. 236.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to limitation of prosecutions for sexual abuse of a vulnerable adult.

### **Election of Senate Members to Judicial Nominating Board**

The President announced that the next order of business was the election of three members of the Senate to serve on the Judicial Nominating Board pursuant to 4 V.S.A. §601.



Senator Mazza, on behalf of the Committee on Committees, placed in nomination the names of the following Senators to serve on the Board:

**TIMOTHY R. ASHE**

of Chittenden District, as the majority party member of the Board.

**RICHARD A. WESTMAN**

of Lamoille District, as the minority party member of the Board.

**JOHN F. CAMPBELL**

of Windsor District, as the third member of the Board.

Senator Mullin of Rutland District seconded these nominations.

There being no further nominations, on motion of Senator Mazza, the nominations were closed, and the Secretary was instructed to cast one ballot for

**TIMOTHY R. ASHE**

of Chittenden District, as the majority party member of the Board, for a term of two years or until his successor is elected and has qualified.

**RICHARD A. WESTMAN**

of Lamoille District, as the minority party member of the Board, for a term of two years or until his successor is elected and has qualified.

**JOHN F. CAMPBELL**

of Windsor District, as the third member of the Board, for a term of two years or until his successor is elected and has qualified.

**Adjournment**

On motion of Senator Campbell, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

---

**THURSDAY, APRIL 7, 2011**

In the absence of the President (who was Acting Governor in the absence of the Governor) the Senate was called to order by the President *pro tempore*.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Message from the House No. 43**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 155.** An act relating to property-assessed clean energy districts.

**H. 420.** An act relating to the office of professional regulation.

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

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

**J.R.S. 25.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

**Rules Suspended; Bill Committed**

Appearing on the Calendar for notice, on motion of Senator Carris, the rules were suspended and Senate bill entitled:

**S. 17.** An act relating to medical marijuana dispensaries.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Government Operations, as the bill had not made cross-over the bill was committed to the Committee on Rules with the reports of the Committees on Government Operations, Finance and Appropriations *intact*.

**Joint Resolution Placed on Calendar****J.R.S. 26.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senate Committee on Transportation,

**J.R.S. 26.** Joint resolution strongly reaffirming the general assembly's enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path.

*Whereas*, the St. Johnsbury and Lake Champlain Railroad was completed in 1877 as a 93-mile rail line extending from St. Johnsbury in the east to Swanton in the west, and

*Whereas*, the rail line continued as a privately owned commercial transportation corridor until the state of Vermont purchased it in 1973, renaming it the Lamoille Valley Railroad (LVR), and

*Whereas*, in 1995 and 1997, severe flooding caused major damage to the tracks and ties of the railroad, and

*Whereas*, at the agency of transportation's (AOT's) request, the regional planning commissions, local chambers of commerce, and economic development officials, operating as the Mountain Valley Corridor Consortium, assumed responsibility for conducting the LVR corridor proposal process, and the proposal of the Vermont Association of Snow Travelers (VAST) to create a four-season recreational corridor and alternative transportation path was selected, and

*Whereas*, in accordance with Sec. 16 of No. 141 of the Acts of the 2001 Adj. Sess. (2002), the AOT was directed to obtain federal approval for discontinuance of rail service, as required under the Surface Transportation Act, and to gain approval to designate the LVR rail bed for interim trail use, and subject to receiving the federal approval, to enter into leases with VAST to construct the four-season recreational corridor and alternative transportation path and with St. Johnsbury and Swanton for municipally managed recreation trails on small segments of the LVR located in those towns, and

*Whereas*, in Sec. 78 of No. 93 of the Acts of the 2005 Adj. Sess. (2006), the general assembly authorized the establishment of the Lamoille Valley Rail Trail (LVRT) project and the acceptance of federal funding that was authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub.L. No. 109-59) which provided \$5.3 million of federal funds, and

*Whereas*, also in 2006, AOT entered into a long-term lease agreement with VAST to build and maintain the LVRT, and

*Whereas*, on June 1, 2009, the Act 250 district 5, 6, and 7 Act 250 coordinators issued a joint initial jurisdictional opinion, concluding that the LVRT did not require an ACT 250 permit because it qualified for the act's "repair and maintenance exemption," but in response to a number of landowners' requests for reconsideration, two of the three coordinators reversed their original opinions, concluding on September 30, 2009 that the LVRT will require an Act 250 permit (with the other coordinator dissenting), and

*Whereas*, the proposed LVRT project provides an unprecedented opportunity to enhance the protection of natural and cultural resources within the project corridor through the repair of existing areas of trail washout and soil erosion, improved stream crossings, the cleanup of existing hazards, eliminating existing encroachments, and the refurbishment of existing drainage infrastructure, combined with implementation of ongoing maintenance activities, and

*Whereas*, the economic, environmental, and recreational tourism benefits of the LVRT would be of enormous benefit to Vermonters and especially the towns along its path, *now therefore be it*

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

That the General Assembly reaffirms its enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path, *and be it further*

***Resolved:*** That the executive branch of Vermont state government is urged to demonstrate similarly enthusiastic support, including:

1) That the agencies of transportation and of natural resources support VAST in the acquisition of an Act 250 permit, including that the agency of natural resources, where possible, assist VAST with the filing and issuance of that agency's required permits.

2) That the agencies of commerce and community development, of natural resources, and of transportation assist VAST in the securing of the remaining funding necessary to proceed with the full conversion of the rail bed.

3) That the agency of transportation adhere to all commitments it made in the 2006 lease agreement with VAST, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to VAST Executive Director Bryant Watson, to Secretary of Transportation Brian Searles, to Secretary of Natural Resources Deborah Markowitz, and to Secretary of Commerce and Community Development Lawrence Miller.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action tomorrow.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 155.**

An act relating to property-assessed clean energy districts.

To the Committee on Rules.

**H. 420.**

An act relating to the office of professional regulation.

To the Committee on Rules.

**Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 34.** An act relating to the collection and disposal of mercury-containing lamps.

**S. 90.** An act relating to respectful language in state statutes in referring to people with disabilities.

**Adjournment**

On motion of Senator Mazza, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

---

**FRIDAY, APRIL 8, 2011**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Rich Swanson of Stowe.

**Message from the House No. 44**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 56.** An act relating to the Vermont Energy Act of 2011.

**H. 439.** An act relating to the bill-back authority of the department of public service and the public service board.

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

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

**S. 2.** An act relating to sexual exploitation of a minor and the sex offender registry.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has adopted joint resolutions of the following titles:

**J.R.H. 16.** Joint resolution authorizing Green Mountain Boys' State educational program to use the state house.

**J.R.H. 18.** Joint resolution urging the Federal Railroad Administration to award a passenger rail improvement grant to the state of Vermont for upgrading the western rail corridor.

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

**Message from the House No. 45**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 73.** An act relating to establishing a government transparency office to enforce the public records act.

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

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

**S. 12.** An act relating to adding a member from the area agencies on aging to the governor's commission on Alzheimer's disease and related disorders.

And has passed the same in concurrence.

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 120.** House concurrent resolution congratulating the students of Monument Elementary School in Bennington for their special effort to assist the victims of the recent natural and nuclear disasters in Japan.

**H.C.R. 121.** House concurrent resolution commemorating the 250th anniversary of the town of Hartford.

**H.C.R. 122.** House concurrent resolution congratulating the Stafford Technical Center SADD chapter on winning the 2010 National SADD Chapter of the Year Award.

**H.C.R. 123.** House concurrent resolution commemorating the sesquicentennial of the Civil War.

**H.C.R. 124.** House concurrent resolution congratulating the 2011 Missisquoi Valley Union High School Thunderbirds Division II championship boys' basketball team.

**H.C.R. 125.** House concurrent resolution acknowledging the many Vermonters living with Alzheimer's disease and designating April 1 as Alzheimer's Awareness Day.

**H.C.R. 126.** House concurrent resolution in memory of Jack Gabriel Hannan, champion freeskier.

**H.C.R. 127.** House concurrent resolution congratulating the Vermont Children's Trust Foundation on its 20th anniversary and designating April 13, 2011 as Vermont Children's Trust Foundation Day at the State House.

**H.C.R. 128.** House concurrent resolution congratulating the Peace Corps on half a century of exemplary public service.

**H.C.R. 129.** House concurrent resolution congratulating James Kochalka on his designation as the first Vermont cartoonist laureate.

**H.C.R. 130.** House concurrent resolution designating April 27, 2011, as National Walk@Lunch Day in Vermont.

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

### **Bill Called Up**

#### **H. 46.**

Senate bill of the following title was called up by Senator Mullin, and, under the rule, placed on the Calendar for action the next legislative day:

An act relating to youth athletes with concussions participating in athletic activities.

### **Joint Resolutions Placed on Calendar**

Joint resolutions originating in the House of the following titles were severally read the first time and are as follows:

#### **J.R.H. 16.**

Joint resolution authorizing Green Mountain Boys' State educational program to use the state house.

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

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

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

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the state house for the Green Mountain Boys' State program on Thursday, June 23, 2011 from 8:00 a.m. to 5:00 p.m., and be it further

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

**J.R.H. 18.**

Joint resolution urging the Federal Railroad Administration to award a passenger rail improvement grant to the state of Vermont for upgrading the western rail corridor.

Whereas, for many years there has been strong support in the private and public sectors, and across partisan lines, for the rebuilding of Vermont's western rail corridor that would enable the resumption of passenger rail service from Albany, New York to Burlington via Bennington, Manchester, Rutland, and Middlebury, and improve freight service as well, and

Whereas, the Amtrak Ethan Allen Express, whose annual ridership increased by 2.7 percent in 2010, was inaugurated in December 1996, and provides Rutland a connection with the Amtrak network, but its passage through Vermont ends a few miles west of Rutland at the New York state line, and

Whereas, a train serving all the major communities of the western corridor, which lacks an interstate highway, would prove even more successful, and

Whereas, twice, since Congress appropriated funds for improving intercity passenger rail infrastructure, the state of Vermont applied for a \$74-million grant to make progress on the needed upgrades to the western corridor's infrastructure, and



Whereas, although major funding was awarded to make improvements to the Vermonter's rail infrastructure on the eastern side of the state, the Ethan Allen Express request was twice denied, and

Whereas, federal passenger rail funds have been awarded to states that have ultimately turned them back while Vermont's broadly supported funding requests for the western corridor have been rejected, and

Whereas, the state of Florida has recently turned back \$2.4 billion for the construction of a new high speed rail line, and the Federal Railroad Administration (FRA) is soliciting requests for proposals to reallocate these funds, and

Whereas, the state of Vermont is once again submitting a well-structured proposal, in the amount of \$80 million, to upgrade the western corridor section from Rutland to Burlington which would be an important step in restoring the entire route from Albany to Burlington, and

Whereas, in order to emphasize the depth of support for the western corridor proposal, Congressman Peter Welch invited FRA Deputy Administrator Karen Rae to a rally held in Rutland in support of the Vermont funding proposal, and

Whereas, in attendance at the rally to advocate for the federal funding were Congressman Welch, Governor Peter Shumlin, Transportation Secretary Brian Searles, and many local and state business leaders, all of whom voiced enthusiastic support for the western corridor funding, and

Whereas, a further, and equally significant, demonstration of the state's commitment to the western corridor is Sec. 9 of H.443, the FY 2012 transportation bill, that encourages the agency of transportation to apply for federal funding for the western corridor upgrade and further authorizes a state match of up to \$15 million should a federal grant be awarded, and

Whereas, no state could possibly have initiated more dispositive measures to prove to the FRA that a passenger rail improvement grant is truly desired and has tangible and genuine support, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the Federal Railroad Administration to award a passenger rail improvement grant to the state of Vermont for upgrading the western rail corridor, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Federal Railroad Administrator Joseph Szabo, to Deputy Federal Railroad Administrator Karen Rae, to Governor Peter Shumlin, to Secretary of Transportation Brian Searles, and to the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolutions were severally placed on the Calendar for action the next legislative day.

**Bill Introduced**

Senate bill of the following title was introduced, read the first time and referred:

**S. 106.**

By Senator White,

An act relating to miscellaneous changes to municipal government law.

To the Committee on Government Operations.

**Rules Suspended; Committee Relieved of Further Consideration; Bill Committed**

**H. 254.**

On motion of Senator Campbell, the rules were suspended, and H. 254 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to consumer protection,

and the bill was committed to the Committee on Judiciary.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 56.**

An act relating to the Vermont Energy Act of 2011.

To the Committee on Rules.

**H. 73.**

An act relating to establishing a government transparency office to enforce the public records act.

To the Committee on Rules.

**H. 439.**

An act relating to the bill-back authority of the department of public service and the public service board.

To the Committee on Rules.

**Third Reading Ordered****S. 105.**

Senator Starr, for the Committee on Appropriations, to which was referred Senate bill entitled:

An act relating to miscellaneous agricultural subjects.

Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**Proposals of Amendment; Third Reading Ordered****H. 275.**

Senator McCormack, for the Committee on Finance, to which was referred House bill entitled:

An act relating to the recently deployed veteran tax credit.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out subsection (b) in its entirety, and by redesignating subsections (c)–(e) as (b)–(d)

Second: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in redesignated (b), after the word “hire” by striking out the words “, or in the tax year following the date that the start-up business was created.”

Third: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out redesignated (c)(3)(C) in its entirety

Fourth: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out redesignated (c)(4) in its entirety

Fifth: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in redesignated (d)(3), after the word “compliance” by striking out the words “, or in the case of a credit under subsection (b) of this section, a recently deployed veteran’s compliance.”

Sixth: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in redesignated (d), by striking out “and” at the end of subdivision (4), and by striking the period at the end of subdivision (5) and inserting in lieu thereof the following: ; and, and by adding a subdivision (6) to read as follows:

(6) engage in efforts to promote the hiring of recently deployed veterans through the hiring practices of the state of Vermont.

Seventh: By striking out Sec. 2 (Effective Date) in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

#### Sec. 2. APPROPRIATION

To the extent that the July 2011 official revenue forecast is increased by up to \$560,000.00, the amount of the increase up to \$560,000.00 is appropriated from the general fund to the military department for the purpose of continuing Vermont national guard outreach services in Vermont that are currently supported by funds from the United States Department of Defense.

Eighth: By adding a Sec. 3 to read as follows:

#### Sec. 3. ADEQUATE OUTREACH FUNDING

Prior to September 30, 2011, the adjutant general shall report to the joint fiscal committee regarding the status of federal funding for Vermont national guard outreach services in Vermont. If the adjutant general reports that federal funding for the Vermont national guard outreach services in Vermont is restored for federal fiscal year 2012 at or above the funding levels for federal fiscal year 2011 or at levels sufficient to continue the program, then notwithstanding any language in Sec. 2 of this act, all funds appropriated under Sec. 2 shall be deposited in the general fund.

Ninth: By adding a Sec. 4 to read as follows:

#### Sec. 4. EFFECTIVE DATES

(a) Secs. 1, 3, and this section of this act shall take effect on passage.

(b) Sec. 2 shall take effect on September 30, 2011.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Finance with the following amendments thereto:

First: By striking out Sec. 2 (Appropriation) in its entirety and inserting in lieu thereof:

Sec. 2. [Deleted.]

Second: By striking out Sec. 3 (Adequate Outreach Funding) in its entirety and inserting in lieu thereof:

Sec. 3. [Deleted.]

Third: By striking out Sec. 4 (Effective Dates) in its entirety and inserting in lieu thereof:

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Finance was amended as recommended by the Committee on Appropriations.

Thereupon, the proposals of amendment recommended by the Committee on Finance, as amended, were agreed to and third reading of the bill was ordered on a roll call, Yeas 27, Nays 1.

Senator Carris having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

**The Senator who voted in the negative was:** Galbraith.

**Those Senators absent and not voting were:** Miller, Mullin.

#### **Joint Resolution Adopted on the Part of the Senate**

#### **J.R.S. 26.**

Joint Senate resolution entitled:

Joint resolution strongly reaffirming the general assembly's enthusiastic support for the Vermont Association of Snow Travelers' conversion of the

Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

### **House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were by rule adopted in concurrence:

By Representative Campion and others,

By Senators Hartwell and Sears,

#### **H.C.R. 120.**

House concurrent resolution congratulating the students of Monument Elementary School in Bennington for their special effort to assist the victims of the recent natural and nuclear disasters in Japan.

By Representative Bohi and others,

By Senators Campbell, McCormack and Nitka,

#### **H.C.R. 121.**

House concurrent resolution commemorating the 250th anniversary of the town of Hartford.

By Representative Shaw and others,

#### **H.C.R. 122.**

House concurrent resolution congratulating the Stafford Technical Center SADD chapter on winning the 2010 National SADD Chapter of the Year Award.

By All Members of the House,

#### **H.C.R. 123.**

House concurrent resolution commemorating the sesquicentennial of the Civil War.

---

By Representative Savage and others,

By Senators Brock and Kittell,

**H.C.R. 124.**

House concurrent resolution congratulating the 2011 Missisquoi Valley Union High School Thunderbirds Division II championship boys' basketball team.

By All Members of the House,

By All Members of the Senate,

**H.C.R. 125.**

House concurrent resolution acknowledging the many Vermonters living with Alzheimer's disease and designating April 1 as Alzheimer's Awareness Day.

By Representative Howard and others,

**H.C.R. 126.**

House concurrent resolution in memory of Jack Gabriel Hannan, champion freeskier.

By Representative Lenex and others,

By Senators Ashe, Baruth, Doyle, Fox, Miller, Nitka and Snelling,

**H.C.R. 127.**

House concurrent resolution congratulating the Vermont Children's Trust Foundation on its 20th anniversary and designating April 13, 2011 as Vermont Children's Trust Foundation Day at the State House.

By Representative Haas and others,

By Senators Cummings, Ashe, Ayer, Carris, Fox, Giard, Lyons, MacDonald, McCormack, Nitka and Starr,

**H.C.R. 128.**

House concurrent resolution congratulating the Peace Corps on half a century of exemplary public service.

By Representatives Martin and Emmons,

By Senators Campbell, McCormack and Nitka,

**H.C.R. 129.**

House concurrent resolution congratulating James Kochalka on his designation as the first Vermont cartoonist laureate.

By Representative Frank and others,

**H.C.R. 130.**

House concurrent resolution designating April 27, 2011, as National Walk@Lunch Day in Vermont.

**Adjournment**

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, April 12, 2011, at nine o'clock in the forenoon pursuant to J.R.S. 25.

---

**TUESDAY, APRIL 12, 2011**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Pledge of Allegiance**

The President then led the members of the Senate in the pledge of allegiance.

**Joint Senate Resolution Adopted on the Part of the Senate**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Carris and Mullin,

**J.R.S. 27.** Joint resolution relating to weekend adjournment.

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

That when the two Houses adjourn on Friday, April 15, 2011, it be to meet again no later than Tuesday, April 19, 2011.

**Bill Introduced**

Senate bill of the following title was introduced, read the first time and referred:

**S. 107.**

By Senator Giard,

An act relating to docking the tail of a horse or a bovine.

To the Committee on Agriculture.



---

**Rules Suspended; Bills Committed****S. 98.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to authorizing owner-financed property sales.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Finance, as the bill had not made cross-over, Senator Campbell moved that Senate Rule 49 be suspended and the bill be committed to the Committee on Rules with the report of the Committee on Finance *intact*,

Which was agreed to.

**S. 104.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to modifications to the ban on gifts by manufacturers of prescribed products.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Finance, as the bill had not made cross-over, Senator Campbell moved that Senate Rule 49 be suspended and the bill be committed to the Committee on Rules with the report of the Committee on Finance *intact*,

Which was agreed to.

**H. 411.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to the application of Act 250 to agricultural fairs.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Agriculture, as the bill had not made cross-over, Senator Campbell moved that Senate Rule 49 be suspended and the bill be committed to the Committee on Rules with the report of the Committee on Agriculture *intact*,

Which was agreed to.

**Bill Passed**

Senate bill of the following title was read the third time and passed:

**S. 105.** An act relating to miscellaneous agricultural subjects.

**Bill Amended; Third Reading Ordered****S. 78.**

Senator Illuzzi, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to the advancement of cellular, broadband, smart grid, and other technology infrastructure in Vermont.

Reported that the bill ought to pass.

Senator Lyons, for the Committee on Natural Resources and Energy, to which the bill was referred, reported that the bill be amended as follows:

First: In Sec. 1 (purpose and findings), in subsection (b), by striking out subdivisions (12), (13) and (14) in their entirety and inserting in lieu thereof new subdivisions (12), (13) and (14) to read as follows:

(12) All ARRA broadband funds must be expended within three years or they revert to the federal government. To insure federal timelines are met, a thorough and expeditious permitting process must be available for the build-out of telecommunications facilities. To this end, Vermont has adopted a process under 30 V.S.A. § 248a for issuance of certificates of public good for telecommunications facilities by the public service board. Pursuant to statute, the board in 2009 adopted a simplified process under section 248a. Under that process, the board's average time for reviewing an application under section 248a has been 44 days, and its longest period for processing such an application has been 77 days. An intent of this act is to maintain or improve these timelines.

(13) Vermont should ensure that all telecommunications carriers in the state can compete fairly.

(14) It is also imperative that Vermont pursue telecommunications infrastructure deployment in a manner consistent with the state's long-standing principles of historic and environmental stewardship. Notably, Vermont is ranked fifth in the world for "destination stewardship" by the National Geographic Society's Center for Sustainable Destination, as published in the November–December 2010 issue of National Geographic Traveler magazine.

Second: By striking out Secs. 2 (certificate of public good; communications facilities), 3 and 3a (stormwater management), 4 (Act 250; calculation of acreage), and 5 and 6 (appeals; agency of natural resource permits) in their entirety and inserting in lieu thereof seven new sections to be numbered Secs. 2, 3, 3a, 4, 5 and 6 to read as follows:

\* \* \* Telecommunications Facilities, Certificates of Public Good \* \* \*

Sec. 2. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

(a) Certificate. Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities. An application under this section shall include a copy of each other state and local permit, certificate, or approval that has been issued for the facility under a statute, ordinance, or bylaw pertaining to the environment or land use.

(b) Definitions. For the purposes of this section:

(1) “Ancillary improvements” means telecommunications equipment and site improvements that are primarily intended to serve a telecommunications facility, including wires or cables and associated poles to connect the facility to an electric or communications grid; fencing; equipment cabinets or shelters; emergency backup generators; and access roads.

(2) “De minimis modification” means the addition, modification, or replacement of telecommunications equipment, antennas, or ancillary improvements on a telecommunications facility or existing support structure, provided:

(A) The height and width of the facility or structure, excluding equipment, antennas, or ancillary improvements, are not increased;

(B) The total amount of impervious surface surrounding the facility or structure is not increased by more than 300 square feet;

(C) The total height or width of the facility or structure, including equipment, antennas, and ancillary improvements, is not increased by more than 10 feet; and

(D) The additional equipment, antennas, or ancillary improvements on the support structure, excluding cabling, does not increase the aggregate surface area of the faces of the equipment, antennas, or ancillary improvements on the support structure by more than 75 square feet.

(3)(A) “Limited size and scope” means:

(i) A new telecommunications facility, including any ancillary improvements, that does not exceed 140 feet in height; or

(ii) An addition, modification, replacement, or removal of telecommunications equipment at a lawfully constructed telecommunications facility or on an existing support structure, and ancillary improvements, that would result in a facility of a total height of less than 200 feet and does not increase the width of the existing support structure by more than 20 feet.

(B) For construction described in subdivision (2)(A) of this subsection to be of limited size and scope, it shall not disturb more than 10,000 square feet of earth. For purposes of this subdivision, "disturbed earth" means the exposure of soil to the erosive effects of wind, rain, or runoff.

(4) "Telecommunications facility" means a communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes and any associated support structure that is proposed for construction or installation which is primarily for communications purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure.

(2) An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

(5) "Wireless service" means any commercial mobile radio service, wireless service, common carrier wireless exchange service, cellular service, personal communications service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

(c) Findings. Before the public service board issues a certificate of public good under this section, it shall find that:

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, ~~and~~ the public health and safety, and the public's use and enjoyment of the I-89 or I-91 scenic corridors or of a highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K).

(2) Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies

and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan. This presumption may be rebutted on a showing that there is good cause to find other than as stated in the letter.

(3) If the proposed facility relates to the provision of wireless service, the proposed facility reasonably cannot be collocated on or at an existing telecommunications facility, or such collocation would cause an undue adverse effect on aesthetics.

(d) Existing permits. When issuing a certificate of public good under this section, the board shall give due consideration to all conditions in an existing state or local permit and shall harmonize the conditions in the certificate of public good with the existing permit conditions to the extent feasible.

(e) Notice. No less than 45 days prior to filing ~~a petition~~ an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the secretary of the agency of natural resources; the division for historic preservation; the commissioner of the department of public service and its director for public advocacy; the natural resources board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. Upon motion or otherwise, the public service board shall direct that further public or personal notice be provided if the board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

\* \* \*

(i) Sunset of board authority. Effective ~~July 1, 2011~~ July 1, 2014, no new applications for certificates of public good under this section may be considered by the board.

(j)(1) ~~Minor applications~~ Telecommunications facilities of limited size and scope. The board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings required by any provision other than subdivision (2) of this subsection if the board finds that such facilities will be of limited size and scope, and the ~~petition~~ application does not raise a significant issue with respect to the substantive criteria of this section. If an applicant requests approval of multiple telecommunications facilities in a single application under this section, the board may issue a certificate of public good in accordance with the provisions of this subsection for all or some of the telecommunications facilities described in the ~~petition~~ application.

(2)(A) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its ~~petition~~ application, and provide notice and a copy of the ~~petition~~ application, proposed certificate of public good, and proposed findings of fact to the commissioner of ~~the department of~~ public service and its director for public advocacy, the secretary of the agency of natural resources, the division for historic preservation, the natural resources board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. The At the same time the applicant files the documents specified in this subdivision with the board, the applicant shall give written notice of the proposed certificate to the landowners of record of property adjoining the project site or sites unless the board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the board within 21 days of the notice on the question of whether the ~~petition~~ application raises a significant issue with respect to the substantive criteria of this section. If the board finds that a ~~petition~~ application raises a significant issue with respect to the substantive criteria of this section, the board shall hear evidence on any such issue.

(B) Any waiver or modification of notice to adjoining landowners under this subsection shall be based on a determination that the landowners subject to the waiver or modification could not reasonably be affected by one or more of the proposed facilities, and that notice to such landowners would constitute a significant administrative burden without corresponding public benefit.

(C) If the board accepts a request to consider an application under the procedures of this subsection, then unless the public service board

subsequently determines that an application raises a significant issue, the board shall issue a final determination on an application filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 45 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

\* \* \*

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; the commissioner of public service and its director for public advocacy; and the landowners of record of property adjoining the site or sites unless, in accordance with subdivision (j)(2)(B) (waiver standard) of this section, the board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the board within 21 days of this notice, a certificate of public good shall be issued. Objections may only be filed by persons entitled to notice of this proposed project pursuant to this subdivision. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the board, the board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(1) of this section.

(l) Rules. The public service board may issue rules or orders implementing and interpreting this section. In developing such rules and orders, the board shall seek to simplify the application and review process as appropriate and may by rule or order waive the requirements of this section that the board determines are not applicable to telecommunications facilities of limited size or scope. Determination by the board that ~~a petition~~ an application raises a substantial issue with regard to one or more substantive criteria of this section

shall not prevent the board from waiving other substantive criteria that it has determined are not applicable to such a telecommunications facility.

\* \* \* Stormwater Discharge Permits;  
Telecommunications Facilities \* \* \*

Sec. 3. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

\* \* \*

(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a and is filed before July 1, 2014 and the discharge will be to a water that is not principally impaired by stormwater runoff:

(1) The secretary shall issue a decision on the application within 40 days of the date the secretary determines the application to be complete, if the application seeks authorization under a general permit.

(2) The secretary shall issue a decision on the application within 90 days of the date the secretary determines the application to be complete, if the application seeks or requires authorization under an individual permit.

Sec. 3a. STORMWATER MANAGEMENT RULE; AGENCY OF NATURAL RESOURCES; PROSPECTIVE REPEAL

(a) The general assembly finds that:

(1) As required by Sec. 43 of No. 54 of the Acts of 2009 and Sec. 15 of No. 159 of the Acts of the 2009 Adj. Sess. (2010), the agency of natural resources recently amended its rules regarding stormwater management to provide alternative guidance for permitting renewable energy projects located at high elevations.

(2) It is reasonable to apply the substance of those amendments to the installation of telecommunications facilities at high elevations to achieve a goal of broadband deployment by December 31, 2013.

(b) With respect to a stormwater discharge from a telecommunications facility as defined in 30 V.S.A. § 248a, the agency of natural resources shall apply the same provisions of its stormwater management rule, including those provisions regarding a watershed hydrology protection credit, that it applies to high elevation renewable energy projects, if the facility is located or is proposed to be located at a high elevation as defined in those provisions and the discharge is to a water that is not principally impaired by stormwater runoff.

(c) This section shall be repealed on July 1, 2014.



\* \* \* Communications Lines; Act 250; Exemption \* \* \*

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

(t)(1) No permit or permit amendment is required for the following improvements associated with the construction or installation of a communications line:

(A) The attachment of a new or replacement cable or wire to an existing pole, if the pole is not taller than 50 feet.

(B) The replacement of an existing pole with a new pole, if the new pole is not taller than 50 feet and is not more than 10 feet taller than the pole it replaces.

(2) In this subsection, “communications line” means a wireline or fiber-optic cable communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes.

Sec. 4a. PROSPECTIVE REPEAL

10 V.S.A. § 6081(t) shall be repealed on July 1, 2014.

\* \* \* Telecommunications; Appeals; Agency of Natural Resource  
Permits \* \* \*

Sec. 5. 10 V.S.A. § 8501 is amended to read:

§ 8501. PURPOSE

It is the purpose of this chapter to:

\* \* \*

(5) Consolidate appeals of decisions related to renewable energy generation plants and telecommunications facilities with review by the public service board under, respectively, 30 V.S.A. § 248 §§ 248 and 248a, with appeals and consolidation of proceedings pertaining to telecommunications facilities occurring only while 30 V.S.A. § 248a remains in effect.

Sec. 6. 10 V.S.A. § 8506 is amended to read:

§ 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS FACILITY; APPEALS

(a) Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the secretary, under the provisions of law listed in section 8503 of this title, or any party by right may appeal to the public service board if the act or decision concerns a renewable energy plant for which a

certificate of public good is required under 30 V.S.A. § 248 or a telecommunications facility for which the applicant has applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for approval under 30 V.S.A. § 248a. This section shall not apply to a facility that is subject to section 1004 (dams before the Federal Energy Regulatory Commission) or 1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title. This section shall not apply to an appeal of an act or decision of the secretary regarding a telecommunications facility made on or after July 1, 2014.

(b) For the purpose of this section, “board,” “plant,” and “renewable energy” have the same meaning as under 30 V.S.A. § 8002, and “telecommunications facility” has the same meaning as under 30 V.S.A. § 248a.

\* \* \*

(d) The public service board may consolidate or coordinate appeals under this section with each other and with proceedings under 30 V.S.A. ~~§ 248 §§ 248 and 248a~~, where those appeals and proceedings all relate to the same project, unless such consolidation or coordination would be clearly unreasonable. In such a consolidated proceeding, the board’s decision shall be issued as a single order that includes the necessary findings of fact and conclusions of law and, if the decision is to approve the plant or facility, any and all conditions of approval. This authority to consolidate or coordinate appeals and proceedings shall not confer authority to alter the substantive standards at issue in an appeal or proceeding.

\* \* \*

Third: By striking out Sec. 9 (pole attachments; applications; dispute resolution) in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. POLE ATTACHMENTS; APPLICATIONS; DISPUTE RESOLUTION

(a) Within 90 days of this act’s passage, the public service board by order shall institute a process for the filing of applications and the rapid and binding resolution of disputes pertaining to the attachment of a wire, cable, or other facility to an electric or communications pole for the purpose of supporting a broadband deployment project, including those projects funded in whole or in part under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5. This process shall ensure that such projects proceed in a timely and coordinated manner. In issuing this order, the board shall have full authority to establish standards and procedures for the earliest feasible filing of pole attachment applications such that pole-owning utilities are able to

complete their make-ready surveys and make-ready work and to establish a dispute resolution process that uses an expedited time frame and to which the contested case procedures of 3 V.S.A. chapter 25 do not apply.

(b) The process instituted by the public service board under this section shall include a more rapid time frame for dispute resolution than is currently provided under public service board rule 3.700.

(c) This section and the process instituted under it by the board shall be repealed on July 1, 2014.

Fourth: In Sec. 12, 30 V.S.A. § 227e (leasing or licensing of state lands), in the first sentence of subsection (a), by striking out the following: “30 V.S.A. § 8063(b)” and inserting in lieu thereof the following: 30 V.S.A. § 248a(b)

Fifth: In Sec. 13, 30 V.S.A. § 227b (wireless telecommunications), in subdivision (b)(4), by striking out the second sentence up to the semicolon and inserting in lieu thereof the following: . For the purpose of this subdivision, “natural state” does not require the removal of equipment and material buried more than 12 inches below natural grade if the equipment and material do not constitute hazardous material as defined under 10 V.S.A. § 6602(16), and the secretary concludes that in the context of a particular site, removal of such equipment and material is not necessary to satisfy the purposes of this subsection. Nothing in this subdivision shall constitute authority to dispose of or bury waste or other material in contradiction of applicable law

Sixth: By striking out Sec. 14 (limitations on municipal bylaws) in its entirety and inserting in lieu thereof three new sections to be numbered Secs. 14, 14a and 14b to read as follows:

\* \* \* Local Land Use Bylaws; Exemptions \* \* \*

Sec. 14. 24 V.S.A. § 4413 is amended to read:

§ 4413. LIMITATIONS ON MUNICIPAL BYLAWS

\* \* \*

(h)(1) A bylaw under this chapter shall not regulate any of the following:

(A) An ancillary improvement other than an access road that does not exceed a footprint of 200 square feet and a height of 10 feet.

(B) The following improvements associated with the construction or installation of a communications line:

(i) The attachment of a new or replacement cable or wire to an existing pole, if the pole is not taller than 50 feet.

(ii) The replacement of an existing pole with a new pole, if the new pole is not taller than 50 feet and is not more than 10 feet taller than the pole it replaces.

(2) For purposes of this subsection:

(A) "Ancillary improvement" shall have the same definition as is established in 30 V.S.A. § 248a(b).

(B) "Communications line" means a wireline or fiber-optic cable communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes.

Sec. 14a. PROSPECTIVE REPEAL

24 V.S.A § 4413(h) shall be repealed on July 1, 2014.

\* \* \* Deployment Plans \* \* \*

Sec. 14b. 30 V.S.A. § 202e is added to read:

§ 202e. TELECOMMUNICATIONS; BROADBAND; DEPLOYMENT PLANS

(a) No later than October 1, 2011, all persons proposing to construct or install in Vermont cables, wires, telecommunications facilities, or other equipment or apparatus shall file plans with the department of public service if the construction or installation relates to the deployment of broadband, telecommunications facilities, or advanced metering infrastructure and is funded in whole or in part pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5.

(b) The purpose of filing these plans shall include allowing a geographic assessment of the locations in the state in which deployment is proposed and not proposed, the underserved and unserved areas of the state that will or will not be reached by deployment, and the areas of the state that will or will not experience deployment that is redundant with equipment, facilities, or services that are already available or are proposed.

(c) The department of public service shall keep confidential the plans submitted to it under this section. The department may aggregate data and information contained in the plans and may make such aggregated data and information publically available.

(d) In this section:

(1) “Broadband” means high speed Internet access that provides for a download speed of at least four megabytes per second and an upload speed of at least one megabyte per second.

(2) “Deployment” means deployment of broadband equipment and apparatus, telecommunications facilities, and advanced metering infrastructure.

(3) “Plans” means drawings and narrative descriptions of all construction and installation described in subsection (a) of this section that is proposed to commence before July 1, 2014. The plans shall be in sufficient detail to achieve the purpose described in subsection (b) of this subsection. The commissioner of public service shall determine the degree of detail and finality that shall govern the submission of plans under this subsection and may require inclusion in the submission of such information as the commissioner determines to be in the public good. Nothing in this section shall require the submission of information that is designated as confidential under federal law.

(4) “Telecommunications facility” shall be as defined in subsection 248a(b) of this title.

And by renumbering all sections to be numerically correct.

And that when so amended the bill ought to pass.

Senator Lyons, on behalf of the Committee on Natural Resources and Energy, moved to substitute a recommendation of amendment for the recommendation of amendment of the Committee on Natural Resources and Energy, which was agreed to.

Thereupon, Senator Lyons, on behalf of the Committee on Natural Resources and Energy, as substituted, moved to amend the bill as follows:

First: In Sec. 1 (purpose and findings), in subsection (b), by striking out subdivisions (12), (13) and (14) in their entirety and inserting in lieu thereof new subdivisions (12), (13) and (14) to read as follows:

(12) All ARRA broadband funds must be expended within three years or they revert to the federal government. To insure federal timelines are met, a thorough and expeditious permitting process must be available for the build-out of telecommunications facilities. To this end, Vermont has adopted a process under 30 V.S.A. § 248a for issuance of certificates of public good for telecommunications facilities by the public service board. Pursuant to statute, the board in 2009 adopted a simplified process under section 248a. Under that process, the board’s average time for reviewing an application under section 248a has been 44 days, and its longest period for processing such an application has been 77 days. An intent of this act is to maintain or improve

these timelines and to manage a potential increase in the volume of applications.

(13) Vermont should ensure that all telecommunications carriers in the state can compete fairly.

(14) It is also imperative that Vermont pursue telecommunications infrastructure deployment in a manner consistent with the state's long-standing principles of historic and environmental stewardship. Notably, Vermont is ranked fifth in the world for "destination stewardship" by the National Geographic Society's Center for Sustainable Destination, as published in the November–December 2010 issue of National Geographic Traveler magazine.

Second: By striking out Secs. 2 (certificate of public good; communications facilities), 3 and 3a (stormwater management), 4 (Act 250; calculation of acreage), and 5 and 6 (appeals; agency of natural resource permits) in their entirety and inserting in lieu thereof seven new sections to be numbered Sec. 2, Sec. 3, Sec. 3a, Sec. 4 and Sec. 4a, Sec 5 and Sec. 6 to read as follows:

\* \* \* Telecommunications Facilities, Certificates of Public Good \* \* \*

Sec. 2. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

(a) Certificate. Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities. An application under this section shall include a copy of each other state and local permit, certificate, or approval that has been issued for the facility under a statute, ordinance, or bylaw pertaining to the environment or land use.

(b) Definitions. For the purposes of this section:

(1) "Ancillary improvements" means telecommunications equipment and site improvements that are primarily intended to serve a telecommunications facility, including wires or cables and associated poles to connect the facility to an electric or communications grid; fencing; equipment cabinets or shelters; emergency backup generators; and access roads.

(2) “De minimis modification” means the addition, modification, or replacement of telecommunications equipment, antennas, or ancillary improvements, other than access roads, on a telecommunications facility or existing support structure, or the reconstruction of such a facility or support structure, provided:

(A) The height and width of the facility or structure, excluding equipment, antennas, or ancillary improvements, are not increased;

(B) The total amount of impervious surface surrounding the facility or structure is not increased by more than 300 square feet;

(C) The addition, modification, replacement, or reconstruction does not result in a cumulative increase since the effective date of this act, including equipment, antennas, and ancillary improvements, of more than 10 feet in the total height of the facility or structure and of more than 10 feet in the total width of the facility or structure; and

(D) The additional equipment, antennas, or ancillary improvements on the support structure, excluding cabling, does not increase the aggregate surface area of the faces of the equipment, antennas, or ancillary improvements on the support structure by more than 75 square feet.

(3)(A) “Limited size and scope” means:

(i) A new telecommunications facility, including any ancillary improvements, that does not exceed 140 feet in height; or

(ii) An addition, modification, replacement, or removal of telecommunications equipment at a lawfully constructed telecommunications facility or on an existing support structure, and ancillary improvements, that would result in a facility of a total height of less than 200 feet and does not increase the width of the existing support structure by more than 20 feet.

(B) For construction described in subdivision (3)(A) of this subsection to be of limited size and scope, it shall not disturb more than 10,000 square feet of earth. However, on request of an applicant, the board may treat an application that proposes to disturb up to an acre of earth as being of limited size and scope if the board determines that the proposed disturbance does not raise a significant issue with respect to the substantive criteria of this section. For purposes of this subdivision, “disturbed earth” means the exposure of soil to the erosive effects of wind, rain, or runoff.

(4) “Telecommunications facility” means a communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes and any associated

support structure that is proposed for construction or installation which is primarily for communications purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure.

(2) An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

(5) “Wireless service” means any commercial mobile radio service, wireless service, common carrier wireless exchange service, cellular service, personal communications service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

(c) Findings. Before the public service board issues a certificate of public good under this section, it shall find that:

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, ~~and the public health and safety, and the public’s use and enjoyment of the I-89 or I-91 scenic corridors or of a highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162,~~ with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). Reiteration in this act of the requirement to make findings concerning the public’s use and enjoyment of scenic corridors, highways, and byways is not intended to impose a requirement that is different from or more stringent than the requirement under prior law to make findings with respect to 10 V.S.A. § 6086(a)(8) and (9)(K).

(2) Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan. This presumption may be rebutted on a showing that there is good cause to find other than as stated in the letter.



(3) If the proposed facility relates to the provision of wireless service, the proposed facility reasonably cannot be collocated on or at an existing telecommunications facility, or such collocation would cause an undue adverse effect on aesthetics.

(d) Existing permits. When issuing a certificate of public good under this section, the board shall give due consideration to all conditions in an existing state or local permit and shall harmonize the conditions in the certificate of public good with the existing permit conditions to the extent feasible.

(e) Notice. No less than 45 days prior to filing ~~a petition~~ an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the secretary of the agency of natural resources; the division for historic preservation; the commissioner of the department of public service and its director for public advocacy; the natural resources board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. Upon motion or otherwise, the public service board shall direct that further public or personal notice be provided if the board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

\* \* \*

(i) Sunset of board authority. Effective ~~July 1, 2011~~ July 1, 2014, no new applications for certificates of public good under this section may be considered by the board.

(j)(1) ~~Minor applications~~ Telecommunications facilities of limited size and scope. The board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings required by any provision other than subdivision (2) of this subsection if the board finds that such facilities will be of limited size and scope, and the ~~petition~~ application does not raise a significant issue with respect to the substantive criteria of this section. If an applicant requests approval of multiple telecommunications facilities in a single application under this section, the board may issue a certificate of public good in accordance with the provisions of this subsection for all or some of the telecommunications facilities described in the ~~petition~~ application.

(2)(A) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition application, and provide notice and a copy of the petition application, proposed certificate of public good, and proposed findings of fact to the commissioner of ~~the department of~~ public service and its director for public advocacy, the secretary of the agency of natural resources, the division for historic preservation, the natural resources board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. The At the same time the applicant files the documents specified in this subdivision with the board, the applicant shall give written notice of the proposed certificate to the landowners of record of property adjoining the project site or sites unless the board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the board within 21 days of the notice on the question of whether the petition application raises a significant issue with respect to the substantive criteria of this section. If the board finds that a petition application raises a significant issue with respect to the substantive criteria of this section, the board shall hear evidence on any such issue.

(B) Any waiver or modification of notice to adjoining landowners under this subsection shall be based on a determination that the landowners subject to the waiver or modification could not reasonably be affected by one or more of the proposed facilities, and that notice to such landowners would constitute a significant administrative burden without corresponding public benefit.

(C) If the board accepts a request to consider an application under the procedures of this subsection, then unless the public service board subsequently determines that an application raises a significant issue, the board shall issue a final determination on an application filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 45 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

\* \* \*

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; the commissioner of public service and its director for public advocacy; and the landowners of record of property adjoining the site or sites. On request of an applicant, the board shall waive or modify the notice requirement with respect to such adjoining landowners unless, on review of such a request, the board determines that it does not meet the standard for a waiver set out in subdivision (j)(2)(B) of this section. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the board within 21 days of this notice, a certificate of public good shall be issued. Objections may only be filed by persons entitled to notice of this proposed project pursuant to this subdivision. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the board, the board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(1) of this section.

(l) Rules. The public service board may issue rules or orders implementing and interpreting this section. In developing such rules and orders, the board shall seek to simplify the application and review process as appropriate and may by rule or order waive the requirements of this section that the board determines are not applicable to telecommunications facilities of limited size or scope. Determination by the board that ~~a petition~~ an application raises a substantial issue with regard to one or more substantive criteria of this section shall not prevent the board from waiving other substantive criteria that it has determined are not applicable to such a telecommunications facility.

\* \* \* Stormwater Discharge Permits; Telecommunications Facilities \* \* \*

Sec. 3. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

\* \* \*

(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a and is filed before July 1, 2014 and the discharge will be to a water that is not principally impaired by stormwater runoff:

(1) The secretary shall issue a decision on the application within 40 days of the date the secretary determines the application to be complete, if the application seeks authorization under a general permit.

(2) The secretary shall issue a decision on the application within 60 days of the date the secretary determines the application to be complete, if the application seeks or requires authorization under an individual permit.

Sec. 3a. STORMWATER MANAGEMENT RULE; AGENCY OF NATURAL RESOURCES; PROSPECTIVE REPEAL

(a) The general assembly finds that:

(1) As required by Sec. 43 of No. 54 of the Acts of 2009 and Sec. 15 of No. 159 of the Acts of the 2009 Adj. Sess. (2010), the agency of natural resources recently amended its rules regarding stormwater management to provide alternative guidance for permitting renewable energy projects located at high elevations.

(2) It is reasonable to apply the substance of those amendments to the installation of telecommunications facilities at high elevations to achieve a goal of broadband deployment by December 31, 2013.

(b) With respect to a stormwater discharge from a telecommunications facility as defined in 30 V.S.A. § 248a, the agency of natural resources shall apply the same provisions of its stormwater management rule, including those provisions regarding a watershed hydrology protection credit, that it applies to high elevation renewable energy projects, if the facility is located or is proposed to be located at a high elevation as defined in those provisions and the discharge is to a water that is not principally impaired by stormwater runoff.

(c) This section shall be repealed on July 1, 2014.

\* \* \* Communications Lines; Act 250; Exemption \* \* \*

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

(t)(1) The following improvements associated with the construction or installation of a communications line shall not be considered a substantial change to a utility line cleared and in use for electrical distribution or communications lines and related facilities and shall not require a permit under subsection (a) of this section:

(A) The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole.

(B) The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

(2) In this subsection, “communications line” means a wireline or fiber-optic cable communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes.

(3) Nothing in this subsection shall be construed to expand the scope of jurisdiction under this chapter over electric distribution and communications lines as interpreted and applied prior to the effective date of this act by the district commissions and the land use panel of the natural resources board.

#### Sec. 4a. PROSPECTIVE REPEAL

10 V.S.A. § 6081(t) shall be repealed on July 1, 2014.

\* \* \* Telecommunications; Appeals; Agency of Natural Resources  
Permits \* \* \*

Sec. 5. 10 V.S.A. § 8501 is amended to read:

#### § 8501. PURPOSE

It is the purpose of this chapter to:

\* \* \*

(5) Consolidate appeals of decisions related to renewable energy generation plants and telecommunications facilities with review by the public service board under, respectively, 30 V.S.A. § 248 §§ 248 and 248a, with appeals and consolidation of proceedings pertaining to telecommunications facilities occurring only while 30 V.S.A. § 248a remains in effect.

Sec. 6. 10 V.S.A. § 8506 is amended to read:

#### § 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS FACILITY; APPEALS

(a) Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the secretary, under the provisions of law listed in section 8503 of this title, or any party by right may appeal to the public service board if the act or decision concerns a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248 or a telecommunications facility for which the applicant has applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for approval under 30 V.S.A. § 248a. This section shall not apply to a facility that is subject to section 1004 (dams before the Federal Energy Regulatory Commission) or

1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title. This section shall not apply to an appeal of an act or decision of the secretary regarding a telecommunications facility made on or after July 1, 2014.

(b) For the purpose of this section, “board,” “plant,” and “renewable energy” have the same meaning as under 30 V.S.A. § 8002, and “telecommunications facility” has the same meaning as under 30 V.S.A. § 248a.

\* \* \*

(d) The public service board may consolidate or coordinate appeals under this section with each other and with proceedings under 30 V.S.A. ~~§ 248 §§ 248 and 248a~~, where those appeals and proceedings all relate to the same project, unless such consolidation or coordination would be clearly unreasonable. In such a consolidated proceeding, the board’s decision may be issued as a single order that includes the necessary findings of fact and conclusions of law and, if the decision is to approve the plant or facility, any and all conditions of approval. This authority to consolidate or coordinate appeals and proceedings shall not confer authority to alter the substantive standards at issue in an appeal or proceeding.

\* \* \*

Third: By striking out Sec. 9 (pole attachments; applications; dispute resolution) in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. POLE ATTACHMENTS; APPLICATIONS; DISPUTE RESOLUTION

(a) Within 90 days of this act’s passage, the public service board by order shall institute a process for the filing of applications and the rapid and binding resolution of disputes pertaining to the attachment of a wire, cable, or other facility to an electric or communications pole for the purpose of supporting a broadband, telecommunications, or cable television deployment project, including those projects funded in whole or in part under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5. This process shall ensure that such projects proceed in a timely and coordinated manner and shall include notice to all potentially affected persons. In issuing this order, the board shall have full authority to establish standards and procedures for the earliest feasible filing of pole attachment applications such that pole-owning utilities are able to complete their make-ready surveys and make-ready work and to establish a dispute resolution process that uses an expedited time frame and to which the contested case procedures of 3 V.S.A. chapter 25 do not apply.

(b) The process instituted by the public service board under this section shall include a more rapid time frame for dispute resolution than is currently provided under public service board rule 3.700.

(c) This section and the process instituted under it by the board shall be repealed on July 1, 2014.

Fourth: In Sec. 12, 30 V.S.A. § 227e (leasing or licensing of state lands), in the first sentence of subsection (a), by striking out “30 V.S.A. § 8063(b)” and inserting in lieu thereof “30 V.S.A. § 248a(b)” and by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Prior to entering into or renewing a lease or license, the secretary shall:

(1) Publish notice of the proposed telecommunications facility site in one daily newspaper of general circulation in the region of the proposed site and on the website maintained by the agency of administration; and

(2) Send by certified mail, return receipt requested, a written notice of the proposed lease or license or renewal to the legislative body of each municipality in which such land is located. The notice shall include a description of the land to be leased or licensed and of the proposed telecommunications facility to be sited on the land, including the facility’s height and location.

Fifth: In Sec. 13, 30 V.S.A. § 227b (wireless telecommunications), in subdivision (a)(2), after the third sentence, by adding a new sentence to read as follows:

A decision by the secretary to contract or enter into or renew a lease or license for the use of a state-owned building, structure, or land for a wireless telecommunications facility shall have no presumptive or binding effect with respect to the facility’s compliance with the standards or criteria used in determining whether to grant any such required approval or permit.

Sixth: In Sec. 13, 30 V.S.A. § 227b (wireless telecommunications), in subdivision (b)(4), by striking out the second sentence up to the semicolon and inserting in lieu thereof the following:

For the purpose of this subdivision, “natural state” does not require the removal of equipment and material buried more than 12 inches below natural grade if the equipment and material do not constitute hazardous material as defined under 10 V.S.A. § 6602(16), and the secretary concludes that in the context of a particular site, removal of such equipment and material is not necessary to satisfy the purposes of this subsection. Nothing in this

subdivision shall constitute authority to dispose of or bury waste or other material in contradiction of applicable law

Seventh: By striking out Sec. 14 (limitations on municipal bylaws) in its entirety and inserting in lieu thereof three new sections to be numbered Sec. 14, Sec. 14a and Sec. 14b to read as follows:

\* \* \* Local Land Use Bylaws; Exemptions \* \* \*

Sec. 14. 24 V.S.A. § 4413 is amended to read:

§ 4413. LIMITATIONS ON MUNICIPAL BYLAWS

\* \* \*

(h)(1) A bylaw under this chapter shall not regulate any of the following:

(A) An ancillary improvement that does not exceed a footprint of 200 square feet and a height of 10 feet. This subdivision shall exempt an ancillary improvement that is an access road only if the cumulative square footage of access road constructed since the effective date of this act does not exceed 200.

(B) The following improvements associated with the construction or installation of a communications line:

(i) The attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole.

(ii) The replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

(2) For purposes of this subsection:

(A) "Ancillary improvement" shall have the same definition as is established in 30 V.S.A. § 248a(b).

(B) "Communications line" means a wireline or fiber-optic cable communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes.

Sec. 14a. PROSPECTIVE REPEAL

24 V.S.A § 4413(h) shall be repealed on July 1, 2014.



---

\* \* \* Deployment Plans \* \* \*

Sec. 14b. 3 V.S.A. § 2222b is added to read:

§ 2222b. TELECOMMUNICATIONS; COORDINATION AND PLANNING

(a) The secretary of administration or designee shall be responsible for the coordination of telecommunications initiatives among executive branch agencies, departments, and offices.

(b) In furtherance of the goals set forth in 30 V.S.A. § 8060(b), the secretary shall have the following duties:

(1) from information reasonably available after public notice to and written requests made of mobile telecommunications and broadband service providers, to develop and maintain an inventory of locations at which mobile telecommunications and broadband services are not available within the state, develop and maintain an inventory of infrastructure that is available or reasonably likely to be available to support provision of services to unserved areas, and develop and maintain an inventory of infrastructure necessary for provision of these services to the unserved areas;

(2) to identify the types and locations of infrastructure and services needed to accomplish the goals of this chapter;

(3) to formulate an action plan to accomplish the goals of universal availability of broadband and mobile telecommunications services by the end of the year 2013.

(4) to coordinate the agencies of the state to make public resources available to support the extension of mobile telecommunications and broadband infrastructure and services to all unserved areas;

(5) to support and facilitate initiatives to extend the availability of mobile telecommunications and broadband services, and to promote development of the infrastructure that enables the provision of these services;

(6) through the department of innovation and information, to aggregate and broker access at reduced prices to services and facilities required to provide wireless telecommunications and broadband services; and to waive or reduce state fees for access to state-owned rights-of-way in exchange for comparable value to the state, unless payment for use is otherwise required by federal law;

(7) to review all financial transactions, statements, and contracts of the Vermont telecommunications authority established under 30 V.S.A. § 8061; and

(8) to receive all technical and administrative assistance as deemed necessary by the secretary of administration.

(c) Deployment tracking.

(1) Not later than 30 days of the effective date of this act, all persons proposing to construct or install Vermont cables, wires, or telecommunications facilities as defined in 30 V.S.A. § 248a(b)(1) shall file plans with the secretary if the construction or installation relates to the deployment of broadband infrastructure and is funded in whole or in part pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, or by funds granted or loaned by the state of Vermont or one of its instrumentalities.

(2) The plans filed pursuant to subdivision (1) of this subsection shall include data identifying the projected coverage area, the projected average speed of service, service type, and the anticipated date of completion in addition to identifying the location and routes of proposed cables, wires, and telecommunications facilities, and shall be updated every 90 days.

(3) The secretary shall use the information provided pursuant to this subsection in performing the duties set forth in subsection (b) of this section.

(4) The secretary shall keep confidential the plans submitted to it under this subsection except that, pursuant to a nondisclosure agreement, the secretary may disclose the information to the Vermont Center for Geographic Information created under 10 V.S.A. § 122 or to some other person or entity for the purpose of aggregating the information. Information so disclosed shall remain confidential.

(5) The secretary may request voluntary disclosure of information such as that set forth in subdivision (2) of this subsection regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. The secretary may enter into a nondisclosure agreement with respect to any such voluntary disclosures and the information disclosed pursuant thereto shall remain confidential.

(6) The secretary may publicly disclose aggregated information based upon the information provided pursuant to this subsection.

(7) The confidentiality requirements of subdivisions (4) and (5) of this subsection shall not affect whether information provided to an agency of the state or a political subdivision of the state pursuant to other laws is or is not subject to disclosure.

And by renumbering all sections to be numerically correct.

And that when so amended the bill ought to pass.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Natural Resources and Energy, with the following amendments thereto:

First: In Sec. 1 (purpose and findings), by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) It is the purpose of this act to establish policies and programs designed to achieve statewide cellular and broadband deployment in Vermont by the end of the year 2013. Although these technologies are deployed by private sector providers, state regulation of the telecommunications industry as well as government financial assistance can have a significant impact on private sector decisions to invest in and deploy infrastructure, particularly in underserved and unserved areas of the state. Vermont initiatives must recognize that:

(1) the availability of high-speed Internet access will spur economic growth and job creation;

(2) cellular telephone service is increasingly becoming the telephone service of choice for consumers and at the same time can serve as a lifeline for those who choose it; and

(3) the deployment of smart grid technology may facilitate the drive to expand broadband Internet access.

Second: In Sec. 6, 10 V.S.A. § 8506 (consolidated environmental appeals), in subsection (d), in the second sentence, by striking out the word “shall” and inserting in lieu thereof the word may

Third: By striking out Sec. 9 (pole attachment applications and disputes) in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. POLE ATTACHMENTS; APPLICATIONS; DISPUTE RESOLUTION

(a) Within 90 days of the passage of this act, the public service board by order shall institute a process for the filing of applications and the rapid and binding resolution of disputes pertaining to the attachment of a wire, cable, or other facility to an electric or communications pole for the purpose of supporting a broadband, telecommunications, or cable television deployment project, including those projects funded in whole or in part under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5. This process shall ensure that such projects proceed in a timely and coordinated manner and shall include notice to all potentially affected persons. In issuing this order, the board shall have full authority to establish standards and procedures for the earliest feasible filing of pole attachment applications such that pole-owning utilities are able to complete their make-ready surveys and

make-ready work and to establish a dispute resolution process that uses an expedited time frame and to which the contested case procedures of 3 V.S.A. chapter 25 do not apply.

(b) The process instituted by the public service board under this section shall include a more rapid time frame for dispute resolution than is currently provided under public service board rule 3.700.

(c) This section and the process instituted under it by the board shall be repealed on July 1, 2014.

Fourth: By striking out Sec. 10, 30 V.S.A. § 8092 (access to fiber on transmission and distribution poles), in its entirety and inserting in lieu thereof a new section to be numbered Sec. 10 to read as follows:

Sec. 10. 30 V.S.A. § 8092 is amended to read:

§ 8092. RATES; TERMS; CONDITIONS

\* \* \*

(h)(1) A company may limit wireline attachments on electric transmission structures exclusively carrying voltages of 110 kV or higher to fiber-optic facilities attached and maintained by the company, if the company allows communications service providers to use fiber-optic facilities installed and maintained by the company and offers to install such fiber-optic facilities on such electric transmission structures where there are not sufficient facilities for use by communications service providers. Rates, terms, and conditions for access to such company-attached and company-maintained facilities shall be made available consistent with the requirements of this section.

(2) Notwithstanding any law or rule to the contrary, a company may not enter into a contract with a communications service provider that provides exclusive access to its company-attached and company-maintained fiber-optic facilities by including terms that expressly prohibit any other communications service provider from leasing or purchasing unused strands of fiber. The terms and conditions of any contract entered into under this section shall include a provision specifying that, if a communications service provider leases fiber-optic capacity that is not used within 180 days of entering the lease, the lease terms and conditions relative to that unused capacity shall terminate.

\* \* \*

(j) A company having electric transmission or distribution structures carrying voltages of 110 kV or lower may not enter into a contract with a communications service provider that provides exclusive access to its company-attached and company-maintained fiber-optic facilities by including terms that expressly prohibit any other communications service provider from

leasing or purchasing unused strands of fiber. The terms and conditions of any contract entered into under this section shall include a provision specifying that, if a communications service provider leases fiber-optic capacity that is not used within 180 days of entering the lease, the lease terms and conditions relative to that unused capacity shall terminate.

Fifth: In Sec. 12, 30 V.S.A. § 227e (leasing and licensing of state land), in subsection (a), by striking out “20” and inserting in lieu thereof 25

Sixth: In Sec. 13, 30 V.S.A. § 227b (leasing and licensing of state land for wireless telecommunications), in subdivision (a)(1), by striking out “20” and inserting in lieu thereof 25

Seventh: In Sec. 15, 30 V.S.A. § 8060 (findings and purpose related to the VTA), in subsection (a), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) Private entities have brought mobile telecommunications and broadband services to many households, businesses and locations in the state; but significant gaps remain. Nevertheless, significant gaps remain in 99 target communities for broadband service, and in community hubs and along the routes which connect them for mobile telecommunications service.

Eighth: In Sec. 15, 30 V.S.A. § 8060 (findings and purpose related to the VTA), in subsection (b), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3) the investment in telecommunications infrastructure in the state which will support that creates or completes the network for service providers to create last-mile connection to the home or business and supports the best available and economically feasible service capabilities.

Ninth: By striking out Sec. 16, 30 V.S.A. § 8061 (establishment of the VTA and organization) in its entirety and inserting in lieu thereof a new section to be numbered Sec. 16 to read as follows:

Sec. 16. 30 V.S.A. § 8061 is amended to read:

§ 8061. ESTABLISHMENT OF AUTHORITY; ORGANIZATION

(a) The Vermont telecommunications authority is hereby created and established as a body corporate and politic and a public instrumentality of the state. The exercise by the authority of the powers conferred upon it in this chapter constitutes the performance of essential governmental functions.

(b) The authority shall have a board of directors of ~~14~~ nine members selected as follows:

(1) The state treasurer or his or her designee;

(2) The secretary of administration or his or her designee;

(3) ~~The manager of the Vermont economic development authority or his or her designee;~~

~~(4) Two at-large members~~ One member of the house of representatives appointed by the speaker of the house, who may not be members of the general assembly at the time of appointment;

~~(5)(4) Two at-large members~~ One member of the senate appointed by the committee on committees of the senate, who may not be members of the general assembly at the time of appointment; and

~~(6)(5) Two~~ Five at-large members appointed by the governor, who may not be employees or officers of the state at the time of appointment; ~~and~~

~~(7) Two at-large members appointed jointly by the governor, the speaker of the house, and the president pro tem of the senate, who shall be chair and vice chair of the board of directors, and who may not be members of the general assembly or employees or officers of the state at the time of appointment.~~

(c) The authority's powers are vested in the board of directors, and a quorum shall consist of ~~six~~ five members. No action of the authority shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least ~~five~~ four members vote in favor of the action. The governor, the speaker of the house, and the president pro tempore of the senate shall jointly select, from among the at-large members, a chair and vice chair, who may not be members of the general assembly or employees or officers of the state at the time of the appointment.

(d) In making appointments of at-large and legislative members and the chair, the appointing authorities shall give consideration to citizens of the state with knowledge of telecommunications technology, telecommunications regulatory law, transportation rights-of-way and infrastructure, finance, and environmental permitting. However, the ~~six~~ legislative and five at-large members, ~~the chair, and the vice chair~~ may not be persons with a financial interest in or owners or employees of an enterprise that provides broadband or cellular service or that is seeking in-kind or financial support from the authority. ~~The six at-large members, the chair and the vice chair shall serve terms of four years beginning July 1 of the year of appointment. However, two of the at-large members first appointed by the speaker, and two of the at-large members first appointed by the committee on committees shall serve an initial term of two years. Any vacancy occurring among the at-large members, the chair or the vice chair shall be filled by the respective appointing authority and be filled for the balance of the unexpired term~~ The conflict of interest provision

in this subsection shall not be construed to disqualify a member who has ownership in a mutual fund, exchange traded fund, pension plan, or similar entity that owns shares in such enterprises as part of a broadly diversified portfolio. In addition, at least one at-large member shall represent an area of Vermont determined by the authority to be unserved by broadband at the time of his or her appointment or reappointment, and at least one at-large member shall represent an area of Vermont determined by the authority to be unserved by mobile telecommunications at the time of his or her appointment or reappointment. The legislative and at-large members shall serve terms of two years beginning February 1 in odd-numbered years, and until their successors are appointed and qualified. However, three of the five at-large members first appointed by the governor shall serve an initial term of three years. Vacancies shall be filled by the respective appointing bodies for the balance of the unexpired term. A member may be reappointed for up to three consecutive terms.

(e) The authority shall hire and employ an executive director who shall serve as the authority's chief administrative officer and shall direct and supervise the authority's administrative affairs and technical activities in accordance with any rules, regulations, and policies set forth by the authority. In addition to any other duties, the executive director shall:

(1) Attend all meetings of the authority, act as its secretary, and keep minutes of its proceedings;

(2) Approve all accounts of the authority, including but not limited to accounts for salaries, per diems, and allowable expenses of any employee or consultant thereof and expenses incidental to the operation of the authority;

(3) Make an annual report to the authority documenting the actions of the authority and such other reports as the authority may request;

(4) Perform such other duties as may be directed by the authority in the carrying out of the purposes of this chapter.

(f) Except for those members otherwise regularly employed by the state, the compensation of the authority's members shall be the same as that provided by ~~subsection 32 V.S.A. § 1010(a) of Title 32~~. All members of the authority, including those members otherwise regularly employed by the state, shall receive their actual and necessary expenses when away from home or office upon their official duties.

Tenth: By adding a new section to be numbered Sec. 16a to read as follows:

## Sec. 16a. VTA BOARD; REORGANIZATION

Upon the effective date of this act, the terms of office of the existing members of the board of directors of the Vermont telecommunications authority shall terminate, and new members, for the term commencing in 2011, shall be appointed as provided in this act.

Eleventh: By striking out Sec. 17, 30 V.S.A. § 8062 (powers and duties of the VTA) in its entirety and inserting in lieu thereof a new section to be numbered Sec. 17 to read as follows:

Sec. 17. 30 V.S.A. § 8062 is amended to read:

## § 8062. PURPOSE; POWERS AND DUTIES

(a) To achieve the goals under subsection 8060(b) of this title, the authority is directed:

~~(1) from information reasonably available after public notice to and written requests made of mobile telecommunications and broadband service providers, to develop and maintain an inventory of locations at which mobile telecommunications and broadband services are not available within the state; develop and maintain an inventory of infrastructure that is available or reasonably likely to be available to support provision of services to areas unserved, and develop and maintain an inventory of infrastructure necessary for provision of these services to the areas unserved;~~

~~(2) to identify the types and locations of infrastructure and services needed to accomplish the goals of this chapter;~~

~~(3) to coordinate the agencies of the state to make public resources available to support the extension of mobile telecommunications and broadband infrastructure and services to all unserved areas;~~

~~(4) to coordinate and establish public private partnerships to extend availability of mobile telecommunications and broadband services, and to promote development of the infrastructure that enables the provision of these services;~~

~~(5) to support and facilitate local initiatives to extend the availability of mobile telecommunications and broadband services, and to promote development of the infrastructure that enables the provision of these services;~~

~~(6) to provide resources to local, regional, public, and private entities in the form of loans, grants, and other incentives funded through bonded capital and other resources;~~

~~(7) to solicit and consider input from local municipal authorities, districts designated by the federal economic development administration,~~



~~regional planning commissions, and metropolitan planning organizations on specific projects the authority plans to undertake;~~

~~(8)(2)~~ to inventory and assess the potential to use federal radio frequency licenses held by instrumentalities of the state to enable broadband service in unserved areas of the state; take whatever steps are consistent with the powers granted the authority under this chapter to promote the use of those licensed radio frequencies for that purpose; and recommend to the general assembly any further legislative measures with respect to ownership, management, and utilization of these licenses as would promote the general good of the state; ~~and~~

~~(9) to the extent not inconsistent with the goals of this chapter, to utilize existing buildings and structures, historic or otherwise, as sites for visually neutral placement of mobile telecommunications and wireless broadband antenna facilities~~

(3) to construct and install, or cause to be constructed and installed, fiber optic and wireless infrastructure through grants to providers and through direct investments in infrastructure to be owned by the authority, in areas needed to meet the state's objectives as determined by the secretary of administration in the action plan developed under 3 V.S.A. § 2222b(b)(3), provided that direct investment is not undertaken in areas served by existing providers with comparable levels of broadband quality and speed or mobile telecommunications service; and

(4) to provide technical and such other support as the secretary of administration deems necessary.

(b) The authority shall have the following powers, which shall be exercised to further the authority's purpose, and shall have all other powers necessary to carry out the duties imposed on the authority by law:

(1) ~~to establish partnerships and enter into~~ contracts with providers of telecommunications services and related facilities to serve unserved people and areas of the state; and to provide financial and other assistance to providers who agree in return to provide mobile telecommunications or broadband services to unserved people and areas of the state; and to facilitate directly or indirectly the efforts of other entities to advance the availability of mobile voice and high speed data or broadband services.

(2) to provide financial assistance in the form of ~~loans, grants, guarantees, other financial instruments,~~ or, in accordance with section 8064 of this title, to issue bonds backed by project revenues, the state, or its political subdivisions; or both; for the purpose of building infrastructure capable of

delivering mobile telecommunications and broadband services to all Vermonters;

(3) to consult, contract, or partner with the Vermont economic development authority and the Vermont municipal bond bank to provide financial assistance for purposes authorized by this chapter;

~~(4) to coordinate access to and pursue regional and local revolving loan funding and all state, federal, and private funding that is available for telecommunications infrastructure, including financial assistance that may be available to rural economic area partnership (REAP) zones, as designated by the U.S. Department of Agriculture and to contract with financial assistance providers;~~

~~(5)~~(4) to receive and accept grants, gifts, loans, or contributions from any source subject to the provisions of 32 V.S.A. § 5;

~~(6)~~(5) to incorporate one or more nonprofit corporations in Vermont to fulfill the goals of this chapter. Such corporations shall be empowered to borrow money and to receive and accept gifts, grants, or contributions from any source, subject to the provisions of 32 V.S.A. § 5, subject to the limitations imposed by law on the authority. The board of directors of any nonprofit corporation created under this subsection shall be the board of directors of the authority. The corporation shall be organized and operate under the nonprofit corporation laws of the state of Vermont. The authority may contract with the corporation to provide staff and management needs of the corporation;

~~(7) to aggregate and broker access at reduced prices to services and facilities required to provide wireless telecommunications and broadband services; and to waive or reduce state fees for access to state-owned rights-of-way in exchange for comparable value to the state, unless payment for use is otherwise required by federal law;~~

~~(8)~~(6) to construct, install, own, acquire, sell, trade, and lease equipment, facilities, and other infrastructure that could be accessed and used by multiple service providers, the state and local governments, including fiber optic cables, towers, shelters, easements, rights of way, and wireless spectrum of frequencies; provided that any agreement by the authority to sell infrastructure that is capable of use by more than one service provider shall contain conditions that will ensure continued shared use or co-location at reasonable rates, and provided that the proposed activity will not be in areas served by existing providers with comparable levels of broadband quality and speed or mobile telecommunications service;

~~(9) in collaboration with the Vermont municipal bond bank, to act as agent and advisor for municipalities that wish to offer municipally backed~~

~~financial assistance, consistent with chapter 53 of Title 24, to develop telecommunications infrastructure or services in their communities;~~

~~(10)(7)~~ to apply for and obtain required permits for the construction of telecommunications infrastructure;

~~(11)(8)~~ in collaboration with the agency of administration, to lead the ~~management of~~ marketing of state properties to encourage and expedite collocation of infrastructure;

~~(12)(9)~~ to consult with agencies and departments on establishing charges or payments for use by wireless telecommunications and broadband service providers of state property, easements, and rights-of-way to the extent such charges or payments are required by law, and establish the criteria for waiver of such charges or payments when providers offer to furnish comparable value to the state to meet the public good;

~~(13)(10)~~ to sue and be sued in its own name and plead and be impleaded;

~~(14)(11)~~ to administer its own funds and to invest or deposit funds which are not needed currently to meet the obligations of the authority; ~~and~~

~~(15)(12)~~ to borrow money and give other evidence of indebtedness or obligations and security consistent with the authority's purpose and needs; ~~and~~

(13) to pursue route and site identification for fiber optic and wireless infrastructure.

(c) Nothing in this chapter shall be construed to grant power to the authority to offer the sale of telecommunications services to the public.

Twelfth: By striking out Sec. 18, 30 V.S.A. § 8063 (interagency cooperation and assistance), in its entirety and inserting in lieu thereof a new section to be numbered Sec. 18 to read as follows:

Sec. 18. 30 V.S.A. § 8063 is amended to read:

#### § 8063. INTERAGENCY COOPERATION AND ASSISTANCE

(a) Other departments and agencies of state government shall assist and cooperate with the authority and shall make available to it information and data as needed to assist the authority in carrying out its duties. The secretary of administration shall establish protocols and agreements among the authority and departments and agencies of the state for this purpose. Nothing in this section shall be construed to waive any privilege or protection otherwise afforded to the data and information under exemptions to the public records act or under other laws due solely to the fact that the information or data is shared with the authority pursuant to this section.

~~(b) With the consent of the governor, and under terms and conditions of transfer approved by the governor, a state agency shall transfer ownership and control to the authority of the agency's interest in any telecommunications facility designated by the authority as appropriate to assist the authority in meeting its statutory purposes. "Telecommunications facility" includes antennae, towers and other support structures, wires and cables, and other equipment.~~

~~(c) To the extent that the authority issues loans, it shall consult with the Vermont economic development authority to ensure that the lending activities and programs of each are coordinated and are not in competition. The authority shall, through contract or agreement, engage the assistance of the Vermont economic development authority in planning and administering lending activities and in evaluating credit worthiness of the borrower for purposes of this chapter.~~

~~(d) The authority shall also strive to identify, consult with, and coordinate lending programs with the administrators of local and regional revolving loan funds in order to leverage the lending capacity of the authority and the regional and local funds, and to ensure that the lending activities of the authority and the revolving loan funds are not in competition.~~

~~(e) No instrumentality of the state shall sell, lease, or otherwise divest itself of ownership or control of radio frequency spectrum without prior notice to and approval of the authority general assembly.~~

Thirteenth: By striking out Sec. 19, 30 V.S.A. § 8071 (annual reports and audit), in its entirety and inserting in lieu thereof a new section to be numbered Sec. 19 to read as follows:

Sec. 19. 30 V.S.A. § 8071 is amended to read:

§ 8071. QUARTERLY AND ANNUAL REPORTS; AUDIT

(a) On or before the last day of January of each calendar year, the authority shall submit a report of its activities for the preceding fiscal year to the governor and to the general assembly. Each report shall set forth a complete operating and financial statement covering its operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants; the cost shall be considered an expense of the authority and a copy shall be filed with the state treasurer. Audits performed by a public accountant under this section shall be conducted in accordance with generally accepted government auditing standards, including the issuance of a report on internal control over financial reporting that shall be provided to recipients of the financial statements.

(b) The auditor of accounts of the state and his or her duly authorized representatives may at any time examine the accounts and books of the authority including its receipts, disbursements, contracts, sinking funds, investments, and any other matters relating to its financial statements.

(c) Quarterly Reports. Within 30 days of the end of each quarter, the authority shall, in addition to any other reports required under this section, submit a report of its activities for the preceding quarter to the secretary of administration which shall include the following:

(1) A description of all authority activities to develop or facilitate development of telecommunications infrastructure that furthers the objectives of this chapter.

(2) Financial statements of the authority, a summary of expenditures by the authority since inception, and a forecast of expenditures.

(3) A summary of any financial commitments made by the authority.

(4) A list and summary of all contracts and agreements entered into by the authority, and a list and summary of any rail right-of-way agreements entered into by the authority, including any waivers of charges for comparable value to the state granted under 19 V.S.A. § 26a.

(5) A current business plan for the authority, including an explanation of significant changes subsequent to the most recent previous report.

(6) Identification of the impact of its activity on existing business providers and efforts taken by the authority to avoid direct or indirect competition with existing providers.

(d) The authority shall include in the annual report required under subsection (a) of this section a summary of all the information quarterly reported to the secretary of administration under subsection (c) of this section, as well as a summary of any and all instances in which service providers that have entered into contracts or binding commitments with the authority have materially defaulted, been unable to fulfill their commitments, or have requested or been granted relief from contractual or binding commitments.

Fourteenth: By striking out Sec. 21, 30 V.S.A. § 8078 (competitive process for proposals), in its entirety and inserting in lieu thereof a new section to be numbered Sec. 21 to read as follows:

Sec. 21. 30 V.S.A. § 8078 is amended to read:

§ 8078. SELECTION OF PROPOSALS TO PROVIDE COMPETITIVE PROCESS

(a) Broadband service; competitive process.

(1) For the purposes of this chapter, a premise is “served” with broadband service if it has access to mass-market broadband services meeting the minimum technical characteristics identified pursuant to section 8077 of this title. For the purposes of this chapter, with respect to broadband service, “unserved area” shall mean a contiguous geographic area of the state, without regard to municipal boundaries or size of geographic area, which contains premises that can obtain basic telephone service but are not served.

~~(2) By not later than December 1, 2007, the authority shall identify all served and unserved areas within the state. The authority may rely on readily and publicly available information to estimate the extent of these areas.~~

~~(3)~~ The authority shall seek to enable the development of networks and telecommunications infrastructure necessary to support provision of mass-market broadband services, in all unserved areas of the state, which meet or exceed the minimum technical characteristics identified pursuant to section 8077 of this title.

~~(4)~~(3) The authority shall establish and utilize an open and competitive process to solicit proposals to eliminate unserved areas by the end of the year ~~2010~~ 2013 through the development of telecommunications facilities or through binding commitments from service providers to offer broadband service to all unserved areas in a given region. For the purposes of this process, the authority may divide the state into one or more regions. The authority shall undertake substantial efforts to complete the process of competitively soliciting proposals by ~~January 31, 2008~~ June 30, 2012. The authority shall solicit and accept broadband service expansion commitments in a manner that allows small locally based broadband providers a reasonable opportunity to contribute toward realization of the policy objectives of this chapter. In evaluating proposals, the authority shall consider:

(A) the proposed data transfer rates and other data transmission characteristics of services which would be available to consumers;

(B) the price to consumers of services;

(C) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;

(D) whether the proposal would utilize the best available technology which is economically feasible; ~~and~~

(E) the ability to achieve the authority’s objectives in the most cost-effective manner; and

(F) the availability of service of comparable quality and speed.

~~(5)~~(4) The authority may support or undertake projects that enable provision of broadband service in geographic areas currently served; provided that:

(A) such projects are the most cost-effective method for providing broadband services in nearby unserved areas; and

(B) before undertaking such projects, the authority makes reasonable effort to distinguish served areas and populations from unserved areas and populations within the geographic area that the project would serve, including recognition and consideration of known or probable service extensions or upgrades.

(b) Commercial mobile radio (cellular) service, competitive process.

(1) The authority shall seek to eliminate areas without access to commercial mobile radio service licensed by the Federal Communications Commission by ~~2010~~ the end of the year 2013 through the construction of facilities and binding commitments from commercial mobile radio service providers.

(2) The authority shall seek to expand access to all services that utilize the technical standards which are commonly in use for providing voice and data services through commercial mobile radio service.

(3) The authority shall establish and utilize an open and competitive process to solicit proposals to eliminate areas without coverage from a provider of commercial mobile radio services within the state of Vermont by ~~2010~~ the end of the year 2013 through the development of telecommunications facilities and through binding commitments from service providers to expand service, including all unserved areas in a given region. For the purposes of this process, the authority may divide the state into one or more regions. The authority shall undertake substantial efforts to complete the process of competitively soliciting proposals by ~~January 31, 2008~~ June 30, 2012. In evaluating proposals, the authority shall consider the extent to which a proposal meets coverage objectives while limiting environmental impact and providing opportunities for future development of wireless communications services.

Fifteenth: By striking out Sec. 22, 30 V.S.A. § 8079 (broadband infrastructure investment), in its entirety and inserting in lieu thereof a new section to be numbered Sec. 22 to read as follows:

Sec. 22. 30 V.S.A. § 8079 is amended to read:

§ 8079. BROADBAND INFRASTRUCTURE; INVESTMENT

(a) To achieve the goals established in subsection 8060(b) of this title, the authority is authorized to invest in broadband infrastructure or contract with retail providers for the purpose of making services available to ~~at least 10,000~~ households or businesses in target communities where such services are currently unavailable or to upgrade services in underserved business districts, as determined by the authority. ~~For the purposes of this section, target communities shall not be considered unserved if a broadband provider has a legally binding commitment to provide service to those locations or a provider has received a broadband stimulus grant to provide service to those locations~~ secretary of administration in the action plan developed under 3 V.S.A. § 2222b(b)(3).

(b) To accomplish the purpose of this section, the authority shall publish a request for proposals for all of the following options for the purpose of providing broadband coverage to 100 percent of Vermont households and businesses within target communities: (1) the construction of physical broadband infrastructure, to be owned by the authority; or (2) ~~initiatives by public private partnerships or retail vendors; or~~ (3) programs that provide financial incentives to consumers, in the form of rebates for up to 18 months, for example, to ensure that providers have a sufficient number of subscribers or providers. The authority shall select proposals for target communities that best achieve the objective stated in subsection (a) of this section, consistent with the criteria listed in subsections (c) and (d) of this section.

(c) Criteria. Any request for proposals developed under this section shall include the following requirements:

(1) The technology and infrastructure used by a telecommunications provider participating in a project pursuant to this section shall support the delivery of services with an upload speed of at least one megabit per second, and combined download and upload speeds equal to or greater than five megabits per second. However, the Vermont telecommunications authority may waive the one megabit upload speed requirement if it determines this is in the best interest of the consumers.

(2) Infrastructure owned and leased by the authority shall be available for use by as many telecommunication providers as the technology will permit to avoid the state from establishing a monopoly service territory for one provider.

(d) The authority shall review proposals and award contracts based upon the price, quality of services offered, positive experience with infrastructure



maintenance, retail service delivery, and other factors determined to be in the public interest by the authority. In selecting target communities, the authority shall consider to the extent possible:

(1) the proportion of homes and businesses in those communities without access to broadband service and without access to broadband service meeting the minimum technical service characteristic objectives established under section 8077 of this title;

(2) the level of adoption of broadband service by residential and business users within the community;

(3) opportunities to leverage or support other sources of federal, state, or local funding for the expansion or adoption of broadband service;

(4) the number of potential new subscribers in each community and the total level of funding available for the program;

(5) the geographic location of selected communities and whether new target communities would further the goal of bringing broadband service to all regions of the state; ~~and~~

(6) pending grant and loan applications for the expansion of broadband service filed with the U.S. Department of Commerce and with the broadband initiatives program under the Rural Utilities Service of the U.S. Department of Agriculture, ~~which will be awarded no later than October 1, 2010 or any other~~ federally funded programs that may exist to support telecommunications; and

(7) the action plan prepared by the secretary of administration under 3 V.S.A. § 2222b(b)(3).

~~(e) To the extent any funds appropriated by the general assembly are rendered unnecessary for the purpose of reaching unserved Vermonters due to a successful application to the broadband initiatives program under the Rural Utilities Service of the U.S. Department of Agriculture, such funds shall be placed in reserve by the authority to be used first to achieve 100 percent coverage pursuant to this chapter and, once that is achieved, to then deliver fiber quality service to Vermont's public facilities, regional business hubs, and anchor businesses and institutions.~~

~~(f) Beginning July 1, 2010, the authority may invest up to \$500,000.00 for upgrades in broadband services in underserved business districts, as defined by the authority.~~

Sixteenth: By adding a new section to be numbered Sec. 22a to read as follows:

Sec. 22a. 3 V.S.A. § 2222b is added to read:

§ 2222b. TELECOMMUNICATIONS; COORDINATION AND PLANNING

(a) The secretary of administration or designee shall be responsible for the coordination of telecommunications initiatives among executive branch agencies, departments, and offices.

(b) In furtherance of the goals set forth in 30 V.S.A. § 8060(b), the secretary shall have the following duties:

(1) from information reasonably available after public notice to and written requests made of mobile telecommunications and broadband service providers, to develop and maintain an inventory of locations at which mobile telecommunications and broadband services are not available within the state, develop and maintain an inventory of infrastructure that is available or reasonably likely to be available to support provision of services to unserved areas, and develop and maintain an inventory of infrastructure necessary for provision of these services to the unserved areas;

(2) to identify the types and locations of infrastructure and services needed to accomplish the goals of this chapter;

(3) to formulate an action plan to accomplish the goals of universal availability of broadband and mobile telecommunications services by the end of the year 2013;

(4) to coordinate the agencies of the state to make public resources available to support the extension of mobile telecommunications and broadband infrastructure and services to all unserved areas;

(5) to support and facilitate initiatives to extend the availability of mobile telecommunications and broadband services, and to promote development of the infrastructure that enables the provision of these services;

(6) through the department of innovation and information, to aggregate and broker access at reduced prices to services and facilities required to provide wireless telecommunications and broadband services; and to waive or reduce state fees for access to state-owned rights-of-way in exchange for comparable value to the state, unless payment for use is otherwise required by federal law;

(7) to review all financial transactions, statements, and contracts of the Vermont telecommunications authority established under 30 V.S.A. § 8061; and

(8) to receive all technical and administrative assistance as deemed necessary by the secretary of administration.

(c) Deployment tracking.

(1) Not later than 30 days after the effective date of this act, all persons proposing to construct or install Vermont cables, wires, or telecommunications facilities as defined in 30 V.S.A. § 248a(b)(1) shall file plans with the secretary if the construction or installation relates to the deployment of broadband infrastructure and is funded in whole or in part pursuant to the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, or by funds granted or loaned by the state of Vermont or one of its instrumentalities.

(2) The plans filed pursuant to subdivision (1) of this subsection shall include data identifying the projected coverage area, the projected average speed of service, service type, and the anticipated date of completion in addition to identifying the location and routes of proposed cables, wires, and telecommunications facilities, and shall be updated every 90 days.

(3) The secretary shall use the information provided pursuant to this subsection in performing the duties set forth in subsection (b) of this section.

(4) The secretary shall keep confidential the plans submitted to it under this subsection except that, pursuant to a nondisclosure agreement, the secretary may disclose the information to the Vermont Center for Geographic Information created under 10 V.S.A. § 122 or to some other person or entity for the purpose of aggregating the information. Information so disclosed shall remain confidential.

(5) The secretary may request voluntary disclosure of information such as that set forth in subdivision (2) of this subsection regarding deployment of broadband, telecommunications facilities, or advanced metering infrastructure that is not publicly funded. The secretary may enter into a nondisclosure agreement with respect to any such voluntary disclosures, and the information disclosed pursuant thereto shall remain confidential.

(6) The secretary may publicly disclose aggregated information based upon the information provided pursuant to this subsection.

(7) The confidentiality requirements of subdivisions (4) and (5) of this subsection shall not affect whether information provided to an agency of the state or a political subdivision of the state pursuant to other laws is or is not subject to disclosure.

Seventeenth: By striking out Sec. 23 (relating to a smart grid coordinator) in its entirety.

Eighteenth: In Sec. 24 (relating to the satellite grant program), in subsection (c), by striking out the words “telecommunications division” in

their entirety and inserting in lieu thereof the words Vermont telecommunications authority

Nineteenth: By striking out Sec. 25 (relating to JFC approval of VTA contracts and expenditures) in its entirety.

And by renumbering the remaining sections to be numerically correct

And that after passage the title of the bill be amended to read:

“An act relating to the advancement of cellular, broadband, and other technology infrastructure in Vermont.”

And that when so amended the bill ought to pass.

Senator Illuzzi, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy, as substituted?, Senator Campbell, moved to suspended the rules to take up the amendments of the Committee on Finance first, which was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Finance?, Senator Cummings requested and was granted leave to withdraw the *sixteenth* recommendation of amendment of the Committee on Finance, which was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Finance in the *first* through *fifteenth* and the *seventeenth* through *nineteenth* recommendations of amendment?, was decided in the affirmative.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Lyons requested and was granted leave to withdraw the *third* recommendation of amendment of the Committee on Natural Resources and Energy, which was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy in the *first* and *second* and *fourth* through *seventh* recommendations of amendment?, was decided in the affirmative.

Thereupon, pending the question Shall the bill be read a third time?, Senator Sears moved that consideration of the bill be postponed until the next legislative day, which was disagreed to on a division of the Senate, Yeas 9, Nays 21.

Thereupon, the recurring question, Shall the bill be read a third time?, was decided in the affirmative.

---

**Adjournment**

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, April 13, 2011.

---

**WEDNESDAY, APRIL 13, 2011**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Message from the House No. 46**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 259.** An act relating to increasing the number of members on the liquor control board.

**H. 442.** An act relating to amending the charter of the city of Rutland.

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

**Joint Resolution Placed on Calendar****J.R.S. 28.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Ayer,

**J.R.S. 28.** Joint resolution congratulating the Republic of China on its centennial anniversary and supporting its being granted observer or participation status in certain travel and tourism organizations.

*Whereas*, the United States, and especially the state of Vermont, and the Republic of China (Taiwan) share a historically close relationship marked by strong bilateral trade, educational and cultural exchange, scientific and technological interests, and tourism, and

*Whereas*, the United States and Taiwan engage in robust bilateral trade; the United States ranks as Taiwan's third largest trading partner; and Taiwan is the ninth largest trading partner of the United States, and

*Whereas*, in 2010, bilateral trade reached \$62 billion with exports to Taiwan totaling \$26 billion, and Vermont exports a significant amount to Taiwan annually, including machinery, computer and electronic products, and chemicals, and

*Whereas*, Vermont and the Republic of China—the first republic in Asia and the first full-fledged democracy in Chinese history—share the common values of freedom, democracy, human rights, and rule of law, and

*Whereas*, since 1999, the Vermont–Taiwan sister relationship has resulted in significant political, economic, educational, and cultural exchanges, and

*Whereas*, Taiwanese President Ma Ying-jeou has worked tirelessly to uphold democratic principles in Taiwan, ensure the prosperity of the Taiwan people, promote Taiwan’s international standing as a responsible member of the international community, increase participation in international organizations, dispatch humanitarian missions abroad, and further improve relations between the United States and Taiwan, and

*Whereas*, a large volume of travel and tourism exists between the United States and Taiwan, with the number of outbound departures in 2009 from Taiwan to the United States totaling 477,500, and United States arrivals in Taiwan totaling in excess of 369,000, and

*Whereas*, it remains in the mutual interest of Vermont and Taiwan that Taiwan be allowed to observe the meetings and activities of international organizations, in particular the International Civil Aviation Organization, so as to ensure the safety of the traveling public, and

*Whereas*, Taiwan is a key transport hub in the Asia-Pacific region, and the Taipei Flight Information Region under Taiwan’s jurisdiction covers an area of 176 square nautical miles with 1.35 million controlled flights passing through annually, and

*Whereas*, Taiwan’s participation in the United States Visa Waiver Program (VWP), enabling ROC nationals to travel to the United States for tourism or business purposes for stays of 90 days or less without being required to obtain a visa, would increase tourism and business between Taiwan and the United States, particularly Vermont, and

*Whereas*, Taiwan presents a low immigration risk for the United States, being a full-fledged democracy characterized by stability and social order, and Taiwan citizens present few, if any, crime or public security issues in the United States, and illegal immigration or visa overstays remain few, with rejection rates of United States visas only 2.2 percent, well below the VWP three percent requirement, and

*Whereas*, Taiwan, in the spirit of reciprocity, has extended visa waivers to United States citizens since 1993, and 100 nations currently grant Taiwan citizens visa waivers, among them being the members of the European Union, Japan, New Zealand, Singapore, Canada, and the United States territory of Guam, and

*Whereas*, Vermont and Taiwan look forward to an even stronger friendship over the next century, *now therefore be it*

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

That the General Assembly congratulates the Republic of China (Taiwan) and our dear friends in Taiwan on the historic centennial anniversary of the founding of the Republic of China, *and be it further*

***Resolved:*** That the General Assembly supports Taiwan's participation as an observer in the meetings and activities of the International Civil Aviation Organization and participation in the United States Visa Waiver Program, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to President Ma Ying-jeou of the Republic of China, President Barack Obama, Director-General Anne Hung of the Taipei Economic and Cultural Office in Boston, the Vermont Congressional Delegation, and Governor Peter Shumlin.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

**Committee Bill Introduced**

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

**S. 108.**

By the Committee on Judiciary,

An act relating to effective strategies to reduce criminal recidivism.

**Rules Suspended; Bills Referred**

House bill of the following title was read the first time and referred:

**H. 259.**

An act relating to increasing the number of members on the liquor control board.

On motion of Senator Campbell, the rules were suspended and the bill was referred to the Committee on Rules.

House bill of the following title was read the first time and referred:

**H. 442.**

An act relating to amending the charter of the city of Rutland.

On motion of Senator Campbell, the rules were suspended and the bill was referred to the Committee on Rules.

**Rules Suspended; Bill Committed**

**H. 202.**

Pending entry on the Calendar for notice, on motion of Senator Ayer, the rules were suspended and House bill entitled:

An act relating to a universal and unified health system.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Health and Welfare, Senator Ayer moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Health and Welfare *intact*,

Which was agreed to.

**Bill Amended; Bill Passed**

**S. 78.**

Senate bill entitled:

An act relating to the advancement of cellular, broadband, smart grid, and other technology infrastructure in Vermont.

Was taken up.

Thereupon, pending third reading of the bill, Senator Illuzzi, on behalf of the Committee on Economic Development, Housing and General Affairs moved to amend the bill by as follows:

First: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for telecommunications facilities), in subdivision (b) (definitions), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) “De minimis modification” means the addition, modification, or replacement of telecommunications equipment, antennas, or ancillary improvements on a telecommunications facility or existing support structure,



whether or not the structure was constructed as a telecommunications facility, or the reconstruction of such a facility or support structure, provided:

(A) The height and width of the facility or support structure, excluding equipment, antennas, or ancillary improvements, are not increased;

(B) The total amount of impervious surface, including access roads, surrounding the facility or support structure is not increased by more than 300 square feet;

(C) The addition, modification, or replacement of an antenna or any other equipment on a facility or support structure does not extend vertically more than 10 feet above the facility or support structure and does not extend horizontally more than 10 feet from the facility or support structure; and

(D) The additional equipment, antennas, or ancillary improvements on the support structure, excluding cabling, does not increase the aggregate surface area of the faces of the equipment, antennas, or ancillary improvements on the support structure by more than 75 square feet.

Second: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for telecommunications facilities), in subdivision (b) (definitions), in subdivision (3) (limited size and scope), by striking out subparagraph (B) in its entirety and inserting in lieu thereof a new subparagraph (B) to read as follows:

(B) For construction described in subdivision (3)(A) of this subsection to be of limited size and scope, it shall not disturb more than 10,000 square feet of earth. For purposes of this subdivision, "disturbed earth" means the exposure of soil to the erosive effects of wind, rain, or runoff.

Third: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for telecommunications facilities), in subdivision (c) (findings), in subdivision (1), by striking out the second sentence in its entirety and inserting in lieu thereof the following:

However, with respect to telecommunications facilities of limited size and scope, the board shall waive all criteria of this subdivision other than 10 V.S.A. § 6086(a)(8) (aesthetics, scenic beauty, historic sites, rare and irreplaceable natural areas; endangered species; necessary wildlife habitat). Such waiver shall be on condition that the board may determine, pursuant to the procedures described in subdivision (j)(2)(A) of this section, that a petition raises a significant issue with respect to any criterion of this subdivision.

Fourth: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for telecommunications facilities), in subdivision (c) (findings), in subdivision (2), by striking out the third and fourth sentences in their entirety and inserting in lieu thereof the following:

A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

Fifth: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for telecommunications facilities), after subdivision (e) (notice), by inserting a new subdivision to be lettered subdivision (f) to read as follows:

(f) Review period. ~~Unless~~ If the public service board ~~identifies~~ determines that an application ~~raises~~ does not raise a significant issue, the board shall issue a final determination on an application filed pursuant to this section within ~~90~~ 60 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within ~~90~~ 60 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If the board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this section within 180 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 180 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

Sixth: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for telecommunications facilities), in subdivision (j)(1) (telecommunications facilities of limited size and scope), after the first sentence, by inserting the following:

The board may make findings based on the application and the supporting evidence submitted by the applicant.

Seventh: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for telecommunications facilities), in subdivision (j) (telecommunications facilities of limited size and scope), in subdivision (2), by striking out subparagraph (B) in its entirety and inserting in lieu thereof a new subparagraph (B) to read as follows:

(B) ~~Any~~ An applicant seeking a waiver or modification of notice to adjoining landowners under this subsection shall file a request for such a waiver or modification with the public service board not later than 30 days prior to serving written notice under subsection 248a(e) of this section, together with a description of the project and its location, the applicant's reasons for seeking waiver or modification, and the applicant's demonstration that the standard for granting a waiver or modification is met. Any granting of such a waiver or modification shall be based on a determination that the landowners subject to the waiver or modification could not reasonably be affected by one or more of the proposed facilities, and that notice to such

landowners would constitute a significant administrative burden without corresponding public benefit. The board shall rule on a waiver or modification request under this subsection within 21 days of the filing of the request.

Eighth: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for telecommunications facilities), by striking out subdivision (k) (de minimis modifications) in its entirety and inserting in lieu thereof a new subdivision (k) to read as follows:

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the commissioner of public service and its director for public advocacy. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the board within 21 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subdivision. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the board, the board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(1) of this section.

Ninth: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for telecommunications facilities), by striking out subdivision (l) (rules) in its entirety and inserting in lieu thereof a new subdivision (l) to read as follows:

(l) Rules. The public service board may issue rules or orders implementing and interpreting this section. In developing such rules and orders, the board shall seek to simplify the application and review process as appropriate, and Subject to the provisions of subdivision (c)(1) of this section regarding waiver of the substantive criteria set forth in that subdivision, the board may by rule or order waive the requirements of this section that the board determines are not applicable to telecommunications facilities of limited size or scope. Determination by the board that a ~~petition~~ an application raises a substantial issue with regard to one or more substantive criteria of this section shall not prevent the board from waiving other substantive criteria that it has determined are not applicable to such a telecommunications facility.

Tenth: In Sec. 3, 10 V.S.A. § 1264 (stormwater management), in subsection (j), in the first sentence, by striking out the following: “and is filed before July 1, 2014”

Eleventh: In Sec. 3a (stormwater management rule; agency of natural resources; prospective repeal), by striking out subsection (c) (prospective repeal) and, in the catchline, by striking out “; PROSPECTIVE REPEAL”

Twelfth: By striking out Sec. 4a (prospective repeal) in its entirety.

Thirteenth: In Sec. 12, 30 V.S.A. § 227e (leasing or licensing of state land; public notice), in subsection (a), in the first sentence, after the words “installation of a” by inserting the word wireless and in subsection (b), in subdivision (2), in the first sentence, after the word “such” by inserting the words leased or licensed

Fourteenth: In Sec. 14, 24 V.S.A. § 4413 (limitations on municipal bylaws), in subsection (h), in subdivision (1) (A), by striking out the following: “200” and inserting in lieu thereof the following: 300 and by striking out the second sentence in its entirety.

Fifteenth: By striking out Sec. 14a (prospective repeal) in its entirety and by inserting in lieu thereof a new section to be numbered Sec. 14a to read as follows:

Sec. 14a. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

\* \* \*

(19) To regulate the construction, alteration, development, and decommissioning or dismantling of wireless telecommunications facilities and ancillary improvements where the city, town, or village has not adopted zoning or where those activities are not regulated pursuant to a duly adopted zoning bylaw. Regulations regarding the decommissioning or dismantling of telecommunications facilities and ancillary structures may include requirements that bond be posted, or other security acceptable to the legislative body, in order to finance facility decommissioning or dismantling activities. These regulations are not intended to prohibit seamless coverage of wireless telecommunications services. With respect to the construction or alteration of wireless telecommunications facilities subject to regulation granted in this section, the town, city, or incorporated village shall vest in its local regulatory authority the power to determine whether the installation of a wireless

telecommunications facility, whatever its size, will impose no impact or merely a de minimis impact on the surrounding area and the overall pattern of land development, and if the local regulatory authority, originally or on appeal, determines that the facility will impose no impact or a de minimis impact, it shall issue a permit. No ordinance authorized by this section, except to the extent structured to protect historic landmarks and structures listed on the state or national register of historic places may have the purpose or effect of limiting or prohibiting a property owner's ability to place or allow placement of antennae used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the aggregate area of the largest faces of the antennae is not more than eight square feet, and if the antennae and the mast to which they are attached do not extend more than 12 feet above the roof of that portion of the building to which they are attached. No ordinance under this section may regulate an improvement that is exempt from regulation under subdivision 4413(h) (telecommunications; ancillary improvements of 300 square feet or less; improvements associated with communications lines) of this title.

\* \* \*

Sixteenth: By inserting a new section to be numbered Sec. 14c to read as follows:

Sec. 14c. 10 V.S.A. § 8504 is amended to read:

§ 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

\* \* \*

(b) Planning and zoning chapter appeals.

(1) Within 30 days of the date of the act or decision, an interested person, as defined in 24 V.S.A. § 4465, who has participated as defined in 24 V.S.A. § 4471 in the municipal regulatory proceeding under that chapter may appeal to the environmental division an act or decision made under that chapter by a board of adjustment, a planning commission, or a development review board; provided, however, that decisions of a development review board under 24 V.S.A. § 4420 with respect to local Act 250 review of municipal impacts are not subject to appeal but shall serve as presumptions under chapter 151 of this title.

(2) Notwithstanding subdivision (1) of this subsection, an interested person may appeal an act or decision under 24 V.S.A. chapter 117 if, upon motion filed by the person no later than the deadline for filing a statement of questions on appeal, the environmental judge determines that:

(A) there was a procedural defect which prevented the person from obtaining interested person status or participating in the proceeding;

(B) the decision being appealed is the grant or denial of interested person status; or

(C) some other condition exists which would result in manifest injustice if the person's right to appeal was disallowed.

\* \* \*

(d) Requirement that aggrieved Act 250 parties participate before the district commission.

(1) No aggrieved person may appeal an act or decision that was made by a district commission unless the person was granted party status by the district commission pursuant to subdivision 6085(c)(1)(E) of this title, participated in the proceedings before the district commission, and retained party status at the end of the district commission proceedings. In addition, the person may only appeal those issues under the criteria with respect to which the person was granted party status.

(2) Notwithstanding subdivision (d)(1) of this section, an aggrieved person may appeal an act or decision of the district commission if, upon motion filed by the person no later than the deadline for filing a statement of questions on appeal, the environmental judge determines that:

(A) there was a procedural defect which prevented the person from obtaining party status or participating in the proceeding;

(B) the decision being appealed is the grant or denial of party status; or

(C) some other condition exists which would result would result in manifest injustice if the person's right to appeal was disallowed.

\* \* \*

And by renumbering all remaining sections to be numerically correct.

Thereupon, pending the question, Shall the bill be amended as recommended Senator Illuzzi on behalf of the Committee on Economic Development, Housing and General Affairs?, Senator Lyons, on behalf of the Committee on Natural Resources and Energy moved to amend the recommendation of amendment of Senator Illuzzi as follows:

First: By striking out the tenth (stormwater management; time for processing telecommunications facility applications; removal of sunset) and twelfth (Act 250 exemption; removal of sunset) recommendations of amendment in their entirety.

Second: By adding a new seventeenth recommendation of amendment to read as follows:

Seventeenth: By adding a new section to be numbered Sec. 14d to read as follows:

Sec. 14d. PROSPECTIVE REPEALS; EXEMPTIONS FROM MUNICIPAL BYLAWS AND ORDINANCES

Effective July 1, 2014:

(1) 24 V.S.A. § 4413(h) (limitations on municipal bylaws) shall be repealed; and

(2) 24 V.S.A. § 2291(19) (municipal ordinances; wireless telecommunications facilities) is amended to read:

(19) To regulate the construction, alteration, development, and decommissioning or dismantling of wireless telecommunications facilities and ancillary improvements where the city, town, or village has not adopted zoning or where those activities are not regulated pursuant to a duly adopted zoning bylaw. Regulations regarding the decommissioning or dismantling of telecommunications facilities and ancillary structures may include requirements that bond be posted, or other security acceptable to the legislative body, in order to finance facility decommissioning or dismantling activities. These regulations are not intended to prohibit seamless coverage of wireless telecommunications services. With respect to the construction or alteration of wireless telecommunications facilities subject to regulation granted in this section, the town, city, or incorporated village shall vest in its local regulatory authority the power to determine whether the installation of a wireless telecommunications facility, whatever its size, will impose no impact or merely a de minimis impact on the surrounding area and the overall pattern of land development, and if the local regulatory authority, originally or on appeal, determines that the facility will impose no impact or a de minimis impact, it shall issue a permit. No ordinance authorized by this section, except to the extent structured to protect historic landmarks and structures listed on the state or national register of historic places may have the purpose or effect of limiting or prohibiting a property owner's ability to place or allow placement of antennae used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the aggregate area of the largest faces of the antennae is not more than eight square feet, and if the antennae and the mast to which they are attached do not extend more than 12 feet above the roof of that portion of the building to which they are attached. ~~No ordinance under this section may regulate an improvement that is exempt from regulation under subdivision 4413(h) (telecommunications; ancillary improvements of~~

~~300 square feet or less; improvements associated with communications lines) of this title.~~

Which was agreed to on a division of the Senate, Yeas 15, Nays 14.

Thereupon, the question, Shall the bill be amended as recommended by Senator Illuzzi on behalf of the Committee on Economic Development, Housing and General Affairs, as amended?, Senator Lyons requested that the *third* recommendation of amendment of Senator Illuzzi, on behalf of the Committee on Economic Development, Housing and General Affairs be divided.

Which was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by Senator Illuzzi, on behalf of the Committee on Economic Development, Housing and General Affairs, as amended, in the *first* through *second* and *fourth* through *seventeenth* recommendations of amendment?, was decided in the affirmative.

Thereupon, the question, Shall the bill be amended as recommended by Senator Illuzzi, on behalf of the Committee on Economic Development, Housing and General Affairs, as amended, in the *third* recommendation of amendment?, Senator Benning moved to amend the *third* recommendation of amendment as follows:

In Sec. 2, 30 V.S.A. § 248a (certificate of public good for communications facilities), in subsection (c), subdivision (1), in the first sentence, by striking out “and the public’s use and enjoyment of the I-89 or I-91 scenic corridors or of a highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162.”

Which was agreed to on a roll call, Yeas 16, Nays 14.

Senator Galbraith having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ayer, Benning, Brock, Campbell, Flory, Fox, Giard, Kitchel, Lyons, MacDonald, Mazza, Mullin, Nitka, Pollina, Snelling, White.

**Those Senators who voted in the negative were:** Ashe, Baruth, Carris, Cummings, Doyle, Galbraith, Hartwell, Illuzzi, Kittell, McCormack, Miller, Sears, Starr, Westman.

Thereupon, the pending question, Shall the bill be amended as recommended by Senator Illuzzi, on behalf of the Committee on Economic



Development, Housing and General Affairs, as amended in the third recommendation of amendment?, was decided in the affirmative.

Thereupon, pending third reading of the bill, Senator Illuzzi moved to amend the bill as follows:

First: In Sec. 1, in subsection (b), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) The Vermont telecommunications authority (VTA) was established under No. 79 of the Acts of 2007 to facilitate the provision of universal access to affordable cellular and broadband services in Vermont.

Second: In Sec. 1, in subsection (b), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) The general assembly has made substantial investments in furtherance of the goal of providing universal access to affordable cellular and broadband services. For example, in fiscal year 2011, the general assembly appropriated \$7,350,000.00 to the VTA to bring broadband services to unserved target communities and underserved business districts, pursuant to Sec. 2(b) of No. 161 and Sec. 4 of No. 78 of the Acts of the 2009 Adj. Sess. (2010). The general assembly has also appropriated, including the appropriation for the next fiscal year, \$2.35 million to fund the operations of the VTA.

Third: In Sec. 1, in subsection (b), by striking out subdivision (9) in its entirety and inserting in lieu thereof a new subdivision (9) to read as follows:

(9) With the recent influx of federal dollars for cellular, broadband, and smart grid initiatives, Vermont is well positioned to achieve the goal of providing universal availability of cellular and broadband services throughout the state. That technology will include a 4G LTE wireless network.

Fourth: In Sec. 1, in subsection (b), by striking out subdivision (13) in its entirety and inserting in lieu thereof a new subdivision (13) to read as follows:

(13) It is imperative that Vermont create a regulatory environment in which all telecommunications carriers can compete fairly. The VTA made a critical decision when it chose to be a competitor instead of an objective coordinator.

Fifth: In Sec. 1, in subdivision (b), by adding subdivision (15) to read as follows:

(15) It is essential to bring broadband technologies to our educational institutions. In doing so, we further our state's commitment to supporting and enhancing the learning opportunities for our young talent and next generation

of Vermont's workforce. Particularly in a rural state where many of our student population are isolated and without the wherewithal to travel, high speed, redundant, reliable, and secure Internet connectivity is imperative.

And by renumbering the remaining sections to be numerically correct

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Illuzzi?, Senator Snelling moved to amend the recommendation of amendment in the *fourth* recommendation of amendment by striking out the second sentence in its entirety?, which was agreed to on a division of the Senate, Yeas 23, Nays 6.

Thereupon, the pending question, Shall the bill be amended as recommended by Senator Illuzzi?, as amended?, was decided in the affirmative.

Thereupon, pending third reading of the bill, Senator MacDonald moved to amend the bill by adding a new section to be numbered Sec. 25a to read as follows:

Sec. 25a. 3 V.S.A. § 2222c is added to read:

#### BROADBAND AND WIRELESS DEPLOYMENT

##### (a) DEFINITIONS

In this chapter:

(1) "Broadband" means high speed Internet access and includes all facilities, equipment, and apparatus used by a person or entity to provide such access to an end user.

(2) "Mbps" means megabits per second.

(3) "Wireless communications service" means retail communications service that allows for two-way transmission of voice and data using a local, state, national, or international network and in which the end user connects to the network using a circuit-switched handheld device with a built-in antenna that transmits voice or data through radio waves to a receiver that is located at or on a telecommunications facility as defined in section 248a of this title.

##### (b) REPORT; BROADBAND AND WIRELESS DEPLOYMENT; UNDERSERVED AND UNSERVED AREAS

On or before January 30, 2012, the secretary of administration or designee shall report to the general assembly each of the following:

(1) As of January 1, 2014, based upon data submitted by the providers, the areas of the state that will not be served by broadband. The report shall reflect both areas currently served as of the date of the report, as well as areas

proposed to be served on or before January 1, 2014, including broadband and wireless communications services funded in whole or in part pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5. The report shall include a map and a narrative description of each of the following, as of January 1, 2014:

(A) The areas served and the areas not served by broadband that has a download speed of at least 0.768 mbps and an upload speed of at least 0.2 mbps.

(B) The areas served and the areas not served by broadband that has a combined download and upload speed of at least five mpbs.

(C) The areas served and the areas not served by wireless communications service.

(2) Estimates as can reasonably be identified of the cost to:

(A) Provide broadband that has a download speed of at least 0.768 mbps and an upload speed of at least 0.2 mbps to areas not served by such broadband.

(B) Provide broadband that has a combined download and upload speed of at least five mbps to areas not served by such broadband.

(C) Provide wireless communications service to the areas identified under subdivision (1)(C) of this subsection as not receiving such service.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator MacDonald moved to amend the bill by adding a new section to be numbered Sec. 25b to read as follows:

Sec. 25b. 30 V.S.A. § 202c is amended to read:

§ 202c. STATE TELECOMMUNICATIONS; POLICY AND PLANNING

(a) The general assembly finds that advances in telecommunications technology and changes in federal regulatory policy are rapidly reshaping telecommunications services, thereby promising the people and businesses of the state improved communication and access to information, while creating new challenges for maintaining a robust, modern telecommunications network in Vermont.

(b) Therefore, to direct the benefits of improved telecommunications technology to all Vermonters, it is the purpose of this section and section 202d of this title to:

(1) Strengthen the state's role in telecommunications planning.

(2) Support the universal availability of appropriate infrastructure and affordable services for transmitting voice and high-speed data.

(3) Support the availability of modern mobile wireless telecommunications services along the state's travel corridors and in the state's communities.

(4) Provide for high-quality, reliable telecommunications services for Vermont businesses and residents.

(5) Provide the benefits of future advances in telecommunications technologies to Vermont residents and businesses.

(6) Support competitive choice for consumers among telecommunications service providers and promote open access among competitive service providers on nondiscriminatory terms to networks over which broadband and telecommunications services are delivered.

(7) Support the application of telecommunications technology to maintain and improve governmental and public services, public safety, and the economic development of the state.

(8) Support, to the extent practical and cost-effective, deployment of broadband infrastructure that:

(A) Uses the best commercially available technology.

(B) Does not negatively affect the ability of Vermont to take advantage of future improvements in broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

(9) In the deployment of broadband infrastructure pursuant to the objectives set forth in S.78 of the Acts of 2011, encourage the use of existing facilities, such as existing utility poles and corridors and other structures, in preference to the construction of new facilities or the replacement of existing structures with taller structures.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the bill by adding a new section to be numbered Sec. 24b to read as follows:

Sec. 24b. DUTIES OF THE VERMONT TELECOMMUNICATIONS AUTHORITY THROUGH FISCAL YEAR 2013

(a) **Findings and Purpose.** With limited state financial resources available to fulfill the mission of the Vermont telecommunications authority (VTA), as described in 30 V.S.A. § 8060, it is critical that any state funds spent in furtherance of that mission do not have the effect of providing broadband or

cellular service to an unserved area that is already intended to be served by a telecommunications project on or before January 1, 2014, including projects funded in whole or in part under the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5. It is in the public interest, therefore, to cease further public expenditures through the VTA for new telecommunications facilities and instead, for a limited time, focus the VTA's resources on performing a thorough and specific identification of all areas in Vermont that would remain unserved as of January 1, 2014 without the benefit of state financial assistance, as required by subsections (b) and (c) of this section.

(b) **Limited VTA Authority.** Notwithstanding the provisions of 30 V.S.A. §§ 8061 through 8079, the VTA shall not, prior to January 15, 2012:

(1) expend state funds or issue bonds for the construction or installation of telecommunications facilities;

(2) issue a request for proposals for the construction or installation of telecommunications facilities; or

(3) expend state funds to secure site control for the purpose of constructing or installing telecommunications facilities.

(c) **VTA Charge.** Beginning on the effective date of this act and until January 15, 2012, the primary goal of the VTA shall be to identify areas in Vermont that would remain unserved on or after January 1, 2014 without the benefit of state financial assistance and to devise a detailed strategic plan to fill those gaps in broadband and cellular service. The strategic plan shall seek to minimize the use of state funds and shall require the least amount of new construction or installation of telecommunications facilities necessary to fulfill its goal under this subsection. The strategic plan shall be delivered to the joint fiscal committee not later than January 15, 2012, and shall be implemented only upon approval by the joint fiscal committee.

(d) Subsection (b) of this section shall not interfere with any contractual rights or responsibilities entered into by the VTA on or before the effective date of this act.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Ashe?, Senator Ashe requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the bill by adding a new section to be numbered Sec. 24c to read as follows:

Sec. 24c. REPORT ON VTA'S SUSTAINABILITY ONCE 100 PERCENT COVERAGE ACHIEVED

(a) The mission of the Vermont Telecommunications Authority (VTA), as described in 30 V.S.A. § 8060 (b)(1) and (2), is to ensure "that all residences and business in all regions of the state have access to affordable broadband services" and to ensure "the ubiquitous availability of mobile telecommunication services" by the end of 2010, now to be extended to 2013.

(b) It is not clear what role the VTA intends to play in Vermont's telecommunications landscape after December 31, 2013 when 100 percent broadband and cell coverage have been achieved in Vermont. It is not clear what source of revenues, if any, will support the VTA's operations into the future. It is not clear that Vermont taxpayers can continue to sustain the VTA's operational budget, which is \$900,000 under Secs. B.101 and D.101 of H.441 of the 2011 legislative session, as passed the House.

(c) The executive director of the VTA shall report to the chairs of the Senate Finance and Senate Economic Development, Housing, and General Affairs Committees, and the House Commerce and Economic Development Committee, with a detailed plan by January 30, 2012 demonstrating the extent to which revenues from VTA-owned infrastructure and lease agreements will be sufficient to fund the VTA's operating expenses beginning January 1, 2014. The report shall also detail how the revenues from those sources will be sufficient, after subtracting out VTA operating costs, to "continuously upgrade" broadband and cellular infrastructure throughout Vermont equitably and in time with technological advances.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Brock, Benning, Campbell, and White moved to amend the bill in Sec. 16, 30 V.S.A. § 8061 (relating to the establishment and organization of the Vermont telecommunications authority), in subsection (d), after the last sentence, by adding a new sentence to read as follows: Upon expiration of a term, and for one year from the date of such expiration, a former board member shall not obtain employment in Vermont with an enterprise that provides broadband or cellular service.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator McCormack moved to amend the bill in Sec. 2, 30 V.S.A. § 248a (certificate of public good for communications facilities), in subsection (b) (definitions), in subdivision (2) (de minimis modification), in subparagraph (C), after the semicolon by striking out the word: "and", and in subparagraph (D) by striking out the period and

inserting in lieu thereof the following: ; and, and by inserting a new subparagraph (E) to read as follows:

(E) The addition, modification, replacement, or reconstruction will have no more than a trivial impact under the substantive criteria of this section.

Which was disagreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 29, Nays 1.

Senator Carris having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

**The Senator who voted in the negative was:** McCormack.

#### **Joint Resolutions Adopted in Concurrence**

##### **J.R.H. 16.**

Joint House resolution entitled:

Joint resolution authorizing Green Mountain Boys' State educational program to use the state house.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

##### **J.R.H. 18.**

Joint House resolution entitled:

Joint resolution urging the Federal Railroad Administration to award a passenger rail improvement grant to the state of Vermont for upgrading the western rail corridor.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

#### **Rules Suspended; Bill Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

##### **S. 78.**

**Message from the House No. 47**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**J.R.S. 27.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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

**H. 236.** An act relating to extending the limitation of prosecutions for sexual abuse of a vulnerable adult.

And has concurred therein.

**Adjournment**

On motion of Senator Campbell, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

---

**THURSDAY, APRIL 14, 2011**

The Senate was called to order by the President *pro tempore*.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Bill Referred to Committee on Appropriations****S. 108.**

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to effective strategies to reduce criminal recidivism.



---

**Committees Relieved of Further Consideration; Bills Placed on Calendar for Notice****S. 98.**

On motion of Senator Carris, the Committee on Rules was relieved of further consideration of Senate bill entitled:

An act relating to authorizing owner-financed property sales,

Thereupon, the bill was entered on the Calendar for notice for the next legislative day.

**S. 104.**

On motion of Senator Carris, the Committee on Rules was relieved of further consideration of Senate bill entitled:

An act relating to modifications to the ban on gifts by manufacturers of prescribed products,

Thereupon, the bill was entered on the Calendar for notice for the next legislative day.

**H. 411.**

On motion of Senator Carris, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the application of Act 250 to agricultural fairs,

Thereupon, the bill was entered on the Calendar for notice for the next legislative day.

**Committee Relieved of Further Consideration; Bills Committed****H. 56.**

On motion of Senator Carris, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the Vermont Energy Act of 2011,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Carris, the bill was committed to the Committee on Natural Resources and Energy.

**H. 73.**

On motion of Senator Carris, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to establishing a government transparency office to enforce the public records act,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Carris, the bill was committed to the Committee on Government Operations.

**H. 155.**

On motion of Senator Carris, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to property-assessed clean energy districts,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Carris, the bill was committed to the Committee on Natural Resources and Energy.

**H. 259.**

On motion of Senator Carris, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to increasing the number of members on the liquor control board.

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Carris, the bill was committed to the Committee on Economic Development, Housing and General Affairs.

**H. 420.**

On motion of Senator Carris, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the office of professional regulation,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Carris, the bill was committed to the Committee on Government Operations.

**H. 439.**

On motion of Senator Carris, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the bill-back authority of the department of public service and the public service board,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Carris, the bill was committed to the Committee on Finance.

**H. 442.**

On motion of Senator Carris, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to amending the charter of the city of Rutland,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Carris, the bill was committed to the Committee on Government Operations.

**Recess**

On motion of Senator Kitchel the Senate recessed until the fall of the gavel.

**Rules Suspended; Third Reading Ordered; Rules Suspended; Bill Passed;  
Bill Messaged**

**S. 108.**

Pending entry on the Calendar for notice, on motion of Senator Kitchel, the rules were suspended and Senate bill entitled:

An act relating to effective strategies to reduce criminal recidivism.

Was taken up for immediate consideration.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the bill be read the third time?, Senator Illuzzi moved to amend the bill as follows:

First: By striking out Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read as follow:

\* \* \* Early Screening \* \* \*

**Sec. 8. SCREENING CRIMINAL DEFENDANTS AND ALTERNATIVES  
TO VIDEO ARRAIGNMENT**

(a) Screening defendants in the criminal justice system as early as possible to assess risk and needs is essential to reducing recidivism. The court administrator, the commissioner of the department of corrections, the executive director of the department of state's attorneys and sheriffs, and the defender general shall work cooperatively to develop a statewide plan for screening all persons who are charged with a violent misdemeanor or any felony as early as possible and shall report their efforts to the general assembly no later than October 15, 2012.

(b) The group shall also study, propose and may enact by memorandum of understanding, alternatives to video arraignments, including the use of conference calls and the existing telephone system used by attorneys to reach their clients in correctional facilities. The group shall report to the House and Senate Judiciary Committees by October 15, 2011 on the results of the study and status of implementing any alternatives.

Second: By striking out Sec. 10 in its entirety and inserting a new Sec. 10 to read as follows:

\* \* \* Video Arraignments \* \* \*

Sec. 10. SUSPENSION OF VIDEO ARRAIGNMENTS; REGIONAL ARRANGEMENTS

(a) The general assembly finds that the use of video conferencing for arraignments has resulted in cost-shifting, higher costs, and logistical problems. Therefore, the use of video conferencing for arraignments shall be suspended until there is evidence to support that it can be done in a manner that is cost-effective and efficient and that ensures defendants' due-process rights.

(b) The state's attorneys in counties which host a state, regional or contracted correctional facility, county jail or municipal lockup that has held a person overnight shall, upon request, handle an arraignement and bail arguments on behalf of the state's attorney in the county in which the offense is charged.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Illuzzi?, Senator Sears moved to amend the recommendation of amendment of Senator Illuzzi in the *first* recommendation of amendment in subsection (b) after the following: shall also by striking out the following: study, and inserting the following: study and, and after the following “, propose” by striking out the following: and may enact by memorandum of understanding

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by Senator Illuzzi, as amended?, was decided in the affirmative.

Thereupon, the third reading of the bill was ordered.

Thereupon, on motion of Senator Sears, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 26, Nays 0.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Benning, Carris, Doyle, Flory, Fox, Galbraith, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**Those Senators absent or not voting were:** Brock, Campbell (presiding), Cummings, Giard.

Thereupon, on motion of Senator Sears, the rules were suspended and the bill was ordered messaged to the House forthwith.

### **Recess**

On motion of Senator Carris the Senate recessed until five o'clock in the afternoon.

### **Called to Order**

At five o'clock and ten minutes the Senate was called to order by the President *pro tempore*.

### **Message from the House No. 48**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 24.** An act relating to the maintenance and conveyance of Maidstone Lake Road.

**H. 258.** An act relating to public participation in environmental enforcement proceedings.

**H. 448.** An act relating to contributions to the state and municipal employees' retirement systems.

**H. 450.** An act relating to limited immunity from liability for job performance information disclosed to employers of individuals who work with minors or vulnerable adults.

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

**Bill Amended; Third Reading Ordered****S. 17.**

Senator White, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to medical marijuana dispensaries.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 86, subchapter 2 is amended to read:

Subchapter 2. Marijuana for Medical Symptom Use by Persons  
with Severe Illness

§ 4472. DEFINITIONS

For the purposes of this subchapter:

(1) “Bona fide ~~physician-patient~~ health care professional-patient relationship” means a treating or consulting relationship of not less than six months duration, in the course of which a physician has completed a full assessment of the registered patient’s medical history and current medical condition, including a personal physical examination.

(2) “Clone” means a plant section from a female marijuana plant not yet root-bound, growing in a water solution, which is capable of developing into a new plant.

(3) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(4) “Debilitating medical condition,” provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision ~~(2)~~(4), reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms, means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

(B) a disease, medical condition, or its treatment that is chronic, debilitating, and produces severe, persistent, and one or more of the following intractable symptoms: cachexia or wasting syndrome; severe pain; severe nausea; or seizures.

(5) “Dispensary” means a nonprofit entity registered under section 4474e of this title which acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells, or dispenses marijuana, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center, and to his or her registered caregiver, for the registered patient’s medical use. Notwithstanding the ability of a dispensary to deliver marijuana for therapeutic purposes to registered patients, a dispensary may provide marijuana for therapeutic purposes to registered patients at only one facility or location, but may have a second location associated with the dispensary where the marijuana is cultivated. Both locations are considered to be part of the same dispensary.

(6) “Health care professional” means an individual licensed to practice medicine under chapter 23 or 33 of Title 26, an individual certified as a physician’s assistant under chapter 31 of Title 26, or an individual licensed to practice nursing under chapter 28 of Title 26, and who is authorized to prescribe regulated drugs. This definition includes individuals who are professionally licensed and authorized to prescribe regulated drugs under comparable provisions in New Hampshire, Massachusetts, or New York.

(7) “Immature marijuana plant” means a female marijuana plant that has not flowered, and which does not have buds that may be observed by visual examination.

~~(3)~~(8) “Marijuana” shall have the same meaning as provided in subdivision 4201(15) of this title.

~~(4) “Physician” means a person who is:~~

~~(A) licensed under chapter 23 or chapter 33 of Title 26, and is licensed with authority to prescribe drugs under Title 26; or~~

~~(B) a physician, surgeon, or osteopathic physician licensed to practice medicine and prescribe drugs under comparable provisions in New Hampshire, Massachusetts, or New York.~~

(9) “Mature marijuana plant” means a female marijuana plant that has flowered and which has buds that may be observed by visual examination.

~~(5)~~(10) “Possession limit” means the amount of marijuana collectively possessed between the registered patient and the patient’s registered caregiver which is no more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana.

~~(6)~~(11) “Registered caregiver” means a person who is at least 21 years old who has never been convicted of a drug-related crime and who has agreed

to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

~~(7)~~(12) “Registered patient” means a person who has been issued a registration card by the department of public safety identifying the person as having a debilitating medical condition pursuant to the provisions of this subchapter.

~~(8)~~(13) “Secure indoor facility” means a building or room equipped with locks or other security devices that permit access only by a registered caregiver ~~or a registered patient, or a principal officer or employee of a dispensary.~~

~~(9)~~(14) “Usable marijuana” means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

~~(10)~~(15) “Use for symptom relief” means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient’s debilitating medical condition which is in compliance with all the limitations and restrictions of this subchapter. For the purposes of this definition, “transfer” is limited to the transfer of marijuana and paraphernalia between a registered caregiver and a registered patient.

#### § 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

(a) To become a registered patient, a person must be diagnosed with a debilitating medical condition by a ~~physician~~ health care professional in the course of a bona fide ~~physician-patient~~ health care professional-patient relationship.

(b) The department of public safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit, under oath, a signed application for registration to the department. If the patient is under the age of 18, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient’s registered caregiver applying for authorization under section 4474 of this title, if any, and the patient’s designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the department pursuant to subdivision (2) of this subsection.



(2) The department of public safety shall develop a medical verification form to be completed by a ~~physician~~ health care professional and submitted by a patient applying for registration in the program. The form shall include:

(A) A cover sheet which includes the following:

(i) A statement of the penalties for providing false information.

(ii) Definitions of the following statutory terms:

(I) “Bona fide physician-patient relationship” as defined in subdivision 4472(1) of this title.

(II) “Debilitating medical condition” as defined in subdivision ~~4472(2)~~ 4472(4) of this title.

(III) “~~Physician~~ Health care professional” as defined in subdivision ~~4472(4)~~ 4472(6) of this title.

(B) A verification sheet which includes the following:

(i) A statement that a bona fide ~~physician-patient~~ health care professional-patient relationship exists under subdivision 4472(1) of this title, or that under subdivision (3)(A) of this subsection (b), the debilitating medical condition is of recent or sudden onset, and the patient has not had a previous physician who is able to verify the nature of the disease and its symptoms.

(ii) A statement that reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms.

(iii) A statement that the patient has a debilitating medical condition as defined in subdivision ~~4472(2)~~ 4472(4) of this title, including the specific disease or condition which the patient has and whether the patient meets the criteria under subdivision ~~4472(2)(A) or (B)~~ 4472(4).

(iv) A signature line which provides in substantial part: “I certify that I meet the definition of “~~physician~~” under 18 V.S.A. § ~~4472(4)(A) or 4472(4)(B)~~ “health care professional” under 18 V.S.A. § 4472(6), that I am a ~~physician~~ health care professional in good standing in the state of ....., and that the facts stated above are accurate to the best of my knowledge and belief.”

(v) The ~~physician’s~~ health care professional’s contact information.

(3)(A) The department of public safety shall transmit the completed medical verification form to the ~~physician~~ health care professional and contact him or her for purposes of confirming the accuracy of the information contained in the form. The department may approve an application, notwithstanding the six-month requirement in subdivision 4472(1) of this title, if the department is satisfied that the medical verification form confirms that

the debilitating medical condition is of recent or sudden onset, and that the patient has not had a previous physician health care professional who is able to verify the nature of the disease and its symptoms.

(B) If the physician health care professional is licensed in another state as provided by subdivision ~~4472(4)(B)~~ 4472(6) of this title, the department shall ~~contact the state's medical practice board and~~ verify that the physician health care professional is in good standing in that state.

(4) The department shall approve or deny the application for registration in writing within 30 days from receipt of a completed registration application. If the application is approved, the department shall issue the applicant a registration card which shall include the registered patient's name and photograph, ~~as well as the registered patient's designated dispensary, if any,~~ and a unique identifier for law enforcement verification purposes under section 4474d of this title.

(5)(A) A review board is established. The medical practice board shall appoint three physicians licensed in Vermont to constitute the review board. If an application under subdivision (1) of this subsection is denied, within seven days the patient may appeal the denial to the board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating physician health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the board.

(B) The board shall meet periodically to review studies, data, and any other information relevant to the use of marijuana for symptom relief. The board may make recommendations to the general assembly for adjustments and changes to this chapter.

(C) Members of the board shall serve for three-year terms, beginning February 1 of the year in which the appointment is made, except that the first members appointed shall serve as follows: one for a term of two years, one for a term of three years, and one for a term of four years. Members shall be entitled to per diem compensation authorized under ~~section 1010 of Title 32~~ 32 V.S.A. § 1010. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

#### § 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS AND PROCEDURES

(a) A person may submit a signed application to the department of public safety to become a registered patient's registered caregiver. The department shall approve or deny the application in writing within 30 days. The department shall approve a registered caregiver's application and issue the

person an authorization card, including the caregiver's name, photograph, and a unique identifier, after verifying:

(1) the person will serve as the registered caregiver for one registered patient only; and

(2) the person has never been convicted of a drug-related crime.

(b) Prior to acting on an application, the department shall obtain from the Vermont criminal information center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. For purposes of this subdivision, "criminal record" means a record of whether the person has ever been convicted of a drug-related crime. Each applicant shall consent to release of criminal records to the department on forms substantially similar to the release forms developed by the center pursuant to ~~section 2056c of Title 20~~ 20 V.S.A. § 2056c. The department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont criminal information center shall send to the requester any record received pursuant to this section or inform the department of public safety that no record exists. If the department disapproves an application, the department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont criminal information center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(c) A registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time.

#### § 4474a. REGISTRATION; FEES

(a) The department shall collect a fee of \$50.00 for the application authorized by sections 4473 and 4474 of this title. The fees received by the department shall be deposited into a registration fee fund and used to offset the costs of processing applications under this subchapter.

(b) A registration card shall expire one year after the date of issue, with the option of renewal, provided the patient submits a new application which is approved by the department of public safety, pursuant to section 4473 or 4474 of this title, and pays the fee required under subsection (a) of this section.

§ 4474b. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES;  
SEIZURE OF PROPERTY

(a) A person who has in his or her possession a valid registration card issued pursuant to this subchapter and who is in compliance with the requirements of this subchapter, including the possession limits in subdivision ~~4472(4)~~ 4472(10) of this title, shall be exempt from arrest or prosecution under subsection 4230(a) of this title.

(b) A physician who has participated in a patient's application process under subdivision 4473(b)(2) of this title shall not be subject to arrest, prosecution, or disciplinary action under chapter 23 of Title 26, penalized in any manner, or denied any right or privilege under state law, except for giving false information, pursuant to subsection 4474c(f) of this title.

(c) No person shall be subject to arrest or prosecution for constructive possession, conspiracy, or any other offense for simply being in the presence or vicinity of a registered patient or registered caregiver engaged in use of marijuana for symptom relief.

(d) A law enforcement officer shall not be required to return marijuana or paraphernalia relating to its use seized from a registered patient or registered caregiver.

(e) A dispensary may donate marijuana to another dispensary in Vermont provided that no consideration is paid for the marijuana and that the recipient does not exceed the possession limits specified in this subchapter.

§ 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS  
REGARDING THE USE OF MARIJUANA FOR SYMPTOM RELIEF

(a) This subchapter shall not exempt any person from arrest or prosecution for:

(1) Being under the influence of marijuana while:

(A) operating a motor vehicle, boat, or vessel, or any other vehicle propelled or drawn by power other than muscular power;

(B) in a workplace or place of employment; or

(C) operating heavy machinery or handling a dangerous instrumentality.

(2) The use or possession of marijuana by a registered patient or a registered caregiver:

(A) for purposes other than symptom relief as permitted by this subchapter; or

(B) in a manner that endangers the health or well-being of another person.

(3) The smoking of marijuana in any public place, including:

(A) a school bus, public bus, or other public vehicle;

(B) a workplace or place of employment;

(C) any school grounds;

(D) any correctional facility; or

(E) any public park, public beach, public recreation center, or youth center.

(b) This chapter shall not be construed to require that coverage or reimbursement for the use of marijuana for symptom relief be provided by:

(1) a health insurer as defined by ~~section 9402~~ subdivision 9402(7) of this title, or any insurance company regulated under Title 8;

(2) Medicaid, Vermont health access plan, and any other public health care assistance program;

(3) an employer; or

(4) for purposes of workers' compensation, an employer as defined in 21 V.S.A. § 601(3).

(c) A registered patient or registered caregiver who elects to grow marijuana to be used for symptom relief by the patient may do so only if the marijuana is cultivated in a single, secure indoor facility.

(d) A registered patient or registered caregiver may not transport marijuana in public unless it is secured in a locked container.

(e) Within 72 hours after the death of a registered patient, the patient's registered caregiver shall return to the department of public safety for disposal any marijuana or marijuana plants in the possession of the patient or registered caregiver at the time of the patient's death. If the patient did not have a registered caregiver, the patient's next of kin shall contact the department of public safety within 72 hours after the patient's death and shall ask the department to retrieve such marijuana and marijuana plants for disposal.

(f) Notwithstanding any law to the contrary, a person who knowingly gives to any law enforcement officer false information to avoid arrest or prosecution, or to assist another in avoiding arrest or prosecution, shall be imprisoned for not more than one year or fined not more than \$1,000.00 or both. This penalty shall be in addition to any other penalties that may apply for the possession or use of marijuana.

§ 4474d. LAW ENFORCEMENT VERIFICATION OF INFORMATION;  
RULEMAKING

(a) The department of public safety shall maintain and keep confidential, except as provided in subsection (b) of this section and except for purposes of a prosecution for false swearing under 13 V.S.A. § 2904, the records of all persons registered under this subchapter or registered caregivers in a secure database accessible by authorized department of public safety ~~employee's~~ employees only.

(b) In response to a person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution, the department may verify the identities and registered property addresses of the registered patient and the patient's registered caregiver, a dispensary, and the principal officer, board members, or employees of a dispensary.

(c) The department shall maintain a separate secure electronic database accessible to law enforcement personnel 24 hours a day that uses a unique identifier system to allow law enforcement to verify that a person or entity is a registered patient, ~~or a registered caregiver, a dispensary, or the principal officer, board members, or employees of a dispensary.~~

(d) The department of public safety shall implement the requirements of this act within 120 days of its effective date. The department may adopt rules under chapter 25 of Title 3 and shall develop forms to implement this act.

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and, to his or her registered caregiver, for the registered patient's medical use.

(A) Marijuana-infused products shall include tinctures, oils, solvents, and edible or potable goods. Only the portion of any marijuana-infused products that is attributable to marijuana shall count toward the possession limits of the dispensary and the patient.

(B) Marijuana-related supplies shall include pipes, vaporizers, and other items classified as drug paraphernalia under chapter 69 of this title.

(2) Acquire marijuana seeds or parts of the marijuana plant capable of regeneration from registered patients or their caregivers or from the other registered Vermont dispensary.

(3) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and two ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients, but need not be recognized as a tax-exempt organization by the Internal Revenue Service.

(2) A dispensary shall have a sliding scale fee system that takes into account a registered patient's ability to pay.

(c) A dispensary may not be located within 1,000 feet of the property line of a preexisting public or private school or licensed child care facility.

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana, and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of the dispensary who have valid registry identification cards. The department of public safety may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter, and may enter a dispensary at any time for such purpose. During an inspection, the department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

(2) Except as provided in subdivision (3) of this subsection, a registered patient or registered caregiver may obtain marijuana for therapeutic purposes from the dispensary facility by appointment only.

(3) A dispensary may deliver marijuana for therapeutic purposes to a registered patient or a registered caregiver. The dispensary shall take appropriate security measures to deter and prevent theft during a delivery, except that no person may possess or carry a firearm in the act of delivering or transporting marijuana for therapeutic purposes. Only employees of a dispensary may be present in a vehicle that is being used at the time of deliveries. In addition to the record keeping requirements of subdivision (1) of this subsection, records shall clearly track any marijuana that leaves the premises of a dispensary for delivery to a registered patient or a registered caregiver. A registered patient or a registered caregiver who receives a

delivery from a dispensary shall present his or her identification card to the person who makes the delivery, and shall sign for the delivery.

(4) The operating documents of a dispensary shall include procedures for the oversight of the dispensary and procedures to ensure accurate record keeping.

(5) A dispensary shall submit the results of an annual financial audit to the department of public safety no later than 60 days after the end of the dispensary's fiscal year. The annual audit shall be conducted by an independent certified public accountant, and the costs of any such audit shall be borne by the dispensary. The department may also periodically require, within its discretion, the audit of a dispensary's financial records by the department.

(6) A dispensary shall destroy or dispose of marijuana, marijuana-infused products, clones, seeds, parts of marijuana that are not usable for therapeutic purposes or are beyond the possession limits provided by this subchapter, and marijuana-infused supplies only in a manner approved by rules adopted by the department of public safety.

(e) A registered patient shall not consume marijuana for therapeutic purposes on dispensary property.

(f) No person who has been convicted of a drug-related offense or who has a pending charge of a drug-related offense shall be a principal officer, board member, or employee of a dispensary unless the department of public safety has determined that the person's conviction was for the medical use of marijuana or for assisting a registered patient with the medical use of marijuana.

(g)(1) A dispensary shall notify the department of public safety within 10 days of when a principal officer, board member, or employee ceases to be associated with or work at the dispensary. His or her registry identification card shall be deemed null and void, and the person shall be liable for any other penalties that may apply to the person's nonmedical use of marijuana.

(2) A dispensary shall notify the department of public safety in writing of the name, address, and date of birth of any proposed new principal officer, board member, or employee and shall submit a fee in an amount established by the department for a new registry identification card before a new employee begins working at the dispensary, and shall submit a complete set of fingerprints for the prospective principal officer, board member, or employee.



(h) A dispensary shall include labels on all marijuana that is dispensed. The labels shall identify the particular strain of marijuana contained therein. Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and shall reflect properties of the plant.

(i) Each dispensary shall develop, implement, and maintain on the premises employee policies and procedures to address the following requirements:

(1) A job description or employment contract developed for all employees which includes duties, authority, responsibilities, qualification, and supervision; and

(2) Training in and adherence to confidentiality laws.

(j) Each dispensary shall maintain a personnel record for each employee that includes an application for employment and a record of any disciplinary action taken. Each dispensary shall provide each employee, at the time of his or her initial appointment, training in the following:

(1) The proper use of security measures and controls that have been adopted; and

(2) Specific procedural instructions on how to respond to an emergency, including robbery or violent incident.

(k)(1) A dispensary or principal officer, board member, or employee of a dispensary shall not:

(A) Acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, sell, or dispense marijuana for any purpose except to assist registered patients with the medical use of marijuana directly or through the qualifying patients' designated caregiver.

(B) Acquire usable marijuana or marijuana plants from any source other than registered dispensary principal officers, board members, or employees who cultivate marijuana in accordance with this subchapter.

(C) Dispense more than two ounces of usable marijuana to a registered patient directly or through the qualifying patient's registered caregiver during a 30-day period. A principal officer, board member, or employee of a dispensary may dispense seeds or clones to a registered patient, provided that records are kept concerning the amount and the recipient.

(D) Dispense an amount of usable marijuana to a qualifying patient or a designated caregiver that the principal officer, board member, or employee knows would cause the recipient to possess more marijuana than is permitted under this subchapter.

(E) Dispense marijuana to a person other than a registered patient who has designated it or such patient's registered caregiver.

(2) A person found to have violated subdivision (1) of this subsection may no longer serve as a principal officer, board member, or employee of any dispensary, and such person's registry identification card shall be immediately revoked by the department of public safety.

(3) The board of a dispensary shall be required to report to the department of public safety any information regarding a person who violates this section.

(1)(1) A registered dispensary shall not be subject to the following:

(A) Prosecution for the acquisition, possession, cultivation, manufacture, delivery, transfer, transport, supply, sale, or dispensing of marijuana, marijuana-infused products, or marijuana-related supplies for medical purposes in accordance with the provisions of this subchapter and any rule adopted by the department of public safety pursuant to this subchapter.

(B) Inspection and search, except pursuant to this subchapter or upon a search warrant issued by a court or judicial officer.

(C) Seizure of marijuana, except upon valid order issued by a court or judicial officer.

(D) Imposition of any penalty or denied any right or privilege, including imposition of a civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for acting in accordance with this subchapter to assist registered patients or registered caregivers with the medical use of marijuana.

(2) No principal officer, board member, or employee of a dispensary shall be subject to arrest, prosecution, search, seizure, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for working for or with a dispensary to engage in acts permitted by this subchapter.

§ 4474f. DISPENSARY APPLICATION, APPROVAL AND REGISTRATION

(a)(1) The department of public safety shall adopt rules on the following:

(A) The form and content of dispensary registration and renewal applications.

(B) Minimum oversight requirements for a dispensary.

(C) Minimum record-keeping requirements for a dispensary.

(D) Minimum security requirements for a dispensary, which shall include a fully operational security alarm system. This provision shall apply to each location where marijuana will be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary, or distributed by the dispensary.

(E) Procedures for suspending or terminating the registration of a dispensary that violates the provisions of this subchapter or the rules adopted pursuant to this subchapter.

(F) The ability of a dispensary to advertise in any appropriate medium or manner.

(G) Procedures to guide reasonable determinations as to whether an applicant would pose a demonstrable threat to public safety if he or she were to be associated with a dispensary.

(2) The department of public safety shall adopt such rules with the goal of protecting against diversion and theft without imposing an undue burden on a registered dispensary or compromising the confidentiality of registered patients and their registered caregivers. Any dispensing records that a registered dispensary is required to keep shall track transactions according to registered patients' and registered caregivers' registry identification numbers, rather than the names, to protect confidentiality.

(b) Within 30 days of the adoption of rules, the department shall begin accepting applications for the operation of dispensaries. Within 180 days of the effective date of this section, the department shall grant registration certificates to two dispensaries, provided at least two applicants apply and meet the requirements of this section. Any time a dispensary registration certificate is revoked, is relinquished, or expires, the department shall accept applications for a new dispensary. If at any time after one year after the effective date of this section fewer than two dispensaries hold valid registration certificates in Vermont, the department of public safety shall accept applications for a new dispensary. No more than two dispensaries may hold valid registration certificates at one time. The total number of registered patients who have designated a dispensary shall not exceed 500 at any one time.

(c) Each application for a dispensary registration certificate shall include all of the following:

(1) A nonrefundable application fee in the amount of \$250.00 paid to the department of public safety.

(2) The legal name, articles of incorporation, and bylaws of the dispensary.

(3) The proposed physical address of the dispensary, if a precise address has been determined or, if not, the general location where it would be located.

(4) A description of the enclosed, locked facility where marijuana will be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary.

(5) The name, address, and date of birth of each principal officer and board member of the dispensary, and a complete set of fingerprints for each of them.

(6) Proposed security and safety measures, which shall include at least one security alarm system for each location and planned measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana.

(7) Proposed procedures to ensure accurate record keeping.

(d) Any time one or more dispensary registration applications are being considered, the department of public safety shall solicit input from registered patients and registered caregivers.

(e) Each time a dispensary certificate is granted, the decision shall be based on the overall health needs of qualified patients. The following factors shall weigh heavily in the consideration of an application:

(1) Geographic convenience to patients from throughout the state of Vermont to a dispensary if the applicant were approved.

(2) The entity's ability to provide an adequate supply to the registered patients in the state.

(3) The entity's ability to demonstrate its board members' experience running a nonprofit organization or business.

(4) The comments, if any, of registered patients and registered caregivers regarding which applicant should be granted a registration certificate.

(5) The sufficiency of the applicant's plans for record keeping, which records shall be considered confidential health care information under Vermont law and are intended to be deemed protected health care information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, as amended.

(6) The sufficiency of the applicant's plans for safety and security, including the proposed location and security devices employed.

(f) The department of public safety may deny an application for a dispensary if it determines that an applicant's criminal history record indicates

that the person's association with a dispensary would pose a demonstrable threat to public safety.

(g) After a dispensary is approved, but before it begins operations, it shall submit the following to the department of public safety:

(1) The legal name and articles of incorporation of the dispensary.

(2) The physical address of the dispensary.

(3) The name, address, and date of birth of each principal officer and board member of the dispensary, along with a complete set of fingerprints for each.

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD;  
CRIMINAL BACKGROUND CHECK

(a) Except as provided in subsection (b) of this section, the department of public safety shall issue each principal officer, board member, and employee of a dispensary a registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$25.00. A person shall not serve as principal officer, board member, or employee of a dispensary until that person has received a registry identification card issued under this section. Each card shall specify that the cardholder is a principal officer, board member, or employee of a dispensary and shall contain the following:

(1) The name, address, and date of birth of the person.

(2) The legal name of the dispensary with which the person is affiliated.

(3) A random identification number that is unique to the person.

(4) The date of issuance and the expiration date of the registry identification card.

(5) A photograph of the person.

(b) Prior to acting on an application for a registry identification card, the department of public safety shall obtain a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation on the applicant. Each applicant shall consent to the release of criminal history records to the department on forms substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056c.

(c) When the department of public safety obtains a criminal history record, the department shall promptly provide a copy of the record to the applicant and to the principal officer and board of the dispensary if the applicant is to be an employee. The department shall inform the applicant of the right to appeal the

accuracy and completeness of the record pursuant to rules adopted by the department.

(d) The department of public safety shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(e) The department of public safety shall not issue a registry identification card to any applicant who has been convicted of a drug-related offense or a violent felony or who has a pending charge for such an offense. For purposes of this subchapter, "violent felony" means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of chapter 64 of Title 13.

(f) The department of public safety shall adopt rules for the issuance of a registry identification card and set forth standards for determining whether an applicant should be denied a registry identification card because his or her criminal history record indicates that the person's association with a compassion center would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in subsection (e) of this section shall not automatically disqualify a person for a registry identification card. A dispensary may deny a person the opportunity to serve as a board member or an employee based on his or her criminal history record. An applicant who is denied a registry identification card may appeal the department of public safety's determination in superior court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) A registration identification card of a principal officer, board member, or employee shall expire one year after its issuance or upon the expiration of the registered organization's registration certificate, whichever occurs first.

#### § 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. The right of a registered patient to obtain marijuana for therapeutic purposes from a designated dispensary in compliance with this subchapter shall in no way limit the ability of the patient or his or her caregiver to grow marijuana for therapeutic purposes in compliance with this subchapter provided the patient or caregiver does not exceed the possession amounts provided in this subchapter. A registered patient who wishes to change his or her dispensary shall notify the department of public safety in writing on a form issued by the department and

shall submit with the form a fee of \$25.00. The department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 90-day period.

(b) The department of public safety shall track the number of registered patients who have designated each dispensary. The department shall issue a monthly written statement to the dispensary identifying the number of registered patients who have designated that dispensary and the registry identification numbers of each patient and each patient's designated caregivers, if any.

(c) In addition to the monthly reports, the department of public safety shall provide written notice to a dispensary whenever any of the following events occurs:

(1) A qualifying patient designates the dispensary to serve his or her needs under this subchapter.

(2) An existing registered patient revokes the designation of the dispensary because he or she has designated a different dispensary.

(3) A registered patient who has designated the dispensary loses his or her status as a registered patient under this subchapter.

(d) Nothing in this subchapter shall prevent a municipality from regulating the time, place, and manner of dispensary operation through zoning or other local ordinances.

#### § 4474i. CONFIDENTIALITY OF INFORMATION REGARDING DISPENSARIES AND REGISTERED PATIENTS

The confidentiality provisions in section 4474d of this title shall apply to records of all registered patients and registered caregivers within dispensary records in the department of public safety.

#### § 4474j. ANNUAL REPORT

(a)(1) There is established a marijuana for therapeutic purposes oversight committee. The committee shall be composed of the following members:

(A) one registered patient appointed by each dispensary;

(B) one registered nurse and one registered patient appointed by the governor;

(C) one physician appointed by the Vermont medical society;

(D) one member of a local zoning board appointed by the Vermont League of Cities and Towns; and

(E) the commissioner of the department of public safety or his or her designee.

(2) The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the general assembly regarding:

(A) The ability of qualifying patients and registered caregivers in all areas of the state to obtain timely access to marijuana for therapeutic purposes.

(B) The effectiveness of the registered dispensaries individually and together in serving the needs of qualifying patients and registered caregivers, including the provision of educational and support services.

(C) Sufficiency of the regulatory and security safeguards contained in this subchapter and adopted by the department of public safety to ensure that access to and use of cultivated marijuana is provided only to cardholders authorized for such purposes.

(D) The definition of “qualifying medical condition.”

(E) Research studies regarding health effects of marijuana for therapeutic purposes for patients.

(b) On or before January 1 of each year, beginning in 2012, the oversight committee shall provide a report to the department of public safety, the house committee on health care, the senate committee on health and welfare, the house and senate committees on judiciary, and the house and senate committees on government operations on its findings.

## **Sec. 2. DEPARTMENT OF PUBLIC SAFETY; IDENTIFICATION CARDS**

The department of public safety shall take measures to improve the quality and security of identification cards required pursuant to chapter 86 of Title 18. The department shall consider the feasibility of a “swipe card” that could be used by law enforcement or a dispensary.

## **Sec. 3. SURVEY**

(a) By July 1, 2011, the department of public safety shall develop a survey of patients registered to possess and use marijuana for therapeutic purposes and send the survey to such patients. The department shall request that patients return the survey by August 1, 2011.

(b) The survey shall make the following inquiries:



(1) Please describe your medical diagnosis and the “debilitating medical condition” that qualifies you to be a registered patient under Vermont law. Please describe the symptoms that are aided by your use of marijuana for therapeutic purposes.

(2) Please describe how much marijuana you typically use in one month for therapeutic purposes and the strain or strains of marijuana that you use or that are particularly helpful in alleviating symptoms of your medical condition.

(3) Would you purchase marijuana for therapeutic purposes from a state-regulated dispensary if it was available to you at an affordable price? How much do you typically spend in one month on marijuana for therapeutic purposes?

(c) The department of public safety shall clearly state on the survey that the information is being gathered solely for the purpose of assessing the needs of registered medical patients in order to facilitate a safer, more reliable means for patients to obtain marijuana for therapeutic purposes. The completed surveys will remain confidential and will not be subject to public inspection; however, summary information will be available as provided in subsection (d) of this section.

(d) The department of public safety shall summarize the survey responses in a manner that protects the identity of patients, providing information that will assist state decision-makers, the department of public safety, and potential dispensary applicants to better understand the needs of registered patients. This summary shall not be confidential and shall be provided with other information about the medical marijuana registry on the Vermont criminal information website. The department of public safety shall ensure that any patient identifiers are not included in the summary.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Government Operations, with the following amendments thereto:

First: In Sec. 1, 18 V.S.A. § 4474f(b), by striking out each of the four instances of the word “two” and inserting in lieu thereof in each instance the word four, and by striking out “500” and inserting in lieu thereof 1,000

Second: In Sec. 1, 18 V.S.A. § 4474f(c)(1), by striking out “\$250.00” and inserting in lieu thereof \$2,500.00

Third: In Sec. 1, 18 V.S.A. § 4474f(g), by adding a subdivision (4) to read as follows:

(4) An annual license fee of not more than \$32,000.00.

Fourth: In Sec. 1, 18 V.S.A. § 4474g(a), by striking out “\$25.00” and inserting in lieu thereof \$50.00

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Government Operations, as amended, with following amendments thereto:

First: In Sec. 1, by adding 18 V.S.A. § 4474k to read as follows:

§ 4474k. FEES; DISPOSITION

All fees collected by the department of public safety in a year relating to dispensaries and pursuant to this subchapter shall be deposited in the registration fee fund as referenced in section 4474a of this title.

Second: By adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. APPROPRIATION

The department of public safety shall receive an appropriation of \$156,500.00 from the registry fee fund in fiscal year 2012 for the performance of the department’s responsibilities under this act.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendations of amendment of the Committee on Government Operations were amended as recommended by the Committees on Finance and Appropriations.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, Senator White moved to amend the recommendation of the Committee on Government Operations, as amended, with the following amendments thereto:

First: In Sec. 1, 18 V.S.A. § 4474e(a)(1), by striking out the following: “deliver,”

Second: In Sec. 1, by striking out 18 V.S.A. § 4474e(d)(3) in its entirety and renumbering the remaining subdivisions

Third: In Sec. 1, 18 V.S.A. § 4474e(k)(1)(A), by striking out the following: “deliver,”

Fourth: In Sec. 1, 18 V.S.A. § 4474e(l)(1)(A), by striking out the following: “delivery.”

Fifth: In Sec. 1, 18 V.S.A. § 4474f(b), in the second sentence, by striking out the following: “180” and inserting in lieu thereof the following: 365

Sixth: In Sec. 1, 18 V.S.A. § 4474h(a), by striking out the second sentence in its entirety and inserting in lieu thereof the following: A registered patient and his or her caregiver may not grow marijuana for therapeutic purposes if the patient designates a dispensary.

Seventh: In Sec. 1, 18 V.S.A. § 4474j(a)(1) in subparagraph (D) after the following: “Towns;” and by striking out the word “and” and by striking out subparagraph (E) in its entirety and inserting in lieu thereof two new subparagraphs to be lettered (E) and (F) to read as follows:

(E) one representative appointed jointly by the Vermont sheriffs’ association and the Vermont association of chiefs of police; and

(F) the commissioner of public safety or his or her designee.

Eighth: By adding a new section to be numbered Sec. 2a to read as follows:  
Sec. 2a. REPORT FROM THE DEPARTMENT OF PUBLIC SAFETY

The department of public safety shall report to the general assembly no later than January 1, 2012 on the following:

(1) The actual and projected income and costs for administering this act.

(2) Recommendations for how dispensaries could deliver medical marijuana to registered patients and their caregivers in a safe manner.

(3) Whether prohibiting growing marijuana for therapeutic purposes by patients and their caregivers if the patient designates a dispensary interferes with patient access to marijuana for therapeutic purposes, and if so, recommendations for regulating the ability for patients and caregivers to grow marijuana at the same time the patient has designated a dispensary.

And that after passage of the bill that the title of the bill be amended to read:

An act relating to licensing a nonprofit organization to dispense marijuana for therapeutic purposes.

Which was agreed to.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, Senator Mullin moved to amend the recommendation of the Committee on Government Operations, as amended, with the following amendments thereto:

First: By adding a new section to be numbered Sec. 1a. to read as follows:

Sec. 1a. 18 V.S.A. § 4474h(a) is amended to read:

(a) A registered patient may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. ~~A registered patient and his or her caregiver may not grow marijuana for therapeutic purposes if the patient designates a dispensary~~ If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for therapeutic purposes from any source other than the designated dispensary. A registered patient who wishes to change his or her dispensary shall notify the department of public safety in writing on a form issued by the department and shall submit with the form a fee of \$25.00. The department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 90-day period.

Second: In Sec. 4 by striking out the following: "This" and inserting in lieu thereof the following: Sec. 1a of this act shall take effect July 1, 2014, and the remainder of the

Which was agreed to on a roll call, Yeas 24, Nays 5.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Benning, Brock, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Illuzzi, Kitchel, Kittell, Lyons, McCormack, Miller, Mullin, Nitka, Pollina, Snelling, Starr, White.

**Those Senators who voted in the negative were:** Hartwell, MacDonald, Mazza, Sears, Westman.

**The Senator absent or not voting was:** Campbell (presiding).

Thereupon, the recommendation of amendment of the Committee on Government Operations, as amended, was agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 25, Nays 4.

Senator Nitka having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Benning, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, McCormack, Miller, Mullin, Pollina, Sears, Snelling, Starr, Westman, White.

**Those Senators who voted in the negative were:** Brock, Illuzzi, Mazza, Nitka.

**The Senator absent or not voting was:** Campbell (presiding).

### **Third Reading Ordered**

#### **H. 172.**

Senator Benning, for the Committee on Institutions, to which was referred House bill entitled:

An act relating to repealing the sale or lease of the John F. Boylan airport.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

### **Adjournment**

On motion of Senator Carris, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

---

## **FRIDAY, APRIL 15, 2011**

The Senate was called to order by the President.

### **Devotional Exercises**

Devotional exercises were conducted by the Dr. Robert A. Potter of Peacham.

### **Bill Introduced**

Senate bill of the following title was introduced, read the first time and referred:

**S. 109.**

By Senator Galbraith,

An act relating to the creation of the Vermont Health Insurance Corporation.

To the Committee on Finance.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 24.**

An act relating to the maintenance and conveyance of Maidstone Lake Road.

To the Committee on Rules.

**H. 258.**

An act relating to public participation in environmental enforcement proceedings.

To the Committee on Rules.

**H. 448.**

An act relating to contributions to the state and municipal employees' retirement systems.

To the Committee on Rules.

**H. 450.**

An act relating to limited immunity from liability for job performance information disclosed to employers of individuals who work with minors or vulnerable adults.

To the Committee on Rules.

**Bill Passed**

Senate bill of the following title was read the third time and passed:

**S. 17.** An act relating to medical marijuana dispensaries.

**Third Reading Ordered****H. 52.**

Senator Baruth, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to the definition of poultry products.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

### **Bill Passed in Concurrence**

#### **H. 172.**

House bill entitled:

An act relating to repealing the sale or lease of the John F. Boylan airport.

Was taken up.

Thereupon, pending third reading of the bill, Senators Starr and Illuzzi moved that the Senate propose to the House to amend the bill by striking out Sec. 2 in its entirety and inserting in lieu thereof three new sections to be numbered Sec. 2, Sec. 3 and Sec. 4 to read as follows:

#### **Sec. 2. FINDINGS**

Two local civic leaders, John Boylan and John Worth, played instrumental roles in establishing a state airport in Island Pond (town of Brighton). However, in an effort to shorten the airport's name, John Worth was not recognized. This bill renames the "John H. Boylan Airport" in order to acknowledge properly the role of John Worth.

#### **Sec. 3. RENAMING OF JOHN H. BOYLAN AIRPORT**

The "John H. Boylan Airport" in Island Pond (town of Brighton) is renamed to be the "Boylan-Worth Airport." In fiscal year 2012, the agency of transportation shall replace any existing highway or on-site sign for the airport to reflect its renaming. Any highway sign replaced shall conform to the Federal Highway Administration's Manual on Uniform Traffic Control Devices.

#### **Sec. 4. EFFECTIVE DATE**

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by Senators Starr and Illuzzi?, Senator Starr requested and was granted leave to withdraw the recommendation of amendment.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence.

**Proposals of Amendment; Third Reading Ordered****H. 88.**

Senator Nitka, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to uniform child custody jurisdiction and enforcement.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 15 V.S.A. chapter 20 is added to read:

CHAPTER 20. UNIFORM CHILD CUSTODY  
JURISDICTION AND ENFORCEMENT

Subchapter 1. General Provisions

§ 1061. DEFINITIONS

As used in this chapter:

(1) “Abandoned” means left without provision for reasonable and necessary care or supervision.

(2) “Child” means an individual who has not attained 18 years of age.

(3) “Child custody determination” means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, or modification order. The term does not include an order relating to child support or other monetary obligation of an individual. The term includes “parental rights and responsibilities” and “parent child contact” as those terms are defined in section 664 of this title.

(4) “Child custody proceeding” means a proceeding in which legal custody or parental rights, physical custody, or visitation or parent child contact with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under subchapter 3 of this chapter.

(5) “Commencement” means the filing of the first pleading in a proceeding.

(6) “Court” means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.



(7) “Home state” means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(8) “Initial determination” means the first child custody determination concerning a particular child.

(9) “Issuing court” means the court that makes a child custody determination for which enforcement is sought under this chapter.

(10) “Issuing state” means the state in which a child custody determination is made.

(11) “Modification” means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(13) “Person acting as a parent” means a person, other than a parent, who:

(A) has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(B) has been awarded legal custody by a court or claims a right to legal custody under the law of Vermont.

(14) “Physical custody” means the physical care and supervision of a child.

(15) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) “Warrant” means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

§ 1062. PROCEEDINGS GOVERNED BY OTHER LAW

This chapter does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

§ 1063. APPLICATION TO INDIAN TRIBES; INTERNATIONAL APPLICATION

(a) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., is not subject to this chapter to the extent that it is governed by the Indian Child Welfare Act.

(b) A Vermont court shall treat a foreign country as if it were a state of the United States for the purpose of applying this subchapter and subchapter 2 of this chapter.

(c) Except as otherwise provided in subsection (d) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under subchapter 3 of this chapter.

(d) A Vermont court need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights.

§ 1064. EFFECT OF CHILD CUSTODY DETERMINATION

A child custody determination made by a Vermont court that had jurisdiction under this chapter binds all persons who have been served in accordance with the Vermont laws or notified in accordance with section 1066 of this title or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

§ 1065. PRIORITY

If a question of existence or exercise of jurisdiction under this chapter is raised in a child custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

§ 1066. NOTICE TO PERSONS OUTSIDE STATE

(a) Notice required for the exercise of jurisdiction when a person is outside Vermont may be given in a manner prescribed by the law of Vermont for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by the law of Vermont or by the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

§ 1067. APPEARANCE AND LIMITED IMMUNITY

(a) A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in Vermont for another proceeding or purpose solely by reason of having participated or of having been physically present for the purpose of participating in the proceeding.

(b) A person who is subject to personal jurisdiction in Vermont on a basis other than physical presence is not immune from service of process in Vermont. A party present in Vermont who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(c) The immunity granted by subsection (a) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in Vermont.

§ 1068. COMMUNICATION BETWEEN COURTS

(a) A Vermont court may communicate with a court in another state concerning a proceeding arising under this chapter.

(b) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they shall be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(c) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Except as otherwise provided in subsection (c) of this section, a record shall be made of a communication under this section. The parties shall be informed promptly of the communication and granted access to the record.

(e) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

§ 1069. TAKING TESTIMONY IN ANOTHER STATE

(a) A party to a child custody proceeding may, in addition to other procedures available to a party, offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or

other means allowable in Vermont for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(b) A Vermont court may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A Vermont court shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a Vermont court by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

#### § 1070. COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS

(a) A Vermont court may request the appropriate court of another state to:

(1) hold an evidentiary hearing;

(2) order a person to produce or give evidence pursuant to procedures of that state;

(3) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(4) forward to the Vermont court a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

(5) order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) Upon request of a court of another state, a Vermont court may hold a hearing or enter an order described in subsection (a) of this section.

(c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) of this section may be assessed against the parties according to Vermont law.

(d) A Vermont court shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

---

Subchapter 2. Jurisdiction§ 1071. INITIAL CHILD CUSTODY JURISDICTION

(a) Except as otherwise provided in section 1074 of this title, a Vermont court has jurisdiction to make an initial child custody determination only if:

(1) Vermont is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six months before the commencement of the proceeding and the child is absent from Vermont, but a parent or person acting as a parent continues to live in Vermont;

(2) A court of another state does not have jurisdiction under subdivision (1) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that Vermont is the more appropriate forum under section 1077 or 1078 of this title, and;

(A) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with Vermont other than mere physical presence; and

(B) substantial evidence is available in Vermont concerning the child's care, protection, training, and personal relationships;

(3) All courts having jurisdiction under subdivision (1) or (2) of this subsection have declined to exercise jurisdiction on the grounds that a Vermont court is the more appropriate forum to determine the custody of the child under section 1077 or 1078 of this title; or

(4) No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3) of this subsection.

(b) Subsection (a) of this section is the exclusive jurisdictional basis for making a child custody determination by a Vermont court.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

§ 1072. EXCLUSIVE; CONTINUING JURISDICTION

(a) Except as otherwise provided in section 1074 of this title, a Vermont court which has made a child custody determination consistent with section 1071 or 1073 of this title has exclusive, continuing jurisdiction over the determination until:

(1) a Vermont court determines that neither the child nor the child and one parent nor the child and a person acting as a parent have a significant connection with Vermont, and that substantial evidence is no longer available

in Vermont concerning the child's care, protection, training, and personal relationships; or

(2) a Vermont court or a court of another state determines that the child, the child's parents, and any person acting as a parent do not currently reside in Vermont.

(b) A Vermont court which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under section 1071 of this title.

#### § 1073. JURISDICTION TO MODIFY DETERMINATION

Except as otherwise provided in section 1074 of this title, a Vermont court may not modify a child custody determination made by a court of another state unless a Vermont court has jurisdiction to make an initial determination under subdivision 1071(a)(1) or (2) of this title and:

(1) the court of the other state determines it no longer has exclusive, continuing jurisdiction under section 1072 of this title or that a Vermont court would be a more convenient forum under section 1077 of this title; or

(2) a Vermont court or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not currently reside in the other state.

#### § 1074. TEMPORARY EMERGENCY JURISDICTION

(a) A Vermont court has temporary emergency jurisdiction if the child is present in Vermont, and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(b) If there is no previous child custody determination that is entitled to be enforced under this chapter, and a child custody proceeding has not been commenced in a court of a state having jurisdiction under sections 1071–1073 of this title, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 1071–1073 of this title. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 1071–1073 of this title, a child custody determination made under this section becomes a final determination, if it so provides, and Vermont becomes the home state of the child.

(c) If there is a previous child custody determination that is entitled to be enforced under this chapter, or a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 1071–1073

of this title, any order issued by a Vermont court under this section shall specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 1071–1073 of this title. The order issued in Vermont remains in effect until an order is obtained from the other state within the period specified or the period expires.

(d) A Vermont court which has been asked to make a child custody determination under this section upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under sections 1071–1073 of this title shall immediately communicate with the other court. A Vermont court which is exercising jurisdiction pursuant to sections 1071–1073 of this title, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section, shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

#### § 1075. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER

(a) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of section 1066 of this title shall be given to all persons entitled to notice under Vermont law as in child custody proceedings between Vermont residents, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(b) This chapter does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by Vermont law as in child custody proceedings between Vermont residents.

#### § 1076. SIMULTANEOUS PROCEEDINGS

(a) Except as otherwise provided in section 1074 of this title, a Vermont court may not exercise its jurisdiction under this subchapter if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a Vermont court is a more convenient forum under section 1077 of this title.

(b) Except as otherwise provided in section 1074 of this title, a Vermont court, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 1079 of this title. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the Vermont court shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the Vermont court is a more appropriate forum, the Vermont court shall dismiss the proceeding.

(c) In a proceeding to modify a child custody determination, a Vermont court shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(1) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(2) enjoin the parties from continuing with the proceeding for enforcement; or

(3) proceed with the modification under conditions it considers appropriate.

#### § 1077. INCONVENIENT FORUM

(a) A Vermont court which has jurisdiction under this chapter to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances, and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or a request of another court.

(b) Before determining whether it is an inconvenient forum, a Vermont court shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(1) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(2) the length of time the child has resided outside Vermont;

(3) the distance between the Vermont court and the court in the state that would assume jurisdiction;



(4) the relative financial circumstances of the parties;

(5) any agreement of the parties as to which state should assume jurisdiction;

(6) the nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(7) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(8) the familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If a Vermont court determines that it is an inconvenient forum, and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(d) A Vermont court may decline to exercise its jurisdiction under this chapter if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

#### § 1078. JURISDICTION DECLINED BY REASON OF CONDUCT

(a) Except as otherwise provided in section 1074 of this title or other Vermont law, if a Vermont court has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(2) a court of the state otherwise having jurisdiction under sections 1071–1073 of this title determines that Vermont is a more appropriate forum under section 1077 of this title; or

(3) no court of any other state would have jurisdiction under the criteria specified in sections 1071–1073 of this title.

(b) If a Vermont court declines to exercise its jurisdiction pursuant to subsection (a) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 1071–1073 of this title.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a) of this section, it may assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against Vermont unless authorized by law other than this chapter.

§ 1079. INFORMATION TO BE SUBMITTED TO COURT

(a) In accordance with Vermont law regarding the confidentiality of procedures, addresses, and other identifying information in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall state whether the party:

(1) has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;

(2) knows of any other proceeding that could affect the current proceeding, including any proceeding for enforcement and any proceeding relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and

(3) knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of or visitation with the child and, if so, give the names and addresses of those persons.

(b) If the information required by subsection (a) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(c) If the declaration as to any of the items described in subdivisions (a)(1)–(3) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and

other matters pertinent to the court's jurisdiction and the disposition of the case.

(d) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

(f) As used in the section, the term "party" shall not include, in a proceeding under chapter 51 or 53 of Title 33, a state's attorney, the commissioner for children and families, or the child.

#### § 1080. APPEARANCE OF PARTIES AND CHILD

(a) In a child custody proceeding in Vermont, the court may order a party to the proceeding who is in Vermont to appear before the court in person with or without the child. The court may order any person who is in Vermont and who has physical custody or control of the child to appear in person with the child.

(b) If a party to a child custody proceeding whose presence is desired by the court is outside Vermont, the court may order that a notice given pursuant to section 1066 of this title include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(d) If a party to a child custody proceeding who is outside Vermont is directed to appear under subsection (b) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

#### Subchapter 3. Enforcement

#### § 1081. DEFINITIONS

As used in this subchapter:

(1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of

International Child Abduction or enforcement of a child custody determination.

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

#### § 1082. ENFORCEMENT UNDER HAGUE CONVENTION

Under this subchapter, a Vermont court may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

#### § 1083. DUTY TO ENFORCE

(a) A Vermont court shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and if the determination has not been modified in accordance with this chapter.

(b) A Vermont court may utilize any remedy available under Vermont law to enforce a child custody determination made by a court of another state. The remedies provided in this subchapter are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

#### § 1084. TEMPORARY VISITATION

(a) A Vermont court which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(1) a visitation schedule made by a court of another state; or

(2) the visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(b) If a Vermont court makes an order under subdivision (a)(2) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in subchapter 2 of this chapter. The order remains in effect until an order is obtained from the other court or until the period expires.

#### § 1085. REGISTRATION OF CHILD CUSTODY DETERMINATION

(a) A child custody determination issued by a court of another state may be registered in Vermont, with or without a simultaneous request for enforcement, by sending to the family division of the superior court in the county in which a person listed in subdivision (3) of this subsection or the child resides:

(1) a letter or other document requesting registration;

(2) two copies, including one certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(3) except as otherwise provided in section 1079 of this title, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a) of this section, the court administrator shall:

(1) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(2) serve notice upon the persons named pursuant to subdivision (a)(3) of this section and provide them with an opportunity to contest the registration in accordance with this section.

(c) The notice required by subdivision (b)(2) of this section shall state that:

(1) a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a Vermont court;

(2) a hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and

(3) failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(d) A person seeking to contest the validity of a registered order must request a hearing before the court in the county in which such person or the child resides within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(1) the issuing court did not have jurisdiction under subchapter 2 of this chapter;

(2) the child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under subchapter 2 of this chapter; or

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 1066 of this title in

the proceedings before the court that issued the order for which registration is sought.

(e) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law, and the person requesting registration and all persons served shall be notified of the confirmation.

(f) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

#### § 1086. ENFORCEMENT OF REGISTERED DETERMINATION

(a) A Vermont court may grant any relief normally available under Vermont law to enforce a registered child custody determination made by a court of another state.

(b) A Vermont court shall recognize and enforce but may not modify, except in accordance with subchapter 2 of this chapter, a registered child custody determination of a court of another state.

#### § 1087. SIMULTANEOUS PROCEEDINGS

If a proceeding for enforcement under this subchapter is commenced in a Vermont court and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under subchapter 2 of this chapter, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement shall continue unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

#### § 1088. EXPEDITED ENFORCEMENT OF CHILD CUSTODY DETERMINATION

(a) A petition under this subchapter shall be verified. Certified copies of all orders sought to be enforced and of any order confirming registration shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination shall state:

(1) whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(2) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under

this chapter and, if so, identify the court, the case number, and the nature of the proceeding;

(3) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

(4) the present physical address of the child and the respondent, if known;

(5) whether relief in addition to the immediate physical custody of the child and in addition to attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

(6) if the child custody determination has been registered and confirmed under section 1085 of this title, the date and place of registration.

(c) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) An order issued under subsection (c) of this section shall state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and will order the payment of fees, costs, and expenses under section 1092 of this title, and the order may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(1) the child custody determination has not been registered and confirmed under section 1085 of this title and:

(A) the issuing court did not have jurisdiction under subchapter 2 of this chapter;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under subchapter 2 of this chapter; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of section 1066 of this title, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 1084 of this title but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under subchapter 2 of this chapter.

(e) Except as otherwise provided in section 1090 of this title, the petition and order shall be served by any method authorized by Vermont law upon the respondent and any person who has physical custody of the child.

#### § 1089. HEARING AND ORDER

(a) Unless the court issues a temporary emergency order pursuant to section 1074 of this title, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) the child custody determination has not been registered and confirmed under section 1085 of this title and that:

(A) the issuing court did not have jurisdiction under subchapter 2 of this chapter;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under subchapter 2 of this chapter; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of section 1066 of this title, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 1085 of this title but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under subchapter 2 of this chapter.

(b) The court may award the fees, costs, and expenses authorized under section 1091 of this title and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(c) If a party called to testify refuses to answer on the grounds that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this subchapter.



---

§ 1090. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD

(a) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or to be removed from Vermont.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or to be removed from Vermont, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by subsection 1088(b) of this title.

(c) A warrant to take physical custody of a child shall:

(1) recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(2) direct law enforcement officers to take physical custody of the child immediately; and

(3) provide for the placement of the child pending final relief.

(d) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout Vermont. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(f) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

§ 1091. COSTS, FEES, AND EXPENSES

(a) The court may award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care expenses during the course of the proceedings.

(b) The court shall not assess fees, costs, or expenses against a state unless authorized by law other than this chapter.

§ 1092. RECOGNITION AND ENFORCEMENT; APPEALS

(a) A Vermont court shall accord full faith and credit to an order issued by another state and consistent with this chapter which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under subchapter 2 of this chapter.

(b) An appeal may be taken from a final order in a proceeding under this subchapter in accordance with the Vermont Rules of Appellate Procedure. Unless the court enters a temporary emergency order under section 1074 of this title, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

§ 1093. ROLE OF ATTORNEY GENERAL; ROLE OF LAW ENFORCEMENT

(a) In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the attorney general or a state's attorney may take any lawful action, including resort to a proceeding under this subchapter or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

(1) an existing child custody determination;

(2) a request to do so from a court in a pending child custody proceeding;

(3) a reasonable belief that a criminal statute has been violated; or

(4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) The attorney general or a state's attorney acting under this section acts on behalf of the court and shall not represent any party.

(c) At the request of the attorney general or a state's attorney acting under this section, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist the attorney general or state's attorney with responsibilities under this section.

§ 1094. COSTS AND EXPENSES

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the attorney general or state's attorney and law enforcement officers under section 1093 of this title.

---

Subchapter 4. Miscellaneous Provisions§ 1095. APPLICATION AND CONSTRUCTION

In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 1096. EFFECTIVE DATE AND TRANSITIONAL PROVISION

This chapter shall take effect July 1, 2011. A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination which was commenced before the effective date of this chapter is governed by the law in effect at the time the motion or other request was made.

Sec. 2. 4 V.S.A. § 33 is amended to read:

§ 33. JURISDICTION; FAMILY DIVISION

Notwithstanding any other provision of law to the contrary, the family division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:

\* \* \*

(7) All uniform child custody proceedings filed pursuant to chapter ~~19~~ 20 of Title 15.

\* \* \*

Sec. 3. 15 V.S.A. § 665 is amended to read:

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

\* \* \*

(e) The jurisdiction granted by this section shall be limited by the Uniform Child Custody Jurisdiction and Enforcement Act, if another state has jurisdiction as provided in that act. For the purposes of interpreting that act and any other provision of law which refers to a custodial parent, including but not limited to 13 V.S.A. § 2451, the parent with physical responsibility shall be considered the custodial parent.

Sec. 4. REPEAL

Chapter 19 of Title 15 (Uniform Child Custody Jurisdiction Act) is repealed.

**Sec. 5. EFFECTIVE DATE**

This act shall take effect on July 1, 2011.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Flory and Nitka, moved that the Senate propose to the House that the bill be amended as follows:

First: In Sec. 1, 15 V.S.A. § 1061, by adding a new subdivision to be numbered subdivision (17) to read as follows:

(17) “with or without the child” means that the court may order that the child be represented by an attorney or guardian ad litem.

Second: In Sec. 1, 15 V.S.A. § 1067, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) The immunity granted by subsection (a) of this section shall not:

(1) extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in Vermont; or

(2) be construed to prevent the arrest of a person pursuant to a valid warrant.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

**Rules Suspended; Bills Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**S. 17, H. 172.**

**Message from the House No. 49**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

---

The House has passed House bills of the following titles:

**H. 21.** An act relating to the Uniform Limited Cooperative Association Act.

**H. 438.** An act relating to the department of banking, insurance, securities, and health care administration.

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

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 131.** House concurrent resolution congratulating the 2011 Woodstock Union High School Wasps on winning their second consecutive Division II boys' Nordic skiing championship.

**H.C.R. 132.** House concurrent resolution recognizing the South End Arts and Business Association on its 25th anniversary.

**H.C.R. 133.** House concurrent resolution honoring Attorney Timothy J. O'Connor, Jr., of Brattleboro for his 50 years of dedication to the law and to those whom it serves and protects.

**H.C.R. 134.** House concurrent resolution honoring Major Lynn Currier and Sergeant First Class Lisa Currier on their quarter-century of meritorious National Guard service.

**H.C.R. 135.** House concurrent resolution congratulating the town of Springfield on its 250th anniversary.

**H.C.R. 136.** House concurrent resolution congratulating the 2010 Randolph Union High School Ghosts championship Division III girls' cross-country team.

**H.C.R. 137.** House concurrent resolution recognizing the underlying importance of Vermont Crime Victims Rights Week and of assisting the victims and survivors of crimes.

**H.C.R. 138.** House concurrent resolution honoring Virginia Coursen for her volunteer leadership at Bellows Falls Union High School and in community youth programs.

**H.C.R. 139.** House concurrent resolution commemorating the 125th anniversary of the New England Association of Schools and Colleges.

**H.C.R. 140.** House concurrent resolution congratulating the Essex High School Hornets' sixth consecutive championship girls' gymnastics team.

**H.C.R. 141.** House concurrent resolution congratulating the 2010 Randolph Union High School Ghosts Division III championship softball team.

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

The Governor has informed the House that on the April 15, 2011, he approved and signed a bill originating in the House of the following title:

**H. 236.** An act relating to extending the limitation of prosecutions for sexual abuse of a vulnerable adult.

### **House Concurrent Resolutions**

The following joint concurrent resolution having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were by rule adopted in concurrence:

By Senators Campbell, McCormack and Nitka,

By Representative Clarkson,

#### **H.C.R. 131.**

House concurrent resolution congratulating the 2011 Woodstock Union High School Wasps on winning their second consecutive Division II boys' Nordic skiing championship.

By Senators Baruth, Fox, Lyons, Miller and Snelling,

By Representatives Wizowaty and Donovan,

#### **H.C.R. 132.**

House concurrent resolution recognizing the South End Arts and Business Association on its 25th anniversary.

By Senators Galbraith and White,

By Representative Partridge and others,

#### **H.C.R. 133.**

House concurrent resolution honoring Attorney Timothy J. O'Connor, Jr., of Brattleboro for his 50 years of dedication to the law and to those whom it serves and protects.

By Representatives Donahue and Grad,

#### **H.C.R. 134.**

House concurrent resolution honoring Major Lynn Currier and Sergeant First Class Lisa Currier on their quarter-century of meritorious National Guard service.

---

By Senators Campbell, McCormack and Nitka,

By Representatives Martin and Emmons,

**H.C.R. 135.**

House concurrent resolution congratulating the town of Springfield on its 250th anniversary.

By Representatives French and Townsend,

**H.C.R. 136.**

House concurrent resolution congratulating the 2010 Randolph Union High School Ghosts championship Division III girls' cross-country team.

By Representative Wizowaty and others,

**H.C.R. 137.**

House concurrent resolution recognizing the underlying importance of Vermont Crime Victims Rights Week and of assisting the victims and survivors of crimes.

By Senators Galbraith and White,

By Representative Partridge and others,

**H.C.R. 138.**

House concurrent resolution honoring Virginia Coursen for her volunteer leadership at Bellows Falls Union High School and in community youth programs.

By Representative Heath,

**H.C.R. 139.**

House concurrent resolution commemorating the 125th anniversary of the New England Association of Schools and Colleges.

By Representative Myers and others,

**H.C.R. 140.**

House concurrent resolution congratulating the Essex High School Hornets' sixth consecutive championship girls' gymnastics team.

By Representatives French and Townsend,

**H.C.R. 141.**

House concurrent resolution congratulating the 2010 Randolph Union High School Ghosts Division III championship softball team.

**Adjournment**

On motion of Senator Campbell, the Senate adjourned, to reconvene on Monday, April 18, 2011, at eleven o'clock and thirty minutes in the forenoon pursuant to J.R.S. 27.

---

**MONDAY, APRIL 18, 2011**

The Senate was called to order by the President.

**Adjournment**

On motion of Senator Campbell, the Senate adjourned until four o'clock and thirty minutes in the afternoon on Tuesday, April 19, 2011.

---

**TUESDAY, APRIL 19, 2011**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Nancy McHugh of Waitsfield.

**Pledge of Allegiance**

The President then led the members of the Senate in the pledge of allegiance.

**Message from the Governor**

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the eighteenth of April, 2011 he approved and signed a bill originating in the Senate of the following title:

**S. 12.** An act relating to adding a member from the area agencies on aging to the governor's commission on Alzheimer's disease and related disorders.

**Message from the House No. 50**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:



The House has passed House bills of the following titles:

**H. 42.** An act relating to employment decisions based on credit information.

**H. 185.** An act relating to regulating fees and charges for propane gas.

**H. 452.** An act relating to establishing the boundary line between the towns of Shelburne and St. George.

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

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

**S. 31.** An act relating to the Agreement Among the States to Elect the President by National Popular Vote.

And has passed the same in concurrence.

### **Recess**

On motion of Senator Campbell the Senate recessed until five o'clock in the afternoon.

### **Called to Order**

At five o'clock in the afternoon the Senate was called to order by the President.

### **Rules Suspended; Bills Committed**

#### **H. 287.**

On motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to job creation and economic development.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Economic Development, Housing and General Affairs, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Economic Development, Housing and General Affairs *intact*,

Which was agreed to.

#### **H. 446.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to capital construction and state bonding.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Institutions, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Institutions *intact*,

Which was agreed to.

#### **H. 443.**

On motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to the state's transportation program.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Transportation, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Transportation *intact*,

Which was agreed to.

#### **Recess**

The Chair declared a recess until the fall of the gavel.

#### **Called to Order**

The Senate was called to order by the President.

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

#### **H. 443.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to the state's transportation program.

Was taken up for immediate consideration.

Senator Mazza, for the Committee on Transportation, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

## Sec. 1. TRANSPORTATION PROGRAM

(a) The state's proposed fiscal year 2012 transportation program appended to the agency of transportation's proposed fiscal year 2012 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

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

(1) "agency" means the agency of transportation;

(2) "secretary" means the secretary of transportation;

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

(4) "TIB debt service fund" refers to the transportation infrastructure bonds debt service fund established in 32 V.S.A. § 951a; and

(5) "TIB funds" refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f.

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

## Sec. 2. TOWN HIGHWAY BRIDGE

The following modifications are made to the town highway bridge program:

(1) Development and engineering funding for the Fairfield BRO 1448(22) project in the amount of \$16,000.00 in federal funds, \$2,000.00 in transportation funds, and \$2,000.00 in local funds is deleted.

(2) A new project is added for the reconstruction or replacement of bridge #48 on TH 30 over Wanzer Brook in the town of Fairfield. Development and evaluation spending in the amount of \$16,000.00 in federal funds, \$2,000.00 in transportation funds, and \$2,000.00 in local funds is authorized for the project.

(3) Authorized spending on the Brattleboro-Hinsdale BRF 2000(19)SC project is amended to read:

<u>FY12</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	0	-100,000
ROW	75,000	0	-75,000
Construction	0	0	0
Total	175,000	0	-175,000

Sources of funds

State	0	0	0
TIB fund	35,000	0	-35,000
Federal	140,000	0	-140,000
Local	0	0	0
Total	175,000	0	-175,000

(4) Authorized spending on the Stratton culvert TH3 0103 project is amended to read:

<u>FY12</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	40,000	40,000	0
ROW	0	0	0
Construction	0	0	0
Total	40,000	40,000	0

Sources of funds

State	36,000	1,000	-35,000
TIB fund	0	35,000	35,000
Federal	0	0	0
Local	4,000	4,000	0
Total	40,000	40,000	0

\* \* \* Park and Ride \* \* \*

## Sec. 2a. PROGRAM DEVELOPMENT – PARK AND RIDE

Authorized spending on the municipal park and ride program within the program development — park and ride program is amended to read:

<u>FY12</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	250,000	300,000	50,000
Total	250,000	300,000	50,000

Sources of funds

State	250,000	300,000	50,000
Total	250,000	300,000	50,000

\* \* \* Town Highway Emergency Fund \* \* \*

## Sec. 2b. TOWN HIGHWAY EMERGENCY FUND

Authorized spending on the town highway emergency program is amended to read:

<u>FY12</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	750,000	735,000	-15,000
Total	750,000	735,000	-15,000

Sources of funds

---

State	750,000	735,000	-15,000
Total	750,000	735,000	-15,000

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

## Sec. 3. RAIL

The following modification is made to the rail program: A new project is added to upgrade the western rail corridor to the standards required to support 286,000 pound freight traffic and inter-city passenger rail service. The western rail corridor includes connections from points in New York to the corridor between Bennington, Rutland, Burlington, Essex Junction, and St. Albans to points in Canada.

Sec. 4. Sec. 18 of No. 164 of the Acts of 2007 Adj. Sess. (2008) is amended to read:

## Sec. 18. RAIL

The following modifications are made to the rail program:

(1) Authorized spending on the three-way partnership program is amended to read as follows. ~~In future budget years, funding for the program shall be limited to the costs of specific projects.~~

\* \* \*

\* \* \* Vermont Local Roads \* \* \*

## Sec. 5. TOWN HIGHWAY VERMONT LOCAL ROADS

Authorized spending on the Vermont local roads program is amended to read:

<u>FY12</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	375,000	390,000	15,000
Total	375,000	390,000	15,000
<u>Sources of funds</u>			
State	235,000	235,000	0
Federal	140,000	155,000	15,000
Total	375,000	390,000	15,000

\* \* \* Bike and Pedestrian Facilities \* \* \*

## Sec. 6. PROGRAM DEVELOPMENT – BIKE AND PEDESTRIAN FACILITIES

The following modification is made to the program development – bike and pedestrian facilities program: Notwithstanding the authorized project or activity spending approved for the bike and pedestrian program, the secretary shall transfer \$10,000.00 in transportation funds authorized for spending within

the program to the Vermont Association of Snow Travelers (VAST) for expenditure on the Lamoille Valley Rail Trail project, STP LVRT(1). VAST may use these funds to satisfy a portion of the local match requirement for the federal earmark for this project, and shall provide the agency an accounting of its use of the funds by June 30, 2012.

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

#### Sec. 7. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2012, the amount of \$1,120,000.00 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

\* \* \* Cancellation of Projects \* \* \*

#### Sec. 8. CANCELLATION OF PROJECTS

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

(1) Program development — interstate bridges:

(A) Berlin-Montpelier IM 089-1(17) (rehabilitation of bridges #36N&S, #37N&S, #38N&S, #39, #40N&S, and #41N&S on I-89);

(B) Bethel-Williamstown IR 089-1(12) (deck replacement and structural improvements to several bridges on I-89);

(C) Middlesex-Waterbury IR 089-2(16) (deck replacement and structural improvements to several bridges on I-89);

(D) Brattleboro IR 091-1(23) (at PE and/or ROW phase) (deck replacement on bridges #9N&S on I-91);

(E) Colchester-Highgate IM IR 089-3(18) (at PE and/or ROW phase) (deck replacement and substructure improvements to several bridges on I-89);

(F) Vernon-Putney IR 091-1(17) (at PE and/or ROW phase) (deck replacement and substructure improvements on several bridges along I-91);

(G) Guilford-Brattleboro IM 091-1(32) (proposed) (rehabilitation of bridges #2N&S, #4N&S, #5N&S, #7, #11N&S, and #12 on I-91);

(H) Hartford-Newbury IM 091-2(68) (proposed) (rehabilitation of bridges #45N&S, #46, #47N&S, #48N&S, #49N&S, and #51N&S on I-91);

(I) Hartford-Sharon-Royalton IR 089-1(10) (proposed) (deck replacement and structural improvements to several interstate bridges);

(J) Milton IM 089-3( ) (proposed) (rehabilitation of bridges #82, #84N&S, #85, #89, #90, #91, #92N&S, and #93 on I-89);

(K) Richmond IM 089-2(27) (proposed) (rehabilitation of bridges #52N&S, #53N&S, #54, #55N&S, #56N&S, and #57N&S on I-89);

(L) Rockingham-Weathersfield IR 091-1(24) (proposed) (replacement and substructure improvements to several bridges on I-91);

(M) Sharon-Royalton IR 089-1(9) (proposed) (deck replacement and substructure improvements to several bridges on I-89); and

(N) Windsor-Hartland IR 091-1(21) (proposed) (deck replacement and substructure improvements to several bridges on I-91).

(2) Program development — state highway bridges:

(A) Middlebury BHF 5900(4) (rehabilitation of bridge #2 on Merchants Row (TH 8) over Vermont Railway);

(B) Middlebury BHF 0161(9) (rehabilitation of bridge #102 on VT 30 over Vermont Railway);

(C) Plymouth BRS 0149(3)S (replacement of bridge #8 on VT 100A over Hollow Brook; at PE and/or ROW phase).

(3) Town highway bridges:

(A) Readsboro BRO 1441(28) (replacement of bridge #21 on TH 4 over the West Branch of the Deerfield River);

(B) Fairfield BRO 1448(22) (replacement of bridge #48 on TH 30 over Wanzer Brook; at PE and/or ROW phase);

(C) Northfield BRO 1446(25) (replacement of bridge #50 on TH 25 over Stoney Brook; at PE and/or ROW phase).

(4) Program development — roadway:

(A) Bennington M 1000(10) (VT 67A) (district has constructed some improvements to intersection);

(B) Bridgewater-Woodstock NH 020-2(33)S (US 4) (project scope defined before adoption of Vermont design standards in 1997);

(C) Cavendish STP 0146(9) SC (VT 131) (Cavendish selectboard supports cancellation of project but would like some signage improvements to enhance safety);

(D) Cavendish-Ludlow NH-F 025-1(30) (VT 103) (FHWA requested VTrans to close this project in 2007);

(E) Concord-Lunenburg STP 0218( ) SC (TH 4) (project set up for scoping in 1997 but no funds were ever programmed);

(F) Dorset-Wallingford NH 019-2(20) SC (US 7) (project set up for scoping only and scoping report was completed in 1997);

(G) Dover STP 013-1(12) SC (VT 100) (project set up for scoping only and scoping report was completed in 1997);

(H) Duxbury STP F 013-4(11)S (VT 100) (project scope defined before adoption of Vermont design standards in 1997);

(I) Hartford-Newbury IM 019-2(70) (I-91 drainage/fence) (high-priority safety projects have been completed along this segment of I-91);

(J) Hinesburg STP 0199( ) SC (TH 4/FAS 0199) (project set up for scoping in 1997 but no funds were ever programmed);

(K) Killington STP 022-1(19) SC (VT 100) (project set up for scoping only and the scoping report was completed in 1997);

(L) Marlboro NH F 010-1(25) (VT 9) (project scope defined before adoption of Vermont design standards in 1997);

(M) Newbury STP 026-2( ) (US 302) (origination of project unknown; project has not been programmed with any funds);

(N) Pownal-Bennington F 019-1(16)C/1 (US 7) (project scope defined before adoption of Vermont design standards in 1997);

(O) Pownal-Bennington F 019-1(16)C/2 (US 7) (project scope defined before adoption of Vermont design standards in 1997);

(P) Readsboro-Whitingham STP RS 0102(13) (VT 100) (project scope defined before adoption of Vermont design standards in 1997);

(Q) Ryegate-St. Johnsbury IM 091-2(74) (I-91 drainage/fence) (high-priority safety projects have been completed along this segment of I-91);

(R) Ryegate-St. Johnsbury IM 091-2(75) (I-91 guardrail/ledge) (high-priority safety projects have been completed along this segment of I-91);

(S) St. Johnsbury-Lyndon IM 091-3(43) (I-91 drainage/fence) (high-priority safety projects have been completed along this segment of I-91);

(T) St. Johnsbury-Lyndon IM 091-3(44) (I-91 guardrail/ledge) (high-priority safety projects have been completed along this segment of I-91);

(U) Townshend STP 015-1(19)S (VT 30) (project set up in 1999 to modify the glare barrier and landscape in the vicinity of BR 3 on VT 30; no design activity or local interest in project since inception);

(V) Vergennes ST 017-1( )S (VT 22A) (VTrans granted city funds to reconstruct and city contracted the work out);



(W) Waitsfield-Moretown-Duxbury STP F 013-4(12)S (VT 100) (project scope defined before adoption of Vermont design standards in 1997);

(X) Wallingford F 025-1(31) (VT 103) (project scope defined before adoption of Vermont design standards in 1997);

(Y) Waterford IM 093-1(11) (I-93 drainage/fence) (high-priority safety projects completed along this segment of I-93);

(Z) Waterford IM 093-1(12) (I-93 guardrail/ledge) (high-priority safety projects completed along this segment of I-93); and

(AA) Williamstown STP RS 0204(3) (VT 64).

\* \* \* FY 2012 Western Rail Corridor Improvements \* \* \*

Sec. 9. WESTERN RAIL CORRIDOR GRANT APPLICATION; FY 2012 CONTINGENT BONDING AUTHORITY

(a) The general assembly finds that intercity passenger rail along Vermont's western rail corridor is of critical importance to the transportation mobility and economic prosperity of the state. The western rail corridor includes connections from points in New York to the corridor between Bennington, Rutland, Burlington, Essex Junction, and St. Albans to points in Canada.

(b) The agency is encouraged to apply for a federal grant to cover, in whole or in part, the cost of upgrading the state's western rail corridor for intercity passenger rail service. In the grant application, the agency is authorized to identify the bonds authorized by this section as a source of state match funds. Upon its completion, the agency shall send an electronic copy of the grant application to the joint fiscal office.

(c) In the event the state is awarded a federal grant as referenced in subsection (b) of this section, the treasurer is authorized in fiscal year 2012 to issue transportation infrastructure bonds in an amount up to \$15,000,000.00 for the purpose of providing any state matching funds required by the federal grant. The treasurer is authorized to increase the issue of transportation infrastructure bonds in the event the treasurer determines that:

(1) the creation and funding of a permanent debt service reserve is advisable to support the successful issuance of the transportation infrastructure bonds; and

(2) the balance of the TIB fund and the TIB debt service fund as of the end of fiscal year 2011 is insufficient to fund such a permanent debt service reserve.

(d) In the event the state is awarded a federal grant as referenced in subsection (b) of this section:

(1) authority to spend the federal grant funds is added to the fiscal year 2012 transportation program – rail program and the amount of federal funds awarded is appropriated to the fiscal year 2012 transportation – rail program; and

(2) if transportation infrastructure bonds are issued pursuant to subsection (c) of this section to fund the project, authority to spend the bond proceeds on the project in an amount needed to match the federal funds authorized in subdivision (d)(1) of this subsection is added to the 2012 fiscal year transportation program – rail program and that amount is appropriated to the fiscal year 2012 transportation – rail program.

#### Sec. 10. FISCAL YEAR END 2011 TRANSPORTATION FUND SURPLUS

Subject to the funding of the transportation fund stabilization reserve in accordance with 32 V.S.A. § 308a and notwithstanding 32 V.S.A. § 308c (transportation fund surplus reserve), any surplus in the transportation fund as of the end of fiscal year 2011 up to a maximum amount of \$1,000,000.00 may be transferred to the TIB debt service fund by order of the secretary of transportation, with the approval of the secretary of administration, for the purpose of providing the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds that may be issued pursuant to the authority granted in Sec. 9 of this act, to pay the issuance costs of such bonds, or to pay debt service obligations due on such bonds in fiscal years 2012 and 2013.

#### Sec. 11. FISCAL YEAR END 2011 TIB FUND SURPLUS

Any surplus in the transportation infrastructure bond fund as of the end of fiscal year 2011 up to a maximum amount of \$1,000,000.00 may be transferred to the TIB debt service fund by order of the secretary of transportation, with the approval of the secretary of administration, for the purpose of providing the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds that may be issued pursuant to the authority granted in Sec. 9 of this act, to pay the issuance costs of such bonds, or to pay debt service obligations due on such bonds in fiscal years 2012 and 2013.

#### Sec. 12. AUTHORITY TO REDUCE FISCAL YEAR 2011 APPROPRIATIONS

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority in the fiscal year 2011 transportation program, the secretary of transportation, with the approval of the secretary of administration and subject to the provisions of subsection (b) of this section, may reduce

fiscal year 2011 transportation fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, or TIB fund appropriations, and transfer in fiscal year 2011 the amount of the reductions to the TIB debt service fund for the purpose of providing the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds that may be issued pursuant to the authority granted in Sec. 9 of this act, to pay the issuance costs of such bonds, or to pay debt service obligations due on such bonds in fiscal years 2012 and 2013.

(b) The secretary's authority under subsection (a) of this section to reduce appropriations is limited to appropriations, the reduction of which, by itself, will not have the effect of significantly delaying the planned fiscal year 2011 work schedule of a project which formed the basis of the project's funding in fiscal year 2011.

(c) When any appropriation is reduced pursuant to this section, the secretary shall report the reduction to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, to the joint transportation oversight committee.

#### Sec. 13. CHANGE TO CONSENSUS REVENUE FORECAST

In the event the July 2011 consensus revenue forecast of fiscal year 2012 transportation fund or TIB fund revenue is increased above the January 2011 forecast, the increase up to \$2,000,000.00 may be transferred to the TIB debt service fund, by order of the secretary of transportation with the approval of the secretary of administration, for the purpose of providing the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds that may be issued pursuant to the authority granted in Sec. 9 of this act, to pay the issuance costs of such bonds, or to pay debt service obligations due on such bonds in fiscal years 2012 and 2013.

#### Sec. 14. AUTHORITY TO REDUCE FISCAL YEAR 2012 APPROPRIATIONS

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority in the fiscal year 2012 transportation program, the secretary of transportation, with the approval of the secretary of administration and subject to the provisions of subsection (b) of this section, may reduce fiscal year 2012 transportation fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, or TIB fund appropriations, and transfer in fiscal year 2012 the amount of the reductions to the TIB debt service fund for the purpose of providing the funds

the treasurer deems likely to be needed to pay debt service obligations of transportation infrastructure bonds authorized by Sec. 9 of this act in fiscal year 2013.

(b) The secretary's authority under subsection (a) of this section to reduce appropriations is limited to appropriations, the reduction of which, by itself, in the context of any spending authorized for the project in the fiscal year 2012 transportation program will not have the effect of significantly delaying the planned work schedule of the project which formed the basis of the project's funding in fiscal years 2012 and 2013.

(c) The agency shall expedite the procedures required to determine the eligibility and certification of federal toll credits with respect to potentially qualifying capital expenditures made by Vermont entities through the end of fiscal year 2011 which, subject to compliance with federal maintenance of effort requirements, would be available for use by the state in fiscal year 2013. The fiscal year 2013 transportation program shall reserve up to \$3,000,000.00 of such potentially available federal toll credits and federal formula funds and authorize the secretary to utilize the federal toll credits and federal formula funds to accomplish the objectives of this section.

(d) When any appropriation is reduced pursuant to this section, the secretary shall report the reduction to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, to the joint transportation oversight committee.

\* \* \* White River Junction Railroad Station \* \* \*

#### Sec. 15. ACQUISITION OF WHITE RIVER JUNCTION RAILROAD STATION

(a) The agency is authorized to acquire the White River Junction railroad station from Rio Blanco Corporation or its successors in interest for a purchase price of up to \$875,000.00. The subject property is a 6,774-square-foot commercial building sited on approximately 0.73 acres of land, is located at 100–106 Railroad Row in the village of White River Junction within the town of Hartford, and is all the same property conveyed to Rio Blanco Corporation by two deeds: Release Deed from Central Vermont Railway, Inc., dated February 1, 1995, and recorded at Book 219, pages 45–50, and Release Deed from Boston & Maine Corporation dated February 2, 1995, and recorded at Book 219, pages 51–60, both in the land records of the town of Hartford.

(b) A new project is added to the fiscal year 2011 and 2012 transportation program — rail program for purchase of the White River Junction railroad station.

(c) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority in the fiscal year 2011 and 2012 transportation programs, authority to spend fiscal year 2011 and 2012 appropriations of transportation or TIB funds of up to \$875,000.00 is added to the state's fiscal year 2011 and 2012 transportation program — rail program for purchase of the White River Junction railroad station.

(d) The agency shall promptly report to the joint transportation oversight committee and to the joint fiscal office any action taken under the authority granted in subsection (a) of this section.

(e) Following conveyance of the White River Junction railroad station to the state of Vermont, the agency shall administer the property in accordance with 5 V.S.A. chapter 56 (intercity rail passenger service).

\* \* \* Aviation Program Plan \* \* \*

#### Sec. 16. AVIATION PROGRAM PLAN

(a) By January 15, 2012, the secretary of transportation shall develop a business plan to achieve the goal of each state-owned airport operating at a profit or, at a minimum, without a state subsidy, by June 30, 2015. In developing this plan, the secretary shall review the aviation programs of other states; study whether aircraft registration fees, hangar fees, landing fees for noncommercial aircraft, and other service fees would yield profits for the state; estimate the net profits that would be generated at various fee levels and for various fee types; and review any other subject matter the secretary deems relevant to advancing the goal of financially self-sustaining state-owned airports. If the agency determines that a state-owned airport is unlikely to become financially self-sustaining by June 30, 2015, the plan shall include recommendations for the sale or closure or both of any such airport or an explanation as to why any such airport should not be sold or closed.

(b) By January 15, 2012, the secretary shall submit the business plan required under subsection (a) of this section to the house and senate committees on transportation and any recommendations for proposed legislation needed to implement the plan.

\* \* \* Municipal Airports \* \* \*

Sec. 17. 5 V.S.A. § 695 is amended to read:

#### § 695. FEDERAL ASSISTANCE

~~No municipality in this state, whether acting alone or jointly with another municipality or with the state shall submit to the Federal Aviation Administration of the United States any project application under the provisions of any federal statute, unless the project and the project application~~

~~have been first approved by the secretary which approval shall not be unreasonably withheld. No A municipality shall directly accept, receive, receipt for, or disburse any funds granted by the United States under the Federal Airport Act or amendments to that act, but it shall designate may petition the secretary to serve as its agent and in its behalf to accept, receive, receipt account for, and disburse all funds granted by the United States for an airport project. If the secretary agrees to serve as agent, the municipality shall enter into an agreement with the secretary prescribing the terms and conditions of the agency relationship in accordance with any applicable federal or state laws, rules and or regulations and applicable laws of this state.~~

\* \* \* State Aid for Town Highway Roadways and Structures \* \* \*

Sec. 18. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

\* \* \*

(e) State aid for town highway structures. There shall be an annual appropriation for grants to municipalities for maintenance, including actions to extend life expectancy, and for construction of sidewalks, bridges, culverts, and other structures, including causeways and retaining walls, intended to preserve the integrity of sidewalks and the traveled portion of class 1, 2, and 3 town highways. Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of ~~\$3,490,000.00~~ \$5,833,500.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway structures program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects. Funds received as grants for state aid for town highway structures may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

(f), (g) [Deleted.]

(h) Class 2 town highway roadway program. There shall be an annual appropriation for grants to municipalities for resurfacing, rehabilitation, or reconstruction of paved or unpaved class 2 town highways. Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of ~~\$4,240,000.00~~ \$7,248,750.00 at a minimum as new grants. The

agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway class 2 roadway program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects. Funds received as grants for state aid under the class 2 town highway roadway program may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

\* \* \*

Sec. 19. 19 V.S.A. § 309b(a) is amended to read:

(a) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the town highway structures program shall be matched by local funds sufficient to cover 20 percent of the project costs, unless the town has adopted road and bridge standards, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event the local match shall be sufficient to cover 10 percent of the project costs, or unless a grant or portion of a grant is for sidewalk construction, in which event the local match shall be equal to the grant amount awarded or to the portion of the grant to be used for sidewalk construction. The secretary may adopt rules to implement the town highway structures program. Town highway structures projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality.

\* \* \* Utility Adjustments \* \* \*

Sec. 20. UTILITY ADJUSTMENTS

Notwithstanding chapter 16 of Title 19, during fiscal years 2011, 2012, and 2013, the agency of transportation is authorized to pay from a federal earmark for a highway project the costs of adjustments to municipal utilities located within a state highway right-of-way needed to accommodate the project, provided that the earmark involves no state matching funds and no commitment of state or additional federal funds, and provided that the utility adjustment costs are otherwise eligible for federal participation.

## \* \* \* Scenic Byways and Roads \* \* \*

Sec. 21. The title of 10 V.S.A. chapter 19 is amended to read:

CHAPTER 19. SCENERY PRESERVATION ~~COUNCIL~~

Sec. 22. 10 V.S.A. § 425 is amended to read:

§ 425. ~~SCENERY PRESERVATION~~ BYWAYS ADVISORY COUNCIL

(a) The ~~scenery preservation~~ byways advisory council shall:

(1) upon request, advise and consult with the agency of transportation, organizations, municipal planning commissions or legislative bodies, or regional planning commissions concerning byway program grants and in the designation of municipal scenic roads or byways;

(2) recommend for designation state scenic roads or byways after holding a public meeting to determine local support for designation;

(3) encourage and assist in fostering public awareness, and understanding of, and public participation in promoting, the objectives and functions of scenery preservation and in stimulating public participation and interest current intrinsic scenic and other qualities within byways and scenic road corridors.

(b) The ~~scenery preservation~~ byways advisory council shall consist of ~~seven~~ eight members: the secretary of natural resources or his or her designee; the secretary of transportation or his or her designee; the commissioner of tourism and marketing or his or her designee; and five members appointed by the governor. The terms of the members appointed by the governor shall be for three years, except that he or she shall appoint the first members so that the terms of the members end in one year, two years, and three years. The governor shall designate an appointed member to serve as ~~chairman~~ chair at the governor's pleasure. Except as provided in this section, no state employee or member of any state commission or any federal employee or member of any federal commission shall be eligible for membership on the ~~scenery preservation~~ byways advisory council. Members of the council who are not full-time state employees shall be entitled to a per diem as provided in 32 V.S.A. § 1010(b) and reimbursement for their actual necessary expenses. The council shall meet no more than two times per year, and meetings may be called by the chair of the council or the secretary of transportation or his or her designee may call meetings of the council.

(c) ~~The transportation board shall, in consultation with the scenery preservation council, and considering the criteria recommended in subdivision (b)(5) of this section, prepare, adopt and promulgate standards, and criteria for variances therefrom, pursuant to chapter 25 of Title 19, to carry out the~~



~~purposes of this chapter. The standards shall include, but shall not be limited to, descriptions of techniques for construction, including roadside grading and planting and preservation of intimate roadside environments as well as scenic outlooks. The standards shall further prescribe minimum width, alignment and surface treatment with particular reference to the legislative findings of this act. The standards shall include methods of traffic control, such as signs, speed limits, signals and warnings, which shall not, within appropriate safety considerations, jeopardize the scenic or historic value of such roads. These standards shall be revised as necessary taking into consideration increased weight, load and size of vehicles making use of scenic roads, such as, but not limited, to forest product vehicles, agribusiness vehicles and school buses. No provision of the scenic road law may deny necessary improvement to or maintenance of scenic roads over which such vehicles must travel. Rehabilitation or reconstruction of byways or state scenic roads shall be conducted in accordance with the agency of transportation's Vermont Design Standards, as amended. Signs along byways and scenic roads shall be in accordance with the Federal Highway Administration's Manual on Uniform Traffic Control Devices, as amended.~~

(d) ~~Provisions of this chapter shall apply only within the highway right of way.~~ [Repealed.]

(e) ~~All actions, including promulgation of rules, regulations or recommendations for designation, shall be made pursuant to the provisions of chapter 25 of Title 3.~~ [Repealed.]

Sec. 23. 19 V.S.A. § 2501 is amended to read:

§ 2501. STATE SCENIC ROADS; DESIGNATION AND DISCONTINUANCE

(a) On the recommendation of the ~~scenery preservation~~ byways advisory council, the transportation board may designate or discontinue any state highway, or portion of a state highway, as a state scenic road. The board shall hold a hearing on the recommendation and shall submit a copy of its decision together with its findings to the ~~scenery preservation~~ byways advisory council within 60 days after receipt of the recommendation. The hearing shall be held in the vicinity of the proposed scenic highway.

(b) Annually, the council shall provide information to the agency of commerce and community development on designated scenic roads for inclusion on state maps.

(c) A state scenic road shall not be reconstructed or improved unless the reconstruction or improvement ~~conforms to the standards established by the agency of transportation pursuant to 10 V.S.A. § 425~~ is conducted in

accordance with the agency of transportation's Vermont Design Standards, as amended.

Sec. 24. 19 V.S.A. § 2502 is amended to read:

§ 2502. TOWN SCENIC ROADS; DESIGNATION AND DISCONTINUANCE

(a) On recommendation of the planning commission of a municipality, or on the initiative of the legislative body of a municipality, a legislative body may, after one public hearing warned for the purpose, designate or discontinue any town highway or portion of a town highway as a town scenic highway. Such action by the legislative body may be petitioned by the registered voters of the municipality pursuant to the provisions of 24 V.S.A. § 1973.

(b) A town scenic road may be reconstructed or improved in a manner ~~consistent with the standards established by the transportation board, pursuant to 10 V.S.A. § 425~~ consistent with the agency of transportation's Vermont Design Standards, as amended. A class 1, 2 or 3 scenic highway shall still be eligible to receive aid pursuant to the provisions of this title.

(c) ~~The legislative body of a municipality may appeal for a variance from standards promulgated by the transportation board. In these appeals, the board's decision shall be final. [Repealed.]~~

Sec. 25. 30 V.S.A. § 218c(d)(2) is amended to read:

(2) Prior to the adoption of any transmission system plan, a utility preparing a plan shall host at least two public meetings at which it shall present a draft of the plan and facilitate a public discussion to identify and evaluate nontransmission alternatives. The meetings shall be at separate locations within the state, in proximity to the transmission facilities involved or as otherwise required by the board, and each shall be noticed by at least two advertisements, each occurring between one and three weeks prior to the meetings, in newspapers having general circulation within the state and within the municipalities in which the meetings are to be held. Copies of the notices shall be provided to the public service board, the department of public service, any entity appointed by the public service board pursuant to subdivision 209(d)(2) of this title, the agency of natural resources, the division for historic preservation, the department of health, the ~~scenery preservation~~ byways advisory council, the agency of transportation, the attorney general, the chair of each regional planning commission, each retail electricity provider within the state, and any public interest group that requests, or has made a standing request for, a copy of the notice. A verbatim transcript of the meetings shall be prepared by the utility preparing the plan, shall be filed with the public service board and the department of public service, and shall be provided at cost to any

person requesting it. The plan shall contain a discussion of the principal contentions made at the meetings by members of the public, by any state agency, and by any utility.

Sec. 26. 30 V.S.A. § 248(a)(4)(C) is amended to read:

(C) At the time of filing its application with the board, copies shall be given by the petitioner to the attorney general and the department of public service, and, with respect to facilities within the state, the department of health, agency of natural resources, historic preservation division, ~~scenery preservation council, state planning office,~~ agency of transportation, the agency of agriculture, food and markets and to the chairperson or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located. At the time of filing its application with the board, the petitioner shall give the byways advisory council notice of the filing.

\* \* \* Rest Areas and Welcome Centers; Funding \* \* \*

#### Sec. 27. APPORTIONMENT STUDY

The joint fiscal office, in consultation with the commissioner of buildings and general services or designee and the secretary of transportation or designee, shall study how the cost of maintaining, staffing, and operating rest areas, information centers, and welcome centers could be apportioned between the general fund and the transportation fund. The joint fiscal office shall submit a report of its findings to the joint transportation oversight committee by November 1, 2011.

\* \* \* State Highway Condemnation Law Study Committee \* \* \*

#### Sec. 28. STATE HIGHWAY CONDEMNATION LAW STUDY COMMITTEE

(a) A study committee is established, consisting of a member of the house committee on transportation designated by the speaker, a member of the house committee on judiciary designated by the speaker, a member of the senate committee on transportation designated by the committee on committees, a member of the senate committee on judiciary designated by the committee on committees, a representative of the Vermont Bar Association designated by the association, a representative of the Vermont League of Cities and Towns designated by the league, a representative of the Vermont Society of Land Surveyors designated by the society, and the secretary of transportation or designee who shall serve as chair.

(b) The chair shall call the first meeting of the committee to be held by September 1, 2011, and the committee is authorized to hold up to five

in-person meetings. The agency of transportation shall provide administrative support for the committee, and the office of legislative council shall provide staff service to the committee. The secretary of transportation or designee and staff of the office of legislative council shall prepare the report required under subsection (e) of this section based on the findings of the committee, and the committee shall terminate upon delivery of this report.

(c) The committee shall investigate possible changes in the state's highway condemnation law set forth in chapter 5 of Title 19 to achieve improved integration with the transportation planning process, federal and state environmental reviews, legislative oversight of the transportation program under 19 V.S.A. § 10g, and the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. § 4601 et seq. The committee also shall investigate the effect of possible changes to chapter 5 of Title 19 on other provisions of law that reference and rely upon the procedures set forth in that chapter.

(d) For attendance at a meeting when the general assembly is not in session, legislative members of the committee shall be entitled to per diem compensation and expense reimbursement as provided in 2 V.S.A. § 406(a).

(e) The committee shall deliver a report of its findings, including any recommendations for proposed legislation, to the house and senate committees on transportation and on judiciary by January 15, 2012.

\* \* \* Sign and Travel Information Law \* \* \*

Sec. 29. 10 V.S.A. § 494 is amended to read:

#### § 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

\* \* \*

(16) ~~[Repealed.]~~ Signs displaying a message of congratulations, condolences, birthday wishes, or displaying a message commemorating a personal milestone or event; provided, however, any such message is maintained for not more than two weeks.

\* \* \*

#### Sec. 30. TRAVEL INFORMATION COUNCIL – RULEMAKING AND RECOMMENDATIONS

(a) By July 1, 2012, the travel information council shall, pursuant to the rulemaking authority granted in 10 V.S.A. § 484(b), adopt rules as to what constitutes flashing intermittent or moving lights or animated or moving parts

within the meaning of 10 V.S.A. § 495(a)(3). In adopting these rules, the travel information council shall consider reliable empirical studies of the effect of changing or flashing signs on traffic safety; the current state of sign technology and expected future developments in sign technology; and the findings set forth in 10 V.S.A. § 482 concerning the value of the scenic resources of the state, the importance of providing information regarding services, accommodations, and points of interest to the traveling public, and the hazard created by the proliferation of outdoor advertising. The agency of transportation shall provide staff and administrative support during the rulemaking process.

(b) The travel information council shall study whether, consistent with the legislative findings set forth in 10 V.S.A. § 482, and based on the council's experience enforcing 10 V.S.A. chapter 21, the list of exempt signs at 10 V.S.A. § 494 should be amended. The council shall report its findings to the house and senate committees on transportation and to the house and senate committees on natural resources and energy by January 15, 2012.

\* \* \* Motor Fuel Transportation Infrastructure Assessment \* \* \*

Sec. 31. 23 V.S.A. § 3106(a) is amended to read:

(a) Except for sales of motor fuels between distributors licensed in this state, which sales shall be exempt from the tax and from the motor fuel transportation infrastructure assessment, in all cases not exempt from the tax under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the commissioner a tax of \$0.19 upon each gallon of motor fuel sold by the distributor, and a motor fuel transportation infrastructure assessment in the amount of two percent of the retail price ~~exclusive of all federal and state taxes~~ upon each gallon of motor fuel sold by the distributor, exclusive of: all federal and state taxes, the petroleum distributor licensing fee established by 10 V.S.A. § 1942, and the motor fuel transportation infrastructure assessment authorized by this section. The retail price shall be based upon the average retail prices for regular gasoline determined and published by the department of public service. The retail price applicable for the January–March quarter shall be the average of the retail prices published by the department of public service the prior October, November, and December; and the retail price applicable in each succeeding calendar quarter shall be equal to the average of the retail prices published by the department of public service in the preceding quarter. The distributor shall also pay to the commissioner a tax and a motor fuel transportation infrastructure assessment in the same amounts upon each gallon of motor fuel used within the state by him or her.

## \* \* \* Public Transit Advisory Council \* \* \*

Sec. 32. 24 V.S.A. § 5084 is amended to read:

§ 5084. PUBLIC TRANSIT ADVISORY COUNCIL

(a) A public transit advisory council shall be created by the secretary of transportation under 19 V.S.A. § 7(f)(5), to consist of the following members:

- (1) the secretary of transportation or designee;
- (2) ~~the executive director of the Vermont public transportation association;~~
- (3) three representatives of the Vermont public transportation association;
- (4)(3) a representative of the Chittenden County transportation authority;
- (5)(4) the secretary of human services or designee;
- (6)(5) the commissioner of ~~employment and training~~ labor or designee;
- (7)(6) the secretary of commerce and community development or designee;
- (8)(7) a representative of the Vermont center for independent living;
- (9)(8) a representative of the ~~council~~ community of Vermont elders;
- (10)(9) a representative of private bus operators and taxi services;
- (11)(10) a representative of Vermont intercity bus operators;
- (12)(11) a representative of the Vermont association of planning and development agencies;
- (13)(12) a representative of the Vermont league of cities and towns;
- (14)(13) a citizen appointed by the governor;
- (15)(14) a member of the senate, appointed by the committee on committees; and
- (16)(15) a member of the house of representatives, appointed by the speaker.

\* \* \*

\* \* \* Public Transportation Planning; Annual Reporting \* \* \*

Sec. 33. 24 V.S.A. § 5089(b) is amended to read:

(b) Recognizing that the growing demand for new regional and commuter services must be considered within the context of the continuing need for local

transit services that meet basic mobility needs, the agency of transportation shall consult annually with the regional planning commissions and public transit providers in advance of the award of available planning funds. The agency shall maintain a working list of both short- and long-term planning needs, goals, and objectives that balances the needs for regional service with the need for local service. Available planning funds shall be awarded in accordance with state and federal law and as deemed necessary and appropriate by the agency following consultation with the regional planning commissions and the public transit providers. ~~The agency shall report annually to the general assembly on planning needs, expenditures, and cooperative planning efforts.~~

Sec. 34. 24 V.S.A. § 5092 is amended to read:

§ 5092. REPORTS

The agency of transportation, in cooperation with the public transit advisory council, shall develop an annual report of financial and performance data of all public transit systems that receive operating subsidies in any form from the state or federal government, including but not limited to subsidies related to the elders and persons with disabilities transportation program for service and capital equipment. Financial and performance data on the elders and persons with disabilities transportation program shall be a separate category in the report. The report shall be modeled on the Federal Transit Administration's national transit database program with such modifications as appropriate for the various services, ~~including the~~ and guidance found in ~~the most current short-range public transportation plans and~~ the most current state policy plan. The report shall describe any action taken by the agency pursuant to contractual authority to terminate funding for routes or to request service changes for failure to meet performance standards. The report shall be available to the general assembly by January 15 of each year.

\* \* \* Temporary Siting of Meteorological Stations \* \* \*

Sec. 35. 30 V.S.A. § 246 is amended to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) For purposes of this section, a "meteorological station" consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The public service board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the state

if it is in compliance with the criteria of this section and the board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title.

(c) In developing rules or orders, the board:

(1) Shall develop a simple application form and shall require that completed applications be filed with the board, the department of public service, the agency of natural resources, the agency of transportation, and the municipality in which the meteorological station is proposed to be located.

\* \* \*

\* \* \* Transportation Program; Project Dates \* \* \*

Sec. 36. 19 V.S.A. § 10g(o) is added to read:

(o) For projects initially approved by the general assembly for inclusion in the state transportation program after January 1, 2009, the agency's proposed transportation program prepared pursuant to subsection (a) of this section and the official transportation program prepared pursuant to subsection (f) of this section shall include the year in which such projects were first approved by the general assembly.

\* \* \* Possession of Valid Operator's License \* \* \*

Sec. 37. 23 V.S.A. § 611 is amended to read:

#### § 611. POSSESSION OF LICENSE CERTIFICATE

Every licensee shall have his or her operator's license certificate in his or her immediate possession at all times when operating a motor vehicle. However, no person charged with violating this section or section 610 of this title shall be convicted if he or she produces in court or to the arresting enforcement officer an operator's license certificate theretofore issued to him or her and valid which, at the time of his or her arrest or within 14 days following its expiration citation, was valid or had expired within the prior 14 days.

\* \* \* Parking for Blind and Disabled \* \* \*

Sec. 38. 23 V.S.A. § 304a(d) is amended to read:

(d) A person who is blind or who has an ambulatory disability may park and may park without fee for ~~not more than~~ 10 continuous days in a parking zone which is restricted as to the length of time parking is permitted, except that a person who is blind or who has an ambulatory disability may park and may park without fee for 24 continuous hours in a state or municipally owned parking garage whether or not the garage restricts the length of time that parking is permitted. This section shall not apply to zones in which parking,



standing, or stopping of all vehicles is prohibited, which are reserved for special vehicles, or where parking is prohibited by any parking ban. As a condition to this privilege, the vehicle shall display the special handicapped plate or placard issued by the commissioner or a special registration license plate or placard issued by any other jurisdiction.

Sec. 39. 20 V.S.A. § 2904 is amended to read:

§ 2904. PARKING SPACES

Any parking facility on the premises of a public building shall contain at least the number of parking spaces required by ADAAG standards, and in any event at least one parking space, as ~~free~~ designated parking for individuals with ambulatory disabilities or blind individuals patronizing the building. The space or spaces shall be accessibly and proximately located to the building, and, subject to 23 V.S.A. § 304a(d), shall be provided free of charge. Consideration shall be given to the distribution of spaces in accordance with the frequency and persistence of parking needs. Such spaces shall be designated by a clearly visible sign that cannot be obscured by a vehicle parked in the space, by the international symbol of access and, where appropriate, by the words “van accessible”; shall otherwise conform to ADAAG standards; and shall be in accordance with the standards established under section 2902 of this title.

Sec. 40. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

(a) The commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds, on vehicles registered to state agencies under section 376 of this title and excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles and the commissioner of fish and wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the state’s interest in restoring and protecting its wildlife and major watershed areas. The commissioner of motor vehicles and the commissioner of fish and wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator’s payment of the annual registration fee. Applicants shall apply on forms prescribed by the commissioner and shall pay an initial fee of \$23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of \$23.00. The commissioner ~~shall~~ may adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection. The commissioner

of motor vehicles and the commissioner of fish and wildlife shall annually submit to the members of the house committees on transportation and fish, wildlife and water resources, and the members of the senate committees on transportation and natural resources and energy a report detailing, over a three-year period, the revenue generated, the number of new conservation plates sold and the number of renewals, and recommendations for program enhancements.

(b) Initial fees collected under subsection (a) of this section shall be allocated as follows:

(1) \$11.00 to the transportation fund.

(2) ~~\$6.00~~ \$12.00 to the department of fish and wildlife for deposit into, or apportionment among, the nongame wildlife account created in 10 V.S.A. § 4048:

~~(3) \$6.00 to the department of fish and wildlife for deposit into, the watershed management account created in 10 V.S.A. § 4050, or any other account related to restoring and protecting Vermont's wildlife and major watershed areas.~~

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$10.00~~ \$20.00 to the department of fish and wildlife for deposit into, or apportionment among, the nongame wildlife account created in 10 V.S.A. § 4048:

~~(2) \$10.00 to the department of fish and wildlife for deposit into, the watershed management account created in 10 V.S.A. § 4050, or any other account related to restoring and protecting Vermont's wildlife and major watershed areas.~~

~~(3)~~(2) \$3.00 to the transportation fund.

#### Sec. 41. EFFECTIVE DATES

(a) This section, Secs. 9 (western rail corridor grant application), 12 (authority to reduce fiscal year 2011 appropriations), 15 (White River Junction railroad station), 16 (aviation program plan), 20 (utility adjustments), and 29–30 (sign law provisions) shall take effect on passage.

(b) Sec. 36 (transportation program project dates) shall take effect on January 1, 2012.

(c) Sec. 19 (town highway structures match) shall take effect on July 2, 2011.

(d) All other sections of this act shall take effect on July 1, 2011.

---

Sec. 42. SUNSET

Sec. 29 (exempt signs) shall be repealed on July 1, 2012.

(Committee vote: 5-0-0)

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Transportation.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

**Rules Suspended; Bill Amended; Third Reading Ordered**

**H. 446.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to capital construction and state bonding.

Was taken up for immediate consideration.

Senator Hartwell, for the Committee on Institutions, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Legislative Intent \* \* \*

Sec. 1. LEGISLATIVE INTENT

(a) Notwithstanding any other provision of law, this act, unlike previous acts relating to capital construction and state bonding, appropriates capital funds for the next two years. This temporary move to a biennial capital budgeting cycle is designed to accelerate the construction dates of larger projects and thus create jobs for Vermonters sooner than would be possible under a one-year capital budgeting cycle.

(b) It is the intent of the general assembly that:

(1) this move to a biennial capital budgeting cycle shall apply only to FY 2012 and FY 2013.

(2) any decision to move permanently to a biennial capital budgeting cycle shall receive study and consideration at a later date prior to implementation.

(3) of the \$153 million authorized by this act, no more than \$85,635,157 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(4) in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of a capital construction and state bonding adjustment bill. It is the intent of the general assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

(c) On or before January 15, 2012, each entity to which funds are appropriated under this act shall submit to the house committees on corrections and institutions and the senate committee on institutions a brief report on the status of each project. The report shall be no more than one page in length for each project.

\* \* \* Capital Appropriations \* \* \*

Sec. 2. STATE BUILDINGS

(a) Of the total sums appropriated to the department of buildings and general services, the commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled until the chairs of the senate committee on institutions and the house committee on corrections and institutions are notified before that action is taken. The individual allocations in this section are estimates only.

(b) The following sums are appropriated in FY 2012:

<u>(1) Statewide, asbestos and lead abatement:</u>	<u>100,000</u>
<u>(2) Statewide, building reuse and planning:</u>	<u>125,000</u>
<u>(3) Statewide, contingency:</u>	<u>300,000</u>
<u>(4) Statewide, elevator repairs and upgrades:</u>	<u>50,000</u>

(5) Statewide, major maintenance. Of this amount, up to \$360,000 may be used for window sills and frames in coordination with the ARRA-funded window replacement project in Waterbury. For the purposes of this act, major maintenance shall mean deferred maintenance, planned capital renewal, and routine maintenance as these terms are defined in the memorandum of explanation of terminology dated April 14, 2011 from BGS to the chairs of the institutions committees:

9,000,000

(6) Statewide, BGS engineering, project management, and architectural project costs. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:

2,428,802

---

<u>(7) Statewide, physical security enhancements:</u>	<u>150,000</u>
<u>(8) Brattleboro, state office building, HVAC replacement and renovations:</u>	<u>3,275,000</u>
<u>(9) Burlington, 108 Cherry St., HVAC upgrades:</u>	<u>1,000,000</u>
<u>(10) Montpelier, 116 State St., restore building envelope:</u>	<u>1,000,000</u>
<u>(11) Burlington, for Burlington International Airport to continue the process of planning and designing a new aviation technical center.</u>	<u>150,000</u>
<u>(12) Montpelier, 120 State St., restroom renovations:</u>	<u>250,000</u>
<u>(13) Montpelier, 120 State St., planning and design for building renovations:</u>	<u>250,000</u>
<u>(14) Newport, Hebard state office building, façade replacement and water intrusion prevention:</u>	<u>350,000</u>
<u>(15) Newport, Northern State Correctional Facility, maintenance shop:</u>	<u>350,000</u>
<u>(16) Springfield Correctional Facility, exterior mechanical building:</u>	<u>350,000</u>
<u>(17) Springfield, MA, exposition center building upgrades:</u>	<u>300,000</u>
<u>(18) St. Albans, Northwest State Correctional Facility, maintenance shop:</u>	<u>350,000</u>
<u>(19) St. Johnsbury, Caledonia Community Work Camp wood boiler and generator upgrade:</u>	<u>400,000</u>
<u>(20) Waterbury, powerhouse fuel tank replacement:</u>	<u>400,000</u>
<u>(21) Waterbury, wood-chip-fired boiler facility planning:</u>	<u>500,000</u>
<u>(22) Montpelier, upgrade and repairs to existing heat plant:</u>	<u>1,900,000</u>
<u>(c) The following sums are appropriated in FY 2013:</u>	
<u>(1) Statewide, asbestos and lead abatement:</u>	<u>100,000</u>
<u>(2) Statewide, contingency:</u>	<u>300,000</u>
<u>(3) Statewide, elevator repairs and upgrades:</u>	<u>50,000</u>
<u>(4) Statewide, major maintenance, as that term is defined in subdivision (b)(5) of this act:</u>	<u>8,000,000</u>
<u>(5) Statewide, BGS engineering, project management, and architectural project costs. It is the intent of the general assembly to evaluate in the second</u>	

year of the biennium the appropriate amount for future funding of this project:

2,482,802

(6) Statewide, physical security enhancements: 150,000

(7) Burlington, 108 Cherry St., HVAC upgrades: 1,000,000

(d) For the project described in subdivision (b)(13), the commissioner shall present a design plan to the committees on institutions on or before January 15, 2012.

Appropriation – FY 2012 \$22,978,802

Appropriation – FY2013 \$12,028,802

Total Appropriation – Section 2 \$35,007,604

### Sec. 3. ADMINISTRATION

(a) Of the funds appropriated to the department of taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping:

(1) \$100,000 is appropriated in FY 2012.

(2) \$100,000 is appropriated in FY 2013.

(b) The sum of \$7,000,000 is appropriated to Vermont Telecommunications Authority (VTA) in FY 2012 for the project described in Sec. 49 of this act.

(c) The sum of \$4,800,000 is appropriated to VTA in FY 2013 for the project listed in subsection (b) of this section, provided that VTA successfully achieves the outcomes listed in Sec. 49(i) of this act, as determined by the house committees on commerce and economic development and on corrections and institutions, the senate committees on economic development, housing and general affairs and on finance, and the joint fiscal committee.

Appropriation – FY 2012 \$7,100,000

Appropriation – FY 2013 \$4,900,000

Total Appropriation – Section 3 \$12,000,000

### Sec. 4. HUMAN SERVICES

(a) The following sums are appropriated in FY 2012 to the department of buildings and general services for the agency of human services for the projects described in this subsection:

(1) Health laboratory, continuation of design, permitting, bidding, and construction phases for co-location of department of health laboratory with the UVM Colchester research facility: 14,000,000

(2) Vermont state hospital, ongoing safety renovations: 100,000

(3) Vermont state hospital, continuation of planning and design: 1,000,000

(4) Corrections, continuation of suicide prevention project: 100,000

(5) Corrections, security upgrades: 100,000

(6) Corrections, removal of existing dam at the Southeast State Correctional Facility in Windsor and upgrade of the facility's potable and fire suppression water supply: 1,000,000

(b) The sum of \$1,400,000 is appropriated to the department of buildings and general services in FY 2012 for the department of corrections master plan outlined in Sec. 38 of this act.

(c) The following sums are appropriated in FY 2013 to the department of buildings and general services for the agency of human services for the projects described in this subsection:

(1) Corrections, rehabilitate VCI print shop: 143,920

(2) Corrections, removal of existing dam at the Southeast State Correctional Facility in Windsor and upgrade of the facility's potable and fire suppression water supply: 400,000

(3) Vermont state hospital, continuation of planning and design: \$1,609,346

(d) \$14,000,000 is appropriated in FY 2013 to the department of buildings and general services for the agency of human services to continue the project described in subdivision (a)(1) of this section. For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work on the health laboratory project as soon as possible, it is the intent of the general assembly that these are committed funds not subject to budget adjustment.

Appropriation – FY 2012 \$17,700,000

Appropriation – FY2013 \$16,153,266

Total Appropriation – Section 4 \$33,853,266

#### Sec. 5. JUDICIARY

(a) \$200,000 is appropriated in FY 2012 to the department of buildings and general services on behalf of the Judiciary to perform repairs and upgrades to

bring county courthouse facilities into ADA compliance. The department shall perform these repairs in accordance with the County Courts Americans with Disabilities Act Audits Reports submitted by the department to the general assembly pursuant to Sec. 235a of No. 154 of the Acts of the 2009 Adj. Sess. (2010).

(b) \$200,000 is appropriated in FY 2013 to continue the project described in subsection (a) of this section. For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work as soon as possible, it is the intent of the general assembly that these are committed funds not subject to capital budget adjustment.

Total Appropriation – Section 5

\$400,000

#### Sec. 6. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2012 to the department of buildings and general services for the agency of commerce and community development for the following projects:

(1) Major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the department of buildings and general services: 250,000

(2) Vermont archeology heritage center; rehabilitation of unused space at the Vermont history center and associated moving costs: 400,000

(3) Historic property stabilization and rehabilitation fund: 100,000

(b) \$200,000 is appropriated in FY 2013 to the department of buildings and general services for the agency of commerce and community development major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the department of buildings and general services: 200,000

(c) The following sums are appropriated in FY 2012 to the agency of commerce and community development for the following projects:

(1) Underwater preserves: 50,000

(2) Placement and replacement of roadside historic site markers: 15,000

(d) The following sums are appropriated in FY 2013 to the agency of commerce and community development for the following projects:

(1) Underwater preserves: 25,000



---

<u>(2) Placement and replacement of roadside historic site markers:</u>	<u>15,000</u>
<u>Appropriation – FY 2012</u>	<u>\$815,000</u>
<u>Appropriation – FY 2013</u>	<u>\$240,000</u>
<u>Total Appropriation – Section 6</u>	<u>\$1,055,000</u>

#### Sec. 7. BUILDING COMMUNITIES GRANTS

(a) The following sums are appropriated in FY 2012 for building communities grants established in chapter 137 of Title 24:

(1) To the agency of commerce and community development, division for historic preservation, for the historic preservation grant program: 250,000

(2) To the agency of commerce and community development, division for historic preservation, for the historic barns preservation grant program. Of this sum, up to \$20,000 may be used for the Barn Census Project: 250,000

(3) To the Vermont council on the arts for the cultural facilities grant program: 250,000

(4) To the department of buildings and general services for the recreational facilities grant program: 250,000

(5) To the department of buildings and general services for the human services and educational facilities competitive grant program: 250,000

(6) For the agricultural fairs capital projects competitive grant program: 250,000

(b) The following sums are appropriated in FY 2013 for building communities grants established in chapter 137 of Title 24:

(1) To the agency of commerce and community development, division for historic preservation, for the historic preservation grant program: 250,000

(2) To the agency of commerce and community development, division for historic preservation, for the historic barns preservation grant program: 250,000

(3) To the Vermont council on the arts for the cultural facilities grant program: 250,000

(4) To the department of buildings and general services for the recreational facilities grant program: 250,000

(5) To the department of buildings and general services for the human services and educational facilities competitive grant program: 250,000

(6) For the agricultural fairs capital projects competitive grant program: 250,000

Appropriation – FY 2012 \$1,500,000

Appropriation – FY 2013 \$1,500,000

Total Appropriation – Section 7 \$3,000,000

#### Sec. 8. EDUCATION

(a) \$7,000,000 is appropriated in FY 2012 to the department of education for funding the state share of completed school construction projects pursuant to 16 V.S.A. § 3448. The appropriation shall be allocated according to the priorities established by the state board of education for fiscal year 2012, excluding emergency projects and asset renewal projects. Major addition or renovation projects shall receive 30 percent of the remaining amount owed by the state. Technical education projects shall each receive 33 percent of the remaining amount owed by the state. Of the balance remaining of the appropriation once all major addition or renovation and technical education projects are paid, renewable energy projects shall receive an equal percentage of the amount owed by the state.

(b) \$7,000,000 is appropriated in FY 2013 pursuant to 16 V.S.A. § 3448. It is the intent of the general assembly that these are committed funds not subject to capital budget adjustment

Total Appropriation – Section 8 \$14,000,000

#### Sec. 9. AUSTINE SCHOOL

The sum of \$500,000 is appropriated in FY 2012 to the department of buildings and general services for the final phase of renovation of Holton Hall at the Austine School. This shall be the last capital funding for this project.

Total Appropriation – Section 9 \$500,000

#### Sec. 10. UNIVERSITY OF VERMONT

(a) \$1,800,000 is appropriated in FY 2012 to the University of Vermont for construction, renovation, and major maintenance.

(b) \$1,800,000 is appropriated in FY 2013 for the project described in subsection (a) of this section. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project.

Total Appropriation – Section 10 \$3,600,000

# Sec. 11. VERMONT STATE COLLEGES

(a) \$1,800,000 is appropriated in FY 2012 to Vermont State Colleges for construction, renovation, and major maintenance.

(b) \$1,800,000 is appropriated in FY 2013 to Vermont State Colleges for construction, renovation, and major maintenance. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project.

Total Appropriation – Section 11 \$3,600,000

# Sec. 12. NATURAL RESOURCES

(a) The following sums are appropriated to the agency of natural resources in FY 2012 for:

(1) the water pollution control fund for the following projects:

(A) Clean water state/EPA revolving loan fund (CWSRF)  
match: 1,460,400

(B) Combined sewer overflow project in Springfield, several  
areas: 210,000

(C) Principal and interest on short-term borrowing associated with  
delayed grant funding for the Pownal project: 550,000

(D) Springfield loan conversion: 100,000

(E) Administrative support – engineering, oversight, and program  
management. It is the intent of the general assembly to evaluate in the second  
year of the biennium the appropriate amount for future funding of this  
project: 275,000

(2) the drinking water state revolving fund for the following projects:

(A) Engineering oversight and project management. It is the intent of  
the general assembly to evaluate in the second year of the biennium the  
appropriate amount for future funding of this project: 275,000

(B) Balance of match to federal FY 2010 EPA grant: 2,515,253

(C) Partial match to federal FY 2011 EPA grant: 271,460

(3) the following water pollution control TMDL and wetland protection  
projects:

(A) Ecosystem restoration and protection: 2,500,000

(B) Waterbury waste treatment facility phosphorous  
removal: 2,700,000

(4) the following dam safety and hydrology projects:

(A) Wolcott Pond dam repair and maintenance: 150,000

(B) Waterbury dam maintenance: 175,000

(5) The following sum is appropriated to the agency of natural resources for the department of forests, parks and recreation for statewide small-scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects. Up to \$100,000 of these funds may be used to work with the Vermont youth conservation corps on appropriate forests, parks and recreation projects: 2,500,000

(6) the following department of fish and wildlife projects:

(A) general infrastructure projects: 250,000

(B) removal of unsafe dilapidated structures. Of this amount, up to \$50,000 may be used for improvements to state-owned shooting ranges: 150,000

(C) fish culture station improvements: 550,000

(D) fishing access improvements: 100,000

(b) The following sums are appropriated to the agency of natural resources in FY 2013 for:

(1) the water pollution control fund for the following projects:

(A) Clean water state/EPA revolving loan fund (CWSRF) match: 2,000,400

(B) Combined sewer overflow projects:

(i) St. Albans, 1272 Order (Combined Sewer Overflow Abatement): 250,000

(ii) Hartford and White River Junction, Nutt Lane overflow: 125,000

(C) Principal and interest on short-term borrowing associated with delayed grant funding for the Pownal project: 500,000

(D) Springfield loan conversion: 100,000

(E) Administrative support – engineering, oversight, and program management. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project: 300,000

(2) the following projects:

(A) the drinking water state revolving fund for balance of match to federal FY 2011 EPA grant: 2,433,140

(B) Engineering oversight and program management: 300,000

(3) ecosystem restoration and protection: 2,500,000

(4) the department of forests, parks and recreation for statewide small-scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects. Up to \$100,000 of these funds may be used to work with the Vermont youth conservation corps on appropriate forests, parks and recreation projects: 2,500,000

(5) the following department of fish and wildlife projects:

(A) fish culture station improvements: 550,000

(B) fishing access improvements: 100,000

(C) for the Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure: 25,000

Appropriation – FY 2012 14,732,113

Appropriation – FY 2013 11,683,540

Total Appropriation – Section 12 \$26,415,653

## Sec. 13. MILITARY

(a) \$400,000 is appropriated in FY 2012 to the department of the military for maintenance and renovation at state armories. To the extent feasible, these funds shall be used to draw down federal funds.

(b) \$350,000 is appropriated in FY 2013 for the purpose described in subsection (a) of this section.

Total Appropriation – Section 13 \$750,000

## Sec. 14. PUBLIC SAFETY

(a) \$50,000 is appropriated in FY 2012 to the department of public safety for the purchase of equipment for the fire service training center of Vermont in Pittsford.

(b) \$50,000 is appropriated in FY 2013 for the project described in subsection (a) of this section.

(c) \$2,500,000 is appropriated in FY 2012 to the department of buildings and general services for the department of public safety for the design,

construction, and fit-up of a new public safety field station to consolidate the Brattleboro and Rockingham barracks.

(d) \$2,500,000 is appropriated in FY 2013 for the project described in subsection (c) of this section. For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work on this project as soon as possible, it is the intent of the general assembly that these are committed funds not subject to budget adjustment.

(e) \$10,000 is appropriated in FY 2012 for an architectural assessment of the Vermont State Police barracks in Middlesex to determine the most cost-effective way to modify the existing facilities to enhance officer and suspect safety by incorporating an existing garage to aid in criminal transport, creating an updated holding cell, and creating a contained processing and booking area that is separate from staff work space.

(f) For a future project to consolidate Vermont State Police facilities currently located in Bradford and St. Johnsbury into one location, the commissioners of the departments of public safety and of buildings and general services shall explore land opportunities adjacent to exit 18 on I-91 in Barnet. If an appropriate site is identified, the commissioner of buildings and general services may acquire an option on the land, pursuant to the authority granted in 29 V.S.A. § 152(3)(B).

(g)(1) Prior to entering into any new lease for the division of fire safety and on or before January 15, 2012, the department of public safety in collaboration with the department of buildings and general services shall submit to the house committee on corrections and institutions and the senate committee on institutions for approval a study of the cost savings and impact to programs and services that are likely to result if the Rutland and Springfield regional offices are consolidated. At a minimum, the study shall consider whether the consolidation would:

(A) affect the quality of services to the public.

(B) create geographical hardships for the public or employees.

(C) decrease the effective delivery of services and, if there is a decrease, whether this loss negates any potential cost savings.

(D) affect department operations.

(E) affect employee morale.

(F) create hardships for the communities that will lose the regional offices.

(2) The study shall also consider how the consolidation would affect the inventory of existing state-owned property and whether technology could be used to link supervisors with their employees and, if so, whether this technology is available currently within the department.

Appropriation – FY 2012 \$2,560,000

Appropriation – FY 2013 \$2,550,000

Total Appropriation – Section 14 \$5,110,000

Sec. 15. CRIMINAL JUSTICE TRAINING COUNCIL; FIRE TRAINING SERVICE COUNCIL

No capital funds other than those to be used for major maintenance shall be appropriated for the criminal justice training council or the fire training council until the two entities enter into a memorandum of understanding regarding governance, efforts to consolidate, and a strategic plan for working together in the future.

Sec. 16. AGRICULTURE, FOOD AND MARKETS

(a) \$1,300,000 is appropriated in FY 2012 to the agency of agriculture, food and markets for the best management practice implementation cost share program, to continue to reduce nonpoint source pollution in Vermont. Cost share funds shall not exceed \$75,000 or 90 percent of the total cost of a project. Whenever possible, state funds shall be combined with federal funds to complete projects.

(b) \$1,400,000 is appropriated in FY 2013 for the program described in subsection (a) of this section.

Total Appropriation – Section 16 \$2,700,000

Sec. 17. VERMONT PUBLIC TELEVISION

(a) \$500,000 is appropriated in FY 2012 to Vermont Public Television for the state match for the federally mandated conversion of its transmission network to digital format.

(b) \$300,000 is appropriated in FY 2013 for the project described in subsection (a) of this section.

Total Appropriation – Section 17 \$800,000

Sec. 18. VERMONT RURAL FIRE PROTECTION

(a) \$100,000 is appropriated in FY 2012 to the department of public safety, division of fire safety for the Vermont rural fire protection task force to continue the dry hydrant program.

(b) \$100,000 is appropriated in FY 2013 to continue the dry hydrant program.

Total Appropriation – Section 18 \$200,000

Sec. 19. VERMONT VETERANS' HOME

(a) \$200,000 is appropriated in FY 2012 to the department of buildings and general services for the Vermont Veterans' Home to replace the nurse call system on B and C wings of the facility.

(b) \$100,000 is appropriated in FY 2012 to the department of buildings and general services for the Vermont Veterans' Home to design an upgrade of the kitchen and dietary storage areas to be code compliant and to improve the food preparation and delivery systems.

Total Appropriation – Section 19 \$300,000

Sec. 20. VERMONT CENTER FOR CRIME VICTIM SERVICES

(a) \$50,000 is appropriated in FY 2012 to the Vermont Center for Crime Victim Services for Americans with Disabilities Act improvements at domestic and sexual violence shelters and nonshelter programs. The Vermont Center for Crime Victim Services shall continue to file annually and in the manner prescribed the report required by Sec. 20 of No. 161 of the Acts of the 2009 Adj. Sess. (2010).

(b) \$35,000 is appropriated in FY 2013 for the project described in subsection (a) of this section.

Total Appropriation – Section 20 \$85,000

Sec. 21. INFORMATION AND INNOVATION

\$5,780,000 is appropriated in FY 2013 to the department of information and innovation for the upgrade of the financial and human resources computer system. The department shall report back to the general assembly on or before January 15, 2012 regarding how the appropriations granted in Sec. C.100 of H.441 of the 2011 Session (the appropriations bill) have been used for this project.

Total Appropriation – Section 21 \$5,780,000

Sec. 22. HOUSING AND CONSERVATION BOARD

The amount of \$4,000,000 is appropriated in FY 2012 to the Vermont housing and conservation board (VHCB) for building and preservation of affordable housing and for conservation projects. The board shall:

(1) give priority consideration to affordable housing preservation and infill projects in or near downtowns or village centers as well as consider



applications to build or renovate housing for elders and supportive housing for persons with disabilities including persons with chronic mental illness and transitional and supportive housing for individuals and families who might otherwise be homeless;

(2) consider the need for creating public inebriate beds and transitional housing in unserved areas of the state;

(3) allocate up to 20 percent of this appropriation for conservation grant awards that will maximize drawdown of federal and private matching funds, particularly federal farmland protection funds allocated to Vermont by the Natural Resources Conservation Service;

(4) leverage federal and private funds to the maximum extent feasible. If less than \$3,200,000 of the state's private use bond cap is made available to VHCB for loans to eligible affordable housing projects or if federal law prevents the state from combining the 9 percent housing tax credit with this capital appropriation, VHCB may increase the amount it allocates to conservation grant awards from its capital appropriation, notwithstanding the percentage provided for in this section, provided that VHCB increases its affordable housing investments by the same amount from funds appropriated to VHCB by Sec.      of No.      of 2011 (H.441; the appropriations bill); and

(5) Of this appropriation, \$600,000 shall be allocated to the agency of human services for two housing projects in Burlington to serve the agency's clients. The agency of human services shall enter into a memorandum of understanding with the Burlington Housing Authority on how the units in these projects can best be utilized for agency of human services clients.

(6) on or before January 31, 2012, provide its annual report to the senate committee on institutions and the house committee on corrections and institutions on how the funds appropriated by this section and by the FY 2012 Appropriations Act were spent or obligated.

Total Appropriation – Section 22

\$4,000,000

**Sec. 22a. PUBLIC INEBRIATES TASK FORCE**

The public inebriates task force established pursuant to Sec. 17 of No 179 of the Acts of the 2007 Adj. Sess. (2008) shall work with the Vermont housing and conservation board to provide public inebriate beds. The task force shall develop a plan to assemble support services and related annual funding, and assemble a facility with two to four beds, in one or more of the unserved areas of the state. The task force shall report the plan and its progress to the house committee on corrections and institutions and the senate committee on institutions on or before January 15, 2012.

## Sec. 23. VERMONT INTERACTIVE TELEVISION

(a) \$299,242 is appropriated in FY 2012 to Vermont Interactive Television for the purchase of equipment necessary for systems and unit upgrades at Vermont Interactive Television sites.

(b) \$299,241 is appropriated in FY 2013 to Vermont Interactive Television for the project described in subsection (a) of this section.

Total Appropriation – Section 23 \$598,483

\* \* \* Financing This Act \* \* \*

## Sec. 24. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

The following sums are reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated by Sec. 12(a) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (public safety): 6,303.13

(2) of the amount appropriated by Sec. 1 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (20 Houghton): 10,260.00

(3) of the amount appropriated by Sec. 6 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (human resources grants): 3,969.35

(4) of the amount appropriated by Sec. 15 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (Pittsford fire service training facility): 400,000.00

(5) of proceeds from the sale of property authorized by Sec. 32(d) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (Thayer school): 100,001.00

(6) of the amount appropriated by Sec. 1 of No. 43 of the Acts of 2009 (engineering staff): 74,472.91

Total Reallocations and Transfers – Section 24 \$595,006.39

## Sec. 25. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

The state treasurer is authorized to issue general obligation bonds in the amount of \$153,160,000 for the purpose of funding the appropriations of this act. The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The state treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

Total Revenues – Section 25 \$153,160,000

## \* \* \* Policy \* \* \*

## \* \* \* Buildings and General Services \* \* \*

## Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) The department of buildings and general services, in consultation with the Rutland City mayor or designee, shall study the feasibility of selling the Asa Bloomer building and parking garage located in Rutland City, including the operations, maintenance, and security of the garage, separately or together for a single sale or together in perpetuity pursuant to 29 V.S.A. § 166 and shall make a recommendation to the committees on institutions on or before January 14, 2012.

(b) The commissioner of buildings and general services on behalf of the division for historic preservation is authorized to enter into the agreements specified for the following properties, the proceeds of which shall be dedicated to the fund created by section 30 of this act:

(1) Fuller farmhouse at the Hubbardton Battlefield state historic site, authority to sell or enter into a long-term lease with covenants.

(2) Hyde log cabin in Grand Isle, authority to donate property free of covenants to Grand Isle or, in the alternative, to donate the building to Hyde Park, or in the alternative to sell the property.

(3) Bishop Cabin at Mount Independence State Historic Site in Orwell, authority to sell or enter into a long-term lease with covenants on the land.

(4) Eureka Schoolhouse in Springfield, authority to transfer with covenants to a local organization or, in the alternative, to sell the property.

(5) Bradley Law Office in Westminster, authority to transfer with covenants to a local organization.

(c) The commissioner of buildings and general services is authorized to sell the Vermont health laboratory at 195 Colchester Avenue in Burlington pursuant to 29 V.S.A. § 166. Net proceeds of the sale shall be reallocated to fund future capital projects.

(d) The commissioner of buildings and general services is authorized to use funds appropriated under this act for capital projects requiring additional support that were funded with capital or general appropriations made in prior years.

(e) On or before January 15, 2012, the commissioner of buildings and general services shall report to the house committee on corrections and institutions and the senate committee on institutions on whether it is in the best interest of the state and to what extent it is feasible to locate the department of education offices at a single site.

Sec. 27. Sec. 25 of No. 43 of the Acts of 2009 is amended to read:

Sec. 25. PROPERTY TRANSACTIONS; MISCELLANEOUS

\* \* \*

(g) The commissioner of buildings and general services is authorized to sell the following properties pursuant to 29 V.S.A. § 166:

\* \* \*

(2) The Redstone building at 26 Terrace Street in Montpelier after the secretary of state has moved to another location and the commissioner of buildings and general services has provided a feasibility study to the committees on institutions on or before Jan 15, 2012 on whether it is in the best interest of the state for the property to remain in the state's inventory for the support of state government, public functions, state museums, or any other use consistent with functions of state government, including apartment housing for the chief executive. The commissioner may propose a plan that includes partnering with non-profit entities to restore and renovate the Redstone building to accommodate the proposal and retain the property's historic value.

\* \* \*

Sec. 28. Sec. 26 of No. 52 of the Acts of 2007 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

The commissioner of buildings and general services is authorized, with the approval of the secretary of administration, to sell the properties listed in this subsection pursuant to 29 V.S.A. § 166. ~~Of proceeds from the sales \$50,000 is appropriated to the Friends of the State House for renovations to the state house. The remainder is~~ Proceeds from the sale are appropriated to the department of buildings and general services for construction and renovation of building 617 in Essex to house the department of health and department of public safety forensics laboratories future capital projects.

\* \* \*

Sec. 28a. Sec. 25 of No. 43 of the Acts of 2009 is amended to read:

Sec. 25. PROPERTY TRANSACTIONS; MISCELLANEOUS

\* \* \*

(i) In Sec. 32(d) of No. 200 of the Acts of the 2007 Adj. Sess. (2008), the general assembly authorized the commissioner of buildings and general services to sell, lease, subdivide, convert into condominiums, or any combination thereof the Thayer school building located at 1193 North Avenue in Burlington. The commissioner is hereby further authorized to transfer title

by warranty deed for sale of the building and to convey the Thayer school property by warranty deed and to renegotiate or redevelop the terms of the property development agreement, including the state's present and future ownership interest in the real property and the scope and nature of the development agreement. If a proposal to renegotiate or redevelop the terms of the property development agreement is created when the general assembly is not convened, the proposal shall be presented to the chairs of the institutions committees to review and approve.

Sec. 29. Sec. 25(f) of No. 161 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(f) Following consultation with the state advisory council on historic preservation as required by 22 V.S.A. § 742(7) and pursuant to 29 V.S.A. § 166, the commissioner of buildings and general services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans. Net proceeds of the sale shall be deposited in the historic property stabilization and rehabilitation fund established in Sec. 30 of this act.

Sec. 30. 29 V.S.A. § 155 is added to read:

§ 155. HISTORIC PROPERTY STABILIZATION AND REHABILITATION SPECIAL FUND

(a) There is established a special fund managed by and under the authority and control of the commissioner, comprising net revenue from the sale of underutilized state-owned historic property to be used for the purposes set forth in this section. Any remaining balance at the end of the fiscal year shall be carried forward in the fund; provided, however, that if the fund balance exceeds \$250,000.00 as of November 15 in any year, then the general assembly shall reallocate the excess funds for other purposes in the next enacted capital appropriations bill.

(b) Monies in the fund shall be available to the department for the stabilization or rehabilitation of state-owned historic property pursuant to a program created jointly by the department of buildings and general services and the division for historic preservation of the agency of commerce and community development.

(c) On or before January 15 of each year, the department shall report to the house committee on corrections and institutions and the senate committee on institutions concerning deposits into and disbursements from the fund occurring in the previous calendar year, the properties sold and stabilized or rehabilitated during that period, and the department's plans for future stabilization or rehabilitation of state-owned historic properties.

(d) Annually, the list presented to the general assembly of state-owned property the commissioner seeks approval to sell pursuant to section 166 of this title shall identify those properties the commissioner has identified as underutilized state-owned historic property pursuant to subsection (b) of this section.

(e) For purposes of this section, "historic property" has the same meaning as defined in 22 V.S.A. § 701.

#### Sec. 31. TRANSITION; FUNDING

(a) On or before July 15, 2011, the department of buildings and general services and the division for historic preservation shall develop a proposal for the program required in Sec. 30, 29 V.S.A. § 155(b), of this act and shall present the proposal to the chairs of the house committee on corrections and institutions and the senate committee on institutions. The chairs shall review the proposal and recommend to the joint fiscal committee whether or not to approve the proposal. After review of the proposal and the chairs' recommendations, the joint fiscal committee shall approve the proposal, disapprove the proposal, or direct the departments to amend and resubmit the proposal to the chairs by a date certain.

(b) The division for historic preservation shall consider the feasibility of expanding the program required in Sec. 30, 29 V.S.A. § 155(b), of this act to include the stabilization or rehabilitation of historic properties that are not owned by the state. The division shall present its recommendations in the form of proposed legislation to the house committee on corrections and institutions and the senate committee on institutions on or before January 15, 2012.

(c) Of the funds appropriated in Sec. 6(a)(3) of this act, the sum of \$100,000.00 is allocated in fiscal year 2012 to the historic property stabilization and rehabilitation special fund created in Sec. 30 of this act.

#### Sec. 32. INFORMATION CENTERS

The secretaries of transportation and commerce and community development and the commissioner of buildings and general services shall study and recommend on or before January 15, 2012 a future program for delivery of travel information services to motorists and the promotion of Vermont businesses and products to the motoring public.

#### Sec. 33. BICYCLE RACKS AT STATE BUILDINGS

(a) It is the intent of the general assembly that the department of buildings and general services consider installation of bicycle parking during the design of any state-owned buildings for projects under the jurisdiction of the department of buildings and general services.

(b) By September 30, 2011, the commissioner of buildings and general services, in consultation with statewide or regional bicycle organizations, shall:

(1) assess state-owned buildings under the jurisdiction and control of the department to determine the possibility of utilizing existing space for bicycle parking, as well as determining the location, type, and existence of current bicycle parking options. To the extent feasible, the commissioner shall identify areas at the capital complex in Montpelier and the state office complex in Waterbury where bicycle parking could be added. The commissioner shall consider the costs and savings associated with converting existing indoor space for bicycle parking and the installation costs of adding various types of outdoor bicycle parking options. Based on availability of existing space, ease of conversion of that space, and the availability and costs of creating additional outdoor bicycle parking, the commissioner shall create a priority list of changes that may be implemented to increase the number of bicycle parking options at state-owned buildings.

(2) create an inventory of existing spaces for bicycle parking at state-owned buildings under the jurisdiction and control of the department and make that inventory available to the public via the department's website.

(3) report the information produced as a result of the requirements of subdivisions (1) and (2) of this subsection to the house committee on corrections and institutions and the senate committee on institutions.

#### Sec. 34. RESTROOMS IN STATE BUILDINGS

By September 30, 2011, the commissioner of buildings and general services shall ensure that any single-occupancy restroom with an outer door that can be locked by the occupant in a building owned by the state which is under the commissioner's jurisdiction shall be available for use regardless of the gender of the user.

\* \* \* Capital Budget Reporting \* \* \*

Sec. 35. 32 V.S.A. § 309 is amended to read:

#### § 309. CAPITAL BUDGET REPORT

(a) Consolidated capital budget request. In addition to the general operating budget request to be submitted by the governor to the general assembly pursuant to this chapter, the governor shall submit to the general assembly, not later than the ~~second week~~ third Tuesday of every annual session, a consolidated capital budget request for the following fiscal year, which encompasses all undertakings that may require state general obligation debt financing, including transportation projects as follows:

\* \* \*

## \* \* \* Tort Claims Against the State \* \* \*

Sec. 36. 12 V.S.A. § 5601(b) is amended to read:

(b) ~~Effective July 1, 1989, the maximum liability of the state under this section shall be \$250,000.00 to any one person and the maximum aggregate liability shall be \$500,000.00 to all persons arising out of each occurrence.~~ Effective July 1, 1990 2011, the maximum liability of the state under this section shall be ~~\$250,000.00~~ \$500,000.00 to any one person and the maximum aggregate liability shall be ~~\$1,000,000.00~~ \$2,000,000.00 to all persons arising out of each occurrence.

Sec. 36a. 12 V.S.A. § 5606 is amended to read:

§ 5606. INDEMNIFICATION OF EMPLOYEES

\* \* \*

(b) The maximum liability of the state under this section shall be ~~\$250,000.00~~ 500,000.00 to any one person and the maximum aggregate liability shall be ~~\$1,000,000.00~~ 2,000,000.00 to all persons arising out of each occurrence.

\* \* \*

## \* \* \* Human Services \* \* \*

Sec. 37. VERMONT STATE HOSPITAL

(a) Of the funds appropriated in Sec. 271(a)(3) of No. 215 of the Acts of the 2005 Adj. Sess. (2006) (appropriations), up to \$482,646 may be used for planning and design for the replacement of services currently being provided at Vermont State Hospital in Waterbury. In reallocating these funds, the general assembly affirms the priority need to close the existing facility.

(b) The commissioner of mental health shall report orally to the mental health oversight committee at regular intervals when the general assembly is not in session on the status of planning and design for replacement of services currently being provided at Vermont State Hospital in Waterbury.

(c) On or before January 15, 2012, the commissioners of the departments of buildings and general services and of mental health shall report to the house committees on appropriations, on corrections and institutions, and on human services and to the senate committees on appropriations, on institutions, and on health and welfare on the status of planning and design for this project, a proposal for further stages of development, and future appropriations that will be needed to continue that development.



---

Sec. 38. DEPARTMENT OF CORRECTIONS MASTER PLAN

(a) For the purpose of reducing the number of out-of-state beds at a cost savings to the state, the department of corrections shall:

(1) switch male and female populations between certain facilities by:

(A) changing the role of the Chittenden Regional Correctional Facility from housing a predominantly male to a predominantly female population. The department shall modify the facility for females.

(B) changing the role of the Northwest State Correctional Facility from housing a predominantly female population to a predominantly male population and restore the number of beds at that facility to 247.

(2) modify the Southeast State Correctional Facility into a 50-bed work camp and a 50-bed general population facility.

(b) As part of the transfer required by subdivision (a)(1) of this section, the department of corrections shall:

(1) train correctional facility staff in gender-responsive practices prior to the transfer.

(2) continue to provide prearrestment lodging at the Chittenden Regional Correctional Facility for a male until his first appearance in court. If the male is remanded into custody, he shall move to another facility.

(3) ensure individuals are released in accordance with 28 V.S.A. § 808(a) for the purpose of facilitating furlough or outside programming.

(4) continue to engage with community partners to develop a continuum of services to assist in a reentry of individuals that reduces recidivism. This continuum of services shall include employment, parenting, education, and risk reduction programs.

(c) The department of corrections shall report to the corrections oversight committee no later than August 15, 2011 on the following:

(1) trends pertaining to incarcerated women in this state, including population, sentencing, and detention.

(2) the range of work opportunities available for incarcerated individuals and the number of participants.

(3) the range of program opportunities available for incarcerated individuals and the number of participants. Program opportunities shall be defined broadly to include gardening, substance abuse, parenting, education, and risk reduction programs.

(4) the feasibility of expanding house arrest measures to initially avoid incarceration for misdemeanors and nonviolent felonies.

(d) It is the intent of the general assembly to:

(1) ensure that the incarcerated individuals who in the interest of public safety can be supervised safely in the community are reintegrated into the community with the appropriate status.

(2) in the second year of the biennium evaluate the move required by subsection (a) of this section and consider strategies to reduce the number of women incarcerated.

\* \* \* Natural Resources \* \* \*

Sec. 39. LAKE CHAMPLAIN WALLEYE ASSOCIATION; REALLOCATION

Of the funds appropriated in Sec. 11(g)(1) of No. 52 of the Acts of 2007, the Lake Champlain Walleye Association, Inc. is authorized to redirect the sum of \$21,150 to purchase walleye-rearing infrastructure upgrades.

Sec. 40. NATURAL RESOURCES; CONSOLIDATION; EXCESS PROPERTY

The agency of natural resources shall conduct an inventory of unused building space within its properties, study how unused and underutilized buildings may be consolidated to provide more efficient agency operations and energy usage across the agency, and consider what buildings, if any, might be sold following consolidation. On or before January 15, 2012, the agency of natural resources shall report to the house committee on corrections and institutions and the senate committee on institutions on the matters listed in this section and any legislative changes that would need to occur to facilitate the consolidation process.

\* \* \* Military Department \* \* \*

Sec. 41. DEPARTMENT OF MILITARY; REALLOCATION

Of the funds appropriated in Sec. 13 of No. 161 of the Acts of the 2009 Adj. Sess. (2010), the department of military is authorized to use up to \$600,000 as necessary to fund the state's share of land acquisition in Bennington for new construction and for major maintenance and renovation projects at state armories. To the extent possible, these funds shall be used to match federal funds and the department of military is authorized to accept federal funds.

## \* \* \* Education \* \* \*

Sec. 42. 16 V.S.A. § 3448(a)(7)(C) is amended to read:

(C) The amount of an award shall be 50 percent of the approved cost of a project or applicable portion of a project which results in consolidation of two or more school buildings and which will serve the educational needs of students in a more cost-effective and educationally appropriate manner as compared to individual projects constructed separately. A decision of the commissioner as to eligibility for aid under this subdivision (C) shall be final. This subdivision (C) shall apply only to a project which has received preliminary approval by June 30, ~~2011~~ 2013.

## \* \* \* Fuels for Schools \* \* \*

Sec. 43. 16 V.S.A. § 3448 is amended to read:

§ 3448. APPROVAL AND FUNDING OF SCHOOL CONSTRUCTION PROJECTS; RENEWABLE ENERGY

(a) Construction aid.

## \* \* \*

(3) Priorities. Following approval of a preliminary application and provided that the district has voted funds or authorized a bond for the total estimated cost of a project, the state board shall assign points to the project so that the project can be placed on a priority list based on the number of points received. Once a project receives points, if it does not receive funding in a given year, it shall not lose points in subsequent years and, pursuant to rule of the board and provided the scope of the project remains the same, it shall gain points due to length of time on the list and may gain points for any other reason. The points shall be assigned so that:

(A) First priority is given to emergency projects in excess of \$100,000.00 which address threats to the safety and health of students or employees created by unanticipated circumstances or events.

(B) Second priority is given to construction projects in excess of \$10,000.00 which address a need occasioned by deterioration of an existing building or equipment pursuant to subdivision (2)(A) of this subsection, and which extend the useful life of the building but which do not make extensive additions or ~~extensive~~ alterations to existing school facilities in which students are provided services. Examples of projects given priority under this subdivision are replacement, addition, or repair to utilities; projects which address environmental quality issues; repair of a roof; replacement of an existing space-heating, water-heating, cooling, or refrigeration system that uses fossil fuels with a system for the same purpose that uses or primarily relies

upon biomass, a geothermal/ground source, wind, or solar energy, or replacement of a system with a more efficient fossil-fuel system that reduces fuel use by 10 percent or more or utilizes new technologies such as microturbines, cogeneration, fuel cells, or distributed generation; and replacement or upgrading of mechanical equipment.

(C) Remaining projects are given priority based on consideration of the relative degree of need pursuant to subdivision (2)(A) of this subsection.

\* \* \*

#### Sec. 44. FUELS FOR SCHOOLS; ELIGIBILITY FOR STATE AID FOR CAPITAL CONSTRUCTION COSTS

Notwithstanding Sec. 36 of No. 52 of the Acts of 2007, Sec. 45 of No. 200 of the Acts of the 2007 Adj. Sess. (2008), and Sec. 22 of No. 54 of the Acts of 2009 (suspending state construction aid to schools), the commissioner of education may accept, review, and take action on applications for state aid under chapter 123 of Title 16 for projects under 16 V.S.A. 3448(a)(3)(B) that involve:

(1) the replacement of an existing space-heating, water-heating, cooling, or refrigeration system that uses fossil fuels with:

(A) a system for the same purpose that uses or primarily relies upon biomass, a geothermal/ground source, wind, or solar energy; or

(B) a more efficient fossil-fuel system that reduces fuel use by 10 percent or more or utilizes new technologies such as microturbines, cogeneration, fuel cells, or distributed generation; or

(2) replacement or upgrading of mechanical equipment.

\* \* \* Transportation \* \* \*

#### Sec. 45. TRANSPORTATION; CONSOLIDATION; EXCESS PROPERTY

The agency of transportation shall conduct an inventory of unused building space within its properties, study how unused and underutilized buildings may be consolidated to provide more efficient operations and energy usage across the agency, and consider what buildings, if any, might be sold following consolidation. On or before January 15, 2012, the agency of transportation shall report to the house committee on corrections and institutions and the senate committee on institutions on the matters listed in this section and any legislative changes that would need to occur to facilitate the consolidation process.

---

**Sec. 46. TELECOMMUTING**

On or before January 15, 2012, the secretaries of administration and transportation shall submit to the general assembly a report addressing whether and to what extent state employees could telecommute to perform their duties and what impact, if any, an increase in telecommuting by state employees would have on the inventory of state buildings.

\* \* \* Energy Use on State Properties \* \* \*

**Sec. 47. STATE ENERGY USE**

(a) The general assembly recognizes and applauds the ongoing efforts of the state to pursue all practicable measures to reduce overall energy consumption.

(b) It is the intent of the general assembly that each agency, board, department, commission, committee, branch, or authority of the state:

(1) reduce its energy consumption, including the amount of fuel used by its employees to travel to and from meetings during the work day, by five percent each year; and

(2) increase its use of renewable energy.

(c) The secretary of administration is charged with coordinating this initiative. The secretary or designee shall track the state's progress in meeting these goals and, for the purpose of encouraging success, shall have the authority to implement incentive programs, to consult with public and nonpublic entities about strategies, and to require the relevant subdivisions of the state government to take necessary actions. The secretary may use incentives received by the state from an electric energy efficiency entity to cover the costs associated with tracking or encouraging success in meeting these goals.

(d) On or before January 15, 2012, the secretary of administration shall recommend to the general assembly and the governor strategies for investing in energy efficiency and renewable energy.

Sec. 48. 29 V.S.A. § 168 is amended to read:

**§ 168. STATE RESOURCE MANAGEMENT; REVOLVING FUND**

(a) Resource management. The department shall be responsible for administering the interest of the state in all resource conservation measures, including equipment replacement, studies, weatherization, and construction of improvements affecting the use of energy resources. All resource conservation measures taken for the benefit of departments or agencies to which this section

applies shall, beginning on July 1, 2004, be made and executed by and in the name of the commissioner.

(b) Revolving fund.

(1) There is established a resource management revolving fund to provide revenue for implementation of resource conservation measures anticipated to generate a life cycle cost benefit to the state. All state agencies responsible for development and operations and maintenance of state infrastructure shall have access to the revolving fund on a priority basis established by the commissioner.

(2) The fund shall consist of:

(A) ~~Moneys~~ Monies appropriated to the fund, or which are paid to it under authorization of the emergency board.

(B) ~~Moneys~~ Monies saved by the implementation of resource management conservation measures.

(C) Fees for administrative costs paid by departments and agencies, which shall be fixed by the commissioner subject to the approval of the secretary of administration.

(D) Monies associated with all incentives received by the state of Vermont from an entity appointed under 30 V.S.A. § 209(d)(2) (electric energy efficiency entities).

(3) ~~Moneys~~ Monies from the fund shall be expended by the commissioner for resource conservation measures anticipated to generate a life cycle cost benefit to the state and all necessary costs involved with the administration of state agency energy planning as determined by the commissioner.

(4) The commissioner shall establish criteria to determine eligibility for funding of resource conservation measures.

(5) Agencies or departments receiving funding shall repay the fund through their regular operating budgets according to a schedule established by the commissioner. Repayment shall include charges of fees for administrative costs over the term of the repayment.

(6) The commissioner of finance and management may anticipate receipts to this fund and issue warrants based thereon.

(7) The commissioner of buildings and general services shall maintain accurate and complete records of all receipts by and expenditures from the fund.

(8) All balances remaining at the end of a fiscal year shall be carried over to the following year.

Sec. 49. ADMINISTRATION; VERMONT TELECOMMUNICATIONS AUTHORITY

(a) The sums appropriated in Sec. 3 of this act to the Vermont telecommunications authority (VTA) shall be used to develop infrastructure to meet the cellular and broadband needs of unserved and underserved Vermonters. Such infrastructure may include:

(1) Fiber optic facilities.

(2) Telecommunications towers or other support structures.

(3) Equipment needed to deliver cellular service.

(4) Equipment needed to deliver broadband Internet services having combined download and upload speeds of at least five megabits per second.

(b) Funds appropriated under this section may be used for direct investments in infrastructure, to be owned by the VTA, and for grants to retail service providers.

(c) To the extent possible, the VTA shall leverage the funds with bonding or borrowing capacity or other available sources of public or private funding.

(d) Infrastructure owned and leased by the VTA under this section, including towers and fiber optic facilities, shall be available for use by as many retail service providers as the technology will permit to prevent the state from establishing a monopoly service territory for one provider, and shall be available for use by providers on a nondiscriminatory basis and according to published terms and conditions.

(e) Prior to the construction or installation of VTA-owned fiber optic facilities under this section, the VTA shall consult with the secretary of administration or designee to identify those areas of the state having the greatest need for fiber optic facilities and to determine the extent of needed state investment in new fiber optic facilities, and shall issue a request for public comment. In making the determinations required under this subsection, the VTA and the secretary shall consider:

(1) The location and availability of existing fiber optic networks, to the extent such information is available, and the terms and conditions for the use of those networks.

(2) The availability of broadband and cellular services in various parts of the state, the likelihood of planned expansions to services known to the

VTA, and the need for fiber optic facilities to support expansion of services in unserved and underserved areas.

(3) The speed of broadband services available in various parts of the state for residential, business, and institutional uses, and the increase in speed that new fiber optic facilities would support.

(4) Prior investments of public and private funds in the development of fiber optic facilities.

(5) The technical and economic feasibility of potential fiber optic routes.

(6) The objectives of the telecommunications plan adopted by the department of public service under 30 V.S.A. § 202d.

(f) Fiber optic facilities owned by the VTA pursuant to this section shall include fiber strands which may be used by a retail service provider to deliver broadband Internet access directly to homes, businesses, and institutional users (last-mile connectivity), in addition to strands which may be used to interconnect with other broadband and cellular facilities (middle mile).

(g) With respect to fiber optic facilities owned by the VTA pursuant to this section, the VTA may contract with an entity to provide transport services, provided that:

(1) The entity is not owned or controlled by a single broadband provider and is otherwise carrier neutral.

(2) The transport services are offered to any provider of broadband Internet access on a nondiscriminatory basis and according to published terms and conditions.

(3) Dark fiber leases and infeasible rights of use are made available to providers on a nondiscriminatory basis and according to published terms and conditions. For purposes of this subdivision, "dark fiber" means fiber that is not in use; and "infeasible right of use" means an exclusive, long-term use of fiber optic capacity.

(h) Grants awarded to retail service providers under this section shall be to support the capital cost of equipment and facilities used to provide broadband Internet access or cellular service in unserved areas of the state. Prior to awarding a grant, the VTA shall find that the grant is economically necessary to provide service in an unserved area and is likely to result in a lower long-term cost to the state than would direct investment in VTA-owned infrastructure. In addition, in awarding grants, the VTA shall adhere to the competitive bidding process established under 30 V.S.A. § 8078, except where inconsistent with the provisions of this section, and shall solicit public comment prior to issuing a request for proposals.



(i) The VTA shall ensure that any investments made or grants awarded under this section are in furtherance of the goals stated in 30 V.S.A. § 8060(b) and shall use the telecommunications measures established pursuant to No. 146 of the Acts of the 2009 Adj. Sess. (2010) (an act relating to implementation of challenges for change) to track the progress made in attaining those goals through such investments and grants. Beginning October 1, 2011, and for the next succeeding two years, on a quarterly basis, the VTA shall submit to the house committees on commerce and economic development and on corrections and institutions, the senate committees on economic development, housing and general affairs and on finance, and the joint fiscal committee a progress report reflecting the outcomes and measures as applied to the projects funded under this section. This report shall include location specific information on the progress of deployment of telecommunications technology that does not require the utilization of towers.

\* \* \* Authorization of Borrowing by Assistant Judges of  
Orleans County \* \* \*

Sec. 50. ORLEANS COUNTY; BORROWING AUTHORIZED;  
ASSISTANT JUDGES

Notwithstanding 24 V.S.A. § 82, the assistant judges of Orleans County may borrow a sum not to exceed \$325,000.00 to pay for a sheriff's department facility in Derby, as authorized by 24 V.S.A. § 77(a). Notes or other evidence of indebtedness not exceeding that amount, payable in not more than ten years from the date of execution, may be issued by the county treasurer on behalf of the County of Orleans. All such notes or evidence of indebtedness shall contain on their face a statement of the purpose for which they are issued and of the authority conferred by this section and shall be evidence of the county's liability to the bona fide holder of the instrument. The form, denominations, maturities, interest rates, and other terms, conditions, and details of the note or other evidence of indebtedness shall be determined by resolution of the assistant judges of Orleans County. Notes or other evidence of indebtedness issued under the provisions of this section shall be paid from county funds raised by taxation pursuant to 24 V.S.A. § 133.

Sec. 51. DURATION OF AUTHORITY; ORLEANS COUNTY  
BORROWING

The authority to borrow conferred by Sec. 50 of this act shall terminate on January 1, 2012. Any funds borrowed and notes or other forms of indebtedness issued prior to that date shall be subject to the terms of this act until repaid.

\* \* \* Treasurer \* \* \*

Sec. 52. 24 V.S.A. § 4572 is amended to read:

§ 4572. MEMBERSHIP; VACANCIES

The bank established by section 4571 of this title shall consist of the following five directors: the state treasurer, or his or her designee, who shall be a director ex officio, and four directors appointed by the governor with the advice and consent of the senate for terms of two years. The four directors appointed by the governor must be residents of the state and must be qualified voters therein for at least one year next preceding the time of appointment. The governor shall first appoint two directors to serve until February 1, 1971 and two directors to serve until February 1, 1972. Each director shall hold office for the term of his or her appointment and until his or her successor shall have been appointed and qualified. A director shall be eligible for reappointment. Any vacancy in a directorship occurring other than by expiration of term shall be filled in the same manner as the original appointment, except that the advice and consent of the senate shall not be required if it is not in session, but for the unexpired term only.

Sec. 53. 16 V.S.A. § 3852 is amended to read:

§ 3852. VERMONT EDUCATIONAL AND HEALTH BUILDINGS FINANCING AGENCY; CREATION; MEMBERS

(a) A board of ~~thirteen~~ 13 members known as the Vermont educational and health buildings financing agency is created. It is a body corporate and politic constituting a public instrumentality of the state. The commissioner of education, the secretary of human services, the state treasurer, or his or her designee, and the secretary of administration shall be members ex officio. The governor, with the advice and consent of the senate, shall appoint seven members for six-year terms. The members appointed by the governor shall appoint two additional members whose term of office shall be two years.

\* \* \*

Sec. 54. 16 V.S.A. § 2831 is amended to read:

§ 2831. MEMBERSHIP; VACANCIES

The corporation shall be governed and all of its powers exercised by a board of directors consisting of 11 members. The governor shall appoint five members as follows: one person to be the financial aid officer of an institution of postsecondary education in the state of Vermont; one person to be a guidance counselor from a Vermont secondary school, and three members representing the general public. In making the appointments of the members representing the general public, the governor shall give due consideration to

the board's needs for expertise and experience in the management of a financial institution. The state treasurer or his or her designee shall be a member. The speaker of the Vermont house of representatives and the committee on committees of the Vermont senate shall each appoint one member from their respective legislative bodies to serve on the board. The board shall elect three additional members. All members shall be of full age, citizens of the United States and residents of Vermont. All appointments shall be for terms of six years with the exception of legislative members whose terms shall expire at the end of six years or when their service in the Vermont legislature is completed, whichever shall first occur. The date of the expiration of the term of appointment in each case shall be June 30. Vacancies which may occur by reason of death or resignation shall be filled in the same manner as original appointments.

Sec. 55. 10 V.S.A. § 632a(f) is amended to read:

(f) In order to assure the maintenance of the debt service reserve fund requirement in each debt service reserve fund established by the agency under this section, there may be appropriated annually and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish or restore each such debt service reserve fund to an amount equal to the requirement for each such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to restore each such fund to the amount required by this section; ~~and the sum, and the governor shall, on or before March 1, submit a request for appropriations in the amount~~ so certified, and such amount may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. In order to assure the funding of the pledged equity fund requirement in each pledged equity fund established by the agency under this section at the time and in the amount determined at the time of entering into any credit enhancement agreement related to a pledged equity fund, there may be appropriated and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish each pledged equity fund to an amount equal to the amount determined by the agency at the time of entering into any credit enhancement agreement related to a pledged equity fund; provided that the amount requested, together with any amounts previously appropriated pursuant to this subsection for a particular pledged equity fund, shall not exceed the maximum amount of the state's commitment as determined by the agency pursuant to subsection (d) of this section. The chair shall, on or about the February 1 next following the

designated date for fully funding a pledged equity fund, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to bring each fund to the amount required by this section or to otherwise satisfy the state's commitment with respect to each fund, and ~~the sum~~ the governor shall, on or before March 1, submit a request for appropriations in the amount so certified, and such amount may be appropriated and, such amount, if appropriated, shall be paid to the agency during the then-current state fiscal year. The combined principal amount of bonds, notes, and other debt instruments outstanding at any time and secured in whole or in part by a debt service reserve fund established under this section and the aggregate commitment of the state to fund pledged equity funds pursuant to this subsection shall not exceed \$155,000,000.00 at any time, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the agency in contravention of the Constitution of the United States. Notwithstanding anything in this section to the contrary, the state's obligation with respect to funding any pledged equity fund shall be limited to its maximum commitment, as determined by the agency pursuant to subsection (d) of this section, and the state shall have no other obligation to replenish or maintain any pledged equity fund.

\* \* \* Effective Dates; Statutory Revision \* \* \*

#### Sec. 56. EFFECTIVE DATES; STATUTORY REVISION

(a) This act shall take effect on passage, except:

(1) Sec. 36 (liability of the state) shall take effect July 1, 2011;

(2) Secs. 2(c) (BGS, FY 2013), 3(a)(2) (maps, FY 2013), 3(c) (VTA, FY 2013), 4(c) and 4(d) (human services, FY 2013), 5(b) (judiciary, FY 2013), 6(b) (BGS for commerce and community development, FY 2013), 6(d) (commerce and community development, FY 2013), 7(b) (building community grants, FY 2013), 8(b) (education, FY 2013), 10(b) (University of Vermont, FY 2013), 11(b) (Vermont State Colleges, FY 2013), 12(b) (natural resources, FY 2013), 13(b) (military, FY 2013), 14(b) and 14(d) (public safety, FY 2013), 16(b) (agriculture, FY 2013), 17(b) (Vermont Public Television, FY 2013), 18(c) (Vermont rural fire protection, FY 2013), 20(b) (Vermont Center for Crime Victim Services, FY 2013), 21 (department of information and innovation), and 23(b) (Vermont Interactive Television, FY 2013) shall take effect on June 1, 2012.

(b) Pursuant to the statutory revision authority provided in 16 V.S.A. chapter 13, after passage of this act and H.441 of this session (appropriations bill), the office of legislative council shall revise Sec. 22(4) of this act to refer to the appropriate section and act number of H.441 as enacted.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Illuzzi, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Institutions.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

### **Rules Suspended; Bills Committed**

#### **H. 56.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to the Vermont Energy Act of 2011.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Natural Resources and Energy *intact*,

Which was agreed to.

#### **H. 155.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to property-assessed clean energy districts.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Natural Resources and Energy *intact*,

Which was agreed to.

### **Rules Suspended; Bills Committed**

#### **H. 38.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to ensuring educational continuity for children of military families.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Education, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Education *intact*,

Which was agreed to.

#### **H. 202.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to a universal and unified health system.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Health and Welfare, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committee on Health and Welfare and Finance *intact*,

Which was agreed to.

#### **Joint Senate Resolution Adopted on the Part of the Senate**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Carris and Mullin,

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

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

That when the two Houses adjourn on Friday, April 22, 2011, it be to meet again no later than Tuesday, April 26, 2011.

#### **Bills Referred**

House bills of the following titles were severally read the first time and referred:

#### **H. 21.**

An act relating to the Uniform Limited Cooperative Association Act.

To the Committee on Rules.

**H. 42.**

An act relating to employment decisions based on credit information.

To the Committee on Rules.

**H. 185.**

An act relating to regulating fees and charges for propane gas.

To the Committee on Rules.

**H. 438.**

An act relating to the department of banking, insurance, securities, and health care administration.

To the Committee on Rules.

**H. 452.**

An act relating to establishing the boundary line between the towns of Shelburne and St. George.

To the Committee on Rules.

**Bill Passed in Concurrence****H. 52.**

House bill of the following title was read the third time and passed in concurrence:

An act relating to the definition of poultry products.

**Bill Passed in Concurrence with Proposal of Amendment****H. 88.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to uniform child custody jurisdiction and enforcement.

**Bill Amended; Third Reading Ordered; Rules Suspended; Bill Passed****S. 74.**

Senator White, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the transferring of the animal spaying and neutering program to the office of the secretary of state.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A § 3815 is amended to read:

§ 3815. DOG, CAT, AND WOLF-HYBRID SPAYING AND NEUTERING PROGRAM

(a) ~~The agency of agriculture, food and markets shall establish by rule a process by which a qualified organization~~ department of health shall administer a dog, cat, and wolf-hybrid spaying and neutering program providing reduced-cost spaying and neutering services and presurgical immunization for dogs, cats, and wolf-hybrids owned or cared for by low income individuals. The department shall implement the program through an agreement with a qualified organization consistent with the applicable administrative rules.

(b) The program shall reimburse veterinarians who voluntarily consent to spay or neuter dogs, cats, and wolf-hybrids under the auspices of the program. The reimbursement shall be less any co-payment by the owner of a dog, cat, or wolf-hybrid for the cost of each spaying or neutering procedure.

(c) ~~The agency of agriculture, food and markets is authorized to promulgate an emergency administrative rule by August 1, 2009, the purpose of which shall be that only a dog, cat, or wolf hybrid acquired for no compensation shall be eligible for funding from the animal spaying and neutering program established under this section. The rule shall provide consideration for the financial ability of the funding applicant to pay for the requested service. For the purposes of this subsection, a nominal fee or donation required for adoption of a dog, cat, or wolf hybrid shall not constitute compensation paid for the animal~~ The secretary of human services may adopt and amend rules pursuant to chapter 25 of Title 3 to enable the department of health to carry out the purposes of this act.

Sec. 2. 20 V.S.A. § 3816 is amended to read:

§ 3816. ANIMAL SPAYING AND NEUTERING FUND; CREATION

(a) There is created, pursuant to subchapter 5 of chapter 7 of Title 32, in the ~~agency of agriculture, food and markets~~ department of health the dog, cat, and wolf-hybrid spaying and neutering special fund to finance the costs of the dog, cat, and wolf-hybrid spaying and neutering program established in section 3815 of this title.

(b) Revenue for the fund shall be derived from:

(1) The ~~\$2.00~~ surcharge payment paid to a municipality pursuant to subdivision 3581(c)(1) of this title.

(2) Gifts from private donors.



(3) Any appropriation which the general assembly makes to the fund.

(c) Interest earned on the fund shall be retained in the fund.

(d) ~~The agency may offset the cost of administering the dog, cat, and wolf hybrid spaying and neutering program from the fund created in subsection (a) of this section in accordance with the provisions of section 10 of Title 6~~ department of health shall use the revenue in the fund created in subsection (a) of this section for administering the dog, cat, and wolf-hybrid spaying and neutering program.

### Sec. 3. ADMINISTRATIVE RULE APPLICABILITY

The department of health shall administer the dog, cat, and wolf-hybrid spaying and neutering program established in 20 V.S.A. § 3815 pursuant to the applicable administrative rule which became effective on July 1, 2010 until the rule is amended to reflect the transfer of the jurisdiction of the program to the department of health.

### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

And that after passage the title of the bill be amended to read:

An act relating to the transferring of the animal spaying and neutering program to the department of health.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage.

Thereupon, the bill was read the third time and passed.

### **Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence**

### **H. 240.**

Senator Ayer, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to continuing to provide for the receivership of long-term care facilities.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

#### **Rules Suspended; Bills Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**S. 74; H. 52; H. 88; H. 240.**

#### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until eight o'clock and thirty minutes in the morning.

---

### **WEDNESDAY, APRIL 20, 2011**

The Senate was called to order by the President.

#### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

#### **Bill Referred to Committee on Appropriations**

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

#### **H. 201.**

An act relating to hospice and palliative care.

#### **Bill Passed in Concurrence with Proposal of Amendment**

#### **H. 443.**

House bill of the following title:

An act relating to the state's transportation program.

Was read the third time and passed in concurrence with proposal of amendment, on a roll call, Yeas 27, Nays 0.

Senator Mazza having demanded the yeas and nays, they were taken and are as follows:

---

**Roll Call**

**Those Senators who voted in the affirmative were:** Ayer, Baruth, Benning, Brock, Campbell, Carris, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**Those Senators absent and not voting were:** Ashe, Cummings, MacDonald.

**House Bill Not Committed; Bill Amended; Third Reading Ordered****H. 91.**

House bill entitled:

An act relating to the management of fish and wildlife.

Was taken up.

Thereupon, pending second reading of the bill, Senator Kittell moved that the bill be committed to the Committee on Agriculture, which was disagreed to.

Thereupon, Senator Benning, for the Committee on Natural Resources and Energy, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Management of Wildlife \* \* \*

**Sec. 1. FINDINGS**

The general assembly finds and declares:

(1) The protection, propagation, control, management, and conservation of the wildlife of Vermont are in the best interest of the public.

(2) Exposure of wildlife to domestic animals, as that term is defined in 6 V.S.A. § 1151, increases the risk that a disease or parasite, such as chronic wasting disease, is introduced into or spread to the wildlife of Vermont.

(3) To prevent the introduction or spread of a disease or parasite to the wildlife of Vermont, white-tailed deer and moose should not be entrapped in captive cervidae facilities.

(4) If a white-tailed deer or moose is entrapped in a facility that contains domestic animals, existing rules require the facility owner to consult with the department of fish and wildlife in order to determine the best method for removal of the entrapped white-tailed deer or moose.

(5) To preserve the health of the wildlife of Vermont, all owners of captive cervidae facilities should be required to remove entrapped white-tailed deer or moose, and such facilities should be required to take the necessary measures to prevent future entrapment of white-tailed deer or moose.

Sec. 2. 10 V.S.A. § 4081 is amended to read:

§ 4081. POLICY

~~(a) It is the policy of the state that the~~ (1) As provided by Chapter II, § 67 of the Constitution of the State of Vermont, the fish and wildlife of Vermont are held in trust by the state for the benefit of the citizens of Vermont and shall not be reduced to private ownership. The state of Vermont, in its sovereign capacity as a trustee for the citizens of the state, shall have ownership, jurisdiction, and control of all of the fish and wildlife of Vermont.

(2) The commissioner of fish and wildlife shall manage and regulate the fish and wildlife of Vermont in accordance with the requirements of this part and the rules of the fish and wildlife board. The protection, propagation control, management, and conservation of fish, wildlife, and fur-bearing animals in this state is are in the interest of the public welfare, and that safeguarding of this valuable resource. The state, through the commissioner of fish and wildlife, shall safeguard the fish, wildlife, and fur-bearing animals of the state for the people of the state requires, and the state shall fulfill this duty with a constant and continual vigilance.

(b) ~~Notwithstanding the provisions of section 2803 of Title 3 V.S.A. § 2803,~~ the fish and wildlife board shall be the state agency charged with carrying out the purposes of this subchapter.

(c) An abundant, healthy deer herd is a primary goal of fish and wildlife management. The use of a limited unit open season on antlerless deer shall be implemented only after a scientific game management study by the fish and wildlife department supports such a season.

(d) Annually, the department shall update a scientific management study of the state deer herd. The study shall consider data provided by department biologists and citizen testimony taken under subsection (f) of this section.

(e) Based on the results of the updated management study and citizen testimony, the board shall decide whether an antlerless deer hunting season is necessary and if so how many permits are to be issued. If the board determines that an antlerless season is necessary, it shall adopt a rule creating one and the department shall then administer an antlerless program.

(f) Annually, the department shall hold regional public hearings to receive testimony and data from concerned citizens about their knowledge and concerns about the deer herd. The board shall identify the regions by rule.

(g) If the board finds that an antlerless season is necessary to maintain the health and size of the herd, the department shall administer an antlerless deer program. Annually, the board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents a person may apply for a permit. Each person may submit only one application for a permit. The department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except under the provisions of section 4710 of this title. If the number of landowners who apply exceeds the number of permits for that district, the department shall award all permits in that district to landowners by lottery.

(2) Permits remaining after allocation pursuant to subdivision (1) of this subsection shall be issued by lottery.

(3) Any permits remaining after permits have been allocated pursuant to subdivisions (1) and (2) of this subsection shall be issued by the department for a \$10.00 fee for residents. Ten percent of the remaining permits may be issued to nonresident applicants for a \$25.00 fee.

### Sec. 3. REPEAL OF DORMANT STATUTORY REQUIREMENTS FOR MANAGEMENT OF THE DEER HERD

(a) 10 V.S.A. §§ 4743 (relating to muzzle loader season), 4744 (relating to bow and arrow season), and 4753 (relating to annual deer limit), as suspended by Sec. 5(a) of No. 136 of the Acts of the 2003 Adj. Sess. (2004), and by Sec. 2 of No. 97 of the Acts of the 2007 Adj. Sess. (2008), shall be repealed July 1, 2011.

(b) Sec. 7(d) (repeal of transfer to the fish and wildlife board of management authority over deer herd) of No. 136 of the Acts of the 2003 Adj. Sess. (2004), as amended by No. 97 of the Acts of the 2007 Adj. Sess. (2008), shall be repealed July 1, 2011.

#### Sec. 4. REPEAL OF TRANSFER OF REGULATORY AUTHORITY OVER CAPTIVE CERVIDAE FACILITY

Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) (transfer of regulatory oversight over captive cervidae facility and the white-tailed deer or moose entrapped within it to the agency of agriculture, food and markets) is repealed.

#### Sec. 5. TRANSITION

(a) For purposes of this section, “relevant captive cervidae facility” shall mean a captive cervidae facility subject to the requirements of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) prior to repeal under Sec. 4 of this act.

(b) Upon repeal of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) under Sec. 4 of this act, the jurisdiction and regulatory authority over a relevant captive cervidae facility and the white-tailed deer and moose entrapped within it are transferred from the agency of agriculture, food and markets to the department of fish and wildlife.

(c) Upon transfer of jurisdiction and regulatory authority to the department of fish and wildlife under subsection (b) of this section, a relevant captive cervidae facility shall be regulated as a captive hunt facility under the fish and wildlife board’s rule governing the importation and possession of animals for taking by hunting as set forth in 10 V.S.A. App. § 19, except that:

(1) For purposes of review of an application for a permit submitted under subsection (d) of this section, demonstrated compliance by a relevant captive cervidae facility with the requirements of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) or the agency of agriculture, food and markets’ rules governing captive cervidae shall be deemed as substantial compliance with comparable provisions of the department of fish and wildlife rules governing the importation and possession of animals for taking by hunting.

(2) The wild cervidae entrapped at a relevant captive cervidae facility may remain at the facility, provided that:

(A) The white-tailed deer and moose entrapped at the facility shall be subject to hunt during an applicable open season or seasons established by the fish and wildlife board;

(B) The fish and wildlife board shall adopt by rule a process by which the number of white-tailed deer and moose entrapped within the relevant captive hunt facility is reduced to zero by taking, as that term is defined in 10 V.S.A. § 4001, over a three-year period from September 1, 2011. The rule adopted by the fish and wildlife board under this subdivision shall specify:

(i) The number and type of white-tailed deer or moose to be taken in any season set by the board for the relevant captive hunt facility, subject to the following:

(I) The board shall not authorize the hunting or killing of the moose known as Pete and may authorize the relocation or transfer of said moose to an adequate facility;

(II) The number of white-tailed deer or moose authorized for taking should be reasonably equal in each of the three years from September 1, 2011, provided that all white-tailed deer or moose remaining at the facility in the fifth year shall be authorized for taking;

(III) In each year of the three-year period, the owner of the relevant captive cervidae facility shall present to the department of fish and wildlife for disease surveillance at least the number of white-tailed deer and moose authorized for taking by the fish and wildlife board under this subdivision (C)(2)(B)(i).

(ii) The process and protocol for a disease surveillance program at the relevant captive cervidae facility.

(C) the owner of the relevant captive cervidae facility may post his or her land according to 10 V.S.A. § 5201 and may restrict access to the facility for hunting; and

(D) no fee shall be charged by the relevant captive cervidae facility for the right to take white-tailed deer or moose during a hunt season established by the fish and wildlife board under this subsection.

(3) No person knowingly or intentionally shall allow wild cervidae at the relevant captive cervidae facility to escape or to be released from the facility.

(4) Failure of the relevant captive cervidae facility to meet the requirements of this section shall be a fish and game violation subject to enforcement under 10 V.S.A. chapter 109.

(d) By September 1, 2011, the owner of a relevant captive cervidae facility shall submit to the department of fish and wildlife an application for a permit for the possession of animals for the purpose of hunting.

(e) On or before January 15, 2012, and annually thereafter, the department of fish and wildlife shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding the status of the relevant captive cervidae facility's compliance with:

(1) the requirements of this section; and

(2) the fish and wildlife board's rule governing the importation and possession of animals for taking by hunting.

(f) Prior to filing under 3 V.S.A. § 841 a final proposal of the rules required by subsection (c) of this section, the fish and wildlife board shall submit a copy of the proposed rules to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy. The house committee on fish, wildlife and water resources and the senate committee on natural resources and energy shall review the proposed rules for consistency with legislative intent. The house committee on fish, wildlife and water resources and the senate committee on natural resources and energy shall recommend that the proposed rules be amended or shall recommend that the proposed rules be filed with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841. If the general assembly is not in session when the fish and wildlife board is prepared to file a final proposal of rules, the board may submit the proposed rules to the secretary of the senate, the clerk of the house, and the chairs of the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy.

\* \* \* Department of Fish and Wildlife; Enforcement Authority \* \* \*

Sec. 6. 10 V.S.A. §§ 4519–4520a are added to read:

§ 4519. ASSURANCE OF DISCONTINUANCE

(a) As an alternative to judicial proceedings, the commissioner may accept an assurance of discontinuance of any violation of this part. An assurance of discontinuance may include, but need not be limited to:

- (1) specific actions to be taken;
- (2) abatement or mitigation schedules;
- (3) payment of a civil penalty and the costs of investigation;

(4) payment of an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved persons.

(b) An assurance of discontinuance shall be in writing and signed by the respondent and shall specify the statute or regulation alleged to have been violated. An assurance of discontinuance shall be simultaneously filed with the attorney general and the civil division of the superior court of the county in which the alleged violation occurred or the civil division of the superior court of Washington County. An assurance of discontinuance may, by its terms, become an order of the court. Evidence of a violation of an assurance of discontinuance shall be prima facie proof of the violation.



(c) Any violation of an assurance of discontinuance shall constitute a separate and distinct offense of the underlying statute or rule and shall be subject to an administrative penalty under section 4520 of this title, in addition to any other applicable penalties.

§ 4520. ADMINISTRATIVE PENALTIES

(a) In addition to other penalties provided by law, the commissioner may assess administrative penalties, not to exceed \$1,000.00, for each violation of this part.

(b) In determining the amount of the penalty to be assessed under this section, the commissioner may give consideration to one or more of the following:

(1) the degree of actual and potential impact on fish, game, public safety, or the environment resulting from the violation;

(2) the presence of mitigating or aggravating circumstances;

(3) whether the violator has been warned or found in violation of fish and game law in the past;

(4) the economic benefit gained by the violation;

(5) the deterrent effect of the penalty;

(6) the financial condition of the violator.

(c) Each violation may be a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed to be a separate and distinct offense. In no event shall the maximum amount of the penalty assessed under this section exceed \$25,000.00.

(d) In addition to the administrative penalties authorized by this section, the commissioner may recover the costs of investigation, which shall be credited to a special fund and shall be available to the department to offset these costs.

(e) Any party aggrieved by a final decision of the commissioner under this section may appeal de novo to the civil division of the superior court of the county in which the violation occurred or the civil division of the superior court of Washington County within 30 days of the final decision of the commissioner.

(f) The commissioner may enforce a final administrative penalty by filing a civil collection action in the civil division of the superior court of any county.

(g) The commissioner may, subject to 3 V.S.A. chapter 25, suspend any license or permit issued pursuant to his or her authority under this part for failure to pay a penalty under this section more than 60 days after the penalty was issued.

§ 4520a. NOTICE AND HEARING REQUIREMENTS

(a) The commissioner shall use the following procedures in assessing the penalty under section 4520 of this title: the attorney general or an alleged violator shall be given an opportunity for a hearing after reasonable notice; and the notice shall be served by personal service or by certified mail, return receipt requested. The notice shall include:

(1) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(2) a statement of the matter at issue, including reference to the particular statute allegedly violated and a factual description of the alleged violation;

(3) the amount of the proposed administrative penalty; and

(4) a warning that the decision shall become final and the penalty imposed if no hearing is requested within 15 days of receipt of the notice. The notice shall specify the requirements which shall be met in order to avoid being deemed to have waived the right to a hearing or the manner of payment if the person elects to pay the penalty and waive a hearing.

(b) Any person who receives notification pursuant to this section shall be deemed to have waived the right to a hearing unless, within 15 days of the receipt of the notice, the person requests a hearing in writing. If the person waives the right to a hearing, the commissioner shall issue a final order finding the person in default and imposing the penalty. A copy of the final default order shall be sent to the violator by certified mail, return receipt requested.

(c) When an alleged violator requests a hearing in a timely fashion, the commissioner shall hold the hearing pursuant to 3 V.S.A. chapter 25.

\* \* \* Hunting and Fishing Licenses; Members of Armed Forces \* \* \*

Sec. 7. 10 V.S.A. § 4258 is amended to read:

§ 4258. LICENSE; ARMED FORCES

A license to hunt or fish shall be issued, upon payment of the resident license fee, to any member of the armed forces of the United States of America who is on active duty and stationed at some military, air, or naval post, station, or base within the state. Said member of the armed forces, desiring a hunting or fishing license, ~~must present a certificate from the commander of said post, station or base, or his designated agent, that the person mentioned in the certification is stationed at or attached to said post, station or base~~ shall certify that he or she is eligible for such a license under this section. Holders of such licenses shall be subject to all the laws of the state and the rules and regulations

of the board regulating hunting and fishing; and for violations of said laws or rules and regulations, shall be subject to the penalties prescribed therefor, and such licenses shall be revoked in the same manner as provided in section 4502 of this title.

Sec. 8. 10 V.S.A. § 4259 is amended to read:

§ 4259. VERMONT RESIDENTS; ARMED FORCES

Any resident of the state of Vermont who is serving in the armed forces of the United States or is performing or under orders to perform any homeland defense or state-side contingency operation, or both, for a period of 120 consecutive days or more, ~~as certified by the Adjutant General for the Vermont National Guard is eligible~~ shall certify that he or she is eligible under this section to obtain at no cost a hunting or fishing license or a combination hunting and fishing license. This provision will apply only during the period he or she is serving in the armed forces of the United States, or as certified pursuant to this section. A person who obtains a license under this section may keep the license until it expires, whether or not the person continues to serve in the armed forces until the expiration date.

\* \* \* Posting of Land; Eligibility \* \* \*

Sec. 9. 10 V.S.A. § 4081(g) is amended to read:

(g) If the board finds that an antlerless season is necessary to maintain the health and size of the herd, the department shall administer an antlerless deer program. Annually, the board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents a person may apply for a permit. Each person may submit only one application for a permit. The department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except under the provisions of section 4710 of this title. As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land, except for signs erected pursuant to section 4710 of this title. If the number of landowners who apply exceeds the number of permits for that district, the department shall award all permits in that district to landowners by lottery.

\* \* \*

Sec. 10. 10 V.S.A. § 4253 is amended to read:

§ 4253. LANDOWNER; FAMILY; EXCEPTION

(a) A resident owner of lands, his or her spouse, and their minor children may, without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds therein subject to the provisions of this part.

(b) A nonresident owner of lands, his or her spouse, and their minor children, may without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds thereon subject to the provisions of this part, except if the lands are posted under provisions other than section 4710 of this title.

(c) As used in this section, “post” means any signage that would lead a reasonable person to believe that hunting is prohibited on the land.

Sec. 11. 10 V.S.A. § 4826(f) is amended to read:

(f)(1) “Person” includes all people who jointly own or ~~occupy~~ lease the land. ~~Therefore, if two or more people jointly own or occupy land, they may jointly take or authorize the taking of only up to four deer.~~

(2) “Post” means any signage that would lead a reasonable person to believe that hunting is prohibited on the land, except for signs erected pursuant to section 4710 of this title.

Sec. 12. 10 V.S.A. § 4829 is amended to read:

§ 4829. PERSON SUFFERING DAMAGE BY DEER OR BLACK BEAR

A person who suffers damage by deer to the person’s crops, fruit trees, or crop-bearing plants on land not posted against the hunting of deer, or a person who suffers damage by black bear to the person’s cattle, sheep, swine, poultry, or bees or bee hives on land not posted against hunting or trapping of black bear is entitled to reimbursement for the damage, and may apply to the department of fish and wildlife within 72 hours of the occurrence of the damage for reimbursement for the damage. As used in this section, “post” means any signage that would lead a reasonable person to believe that hunting is prohibited on the land.

---

\* \* \* Deer Doing Damage to Forestland; Working Group \* \* \*

Sec. 13. DEPARTMENT OF FISH AND WILDLIFE WORKING GROUP  
ON DEER DOING DAMAGE TO LAND MANAGED FOR THE  
PRODUCTION OF MARKETABLE FOREST PRODUCTS

(a) The commissioner of fish and wildlife shall convene a working group to review and recommend methods for addressing or limiting damage by deer to trees, saplings, and seedlings on land managed for the production of marketable forest products and to assess land access issues related to wildlife management. The working group shall consist of the commissioner or his or her designee and the following members to be appointed by the commissioner:

(1) two qualified foresters;

(2) two owners of land managed for the production of marketable forest products;

(3) two members of the fish and wildlife board;

(4) two wildlife biologists with knowledge of the state deer herd or of the impact of deer on forestland; and

(5) two persons who hold a valid Vermont hunting license.

(b) On or before January 15, 2012, the commissioner shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy with the recommendations of the working group. The report shall include an analysis of how and if prohibiting the posting of land as a condition of taking deer doing damage to land managed for the production of marketable forest products will achieve the goal of reducing or mitigating distinct occurrences of damage from deer populations, including an assessment of broader land access issues related to wildlife management.

Sec. 14. EDUCATION AND OUTREACH REGARDING FORESTRY  
PRACTICES TO PREVENT DEER DOING DAMAGE

On or before September 1, 2011, the commissioner of fish and wildlife, in consultation with the commissioner of forests, parks and recreation, shall conduct education and outreach activities regarding forestry practices to address deer doing damage to land managed for the production of marketable forest products. Outreach should include methods by which owners of land managed for the production of marketable forest products can contact Vermont licensed hunters in order to invite hunting on land being damaged by deer. The commissioner shall publish recommended forestry practices and other methods for addressing deer damage to land managed for the production of marketable forest products in the department of fish and wildlife's landowner habitat

management guidelines; in the Vermont guide to hunting, fishing, and trapping laws; and on the website of the department of fish and wildlife.

Sec. 15. EFFECTIVE DATES

(a) This section and Secs. 9 (antlerless permit; post), 10 (landowner hunt exception; post), 11 (deer doing damage; post), 12 (bear doing damage; post), 13 (working group on deer doing damage), and 14 (outreach and education) of this act shall take effect on passage.

(b) Secs. 1 (findings; wildlife management; captive cervidae facility), 2 (policy for management of fish and wildlife), 3 (repeal of dormant deer herd management statutes), 6 (department of fish and wildlife; assurance of discontinuance; administrative penalties), 7 (hunting and fishing license; armed forces; nonresident) and 8 (hunting and fishing license; armed forces; resident) of this act shall take effect on July 1, 2011.

(c) Secs. 4 (repeal of transfer of regulatory authority over captive cervidae facility) and 5 (transition of regulatory authority over captive cervidae facility) of this act shall take effect September 1, 2011, except that Sec. 5(d) (application for possession of animals for the purpose of a hunting permit) shall take effect on July 1, 2011.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Benning moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, as follows:

In Sec. 5, subdivision (c)(2)(B)(i)(II), by striking out the word "fifth" where it appears and inserting in lieu thereof the word third

Which was agreed to.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered on a roll call, Yeas 24, Nays 4.

Senator Illuzzi having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ayer, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Westman, White.

**Those Senators who voted in the negative were:** Baruth, Illuzzi, Kittell, Starr.

**Those Senators absent and not voting were:** Ashe, Giard.

### **Recess**

On motion of Senator Campbell the Senate recessed until five o'clock in the afternoon.

### **Called to Order**

At five o'clock in the afternoon the Senate was called to order by the President.

### **Message from the House No. 51**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 198.** An act relating to a transportation policy to accommodate all users.

**H. 453.** An act relating to the annual tax expenditure budget.

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

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

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

And has adopted the same in concurrence.

### **Bills Referred**

House bills of the following titles were severally read the first time and referred:

#### **H. 198.**

An act relating to a transportation policy to accommodate all users.

To the Committee on Rules.

#### **H. 453.**

An act relating to the annual tax expenditure budget.

To the Committee on Rules.

**Proposal of Amendment Amended; Bill Passed in Concurrence with  
Proposal of Amendment; Rules Suspended; Bill Messaged**

**H. 446.**

House bill entitled:

An act relating to capital construction and state bonding.

Was taken up.

Thereupon, pending third reading of the bill, Senator Hartwell, on behalf of the Committee on Institutions, moved that the Senate proposal of amendment be amended as follows:

First: By inserting a new section to be numbered Sec. 55a to read as follows:

Sec. 55a. 16 V.S.A. § 2867 is amended to read:

§ 2867. RESERVE AND PLEDGED EQUITY FUNDS

\* \* \*

(f) In order to assure the maintenance of the debt service reserve fund requirement in each debt service reserve fund established by the corporation under this section, there may be appropriated annually and paid to the corporation for deposit in each such fund such sum as shall be certified by the chair of the corporation to the governor, the president of the senate, and the speaker of the house as is necessary to establish or restore each such debt service reserve fund to an amount equal to the requirement for each such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such fund to the amount aforesaid, and ~~the sum~~ the governor shall, on or before March 1, submit a request for appropriations in the amount so certified, and such amount may be appropriated, and if appropriated, shall be paid to the corporation during the then current state fiscal year. In order to assure the funding of the pledged equity fund requirement in each pledged equity fund established by the corporation under this section at the time and in the amount determined at the time of entering into any credit enhancement agreement related to a pledged equity fund, there may be appropriated and paid to the corporation for deposit in each such fund, such sum as shall be certified by the chair of the corporation, to the governor, the president of the senate and the speaker of the house, as is necessary to establish each such pledged equity fund to an amount equal to the amount determined by the corporation at the time of entering into any credit enhancement agreement related to a pledged equity fund; provided that the amount requested, together with any amounts previously appropriated



pursuant to this subsection for a particular pledged equity fund, shall not exceed the maximum amount of the state's commitment, as determined by the corporation pursuant to subsection (d) of this section. The chair shall, on or about the February 1 next following the designated date for fully funding a pledged equity fund, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house, a certificate stating the sum required to bring each such fund to the amount aforesaid or to otherwise satisfy the state's commitment with respect to each such fund, and the ~~sum~~ governor shall, on or before March 1, submit a request for appropriations in the amount so certified, and such amount may be appropriated, and if appropriated, shall be paid to the corporation during the then-current state fiscal year. The combined principal amount of bonds, notes, and other debt instruments outstanding at any time and secured in whole or in part by a debt service reserve fund established under this section and the aggregate commitment of the state to fund pledged equity funds pursuant to this subsection shall not exceed \$50,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the corporation in contravention of the Constitution of the United States. Notwithstanding anything in this section to the contrary, the state's obligation with respect to funding any pledged equity fund shall be limited to its maximum commitment, as determined by the corporation pursuant to subsection (d) of this section and the state shall have no other obligation to replenish or maintain any pledged equity fund.

Second: By inserting a new section to be numbered Sec 55b to read as follows:

Sec. 55b. 24 V.S.A. § 4675 is amended to read:

§ 4675. ANNUAL APPROPRIATION

In order to assure the maintenance of the required debt service reserve in each reserve fund established pursuant to this chapter, there shall be appropriated annually and paid to the bank for deposit in each reserve fund, such sum as shall be certified by the chair of the bank to the governor or to the governor-elect, as is necessary to restore such fund to an amount equal to the required debt service reserve. The ~~chairman~~ chair shall annually, on or before February 1, make and deliver to the governor or to the governor-elect, his or her certificate stating the sum required to restore the fund to the amount aforesaid, and the governor or governor-elect shall, on or before March 1, submit a request for appropriations for the sum so certified, and the sum so certified shall be appropriated and paid to the bank during the then current state fiscal year.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Illuzzi moved that the Senate proposal of amendment be amended as follows:

First: By striking out Sec. 27 in its entirety and inserting in lieu thereof the following:

Sec. 27. REPEAL OF AUTHORITY TO SELL REDSTONE

Subdivision (g)(2) of Sec. 25 of No. 43 of the Acts of 2009 (authority to sell the Redstone building) is repealed.

Second: By adding a Sec. 27a to read:

Sec. 27a. REDSTONE FEASIBILITY STUDY

The commissioner of buildings and general services shall provide a feasibility study to the senate committee on institutions and the house committee on corrections and institutions on or before January 15, 2012 on whether it is in the best interest of the state for the Redstone building located at 26 Terrace Street in Montpelier to remain in the state's inventory for the support of state government, public functions, state museums, or any other use consistent with functions of state government, including apartment housing for the chief executive. The commissioner may propose a plan that includes partnering with nonprofit entities to restore and renovate the building to accommodate the proposal and retain the property's historic value.

Third: In Sec. 44, in the opening paragraph, by striking out the words “take action on” and inserting in lieu thereof the word approve

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Illuzzi and Starr moved that the Senate proposal of amendment be amended by adding two new sections to be numbered Secs. 45a and 45b to read as follows:

Sec. 45a. FINDINGS

Two local civic leaders, John Boylan and John Worth, played instrumental roles in establishing a state airport in Island Pond (town of Brighton). However, in an effort to shorten the airport's name, John Worth was not recognized.

Sec. 45b. RENAMING OF JOHN H. BOYLAN AIRPORT

Notwithstanding any provisions of law to the contrary, the Vermont Board of Libraries is authorized to rename the “John H. Boylan Airport” in Island Pond (town of Brighton).

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Illuzzi moved that the Senate proposal of amendment be amended by striking out Sec. 46 in its entirety and inserting in lieu thereof a new Sec. 46 to read:

Sec. 46. TELECOMMUTING BY STATE WORKERS

(a) The general assembly finds that:

(1) Telework is an innovative management option that allows selected employees to work from home or from a state office location close to the employee's home.

(2) Telework offers a working environment that can reduce distractions, and result in greater worker productivity and job performance.

(3) The goal of a telework program is to improve employee morale and job satisfaction as well as to reduce absenteeism and sick leave usage.

(4) A telework program can help retain valued employees and recruit top-quality employees while improving quality of life and protecting the environment.

(b) The secretary of administration shall authorize a pilot project to evaluate the efficacy of permitting some state employees to work from home or from an alternative work location closer to the employee's home. For purposes of this section, "telework" means working from a location other than an employee's principal state-owned duty station during the employee's standard work day. The pilot project shall be based on guidelines developed by the secretary of administration.

Which was agreed to on a division of the Senate Yeas 14, Nays 10.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment, on a roll call, Yeas 30, Nays 0.

Senator Hartwell having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

**Rules Suspended; Bill Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

**H. 443.****Proposal of Amendment Amended; Bill Passed in Concurrence with  
Proposal of Amendment****H. 275.**

House bill of the following title:

An act relating to the recently deployed veteran tax credit.

Was taken up.

Thereupon, pending third reading of the bill, Senator Galbraith moved to amend the Senate proposal of amendment as follows:

First: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) A recently deployed veteran shall be eligible for a refundable credit against the income tax liability imposed under this chapter in an amount up to \$2,000.00 for unreimbursed expenses related to education or job-related training received from an accredited postsecondary school, a postsecondary school licensed or approved by a Vermont occupational licensing board, or a non-degree-granting or non-credit-granting postsecondary vocational school approved or recognized by the department of labor; provided, however, that to be eligible for the credit, the expense shall be incurred after the date of enactment of this act but before December 31, 2012.

Second: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, subsection (b), by striking out the words “new full-time employee’s date of hire and may be carried forward one year” and inserting in lieu thereof the words date the expense was incurred

Third: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) “Recently deployed veteran” means an individual who:

(1)(A) was a resident of Vermont at the time of entry into military service; or

(B) was mobilized to active federal military service while a member of the Vermont National Guard or other reserve unit located in Vermont, regardless of the resident's home of record;

(2) received an honorable or general discharge from active federal military service within the two-year period preceding the date of incurring the expense related to the credit; and

(3) at the time of incurring the expense related to the credit:

(A) is collecting or eligible to collect unemployment benefits; or

(B) has exhausted his or her unemployment benefits.

Which was disagreed to on a roll call Yeas, 12, Nays 17.

Senator Carris having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ayer, Baruth, Brock, Doyle, Galbraith, Giard, Hartwell, Illuzzi, Kittell, Mullin, Pollina, Westman.

**Those Senators who voted in the negative were:** Ashe, Benning, Campbell, Carris, Cummings, Flory, Fox, Kitchel, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Sears, Starr, White.

**The Senator absent and not voting was:** Snelling.

Thereupon, pending third reading of the bill, Senator Galbraith moved that the Senate proposal of amendment be amended in Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in subsection (a), by inserting after the word "hired" the words after the passage of this act but

Which was agreed to.

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

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

#### **S. 98.**

Senator Cummings, for the Committee on Finance, to which was referred Senate Committee bill entitled:

An act relating to authorizing owner-financed property sales.

Reported that the bill ought to pass.

Senator Illuzzi moved to amend the bill by adding a new section to be numbered Sec. 1 to read as follows:

## Sec. 1. FINDINGS AND PURPOSE

(1) During the 2009 legislative session Vermont enacted Act 29 to bring Vermont law and the License Lender Statute (8 VSA Chapter 73) into compliance with the mandates of the federal Secure and Fair Enforcement for Mortgage Licensing Act (the “SAFE Act”). The SAFE Act addressed issues related to residential mortgage loans.

(2) The general assembly finds that there remains confusion and misunderstanding regarding seller financing of property other than residential real estate. Act 29 did not alter Chapter 73 as it relates to seller financing of property other than residential real estate. This act clarifies that a seller of real estate, other than residential real estate, may finance the sale of his or her real estate without obtaining a license under Chapter 73. The financing of residential real estate, however, remains subject to the licensing requirements and the limited exemptions found in Chapter 73.

(3) The general assembly finds that there remains confusion and misunderstanding about the exemption for loans between immediate family members. Act 29 provided an exemption from licensing for residential mortgage loans between immediate family members. It appears that some have interpreted Chapter 73 to only permit “residential mortgage loans” between immediate family members. This act clarifies that any loan between immediate family members, regardless of whether it is a residential mortgage loan, car loan, school loan, or any other type of loan, is exempt from the licensing requirements of Chapter 73.

(4) The general assembly finds that it is appropriate to expand the definition of “immediate family member” to include former spouses, step-grandparents, and step-grandchildren. The general assembly finds that the distinction between “spouse” and “former spouse” in a divorce proceeding and property settlement may simply be a matter of timing. Thus, it is appropriate to exempt licensing requirements for loans between former spouses in order to facilitate property settlements in divorce proceedings. The general assembly also finds that including “step-grandparents” and “step-grandchildren” in the definition of “immediate family member” is consistent with the current definition that already includes “stepparents”, “stepchildren”, and stepsiblings” and completes the step-family relationship.

(5) The general assembly believes that this act is consistent with the mandates of the SAFE Act and with the current interpretive guidance issued by the U.S. Department of Housing and Urban Development (“HUD”). The general assembly understands that HUD has been given interpretive authority for the SAFE Act and that HUD is in the process of publishing SAFE Act rules. In the event any of the provisions of this act are inconsistent with

HUD's final SAFE Act rules, the general assembly understands that it will have a reasonable period of time to review the final SAFE Act rules and to amend Chapter 73 accordingly.

And by renumbering the remaining sections to be numerically correct.

Which was agreed to.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

### **Third Reading Ordered**

#### **S. 104.**

Senator Fox, for the Committee on Finance, to which was referred Senate Committee bill entitled:

An act relating to modifications to the ban on gifts by manufacturers of prescribed products.

Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

### **Third Reading Ordered**

#### **H. 11.**

Senator Benning, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to the discharge of pharmaceutical waste to state waters.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

### **Rules Suspended; Proposals of Amendment; Third Reading Ordered**

#### **H. 138.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to executive branch fees.

Was taken up for immediate consideration.

Senator Cummings, for the Committee on Finance, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 5, 21 V.S.A. § 711(a), by striking out the following: “1.61” and inserting in lieu thereof the following: 1.75

Second: In Sec. 9, 6 V.S.A. § 2724(a), by striking out the following: “Licenses issued between July 1 and December 31 of each year shall be considered as if issued on the preceding July 1 for expiration purposes.” and inserting in lieu thereof the following: Licenses issued from July 2 to December 31 of each year shall be considered as if issued on the preceding July 1 for expiration purposes.

Third: By adding an internal caption and a new section to be numbered Sec. 11a to read as follows:

\* \* \* Department of Fish and Wildlife Bear Tags \* \* \*

Sec. 11a. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

(a) Vermont residents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	\$22.00
(2) Hunting license	\$22.00
(3) Combination hunting and fishing license	\$35.00
(4) Big game licenses (all require a hunting license)	
(A) archery license	\$20.00
(B) muzzle loader license	\$20.00
(C) turkey license	\$20.00
(D) second muzzle loader license	\$17.00
(E) second archery license	\$17.00
(F) moose license	\$100.00
<u>(G) second bear tag</u>	<u>\$5.00</u>

\* \* \*

(b) Nonresidents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	\$45.00
---------------------	---------



---

(2) One-day fishing license	\$20.00
(3) [Deleted.]	
(4) Hunting license	\$100.00
(5) Combination hunting and fishing license	\$130.00
(6) Big game licenses (all require a hunting license)	
(A) archery license	\$35.00
(B) muzzle loader license	\$40.00
(C) turkey license	\$35.00
(D) second muzzle loader license	\$25.00
(E) second archery license	\$25.00
(F) moose license	\$350.00
<u>(G) second bear tag</u>	<u>\$5.00</u>

\* \* \*

(l) If the board determines that it is in the interest of bear management, it may require the issuance of a second bear tag for the taking of bear in addition to that allowed by a hunting license issued under this chapter.

Fourth: By adding an internal caption and a new section to be numbered Sec. 11b to read as follows:

\* \* \* Probate fees \* \* \*

Sec. 11b. 14 V.S.A. § 2 is amended to read:

§ 2. DEPOSIT OF WILL FOR SAFEKEEPING; DELIVERY; FINAL DISPOSITION

(a) A testator may deposit a will for safekeeping in the probate division of the superior court for the district in which the testator resides on the payment of a fee ~~of \$2.00~~ to the court. The register shall give to the testator a certificate of deposit, shall safely keep each will so deposited and shall keep an index of the wills so deposited.

\* \* \*

Fifth: By striking out Sec. 12 and the internal caption “\* \* \* Report on local option tax assessment fee \* \* \*” in their entirety and inserting in lieu thereof

Sec. 12. [DELETED]

Sixth: In Sec. 13, Repeals, by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3) Sec. 4 of No. 12 of the Acts of 2009, as amended by Sec. 105 of No. 67 of the Acts of the 2009 Adj. Sess. (2010) (sunset on the amendments requiring the payment of the fee as a condition to successfully complete the diversion program).

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

Sec. 14. EFFECTIVE DATES

This section, Sec. 6, and Sec. 13(3) (relating to sunset on the amendments requiring the payment of the fee as a condition to successfully complete the diversion program) shall take effect on passage.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Cummings moved that the Senate propose to the House that the bill be amended by striking out Sec. 11b in its entirety and inserting in lieu thereof a new section to be numbered Sec. 11b to read as follows:

Sec. 11b. 14 V.S.A. § 2 is amended to read:

§ 2. DEPOSIT OF WILL FOR SAFEKEEPING; DELIVERY; FINAL DISPOSITION

(a) A testator may deposit a will for safekeeping in the probate division of the superior court for the district in which the testator resides on the payment ~~of a fee of \$2.00~~ to the court of the fee required by 32 V.S.A. § 1434(a)(17). The register shall give to the testator a certificate of deposit, shall safely keep each will so deposited and shall keep an index of the wills so deposited.

\* \* \*

Which was agreed to.

Thereupon, third reading of the bill was ordered.

**Proposal of Amendment; Third Reading Ordered**

**H. 26.**

Senator MacDonald, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to limiting the application of fertilizer containing phosphorus or nitrogen to nonagricultural turf.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1266b is added to read:

§ 1266b. APPLICATION OF PHOSPHORUS FERTILIZER

(a) Definitions. As used in this section:

(1) “Compost” means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage, septage, or materials derived from sewage or septage.

(2) “Fertilizer” shall have the same meaning as in 6 V.S.A. § 363(5).

(3) “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.

(4) “Manipulated animal or vegetable manure” means manure that is ground, pelletized, mechanically dried, supplemented with plant nutrients or substances other than phosphorus or phosphate, or otherwise treated to assist with the use of manure as fertilizer.

(5) “Phosphorus fertilizer” means fertilizer labeled for use on turf in which the available phosphate content is greater than 0.67 percent by weight, except that “phosphorus fertilizer” shall not include compost or manipulated animal or vegetable manure.

(6)(A) “Turf” means land planted in closely mowed, managed grasses, including residential and commercial property and publicly owned land, parks, and recreation areas.

(B) “Turf” shall not include:

(i) pasture, cropland, land used to grow sod, or any other land used for agricultural production; or

(ii) private and public golf courses.

(7) “Water” or “water of the state” means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs, and all bodies of surface waters, artificial or natural, which are contained within, flow through, or border upon the state or any portion of it.

(b) Application of phosphorus fertilizer.

(1) No person shall apply phosphorus fertilizer to turf except for:

(A) phosphorus fertilizer necessary for application to turf that is deficient in phosphorus as shown by a soil test performed no more than 18 months before the application of the fertilizer; or

(B) phosphorus fertilizer that is labeled as starter fertilizer and that is intended for application to turf when a property owner or an agent of a property owner is first establishing grass in turf via seed or sod procedures and the application of starter fertilizer is limited to the first growing season.

(2) On or before October 1, 2011, the secretary of agriculture, food and markets, after consultation with the University of Vermont, shall approve a standard, which may authorize multiple testing methods, for the soil test required under subdivision (1)(A) of this subsection.

(c) Application of fertilizer to impervious surface; in proximity to water; and seasonal restriction. No person shall apply any fertilizer:

(1) to an impervious surface. Fertilizer applied or released to an impervious surface shall be immediately collected and returned to a container for legal application. This subdivision shall not apply to activities regulated under the accepted agricultural practices as those practices are defined by the secretary of agriculture, food and markets under 6 V.S.A. § 4810;

(2) to turf before April 1 or after October 15 in any calendar year or at any time when the ground is frozen; or

(3) to turf within 25 feet of a water of the state.

(d) Retail display of phosphorus fertilizer. If a retailer sells or offers for sale phosphorus fertilizer to consumers and consumers have direct access to the phosphorus fertilizer, the retailer shall:

(1) In the retail area where phosphorus fertilizer is accessible by a consumer, display nonphosphorus fertilizer separately from phosphorus fertilizer; and

(2) Post in the retail location, if any, where phosphorus fertilizer is accessible by the consumer a clearly visible sign that is at least eight and one-half inches by 11 inches in size and that states "Phosphorus runoff poses a threat to water quality. Most Vermont lawns do not benefit from fertilizer containing phosphorus. Under Vermont law, fertilizer containing phosphorus shall not be applied to lawn unless applied to new lawn or lawn that is deficient for phosphorus as indicated by a soil test."

(e) Violations. A person who knowingly and intentionally violates this section shall be subject to a civil penalty of not more than \$500.00 per

violation. A violation of this section shall be enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4 in an action that may be brought by the agency of agriculture, food and markets or the agency of natural resources.

Sec. 2. 6 V.S.A. § 381 is added to read:

§ 381. GOLF COURSES; NUTRIENT MANAGEMENT PLAN

Beginning July 1, 2012, as a condition of the permit issued to golf courses under chapter 87 of this title and regulations adopted thereunder, a golf course shall be required to submit to the secretary of agriculture, food and markets a nutrient management plan for the use and application of fertilizer to grasses or other lands owned or controlled by the golf course. The nutrient management plan shall ensure that the golf course applies fertilizer according to the agronomic rates for the site-specific conditions of the golf course.

Sec. 3. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A judicial bureau is created within the judicial branch under the supervision of the supreme court.

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

(1) Traffic violations alleged to have been committed on or after July 1, 1990.

(2) Civil ordinance violations alleged to have been committed on or after July 1, 1994.

(3) Minor fish and wildlife violations alleged to have been committed on or after September 1, 1996.

\* \* \*

(21) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and the marking of harvest units.

(22) Violations of 10 V.S.A. § 1266b, relating to the application of fertilizer to nonagricultural turf.

(c) The judicial bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the court administrator shall determine waiver penalties to be imposed for violations within the judicial bureau's jurisdiction, except:

(1) Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

(2) The agency of natural resources and the natural resources board shall include full and waiver penalties in each rule that is adopted under 10 V.S.A. § 8019. For purposes of environmental violations, the issuing entity shall indicate the appropriate full and waiver penalties on the complaint.

Sec. 4. Sec. E.700.1 of Act No. 1 2009 Special Sess. is amended to read:

Sec. E.700.1 REPORT AND RULEMAKING ON WATER MANAGEMENT TYPING FOR THE WHITE RIVER BASIN AND THE WEST, WILLIAMS, AND SAXONS RIVER BASIN

(a) On or before January 31, 2011, the Two Rivers Ottauquechee Regional Commission and the Windham Regional Commission shall submit to the agency of natural resources and the natural resources board the recommended water management type designations required under Sec. E.700(a)(1) and (2) of this act. Upon receipt of the recommended water management type designations required under this section, the agency of natural resources shall post the recommended water management type designations to its website and shall make the recommendations available to any person upon request.

(b) ~~Within three months of receipt of the recommended water management type designations under this section, the~~ The natural resources board shall initiate rulemaking to amend the water management types in order to consider the recommended water management type designations for the White River basin and the West, Williams and Saxons River basin.

Sec. 5. EFFECTIVE DATE

(a) This section and Sec. 4 (water management typing) of this act shall take effect on passage.

(b) Secs. 1 (application of fertilizer), 2 (golf course management plans) and 3 (judicial bureau offense) of this act shall take effect on January 1, 2012.

And, after passage, by amending the title to read;

An act relating to the application of phosphorus fertilizer to nonagricultural turf.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

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

#### **H. 66.**

Senator Brock, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to the illegal taking of trophy big game animals.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4514 is amended to read:

#### **§ 4514. POSSESSION OF FLESH OF GAME**

(a) When legally taken, the flesh of a fish or wild animal may be possessed for food for a reasonable time thereafter and such flesh may be transported and stored in a public cold storage plant. Nothing in this section shall authorize the possession of game birds or carcasses or parts thereof contrary to regulations made pursuant to the migratory bird treaty act.

(b) Any person convicted of illegally taking, destroying or possessing wild animals shall, in addition to other penalties provided under this chapter, pay into the fish and wildlife fund for each animal taken, destroyed or possessed, no more than the following amounts:

(1) Big game	<del>\$1,000.00</del> <u>\$2,000.00</u> each
(2) Endangered or threatened species as defined in section 5401 of this title	<del>1,000.00</del> <u>\$2,000.00</u> each
(3) Small game	<del>250.00</del> <u>\$500.00</u> each
(4) Fish	<del>25.00</del> <u>\$25.00</u> each

Sec. 2. 10 V.S.A. § 4518 is amended to read:

#### **§ 4518. BIG GAME VIOLATIONS**

Whoever violates a provision of this part or orders or rules of the board relating to taking, possessing, transporting, buying, or selling of big game shall be fined not more than ~~\$500.00~~ \$1,000.00 nor less than ~~\$200.00~~ \$400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions, the violator shall be fined not more than ~~\$1,000.00~~

~~\$2,000.00~~ nor less than ~~\$500.00~~ \$1,000.00 or imprisoned for not more than 60 days, or both.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

**Proposal of Amendment; Third Reading Ordered**

**H. 430.**

Senator Lyons, for the Committee on Education, to which was referred House bill entitled:

An act relating to providing mentoring support for new principals and technical center directors.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 245 is added to read:

§ 245. PRINCIPALS; TECHNICAL CENTER DIRECTORS; MENTORING

(a) When a school district hires a principal or a technical center director who has not been employed previously in that capacity, the superintendent serving the district, in consultation with the Vermont Principals' Association, shall work to ensure that the new principal or technical center director receives mentoring supports during at least the first two years of employment. Mentoring supports shall be consistent with best practices, research-based approaches, or other successful models, and shall be identified jointly by the Vermont Principals' Association and the Vermont Superintendents Association.

(b) When a school district hires a principal or technical center director identified in subsection (a) of this section, the district shall allocate sufficient funds annually in the first two years of employment toward the cost of providing the mentoring supports from one or more of the following sources:

(1) funds allocated by the district for professional development;

(2) grant monies obtained for the purpose of providing mentoring supports;



(3) state funds appropriated for the purpose of providing mentoring supports; or

(4) other sources.

(c) This section shall not be interpreted to prohibit or discourage a superintendent from working to ensure that any administrator other than those identified in subsection (a) of this section receives mentoring supports.

## Sec. 2. INTERIM STUDY OF TEACHER INDUCTION AND MENTORING

(a) Creation of committee. There is created a committee to study how the education profession inducts and mentors new teachers and to recommend legislative changes that would help new teachers to develop strong skills in their initial years and that would increase the retention of high-quality teachers.

(b) Membership. The committee shall be composed of two members representing the Vermont Standards Board for Professional Educators, two members designated by the Vermont-NEA, two members designated by the Vermont Principals' Association, one member designated by the Vermont School Boards Association, one member designated by the Vermont Superintendents Association, and two members of approved programs in educator preparation who are chosen by the Vermont Standards Board for Professional Educators and who have experience, expertise, or demonstrated interest in teacher mentoring.

(c) Powers and duties.

(1) The committee shall study and evaluate the induction and mentoring practices and programs currently in effect throughout Vermont and other states, including consideration of:

(A) How successful induction and mentoring programs would affect new teachers' ability to be effective educators and to remain in the profession.

(B) What components are critical to effective induction and mentoring programs that meet established standards and provide substantial support to new teachers; including

(i) What qualifications mentors should possess;

(ii) How to offer incentives for qualified veteran or retired teachers to obtain training in the mentoring of new teachers;

(iii) How mentors should be assigned;

(iv) What induction or mentoring activities have been effective;

(v) Who should set mentoring standards and how should they be defined and enforced;

(vi) What should the appropriate duration of the mentoring be; and

(C) What other issues the general assembly, the department of education, and the state board of education should consider in order to enact a high-quality induction and mentoring program for new teachers.

(2) The committee shall identify effective ways to provide mentoring support to new teachers without incurring excessive costs.

(d) Meetings. The commissioner of education shall convene the first meeting of the committee on or before August 1, 2011. The committee shall elect a chair at its first meeting.

(e) Report. On or before January 1, 2012, the committee shall submit and present a written report to the senate and house committees on education regarding its findings and any recommendations for legislative action. The report and testimony shall include estimated costs associated with all recommendations.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage. Sec. 1 of this act shall apply to new contracts of employment for the 2012–2013 academic year and after.

And that after passage the title of the bill be amended to read:

An act relating to providing mentoring support for teachers, new principals, and new technical center directors.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

### **Rules Suspended; Bills Passed**

#### **S. 98.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to authorizing owner-financed property sales.

Was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed.

**S. 104.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to modifications to the ban on gifts by manufacturers of prescribed products.

Was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed.

**Rules Suspended; Bills Passed in Concurrence with Proposals of Amendment****H. 66.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to the illegal taking of trophy big game animals.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

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

**H. 138.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to executive branch fees.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

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

**H. 430.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to providing mentoring support for new principals and technical center directors.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

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

**Adjournment**

On motion of Senator Campbell, the Senate adjourned until ten o'clock in the morning.

---

**THURSDAY, APRIL 21, 2011**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Bill Introduced**

Senate bill of the following title was introduced, read the first time and referred:

**S. 110.**

By Senator Lyons,

An act relating to amending Act 250 to support growth in compact urban and village centers surrounded by countryside.

To the Committee on Natural Resources and Energy.

**Rules Suspended; Bills Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**S. 98, S. 104, H. 66, H. 138, H. 275, H. 430.**

**Rules Suspended; Proposals of Amendment; Third Reading Ordered;  
Consideration Postponed****H. 441.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to making appropriations for the support of government.

Was taken up for immediate consideration.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

---

Sec. A.100 SHORT TITLE

(a) This bill may be referred to as the BIG BILL - Fiscal Year 2012 Appropriations Act.

## Sec. A.101 PURPOSE

(a) The purpose of this act is to provide appropriations for the operations of state government during fiscal year 2012. It is the express intent of the general assembly that activities of the various agencies, departments, divisions, boards, and commissions be limited to those which can be supported by funds appropriated in this act or other acts passed prior to June 30, 2011. Agency and department heads are directed to implement staffing and service levels at the beginning of fiscal year 2012 so as to meet this condition unless otherwise directed by specific language in this act or other acts of the general assembly.

## Sec. A.102 APPROPRIATIONS

(a) It is the intent of the general assembly that this act serve as the primary source and reference for appropriations for fiscal year 2012.

(b) The sums herein stated are appropriated for the purposes specified in the following sections of this act. When no time is expressly stated during which any of the appropriations are to continue, the appropriations are single-year appropriations and only for the purpose indicated and shall be paid from funds shown as the source of funds. If in this act there is an error in either addition or subtraction, the totals shall be adjusted accordingly. Apparent errors in referring to section numbers of statutory titles within this act may be disregarded by the commissioner of finance and management.

(c) Unless codified or otherwise specified, all narrative portions of this act apply only to the fiscal year ending June 30, 2012.

## Sec. A.103 DEFINITIONS

(a) For the purposes of this act:

(1) "Encumbrances" means a portion of an appropriation reserved for the subsequent payment of existing purchase orders or contracts. The commissioner of finance and management shall make final decisions on the appropriateness of encumbrances.

(2) "Grants" means subsidies, aid, or payments to local governments, to community and quasi-public agencies for providing local services, and to persons who are not wards of the state for services or supplies and means cash or other direct assistance, including pension contributions.

(3) "Operating expenses" means property management, repair and maintenance, rental expenses, insurance, postage, travel, energy and utilities,

office and other supplies, equipment including motor vehicles, highway materials, and construction, expenditures for the purchase of land, and construction of new buildings and permanent improvements, and similar items.

(4) "Personal services" means wages and salaries, fringe benefits, per diems, and contracted third party services, and similar items.

#### Sec. A.104 RELATIONSHIP TO EXISTING LAWS

(a) Except as specifically provided, this act shall not be construed in any way to negate or impair the full force and effect of existing laws.

#### Sec. A.105 OFFSETTING APPROPRIATIONS

(a) In the absence of specific provisions to the contrary in this act, when total appropriations are offset by estimated receipts, the state appropriations shall control, notwithstanding receipts being greater or less than anticipated.

#### Sec. A.106 FEDERAL FUNDS

(a) In fiscal year 2012, the governor, with the approval of the legislature, or the joint fiscal committee if the legislature is not in session, may accept federal funds available to the state of Vermont, including block grants in lieu of or in addition to funds herein designated as federal. The governor, with the approval of the legislature or the joint fiscal committee if the legislature is not in session, may allocate all or any portion of such federal funds for any purpose consistent with the purposes for which the basic appropriations in this act have been made.

(b) If, during fiscal year 2012, federal funds available to the state of Vermont and designated as federal in this and other acts of the 2011 session of the Vermont general assembly are converted into block grants or are abolished under their current title in federal law and reestablished under a new title in federal law, the governor may continue to accept such federal funds for any purpose consistent with the purposes for which the federal funds were appropriated. The governor may spend such funds for such purposes for no more than 45 days prior to legislative or joint fiscal committee approval. Notice shall be given to the joint fiscal committee without delay if the governor intends to use the authority granted by this section, and the joint fiscal committee shall meet in an expedited manner to review the governor's request for approval.

#### Sec. A.107 DEPARTMENTAL RECEIPTS

(a) All receipts shall be credited to the general fund except as otherwise provided and except the following receipts, for which this subsection shall constitute authority to credit to special funds:

Connecticut river flood control

Public service department - sale of power

Tax department - unorganized towns and gores

(b) Notwithstanding any other provision of law, departmental indirect cost recoveries (32 V.S.A. § 6) receipts are authorized, subject to the approval of the secretary of administration, to be retained by the department. All recoveries not so authorized shall be credited to the general fund or, for agency of transportation recoveries, the transportation fund.

#### Sec. A.108 NEW POSITIONS

(a) Notwithstanding any other provision of law, the total number of authorized state positions, both classified and exempt, excluding temporary positions as defined in 3 V.S.A. § 311(11), shall not be increased during fiscal year 2012 except for new positions authorized by the 2011 session. Limited service positions approved pursuant to 32 V.S.A. § 5 shall not be subject to this restriction.

#### Sec. A.109 LEGEND

(a) The bill is organized by functions of government. The sections between B.100 and B.9999 contain appropriation of funds. The sections between E.100 and E.9999 contain language that relates to specific appropriations and/or government functions. The function areas by section numbers are as follows:

<u>B.100–B.199 and E.100–E.199</u>	<u>General Government</u>
<u>B.200–B.299 and E.200–E.299</u>	<u>Protection to Persons and Property</u>
<u>B.300–B.399 and E.300–E.399</u>	<u>Human Services</u>
<u>B.400–B.499 and E.400–E.499</u>	<u>Labor</u>
<u>B.500–B.599 and E.500–E.599</u>	<u>General Education</u>
<u>B.600–B.699 and E.600–E.699</u>	<u>Higher Education</u>
<u>B.700–B.799 and E.700–E.799</u>	<u>Natural Resources</u>
<u>B.800–B.899 and E.800–E.899</u>	<u>Commerce and Community Development</u>
<u>B.900–B.999 and E.900–E.999</u>	<u>Transportation</u>

B.1000–B.1099 and E.1000–E.1099 Debt ServiceB.1100–B.1199 and E.1100–E.1199 One-time and other appropriation  
Actions

## Sec. B.100 Secretary of administration - secretary's office

Personal services	640,938
Operating expenses	<u>74,914</u>
Total	715,852

## Source of funds

General fund	<u>715,852</u>
Total	715,852

## Sec. B.101 Information and innovation - communications and information technology

Personal services	7,111,349
Operating expenses	5,466,512
Grants	<u>900,000</u>
Total	13,477,861

## Source of funds

General fund	20,911
Internal service funds	<u>13,456,950</u>
Total	13,477,861

## Sec. B.102 Finance and management - budget and management

Personal services	1,080,093
Operating expenses	<u>216,873</u>
Total	1,296,966

## Source of funds

General fund	1,053,132
Interdepartmental transfers	<u>243,834</u>
Total	1,296,966

## Sec. B.103 Finance and management - financial operations

Personal services	2,645,289
Operating expenses	<u>279,851</u>
Total	2,925,140

## Source of funds

Internal service funds	<u>2,925,140</u>
Total	2,925,140

## Sec. B.104 Human resources - operations

Personal services	5,454,543
Operating expenses	<u>720,455</u>
Total	6,174,998



---

Source of funds	
General fund	1,819,211
Special funds	280,835
Internal service funds	3,361,536
Interdepartmental transfers	<u>713,416</u>
Total	6,174,998
Sec. B.105 Human resources - employee benefits & wellness	
Personal services	1,086,751
Operating expenses	<u>697,287</u>
Total	1,784,038
Source of funds	
Internal service funds	1,734,044
Interdepartmental transfers	<u>49,994</u>
Total	1,784,038
Sec. B.106 Libraries	
Personal services	1,850,467
Operating expenses	1,471,123
Grants	<u>55,080</u>
Total	3,376,670
Source of funds	
General fund	2,297,383
Special funds	99,156
Federal funds	878,355
Interdepartmental transfers	<u>101,776</u>
Total	3,376,670
Sec. B.107 Tax - administration/collection	
Personal services	12,618,208
Operating expenses	<u>2,883,734</u>
Total	15,501,942
Source of funds	
General fund	13,922,041
Special funds	1,463,901
Tobacco fund	58,000
Interdepartmental transfers	<u>58,000</u>
Total	15,501,942
Sec. B.108 Buildings and general services - administration	
Personal services	1,635,705
Operating expenses	<u>182,552</u>
Total	1,818,257

Source of funds	
Interdepartmental transfers	<u>1,818,257</u>
Total	1,818,257
Sec. B.109 Buildings and general services - engineering	
Personal services	2,095,457
Operating expenses	<u>333,346</u>
Total	2,428,803
Source of funds	
Interdepartmental transfers	<u>2,428,803</u>
Total	2,428,803
Sec. B.110 Buildings and general services - information centers	
Personal services	2,930,114
Operating expenses	1,064,165
Grants	<u>45,000</u>
Total	4,039,279
Source of funds	
General fund	3,989,279
Special funds	<u>50,000</u>
Total	4,039,279
Sec. B.111 Buildings and general services - purchasing	
Personal services	737,204
Operating expenses	<u>152,999</u>
Total	890,203
Source of funds	
General fund	<u>890,203</u>
Total	890,203
Sec. B.112 Buildings and general services - postal services	
Personal services	619,966
Operating expenses	<u>115,831</u>
Total	735,797
Source of funds	
General fund	35,716
Internal service funds	<u>700,081</u>
Total	735,797
Sec. B.113 Buildings and general services - copy center	
Personal services	636,262
Operating expenses	<u>115,240</u>
Total	751,502
Source of funds	

---

Internal service funds	<u>751,502</u>
Total	751,502
Sec. B.114 Buildings and general services - fleet management services	
Personal services	549,846
Operating expenses	<u>131,690</u>
Total	681,536
Source of funds	
Internal service funds	<u>681,536</u>
Total	681,536
Sec. B.115 Buildings and general services - federal surplus property	
Personal services	71,447
Operating expenses	<u>36,555</u>
Total	108,002
Source of funds	
Enterprise funds	<u>108,002</u>
Total	108,002
Sec. B.116 Buildings and general services - state surplus property	
Personal services	87,630
Operating expenses	<u>86,143</u>
Total	173,773
Source of funds	
Internal service funds	<u>173,773</u>
Total	173,773
Sec. B.117 Buildings and general services - property management	
Personal services	1,047,876
Operating expenses	<u>1,080,972</u>
Total	2,128,848
Source of funds	
Internal service funds	<u>2,128,848</u>
Total	2,128,848
Sec. B.118 Buildings and general services - workers' compensation insurance	
Personal services	1,158,422
Operating expenses	<u>277,763</u>
Total	1,436,185
Source of funds	
Internal service funds	<u>1,436,185</u>
Total	1,436,185
Sec. B.119 Buildings and general services - general liability insurance	
Personal services	268,325
Operating expenses	<u>63,700</u>

---

Total	332,025
Source of funds	
Internal service funds	<u>332,025</u>
Total	332,025
Sec. B.120 Buildings and general services - all other insurance	
Personal services	29,129
Operating expenses	<u>23,389</u>
Total	52,518
Source of funds	
Internal service funds	<u>52,518</u>
Total	52,518
Sec. B.121 Buildings and general services - fee for space	
Personal services	13,773,992
Operating expenses	<u>14,126,008</u>
Total	27,900,000
Source of funds	
Internal service funds	<u>27,900,000</u>
Total	27,900,000
Sec. B.122 Geographic information system	
Grants	<u>378,700</u>
Total	378,700
Source of funds	
Special funds	<u>378,700</u>
Total	378,700
Sec. B.123 Executive office - governor's office	
Personal services	1,193,165
Operating expenses	<u>423,879</u>
Total	1,617,044
Source of funds	
General fund	1,423,544
Interdepartmental transfers	<u>193,500</u>
Total	1,617,044
Sec. B.124 Legislative council	
Personal services	2,078,823
Operating expenses	<u>198,606</u>
Total	2,277,429
Source of funds	
General fund	<u>2,277,429</u>
Total	2,277,429

---

Sec. B.125 Legislature	
Personal services	3,633,861
Operating expenses	<u>3,336,583</u>
Total	6,970,444
Source of funds	
General fund	<u>6,970,444</u>
Total	6,970,444
Sec. B.126 Legislative information technology	
Personal services	364,696
Operating expenses	<u>577,057</u>
Total	941,753
Source of funds	
General fund	<u>941,753</u>
Total	941,753
Sec. B.127 Joint fiscal committee	
Personal services	1,359,656
Operating expenses	<u>105,773</u>
Total	1,465,429
Source of funds	
General fund	<u>1,465,429</u>
Total	1,465,429
Sec. B.128 Sergeant at arms	
Personal services	443,809
Operating expenses	<u>67,855</u>
Total	511,664
Source of funds	
General fund	<u>511,664</u>
Total	511,664
Sec. B.129 Lieutenant governor	
Personal services	143,631
Operating expenses	<u>26,771</u>
Total	170,402
Source of funds	
General fund	<u>170,402</u>
Total	170,402
Sec. B.130 Auditor of accounts	
Personal services	3,758,362
Operating expenses	<u>150,345</u>
Total	3,908,707

Source of funds	
General fund	396,853
Special funds	53,099
Internal service funds	<u>3,458,755</u>
Total	3,908,707
Sec. B.131 State treasurer	
Personal services	2,561,936
Operating expenses	348,248
Grants	<u>16,484</u>
Total	2,926,668
Source of funds	
General fund	1,065,828
Special funds	1,744,843
Interdepartmental transfers	<u>115,997</u>
Total	2,926,668
Sec. B.132 State treasurer - unclaimed property	
Personal services	660,757
Operating expenses	<u>253,238</u>
Total	913,995
Source of funds	
Private purpose trust funds	<u>913,995</u>
Total	913,995
Sec. B.133 Vermont state retirement system	
Personal services	6,065,656
Operating expenses	<u>29,015,880</u>
Total	35,081,536
Source of funds	
Pension trust funds	<u>35,081,536</u>
Total	35,081,536
Sec. B.134 Municipal employees' retirement system	
Personal services	1,992,423
Operating expenses	<u>486,556</u>
Total	2,478,979
Source of funds	
Pension trust funds	<u>2,478,979</u>
Total	2,478,979
Sec. B.135 State labor relations board	
Personal services	169,121
Operating expenses	<u>40,334</u>
Total	209,455

---

Source of funds	
General fund	203,879
Special funds	2,788
Interdepartmental transfers	<u>2,788</u>
Total	209,455
Sec. B.136 VOSHA review board	
Personal services	7,038
Operating expenses	<u>44,190</u>
Total	51,228
Source of funds	
General fund	25,614
Interdepartmental transfers	<u>25,614</u>
Total	51,228
Sec. B.137 Homeowner rebate	
Grants	<u>15,100,000</u>
Total	15,100,000
Source of funds	
General fund	<u>15,100,000</u>
Total	15,100,000
Sec. B.138 Renter rebate	
Grants	<u>8,300,000</u>
Total	8,300,000
Source of funds	
General fund	2,500,000
Education fund	<u>5,800,000</u>
Total	8,300,000
Sec. B.139 Tax department - reappraisal and listing payments	
Grants	<u>3,240,000</u>
Total	3,240,000
Source of funds	
Education fund	<u>3,240,000</u>
Total	3,240,000
Sec. B.140 Municipal current use	
Grants	<u>12,400,000</u>
Total	12,400,000
Source of funds	
General fund	<u>12,400,000</u>
Total	12,400,000

Sec. B.141 Lottery commission	
Personal services	1,629,989
Operating expenses	<u>1,262,972</u>
Total	2,892,961
Source of funds	
Enterprise funds	<u>2,892,961</u>
Total	2,892,961
Sec. B.142 Payments in lieu of taxes	
Grants	<u>5,800,000</u>
Total	5,800,000
Source of funds	
Special funds	<u>5,800,000</u>
Total	5,800,000
Sec. B.143 Payments in lieu of taxes - Montpelier	
Grants	<u>184,000</u>
Total	184,000
Source of funds	
Special funds	<u>184,000</u>
Total	184,000
Sec. B.144 Payments in lieu of taxes - correctional facilities	
Grants	<u>40,000</u>
Total	40,000
Source of funds	
Special funds	<u>40,000</u>
Total	40,000
Sec. B.145 Total general government	196,590,589
Source of funds	
General fund	70,196,567
Special funds	10,097,322
Tobacco fund	58,000
Education fund	9,040,000
Federal funds	878,355
Internal service funds	59,092,893
Interdepartmental transfers	5,751,979
Enterprise funds	3,000,963
Pension trust funds	37,560,515
Private purpose trust funds	<u>913,995</u>
Total	196,590,589



---

Sec. B.200 Attorney general	
Personal services	7,147,070
Operating expenses	<u>1,097,153</u>
Total	8,244,223
Source of funds	
General fund	3,835,621
Special funds	968,000
Tobacco fund	625,000
Federal funds	685,000
Interdepartmental transfers	<u>2,130,602</u>
Total	8,244,223
Sec. B.201 Vermont court diversion	
Grants	<u>1,831,011</u>
Total	1,831,011
Source of funds	
General fund	1,311,014
Special funds	<u>519,997</u>
Total	1,831,011
Sec. B.202 Defender general - public defense	
Personal services	7,931,011
Operating expenses	<u>941,292</u>
Total	8,872,303
Source of funds	
General fund	8,359,015
Special funds	<u>513,288</u>
Total	8,872,303
Sec. B.203 Defender general - assigned counsel	
Personal services	3,443,180
Operating expenses	<u>48,909</u>
Total	3,492,089
Source of funds	
General fund	3,366,825
Special funds	<u>125,264</u>
Total	3,492,089
Sec. B.204 Judiciary	
Personal services	29,103,880
Operating expenses	10,175,038
Grants	<u>70,000</u>
Total	39,348,918

Source of funds	
General fund	31,331,211
Special funds	4,175,542
Tobacco fund	39,871
Federal funds	1,129,259
Interdepartmental transfers	<u>2,673,035</u>
Total	39,348,918
Sec. B.205 State's attorneys	
Personal services	9,433,100
Operating expenses	<u>1,141,004</u>
Total	10,574,104
Source of funds	
General fund	8,297,085
Special funds	60,699
Federal funds	31,000
Interdepartmental transfers	<u>2,185,320</u>
Total	10,574,104
Sec. B.206 Special investigative unit	
Grants	<u>1,253,719</u>
Total	1,253,719
Source of funds	
General fund	1,153,719
Federal funds	<u>100,000</u>
Total	1,253,719
Sec. B.207 Sheriffs	
Personal services	3,361,419
Operating expenses	<u>276,917</u>
Total	3,638,336
Source of funds	
General fund	<u>3,638,336</u>
Total	3,638,336
Sec. B.208 Public safety - administration	
Personal services	1,434,666
Operating expenses	<u>407,048</u>
Total	1,841,714
Source of funds	
General fund	1,658,186
Federal funds	<u>183,528</u>
Total	1,841,714

---

Sec. B.209 Public safety - state police	
Personal services	44,208,236
Operating expenses	7,046,296
Grants	<u>971,590</u>
Total	52,226,122
Source of funds	
General fund	21,233,922
Transportation fund	25,238,498
Special funds	1,003,612
Federal funds	3,401,866
ARRA funds	296,107
Interdepartmental transfers	<u>1,052,117</u>
Total	52,226,122
Sec. B.210 Public safety - criminal justice services	
Personal services	7,267,663
Operating expenses	2,565,979
Grants	<u>5,989,000</u>
Total	15,822,642
Source of funds	
General fund	6,124,932
Special funds	1,468,701
Federal funds	7,890,543
ARRA funds	<u>338,466</u>
Total	15,822,642
Sec. B.211 Public safety - emergency management	
Personal services	1,826,537
Operating expenses	970,828
Grants	<u>1,379,913</u>
Total	4,177,278
Source of funds	
General fund	10,000
Federal funds	<u>4,167,278</u>
Total	4,177,278
Sec. B.212 Public safety - fire safety	
Personal services	5,027,821
Operating expenses	1,441,685
Grants	<u>157,000</u>
Total	6,626,506
Source of funds	
General fund	718,790
Special funds	5,623,744

---

Federal funds	238,972
Interdepartmental transfers	<u>45,000</u>
Total	6,626,506
Sec. B.213 Public safety - homeland security	
Personal services	9,501,852
Operating expenses	220,709
Grants	<u>3,000,000</u>
Total	12,722,561
Source of funds	
General fund	427,007
Federal funds	12,227,400
ARRA funds	<u>68,154</u>
Total	12,722,561
Sec. B.214 Radiological emergency response plan	
Personal services	729,645
Operating expenses	184,314
Grants	<u>1,220,350</u>
Total	2,134,309
Source of funds	
Special funds	<u>2,134,309</u>
Total	2,134,309
Sec. B.215 Military - administration	
Personal services	468,699
Operating expenses	376,507
Grants	<u>100,000</u>
Total	945,206
Source of funds	
General fund	<u>945,206</u>
Total	945,206
Sec. B.216 Military - air service contract	
Personal services	5,148,174
Operating expenses	<u>1,214,629</u>
Total	6,362,803
Source of funds	
General fund	467,309
Federal funds	<u>5,895,494</u>
Total	6,362,803

---

Sec. B.217 Military - army service contract	
Personal services	3,718,269
Operating expenses	<u>9,185,720</u>
Total	12,903,989
Source of funds	
General fund	112,435
Federal funds	<u>12,791,554</u>
Total	12,903,989
Sec. B.218 Military - building maintenance	
Personal services	979,453
Operating expenses	<u>386,580</u>
Total	1,366,033
Source of funds	
General fund	<u>1,366,033</u>
Total	1,366,033
Sec. B.219 Military - veterans' affairs	
Personal services	478,017
Operating expenses	146,431
Grants	<u>173,815</u>
Total	798,263
Source of funds	
General fund	631,808
Special funds	84,049
Federal funds	<u>82,406</u>
Total	798,263
Sec. B.220 Center for crime victims' services	
Personal services	1,271,163
Operating expenses	284,975
Grants	<u>9,499,251</u>
Total	11,055,389
Source of funds	
General fund	1,154,480
Special funds	5,931,945
Federal funds	<u>3,968,964</u>
Total	11,055,389
Sec. B.221 Criminal justice training council	
Personal services	1,291,238
Operating expenses	<u>1,286,070</u>
Total	2,577,308

Source of funds	
General fund	2,324,636
Interdepartmental transfers	<u>252,672</u>
Total	2,577,308
Sec. B.222 Agriculture, food and markets - administration	
Personal services	774,589
Operating expenses	342,534
Grants	<u>448,910</u>
Total	1,566,033
Source of funds	
General fund	1,066,802
Special funds	250,031
Federal funds	150,928
Global Commitment fund	56,272
Interdepartmental transfers	<u>42,000</u>
Total	1,566,033
Sec. B.223 Agriculture, food and markets - food safety and consumer protection	
Personal services	2,786,723
Operating expenses	759,173
Grants	<u>2,443,235</u>
Total	5,989,131
Source of funds	
General fund	2,212,524
Special funds	3,139,114
Federal funds	596,487
Global Commitment fund	34,006
Interdepartmental transfers	<u>7,000</u>
Total	5,989,131
Sec. B.224 Agriculture, food and markets - agricultural development	
Personal services	943,019
Operating expenses	305,995
Grants	<u>1,626,000</u>
Total	2,875,014
Source of funds	
General fund	446,897
Special funds	1,438,588
Federal funds	689,529
Interdepartmental transfers	<u>300,000</u>
Total	2,875,014

---

Sec. B.225 Agriculture, food and markets - laboratories, agricultural resource management and environmental stewardship

Personal services	2,912,179
Operating expenses	761,268
Grants	<u>736,674</u>
Total	4,410,121
Source of funds	
General fund	1,640,565
Special funds	1,998,115
Federal funds	569,113
Interdepartmental transfers	<u>202,328</u>
Total	4,410,121

## Sec. B.226 Banking, insurance, securities, and health care administration - administration

Personal services	1,808,446
Operating expenses	<u>181,201</u>
Total	1,989,647
Source of funds	
Special funds	<u>1,989,647</u>
Total	1,989,647

## Sec. B.227 Banking, insurance, securities, and health care administration - banking

Personal services	1,343,681
Operating expenses	<u>240,853</u>
Total	1,584,534
Source of funds	
Special funds	<u>1,584,534</u>
Total	1,584,534

## Sec. B.228 Banking, insurance, securities, and health care administration - insurance

Personal services	3,027,935
Operating expenses	<u>437,345</u>
Total	3,465,280
Source of funds	
Special funds	<u>3,465,280</u>
Total	3,465,280

## Sec. B.229 Banking, insurance, securities, and health care administration - captive

Personal services	3,262,719
Operating expenses	<u>428,723</u>
Total	3,691,442

---

Source of funds	
Special funds	<u>3,691,442</u>
Total	3,691,442
Sec. B.230 Banking, insurance, securities, and health care administration - securities	
Personal services	442,445
Operating expenses	<u>149,514</u>
Total	591,959
Source of funds	
Special funds	<u>591,959</u>
Total	591,959
Sec. B.231 Banking, insurance, securities, and health care administration - health care administration	
Personal services	5,581,274
Operating expenses	<u>343,127</u>
Total	5,924,401
Source of funds	
Special funds	3,497,875
Federal funds	527,702
Global Commitment fund	<u>1,898,824</u>
Total	5,924,401
Sec. B.232 Secretary of state	
Personal services	5,698,916
Operating expenses	2,038,667
Grants	<u>1,000,000</u>
Total	8,737,583
Source of funds	
General fund	1,529,127
Special funds	5,133,456
Federal funds	2,000,000
Interdepartmental transfers	<u>75,000</u>
Total	8,737,583
Sec. B.233 Public service - regulation and energy	
Personal services	7,428,529
Operating expenses	847,636
Grants	<u>21,096,788</u>
Total	29,372,953
Source of funds	
Special funds	12,341,218
Federal funds	1,157,800



---

ARRA funds	<u>15,873,935</u>
Total	29,372,953
Sec. B.234 Public service board	
Personal services	2,860,205
Operating expenses	<u>387,160</u>
Total	3,247,365
Source of funds	
Special funds	3,001,980
ARRA funds	<u>245,385</u>
Total	3,247,365
Sec. B.235 Enhanced 9-1-1 Board	
Personal services	4,181,478
Operating expenses	853,778
Grants	<u>810,000</u>
Total	5,845,256
Source of funds	
Special funds	<u>5,845,256</u>
Total	5,845,256
Sec. B.236 Human rights commission	
Personal services	412,199
Operating expenses	<u>65,683</u>
Total	477,882
Source of funds	
General fund	332,882
Federal funds	<u>145,000</u>
Total	477,882
Sec. B.237 Liquor control - administration	
Personal services	1,619,092
Operating expenses	<u>595,953</u>
Total	2,215,045
Source of funds	
Tobacco fund	6,661
Interdepartmental transfers	250,000
Enterprise funds	<u>1,958,384</u>
Total	2,215,045
Sec. B.238 Liquor control - enforcement and licensing	
Personal services	1,875,103
Operating expenses	<u>387,833</u>
Total	2,262,936

---

Source of funds	
Tobacco fund	285,284
Enterprise funds	<u>1,977,652</u>
Total	2,262,936
Sec. B.239 Liquor control - warehousing and distribution	
Personal services	766,123
Operating expenses	<u>344,985</u>
Total	1,111,108
Source of funds	
Enterprise funds	<u>1,111,108</u>
Total	1,111,108
Sec. B.240 Total protection to persons and property	294,172,516
Source of funds	
General fund	105,696,367
Transportation fund	25,238,498
Special funds	70,577,645
Tobacco fund	956,816
Federal funds	58,629,823
ARRA funds	16,822,047
Global Commitment fund	1,989,102
Interdepartmental transfers	9,215,074
Enterprise funds	<u>5,047,144</u>
Total	294,172,516
Sec. B.300 Human services - agency of human services - secretary's office	
Personal services	8,161,616
Operating expenses	3,097,481
Grants	<u>5,235,805</u>
Total	16,494,902
Source of funds	
General fund	4,913,133
Special funds	7,517
Tobacco fund	290,330
Federal funds	7,752,402
Global Commitment fund	415,000
Interdepartmental transfers	<u>3,116,520</u>
Total	16,494,902
Sec. B.301 Secretary's office - global commitment	
Grants	<u>1,075,814,333</u>
Total	1,075,814,333

---

Source of funds	
General fund	139,212,827
Special funds	18,630,961
Tobacco fund	36,978,473
State health care resources fund	219,426,320
Catamount fund	23,948,700
Federal funds	636,928,917
Interdepartmental transfers	<u>688,135</u>
Total	1,075,814,333
Sec. B.302 Rate setting	
Personal services	852,330
Operating expenses	<u>80,608</u>
Total	932,938
Source of funds	
Global Commitment fund	<u>932,938</u>
Total	932,938
Sec. B.303 Developmental disabilities council	
Personal services	236,037
Operating expenses	58,218
Grants	<u>248,388</u>
Total	542,643
Source of funds	
Federal funds	<u>542,643</u>
Total	542,643
Sec. B.304 Human services board	
Personal services	301,586
Operating expenses	<u>49,606</u>
Total	351,192
Source of funds	
General fund	114,505
Federal funds	150,844
Interdepartmental transfers	<u>85,843</u>
Total	351,192
Sec. B.305 AHS - administrative fund	
Personal services	350,000
Operating expenses	<u>4,650,000</u>
Total	5,000,000
Source of funds	
Interdepartmental transfers	<u>5,000,000</u>
Total	5,000,000

---

 Sec. B.306 Department of Vermont health access - administration

Personal services	85,804,852
Operating expenses	2,761,571
Grants	<u>7,625,573</u>
Total	96,391,996
Source of funds	
General fund	945,014
Special funds	1,579,123
Federal funds	43,169,600
ARRA funds	2,505,044
Global Commitment fund	43,916,098
Interdepartmental transfers	<u>4,077,117</u>
Total	96,391,996

## Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Grants	<u>635,867,360</u>
Total	635,667,360
Source of funds	
Global Commitment fund	<u>635,867,360</u>
Total	635,667,360

## Sec. B.308 Department of Vermont health access - Medicaid program - long term care waiver

Grants	<u>205,537,520</u>
Total	205,537,520
Source of funds	
General fund	86,613,511
Federal funds	<u>118,924,009</u>
Total	205,537,520

## Sec. B.309 Department of Vermont health access - Medicaid program - state only

Grants	<u>26,985,204</u>
Total	26,985,204
Source of funds	
General fund	25,896,641
Global Commitment fund	<u>1,088,563</u>
Total	26,985,204

## Sec. B.310 Department of Vermont health access - Medicaid non-waiver matched

Grants	<u>42,811,769</u>
Total	42,811,769

---

Source of funds	
General fund	18,006,358
Federal funds	<u>24,805,411</u>
Total	42,811,769
Sec. B.311 Health - administration and support	
Personal services	5,485,409
Operating expenses	1,932,004
Grants	<u>2,781,190</u>
Total	10,198,603
Source of funds	
General fund	1,059,487
Special funds	324,063
Federal funds	5,152,054
ARRA funds	81,815
Global Commitment fund	<u>3,581,184</u>
Total	10,198,603
Sec. B.312 Health - public health	
Personal services	33,496,002
Operating expenses	6,245,652
Grants	<u>34,338,566</u>
Total	74,080,220
Source of funds	
General fund	7,262,449
Special funds	11,012,411
Tobacco fund	1,594,000
Federal funds	32,903,499
ARRA funds	460,165
Global Commitment fund	19,862,288
Interdepartmental transfers	975,408
Permanent trust funds	<u>10,000</u>
Total	74,080,220
Sec. B.313 Health - alcohol and drug abuse programs	
Personal services	2,650,944
Operating expenses	371,158
Grants	<u>25,689,171</u>
Total	28,711,273
Source of funds	
General fund	3,351,533
Special funds	233,884
Tobacco fund	1,386,234
Federal funds	5,955,677

---

Global Commitment fund	17,433,945
Interdepartmental transfers	<u>350,000</u>
Total	28,711,273
Sec. B.314 Mental health - mental health	
Personal services	5,486,339
Operating expenses	1,117,984
Grants	<u>124,369,250</u>
Total	130,973,573
Source of funds	
General fund	811,295
Special funds	6,836
Federal funds	6,555,971
Global Commitment fund	123,579,471
Interdepartmental transfers	<u>20,000</u>
Total	130,973,573
Sec. B.315 Mental health - Vermont state hospital	
Personal services	20,479,188
Operating expenses	2,056,312
Grants	<u>82,335</u>
Total	22,617,835
Source of funds	
General fund	17,016,067
Special funds	835,486
Federal funds	213,564
Global Commitment fund	4,252,718
Interdepartmental transfers	<u>300,000</u>
Total	22,617,835
Sec. B.316 Department for children and families - administration & support services	
Personal services	38,009,556
Operating expenses	7,835,052
Grants	<u>1,206,996</u>
Total	47,051,604
Source of funds	
General fund	16,383,046
Federal funds	14,330,642
Global Commitment fund	16,125,416
Interdepartmental transfers	<u>212,500</u>
Total	47,051,604

---

Sec. B.317 Department for children and families - family services	
Personal services	23,318,476
Operating expenses	3,408,618
Grants	<u>60,071,513</u>
Total	86,798,607
Source of funds	
General fund	20,863,063
Special funds	1,691,637
Tobacco fund	275,000
Federal funds	27,652,387
Global Commitment fund	36,216,520
Interdepartmental transfers	<u>100,000</u>
Total	86,798,607
Sec. B.318 Department for children and families - child development	
Personal services	3,165,567
Operating expenses	520,809
Grants	<u>58,804,943</u>
Total	62,491,319
Source of funds	
General fund	23,492,835
Special funds	1,820,000
Federal funds	29,131,536
Global Commitment fund	7,907,441
Interdepartmental transfers	<u>139,507</u>
Total	62,491,319
Sec. B.319 Department for children and families - office of child support	
Personal services	8,739,557
Operating expenses	<u>4,162,561</u>
Total	12,902,118
Source of funds	
General fund	2,638,576
Special funds	455,718
Federal funds	9,420,224
Interdepartmental transfers	<u>387,600</u>
Total	12,902,118
Sec. B.320 Department for children and families - aid to aged, blind and disabled	
Personal services	1,827,113
Grants	<u>11,044,541</u>
Total	12,871,654

---

Source of funds	
General fund	9,121,654
Global Commitment fund	<u>3,750,000</u>
Total	12,871,654
Sec. B.321 Department for children and families - general assistance	
Grants	<u>6,500,000</u>
Total	6,500,000
Source of funds	
General fund	5,048,680
Federal funds	1,111,320
Global Commitment fund	<u>340,000</u>
Total	6,500,000
Sec. B.322 Department for children and families - 3SquaresVT	
Grants	<u>23,756,778</u>
Total	23,756,778
Source of funds	
Federal funds	<u>23,756,778</u>
Total	23,756,778
Sec. B.323 Department for children and families - reach up	
Grants	<u>49,155,572</u>
Total	49,155,572
Source of funds	
General fund	19,481,509
Special funds	19,916,856
Federal funds	7,882,807
Global Commitment fund	<u>1,874,400</u>
Total	49,155,572
Sec. B.324 Department for children and families - home heating fuel assistance/LIHEAP	
Personal services	20,000
Operating expenses	90,000
Grants	<u>11,502,664</u>
Total	11,612,664
Source of funds	
Federal funds	<u>11,612,664</u>
Total	11,612,664
Sec. B.325 Department for children and families - office of economic opportunity	
Personal services	262,256
Operating expenses	80,518



---

Grants	<u>4,759,371</u>
Total	5,102,145
Source of funds	
General fund	1,251,040
Special funds	57,990
Federal funds	<u>3,793,115</u>
Total	5,102,145
Sec. B.326 Department for children and families - OEO - weatherization assistance	
Personal services	167,676
Operating expenses	131,124
Grants	<u>11,646,491</u>
Total	11,945,291
Source of funds	
Special funds	7,000,000
Federal funds	1,399,666
ARRA funds	<u>3,545,625</u>
Total	11,945,291
Sec. B.327 Department for children and families - Woodside rehabilitation center	
Personal services	3,691,894
Operating expenses	<u>590,115</u>
Total	4,282,009
Source of funds	
General fund	964,774
Global Commitment fund	3,262,343
Interdepartmental transfers	<u>54,892</u>
Total	4,282,009
Sec. B.328 Department for children and families - disability determination services	
Personal services	4,513,664
Operating expenses	<u>1,142,442</u>
Total	5,656,106
Source of funds	
Federal funds	5,409,589
Global Commitment fund	<u>246,517</u>
Total	5,656,106

## Sec. B.329 Disabilities, aging and independent living - administration &amp; support

Personal services	24,093,021
Operating expenses	<u>3,838,249</u>
Total	27,931,270
Source of funds	
General fund	7,126,532
Special funds	889,246
Federal funds	11,194,950
Global Commitment fund	6,230,760
Interdepartmental transfers	<u>2,489,782</u>
Total	27,931,270

## Sec. B.330 Disabilities, aging and independent living - advocacy and independent living grants

Grants	<u>20,583,891</u>
Total	20,583,891
Source of funds	
General fund	8,827,473
Federal funds	7,645,317
Global Commitment fund	3,473,601
Interdepartmental transfers	<u>637,500</u>
Total	20,583,891

## Sec. B.331 Disabilities, aging and independent living - blind and visually impaired

Grants	<u>1,481,457</u>
Total	1,481,457
Source of funds	
General fund	364,064
Special funds	223,450
Federal funds	648,943
Global Commitment fund	<u>245,000</u>
Total	1,481,457

## Sec. B.332 Disabilities, aging and independent living - vocational rehabilitation

Grants	<u>5,968,971</u>
Total	5,968,971
Source of funds	
General fund	1,535,695
Federal funds	4,132,389
Global Commitment fund	7,500

---

Interdepartmental transfers	<u>293,387</u>
Total	5,968,971
Sec. B.333 Disabilities, aging and independent living - developmental services	
Grants	<u>152,288,227</u>
Total	152,288,227
Source of funds	
General fund	155,125
Special funds	15,463
Federal funds	359,857
Global Commitment fund	<u>151,757,782</u>
Total	152,288,227
Sec. B.334 Disabilities, aging and independent living -TBI home and community based waiver	
Grants	<u>4,744,899</u>
Total	4,744,899
Source of funds	
Global Commitment fund	<u>4,744,899</u>
Total	4,744,899
Sec. B.335 Corrections - administration	
Personal services	1,959,290
Operating expenses	<u>194,525</u>
Total	2,153,815
Source of funds	
General fund	<u>2,153,815</u>
Total	2,153,815
Sec. B.336 Corrections - parole board	
Personal services	262,434
Operating expenses	<u>60,198</u>
Total	322,632
Source of funds	
General fund	<u>322,632</u>
Total	322,632
Sec. B.337 Corrections - correctional education	
Personal services	4,391,210
Operating expenses	<u>306,274</u>
Total	4,697,484
Source of funds	
Education fund	4,321,425
Interdepartmental transfers	<u>376,059</u>
Total	4,697,484

---

Sec. B.338	Corrections - correctional services	
	Personal services	81,867,751
	Operating expenses	34,909,316
	Grants	<u>6,076,953</u>
	Total	122,854,020
	Source of funds	
	General fund	118,621,136
	Special funds	483,963
	Tobacco fund	87,500
	Federal funds	170,962
	Global Commitment fund	3,094,144
	Interdepartmental transfers	<u>396,315</u>
	Total	122,854,020
Sec. B.339	Correctional services-out of state beds	
	Personal services	<u>8,249,395</u>
	Total	8,249,395
	Source of funds	
	General fund	<u>8,249,395</u>
	Total	8,249,395
Sec. B.340	Corrections - correctional facilities - recreation	
	Personal services	475,408
	Operating expenses	<u>342,362</u>
	Total	817,770
	Source of funds	
	Special funds	<u>817,770</u>
	Total	817,770
Sec. B.341	Corrections - Vermont offender work program	
	Personal services	910,776
	Operating expenses	<u>553,114</u>
	Total	1,463,890
	Source of funds	
	Internal service funds	<u>1,463,890</u>
	Total	1,463,890
Sec. B.342	Vermont veterans' home - care and support services	
	Personal services	14,924,037
	Operating expenses	<u>4,004,439</u>
	Total	18,928,476
	Source of funds	
	Special funds	10,635,885
	Federal funds	6,881,635

---

Global Commitment fund	<u>1,410,956</u>
Total	18,928,476
Sec. B.343 Commission on women	
Personal services	235,779
Operating expenses	<u>68,279</u>
Total	304,058
Source of funds	
General fund	299,058
Special funds	<u>5,000</u>
Total	304,058
Sec. B.344 Retired senior volunteer program	
Grants	<u>131,096</u>
Total	131,096
Source of funds	
General fund	<u>131,096</u>
Total	131,096
Sec. B.345 Total human services	3,086,158,579
Source of funds	
General fund	552,234,018
Special funds	76,643,259
Tobacco fund	40,611,537
State health care resources fund	219,426,320
Catamount fund	23,948,700
Education fund	4,321,425
Federal funds	1,049,589,372
ARRA funds	6,592,649
Global Commitment fund	1,091,616,844
Internal service funds	1,463,890
Interdepartmental transfers	19,700,565
Permanent trust funds	<u>10,000</u>
Total	3,086,158,579
Sec. B.400 Labor	
Personal services	24,811,666
Operating expenses	5,662,677
Grants	<u>975,000</u>
Total	31,449,343
Source of funds	
General fund	2,400,316
Special funds	3,765,862
Federal funds	23,888,739

---

Interdepartmental transfers	<u>1,394,426</u>
Total	31,449,343
Sec. B.402 Total labor	31,449,343
Source of funds	
General fund	2,400,316
Special funds	3,765,862
Federal funds	23,888,739
Interdepartmental transfers	<u>1,394,426</u>
Total	31,449,343
Sec. B.500 Education - finance and administration	
Personal services	5,373,825
Operating expenses	2,336,262
Grants	<u>12,383,500</u>
Total	20,093,587
Source of funds	
General fund	3,011,957
Special funds	13,300,096
Education fund	1,020,090
Federal funds	2,041,473
Global Commitment fund	711,971
Interdepartmental transfers	<u>8,000</u>
Total	20,093,587
Sec. B.501 Education - education services	
Personal services	11,948,471
Operating expenses	1,562,985
Grants	<u>136,688,970</u>
Total	150,200,426
Source of funds	
General fund	5,839,205
Special funds	2,191,249
Federal funds	131,532,300
ARRA funds	10,613,000
Interdepartmental transfers	<u>24,672</u>
Total	150,200,426
Sec. B.502 Education - special education: formula grants	
Grants	<u>148,817,440</u>
Total	148,817,440
Source of funds	
Education fund	148,587,440

---

Global Commitment fund	<u>230,000</u>
Total	148,817,440
Sec. B.503 Education - state-placed students	
Grants	<u>15,000,000</u>
Total	15,000,000
Source of funds	
Education fund	<u>15,000,000</u>
Total	15,000,000
Sec. B.504 Education - adult education and literacy	
Grants	<u>7,463,656</u>
Total	7,463,656
Source of funds	
General fund	787,995
Education fund	5,800,000
Federal funds	<u>875,661</u>
Total	7,463,656
Sec. B.505 Education - adjusted education payment	
Grants	<u>1,127,221,233</u>
Total	1,127,221,233
Source of funds	
Education fund	1,126,721,233
ARRA interdepartmental transfer	<u>500,000</u>
Total	1,127,221,233
Sec. B.506 Education - transportation	
Grants	<u>16,313,885</u>
Total	16,313,885
Source of funds	
Education fund	<u>16,313,885</u>
Total	16,313,885
Sec. B.507 Education - small school grants	
Grants	<u>7,100,000</u>
Total	7,100,000
Source of funds	
Education fund	<u>7,100,000</u>
Total	7,100,000
Sec. B.508 Education - capital debt service aid	
Grants	<u>160,000</u>
Total	160,000
Source of funds	

---

Education fund	<u>160,000</u>
Total	160,000
Sec. B.509 Education - tobacco litigation	
Personal services	130,418
Operating expenses	47,015
Grants	<u>804,511</u>
Total	981,944
Source of funds	
Tobacco fund	<u>981,944</u>
Total	981,944
Sec. B.510 Education - essential early education grant	
Grants	<u>5,782,900</u>
Total	5,782,900
Source of funds	
Education fund	<u>5,782,900</u>
Total	5,782,900
Sec. B.511 Education - technical education	
Grants	<u>12,872,274</u>
Total	12,872,274
Source of funds	
Education fund	<u>12,872,274</u>
Total	12,872,274
Sec. B.512 Education - Act 117 cost containment	
Personal services	1,043,831
Operating expenses	130,269
Grants	<u>91,000</u>
Total	1,265,100
Source of funds	
Special funds	<u>1,265,100</u>
Total	1,265,100
Sec. B.513 Appropriation and transfer to education fund	
Grants	<u>276,240,000</u>
Total	276,240,000
Source of funds	
General fund	<u>276,240,000</u>
Total	276,240,000
Sec. B.514 State teachers' retirement system	
Personal services	6,830,976
Operating expenses	22,053,541



---

Grants	<u>51,672,307</u>
Total	80,556,824
Source of funds	
General fund	51,672,307
Pension trust funds	<u>28,884,517</u>
Total	80,556,824
Sec. B.515 Total general education	1,870,069,269
Source of funds	
General fund	337,551,464
Special funds	16,756,445
Tobacco fund	981,944
Education fund	1,339,357,822
Federal funds	134,449,434
ARRA funds	10,613,000
Global Commitment fund	941,971
ARRA interdepartmental transfer	500,000
Interdepartmental transfers	32,672
Pension trust funds	<u>28,884,517</u>
Total	1,870,069,269
Sec. B.600 University of Vermont	
Grants	<u>40,746,633</u>
Total	40,746,633
Source of funds	
General fund	36,740,477
Global Commitment fund	<u>4,006,156</u>
Total	40,746,633
Sec. B.601 Vermont Public Television	
Grants	<u>547,683</u>
Total	547,683
Source of funds	
General fund	<u>547,683</u>
Total	547,683
Sec. B.602 Vermont state colleges	
Grants	<u>23,107,247</u>
Total	23,107,247
Source of funds	
General fund	<u>23,107,247</u>
Total	23,107,247

---

Sec. B.603 Vermont state colleges - allied health	
Grants	<u>1,116,503</u>
Total	1,116,503
Source of funds	
General fund	711,096
Global Commitment fund	<u>405,407</u>
Total	1,116,503
Sec. B.604 Vermont interactive television	
Grants	<u>785,679</u>
Total	785,679
Source of funds	
General fund	<u>785,679</u>
Total	785,679
Sec. B.605 Vermont student assistance corporation	
Grants	<u>18,363,607</u>
Total	18,363,607
Source of funds	
General fund	<u>18,363,607</u>
Total	18,363,607
Sec. B.606 New England higher education compact	
Grants	<u>84,000</u>
Total	84,000
Source of funds	
General fund	<u>84,000</u>
Total	84,000
Sec. B.607 University of Vermont - Morgan Horse Farm	
Grants	<u>1</u>
Total	1
Source of funds	
General fund	<u>1</u>
Total	1
Sec. B.608 Total higher education	84,751,353
Source of funds	
General fund	80,339,790
Global Commitment fund	<u>4,411,563</u>
Total	84,751,353
Sec. B.700 Natural resources - agency of natural resources - administration	
Personal services	2,739,259
Operating expenses	1,141,374

---

Grants	<u>45,510</u>
Total	3,926,143
Source of funds	
General fund	3,720,213
Special funds	54,484
Federal funds	25,000
Interdepartmental transfers	<u>126,446</u>
Total	3,926,143
Sec. B.701 Natural resources - state land local property tax assessment	
Operating expenses	<u>2,128,733</u>
Total	2,128,733
Source of funds	
General fund	1,707,233
Interdepartmental transfers	<u>421,500</u>
Total	2,128,733
Sec. B.702 Fish and wildlife - support and field services	
Personal services	12,718,176
Operating expenses	5,253,194
Grants	<u>904,333</u>
Total	18,875,703
Source of funds	
General fund	983,713
Special funds	20,000
Fish and wildlife fund	17,531,844
Interdepartmental transfers	<u>340,146</u>
Total	18,875,703
Sec. B.703 Forests, parks and recreation - administration	
Personal services	980,517
Operating expenses	649,734
Grants	<u>1,815,492</u>
Total	3,445,743
Source of funds	
General fund	1,174,865
Special funds	1,307,878
Federal funds	<u>963,000</u>
Total	3,445,743
Sec. B.704 Forests, parks and recreation - forestry	
Personal services	4,377,380
Operating expenses	495,362

---

Grants	<u>501,000</u>
Total	5,373,742
Source of funds	
General fund	3,008,767
Special funds	975,069
Federal funds	1,259,906
Interdepartmental transfers	<u>130,000</u>
Total	5,373,742
Sec. B.705 Forests, parks and recreation - state parks	
Personal services	5,710,180
Operating expenses	<u>2,091,207</u>
Total	7,801,387
Source of funds	
General fund	265,454
Special funds	<u>7,535,933</u>
Total	7,801,387
Sec. B.706 Forests, parks and recreation - lands administration	
Personal services	447,753
Operating expenses	<u>1,209,470</u>
Total	1,657,223
Source of funds	
General fund	383,018
Special funds	179,205
Federal funds	1,050,000
Interdepartmental transfers	<u>45,000</u>
Total	1,657,223
Sec. B.707 Forests, parks and recreation - youth conservation corps	
Grants	<u>574,702</u>
Total	574,702
Source of funds	
General fund	42,320
Special funds	188,382
Federal funds	94,000
Interdepartmental transfers	<u>250,000</u>
Total	574,702
Sec. B.708 Forests, parks and recreation - forest highway maintenance	
Personal services	20,000
Operating expenses	<u>134,925</u>
Total	154,925

---

Source of funds	
General fund	<u>154,925</u>
Total	154,925
Sec. B.709 Environmental conservation - management and support services	
Personal services	3,958,930
Operating expenses	994,994
Grants	<u>109,800</u>
Total	5,063,724
Source of funds	
General fund	1,217,592
Special funds	1,695,813
Federal funds	1,400,917
ARRA funds	230,000
Interdepartmental transfers	<u>519,402</u>
Total	5,063,724
Sec. B.710 Environmental conservation - air and waste management	
Personal services	9,579,425
Operating expenses	6,851,818
Grants	<u>2,184,487</u>
Total	18,615,730
Source of funds	
General fund	413,960
Special funds	13,739,808
Federal funds	3,778,578
ARRA funds	378,384
Interdepartmental transfers	<u>305,000</u>
Total	18,615,730
Sec. B.711 Environmental conservation - office of water programs	
Personal services	13,597,174
Operating expenses	2,208,956
Grants	<u>2,672,351</u>
Total	18,478,481
Source of funds	
General fund	5,620,885
Special funds	4,915,687
Federal funds	7,224,982
ARRA funds	90,302
Interdepartmental transfers	<u>626,625</u>
Total	18,478,481

---

 Sec. B.712 Environmental conservation - tax-loss-Connecticut river flood control

Operating expenses	<u>34,700</u>
Total	34,700
Source of funds	
General fund	3,470
Special funds	<u>31,230</u>
Total	34,700

## Sec. B.713 Natural resources board

Personal services	2,349,214
Operating expenses	<u>374,166</u>
Total	2,723,380
Source of funds	
General fund	757,494
Special funds	<u>1,965,886</u>
Total	2,723,380

## Sec. B.714 Total natural resources 88,854,316

Source of funds	
General fund	19,453,909
Special funds	32,609,375
Fish and wildlife fund	17,531,844
Federal funds	15,796,383
ARRA funds	698,686
Interdepartmental transfers	<u>2,764,119</u>
Total	88,854,316

## Sec. B.800 Commerce and community development - agency of commerce and community development - administration

Personal services	1,855,620
Operating expenses	601,085
Grants	<u>1,464,570</u>
Total	3,921,275
Source of funds	
General fund	2,715,275
Federal funds	800,000
ARRA funds	350,000
Interdepartmental transfers	<u>56,000</u>
Total	3,921,275

## Sec. B.801 Economic, housing, and community development

Personal services	7,792,289
Operating expenses	1,294,316

---

Grants	<u>12,102,703</u>
Total	21,189,308
Source of funds	
General fund	5,750,933
Special funds	3,948,699
Federal funds	11,337,260
ARRA funds	52,416
Interdepartmental transfers	<u>100,000</u>
Total	21,189,308
Sec. B.802 Historic sites - special improvements	
Operating expenses	<u>13,000</u>
Total	13,000
Source of funds	
Special funds	<u>13,000</u>
Total	13,000
Sec. B.803 Community development block grants	
Grants	<u>8,046,530</u>
Total	8,046,530
Source of funds	
Federal funds	7,446,530
ARRA funds	<u>600,000</u>
Total	8,046,530
Sec. B.804 Downtown transportation and capital improvement fund	
Personal services	78,828
Grants	<u>305,138</u>
Total	383,966
Source of funds	
Special funds	<u>383,966</u>
Total	383,966
Sec. B.805 Tourism and marketing	
Personal services	1,313,796
Operating expenses	1,613,714
Grants	<u>243,500</u>
Total	3,171,010
Source of funds	
General fund	3,121,010
Interdepartmental transfers	<u>50,000</u>
Total	3,171,010

Sec. B.806 Vermont life	
Personal services	663,467
Operating expenses	<u>49,222</u>
Total	712,689
Source of funds	
Enterprise funds	<u>712,689</u>
Total	712,689
Sec. B.807 Vermont council on the arts	
Grants	<u>507,607</u>
Total	507,607
Source of funds	
General fund	<u>507,607</u>
Total	507,607
Sec. B.808 Vermont symphony orchestra	
Grants	<u>113,821</u>
Total	113,821
Source of funds	
General fund	<u>113,821</u>
Total	113,821
Sec. B.809 Vermont historical society	
Grants	<u>807,694</u>
Total	807,694
Source of funds	
General fund	<u>807,694</u>
Total	807,694
Sec. B.810 Vermont housing and conservation board	
Grants	<u>21,612,916</u>
Total	21,612,916
Source of funds	
Special funds	8,772,500
Federal funds	<u>12,840,416</u>
Total	21,612,916
Sec. B.811 Vermont humanities council	
Grants	<u>172,670</u>
Total	172,670
Source of funds	
General fund	<u>172,670</u>
Total	172,670



---

Sec. B.812 Total commerce and community development	60,652,486
Source of funds	
General fund	13,189,010
Special funds	13,118,165
Federal funds	32,424,206
ARRA funds	1,002,416
Interdepartmental transfers	206,000
Enterprise funds	<u>712,689</u>
Total	60,652,486
Sec. B.900 Transportation - finance and administration	
Personal services	9,454,757
Operating expenses	2,197,029
Grants	<u>355,000</u>
Total	12,006,786
Source of funds	
Transportation fund	11,028,070
Federal funds	<u>978,716</u>
Total	12,006,786
Sec. B.901 Transportation - aviation	
Personal services	2,578,742
Operating expenses	5,005,242
Grants	<u>160,000</u>
Total	7,743,984
Source of funds	
Transportation fund	3,396,984
Federal funds	<u>4,347,000</u>
Total	7,743,984
Sec. B.902 Transportation - buildings	
Operating expenses	<u>2,111,000</u>
Total	2,111,000
Source of funds	
Transportation fund	1,001,000
TIB fund	<u>1,110,000</u>
Total	2,111,000
Sec. B.903 Transportation - program development	
Personal services	36,255,937
Operating expenses	199,450,849
Grants	<u>30,093,679</u>
Total	265,800,465

---

Source of funds	
Transportation fund	29,381,520
TIB fund	13,516,260
Federal funds	210,051,644
ARRA funds	5,328,993
Interdepartmental transfers	4,993,195
Local match	<u>2,528,853</u>
Total	265,800,465
Sec. B.904 Transportation - rest areas	
Personal services	270,000
Operating expenses	<u>7,175,000</u>
Total	7,445,000
Source of funds	
Transportation fund	259,460
TIB fund	926,134
Federal funds	<u>6,259,406</u>
Total	7,445,000
Sec. B.905 Transportation - maintenance state system	
Personal services	35,559,722
Operating expenses	31,657,070
Grants	<u>50,000</u>
Total	67,266,792
Source of funds	
Transportation fund	65,611,298
Federal funds	1,555,494
Interdepartmental transfers	<u>100,000</u>
Total	67,266,792
Sec. B.906 Transportation - planning, outreach and community affairs	
Personal services	3,181,304
Operating expenses	1,197,710
Grants	<u>5,660,280</u>
Total	10,039,294
Source of funds	
Transportation fund	1,958,857
Federal funds	7,739,556
Interdepartmental transfers	<u>340,881</u>
Total	10,039,294

---

Sec. B.907 Transportation - rail	
Personal services	4,271,926
Operating expenses	<u>50,382,435</u>
Total	54,654,361
Source of funds	
Transportation fund	9,369,381
TIB fund	1,431,668
Federal funds	10,079,589
ARRA funds	<u>33,773,723</u>
Total	54,654,361
Sec. B.908 Transportation - public transit	
Personal services	511,561
Operating expenses	182,347
Grants	<u>24,713,344</u>
Total	25,407,252
Source of funds	
Transportation fund	6,842,111
Federal funds	17,085,141
ARRA funds	<u>1,480,000</u>
Total	25,407,252
Sec. B.909 Transportation - central garage	
Personal services	3,464,636
Operating expenses	<u>13,822,279</u>
Total	17,286,915
Source of funds	
Internal service funds	<u>17,286,915</u>
Total	17,286,915
Sec. B.910 Department of motor vehicles	
Personal services	16,488,866
Operating expenses	8,873,827
Grants	<u>50,000</u>
Total	25,412,693
Source of funds	
Transportation fund	22,643,786
Federal funds	<u>2,768,907</u>
Total	25,412,693
Sec. B.911 Transportation - town highway structures	
Grants	<u>5,833,500</u>
Total	5,833,500

Source of funds	
Transportation fund	<u>5,833,500</u>
Total	5,833,500
Sec. B.912 Transportation - town highway Vermont local roads	
Grants	<u>390,000</u>
Total	390,000
Source of funds	
Transportation fund	235,000
Federal funds	<u>155,000</u>
Total	390,000
Sec. B.913 Transportation - town highway class 2 roadway	
Grants	<u>7,248,750</u>
Total	7,248,750
Source of funds	
Transportation fund	<u>7,248,750</u>
Total	7,248,750
Sec. B.914 Transportation - town highway bridges	
Personal services	3,600,000
Operating expenses	<u>14,111,776</u>
Total	17,711,776
Source of funds	
Transportation fund	673,867
TIB fund	2,025,875
Federal funds	14,075,835
Local match	<u>936,199</u>
Total	17,711,776
Sec. B.915 Transportation - town highway aid program	
Grants	<u>24,982,744</u>
Total	24,982,744
Source of funds	
Transportation fund	<u>24,982,744</u>
Total	24,982,744
Sec. B.916 Transportation - town highway class 1 supplemental grants	
Grants	<u>128,750</u>
Total	128,750
Source of funds	
Transportation fund	<u>128,750</u>
Total	128,750

---

Sec. B.917 Transportation - town highway emergency fund	
Grants	<u>735,000</u>
Total	735,000
Source of funds	
Transportation fund	<u>735,000</u>
Total	735,000
Sec. B.918 Transportation - municipal mitigation grant program	
Grants	<u>1,143,228</u>
Total	1,143,228
Source of funds	
Transportation fund	247,998
Federal funds	<u>895,230</u>
Total	1,143,228
Sec. B.919 Transportation - public assistance grant program	
Grants	<u>200,000</u>
Total	200,000
Source of funds	
Federal funds	<u>200,000</u>
Total	200,000
Sec. B.920 Transportation board	
Personal services	75,977
Operating expenses	<u>11,023</u>
Total	87,000
Source of funds	
Transportation fund	<u>87,000</u>
Total	87,000
Sec. B.921 Total transportation	553,635,290
Source of funds	
Transportation fund	191,665,076
TIB fund	19,009,937
Federal funds	276,191,518
ARRA funds	40,582,716
Internal service funds	17,286,915
Interdepartmental transfers	5,434,076
Local match	<u>3,465,052</u>
Total	553,635,290
Sec. B.1000 Debt service	
Debt service	<u>72,390,394</u>
Total	72,390,394

---

Source of funds	
General fund	64,575,793
General obligation bonds debt service fund	1,388,121
Transportation fund	3,371,825
TIB debt service fund	991,563
Special funds	625,950
ARRA funds	<u>1,437,142</u>
Total	72,390,394
Sec. B.1001 Total debt service	72,390,394
Source of funds	
General fund	64,575,793
General obligation bonds debt service fund	1,388,121
Transportation fund	3,371,825
TIB debt service fund	991,563
Special funds	625,950
ARRA funds	<u>1,437,142</u>
Total	72,390,394

#### Sec. B.1100 NEXT GENERATION; APPROPRIATIONS AND TRANSFERS

(a) In fiscal year 2012, \$4,793,000 is appropriated or transferred from the next generation initiative fund, created in 16 V.S.A. § 2887, as prescribed below:

(1) Workforce development: \$1,893,500 as follows:

(A) Workforce Education Training Fund (WETF). The sum of \$1,333,500 is transferred to the Vermont workforce education and training fund created in 10 V.S.A. § 543, and subsequently appropriated to the department of labor for workforce development. Up to seven percent of the funds may be used for administration of the program. Of this amount, \$350,000 shall be allocated for the Vermont career internship program created in 10 V.S.A. § 544 by Secs. 11-13 of H.287.

(B) Adult Technical Education Programs. The amount of \$360,000 is appropriated to the department of labor working with the workforce development council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide adult technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults. Notwithstanding any other provisions of law to the contrary, the funds appropriated pursuant to this subdivision (B) shall be evenly divided among the regional technical centers and the comprehensive high schools based on the level of resources provided pursuant to performance contracts.

(C) UVM Technology Transfer Program. The amount of \$100,000 is appropriated to the University of Vermont. This appropriation is for patent development and commercialization of technology created at the university for the purpose of creating employment opportunities for Vermont residents.

(D) Vermont center for emerging technologies. The amount of \$100,000 is appropriated to the agency of commerce and community development for a grant to the Vermont center for emerging technologies to enhance development of high technology businesses and next generation employment opportunities throughout Vermont.

(2) Loan repayment: \$330,000 as follows:

(A) Health care loan repayment: The sum of \$300,000 is appropriated to the agency of human services Global Commitment for the department of health to use for health care loan repayment. The department shall use these funds for a grant to the area health education centers (AHEC) for repayment of commercial or governmental loans for postsecondary health-care-related education or training owed by persons living and working in Vermont in the health care field.

(B) Large animal veterinarians' loan forgiveness: \$30,000 is appropriated to the agency of agriculture, food and markets for a loan forgiveness program for large animal veterinarians pursuant to 6 V.S.A. § 20 in Sec. 39 of H.287.

(3) Scholarships and grants: \$2,544,500 as follows:

(A) Nondegree VSAC grants. The amount of \$494,500 is appropriated to the Vermont Student Assistance Corporation. These funds shall be for the purpose of providing nondegree grants to Vermonters to improve job skills and increase overall employability, enabling them to enroll in a postsecondary education or training program, including adult technical education that is not part of a degree or accredited certificate program. A portion of these funds shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed \$3,000 per student. None of these funds shall be used for administrative overhead.

(B) National Guard Educational Assistance: The sum of \$150,000 is appropriated to the Vermont Student Assistance Corporation to fund the national guard educational assistance program established in 16 V.S.A. § 2856.

(C) Scholarships. The sum of \$1,500,000 is appropriated to the University of Vermont, the Vermont State Colleges, and the Vermont Student Assistance Corporation for need-based scholarships to Vermont residents. These funds shall be divided equally among the University of Vermont, the Vermont State Colleges, and the Vermont Student Assistance Corporation.

The Vermont Student Assistance Corporation shall reserve these funds for students attending institutions other than the University of Vermont or the Vermont State Colleges. None of these funds shall be used for administrative overhead. Each entity will target these funds in a manner that brings to bear the maximum benefits of its unique missions and constituencies to further the workforce and economic development objectives of the state, participation in postsecondary education by underrepresented groups, and support for promising economic sectors in Vermont. By July 1, 2011, each entity will present a plan to the workforce development council (WDC) for deploying the scholarships along with proposed measurable short- and long-term outcomes. This will form the basis for a WDC recommendation for funding in fiscal year 2013.

(D) Dual enrollment programs: The sum of \$400,000 is appropriated to the Vermont State Colleges for dual enrollment programs. The state colleges shall develop a voucher program that will allow Vermont students to attend programs at a postsecondary institution other than the state college system when programs at the other institutions are better academically or geographically suited to student need.

(4) Southeast Vermont Economic Development Strategy: The sum of \$25,000 is appropriated to the agency of commerce and community development for workforce development and other activities of Sec. 65 of H.287.

Sec. B.1100.1 WORKFORCE DEVELOPMENT COUNCIL  
RECOMMENDATION FOR FISCAL YEAR 2013 NEXT GENERATION  
FUND DISTRIBUTION

(a) The commissioner of labor and of education, in consultation with the workforce development council, the agency of commerce and community development, and the agency of human services shall make recommendations to the governor no later than November 1, 2011, on how \$4,793,000 from the next generation fund should be allocated or appropriated in fiscal year 2013 to provide maximum benefit to workforce development, participation in postsecondary education by underrepresented groups, and support for promising economic sectors in Vermont.

Sec. B.1101 FISCAL YEAR 2012 BASE REDUCTIONS

(a) In fiscal year 2012, the secretary of administration is authorized to reduce appropriations for labor savings due to unfilled vacant positions, voluntary reduced workweeks, modified health insurance plans for active and retired state employees, reduced state costs in supporting retirement plans, and close management of personal services contracts:

<u>General fund</u>	<u>\$12,000,000</u>
---------------------	---------------------



---

Sec. B.1102 FISCAL YEAR 2012 CONTRACT IMPLEMENTATION

(a) There is appropriated to the secretary of administration for contract nonsalary items, to be transferred to departments as the secretary may determine to be necessary:

<u>General fund</u>	<u>\$556,500</u>
---------------------	------------------

## Sec. B.1103 FISCAL YEAR 2012 ONE-TIME APPROPRIATION

(a) In fiscal year 2012, there is appropriated to the department of tourism and marketing for the Vermont civil war sesquicentennial commission:

<u>General fund</u>	<u>\$50,000</u>
---------------------	-----------------

## Sec. B.1104 APPROPRIATIONS SUPPORTING H.287 OF 2011 (JOBS BILL)

(a) Appropriations from the general fund in fiscal year 2012. The conditions for expenditure of these funds shall be controlled as appropriate by the provisions of the referenced sections of H.287 as passed by the senate committee on economic development, housing and general affairs in the senate calendar of April 19, 2011.

\$525,000

(1) \$25,000 to the department of labor for the long-term unemployed hiring incentive in Sec. 7 of H.287.

(2) \$475,000 to the agency of agriculture, food, and markets as follows:

(A) \$100,000 for the good agricultural practices grant program in Sec. 40 of H.287.

(B) \$25,000 for the skilled meat cutter apprenticeship program in Sec. 41 of H.287.

(C) \$125,000 for the local foods coordinator and the local foods grant program in Sec. 42 of H.287, of which not more than \$75,000 of these funds shall be used for the total annual compensation of the coordinator, and of which not less than \$50,000 of these funds shall be used for the performance of the local foods coordinator's duties under H.287 and for competitive matching grants from the agency to Vermont producers, unless in the secretary's discretion it shall be necessary to increase the amount of total compensation of the local foods coordinator in order to retain a highly qualified candidate for the position.

(D) \$100,000 for implementation of the farm-to-plate program in Sec. 43 of H.287.

(E) \$75,000 for competitive matching grants for the farm-to-school program established in 6 V.S.A. § 4721.

(F) \$50,000 for competitive matching grants to increase slaughterhouse and meat processing facility capacity in Sec. 34 of H.287.

(3) \$25,000 to the agency of commerce and community development for a grant to the Vermont employee ownership center on a 2:1 matching basis. The secretary of commerce and community development shall report to the house committee on commerce and to the senate committee on economic development housing and general affairs on the status of the grantee in meeting the match requirements.

(b) Allocations of appropriated funds in fiscal year 2012. The conditions for expenditure of these funds shall be controlled as appropriate by the provisions of the referenced sections of H.287 as passed by the senate committee on economic development, housing and general affairs in the senate calendar of April 19, 2011:

(1) Of the funds appropriated to the agency of commerce and community development in this act, \$100,000 shall be allocated for the office of creative economy in Secs. 15–16 of H.287.

(2) Of the funds appropriated to the department of labor in this act:

(A) \$75,000 shall be allocated to fund performance grants for regional workforce development activities pursuant to Sec. 14a of H.287; and

(B) \$23,895 shall be allocated to the department of labor for the Vermont career internship program in Secs. 11–13 of H.287.

(C) \$40,000 shall be transferred to the secretary of administration for the work of the executive economist, and to reimburse the joint fiscal office for the work of the legislative economist, to develop an econometric model for the evaluation of net costs of government contracts pursuant to Sec. 71 of H.287.

Sec. B.1105 FISCAL YEAR 2012 CONTINGENT APPROPRIATIONS.

(a) In the event that the appropriation in Sec. 50(b) of No 3 of 2011 as amended by Sec. C.110 of this act is not made due to unavailable funds, and the commissioner of finance determines that a payment to the federal government for unemployment insurance interest is required by September 20, 2011, to the extent necessary to fund the payment the amount of such payment is appropriated from the general fund to the department of labor. The commissioner of finance may unreserve funds as necessary up to the payment amount from the human services caseload reserve created 32 V.S.A. § 308b.

(b) In the event that the any portion of the appropriation in Sec. 50(c) of No 3 of 2011 as amended by Sec. C.105 of this act is not made due to unavailable funds, then to the extent necessary to reach the appropriation level in that section, up to the first \$7,000,000 of any upgrade in the official revenue

forecast for the general fund made in July 2011 for fiscal year 2012 is appropriated for the same purpose.

Sec. C.100 Sec. D.106(c)(1) of No. 156 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(1) ~~\$10,000,000~~ \$9,397,500 is appropriated to the ~~department of buildings and general services for planning and construction of replacement for Vermont State Hospital beds.~~ following agencies and departments for information technology projects:

(A) to the agency of human services to replace legacy technologies to determine eligibility, enroll beneficiaries, and provide benefits in a faster, and more efficient, secure, and accessible way: \$3,600,000

(B) to the department of corrections to replace outdated components of the offender case management system: \$2,000,000

(C) to the department of public service for a case management system for electronic tracking, organizing, and utilization of docket files:

\$250,000

(D) to the agency of commerce and community development for an internet-based historic resources digital database: \$150,000

(E) to the department of finance and management to upgrade the Human Capital Management (HCM) system to process payroll and manage associated employee and financial data and retire the legacy Paradox application; and to upgrade the VISION financial management system to better integrate with HCM and the budget and planning application: \$3,397,500

Sec. C.101 Sec. 44(a)(4) of No. 3 of the Acts of 2011 is amended to read:

(4) The following amounts shall be transferred between special funds as indicated:

~~From the Transportation Infrastructure Bond Fund #20191 to the Transportation Revenue Bond Debt Service Fund #35200~~ 991,563.00

From the Transportation Infrastructure Bond Fund established by 19 V.S.A. § 11f to the Transportation Infrastructure Bonds Debt Service Fund for the purpose of funding fiscal year 2012 transportation infrastructure bond debt service: 991,562.50

\* \* \*

Sec. C.102 FISCAL YEAR 2011 CONTINGENT TRANSPORTATION  
FUND APPROPRIATION

(a) In fiscal year 2011, after meeting the requirements of 32 V.S.A. § 308a, to the extent available, the next \$250,000 of any unreserved and undesignated transportation fund balance is appropriated to the department of motor vehicles for information technology programming and system changes necessary for implementation of H.264 of 2011 (DUI Bill).

Sec. C.103 Sec. 282 of No. 65 of the Acts of 2007 is amended to read:

Sec. 282. TAX COMPUTER SYSTEM MODERNIZATION FUND

(a) Creation of fund.

(1) There is established the tax computer system modernization special fund to consist of:

~~(A) Eighty percent of The tax receipts received as a direct result of the Massachusetts sponsored data sharing warehouse project relative to non-state resident filers initiated by the department of taxes beginning in calendar year 2011; and~~

(B) Eighty percent of tax receipts received as a direct result of the data sharing and comparison project between the Vermont department of labor and the department of taxes relative to entity and employee filings at both departments and/or lack thereof.

(2) Balances in the fund shall be administered by the department of taxes and used for the exclusive purposes of funding ~~phase 3 of the tax department's computer system modernization project supporting: A) corporate tax; B) business income tax; C) property transfer tax; D) fuel gross receipts tax; and E) individual use tax; A) ancillary development of the ETM system necessary for implementation of the data warehouse project and in preparation of the transfer of tax types from the current VIRCS system to the VIRCS/ETM system, including modernization of billing capability; B) payments due to the vendor under the data warehouse project contract; C) enhanced compliance costs related to the data warehouse project; and D) phase 1 of the transfer of five tax types, specifically income taxation of individuals, trusts and estates, withholding tax, sales and use tax, meals and rooms tax, and property tax adjustments, from the current VIRCS system to the VIRCS/ETM system.~~ All balances in the fund at the end of any fiscal year shall be carried forward and remain part of the fund. Interest earned by the fund shall be deposited into the fund. This fund is established in the state treasury pursuant to subchapter 5 of chapter 7 of Title 32.

(b) Appropriation.

(1) There is appropriated in fiscal year 2008 from the special fund the sum of up to \$7,800,000 to the department of taxes for the purposes described in subdivision (a)(2) of this section. The commissioner shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(c) Transfer.

(1) Twenty percent of the tax receipts received pursuant to subdivision (a)(1)(A) of this section after payment to the vendor under the data warehouse contract shall be transferred to the general fund annually for the duration of that contract. Thereafter, 20 percent of the tax receipts received pursuant to subdivision (a)(1)(A) shall be transferred to the general fund annually until the expiration of the tax computer system modernization fund.

(d) Fund to terminate.

(1) This fund shall terminate on July 1, ~~2011~~ 2018 and any unexpended unencumbered balance in the fund shall be transferred to the general fund.

~~(d)(e)~~ (e) The tax commissioner shall report to the joint fiscal committee on fund receipts ~~through the first four months of fiscal year 2008~~ at or prior to the November joint fiscal committee meeting each year until the fund is terminated.

Sec. C.103.1 SPECIAL FUND APPROPRIATION FOR TAX COMPUTER SYSTEMS

(a) \$7,500,000 is appropriated from the tax computer system modernization special fund established pursuant to Sec. 282 of No. 65 of the Acts of 2007, as amended in Sec. C.103 of this act. This appropriation shall carry forward through fiscal year 2013. The commissioner shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

Sec. C.104 FISCAL YEAR 2011 MEDICAID STATE FUNDS - RESERVE

(a) To the extent that state funds in the state Medicaid programs are unexpended in fiscal year 2011, as a result of federal matching for the final quarter of fiscal year 2011, up to \$3,600,000 shall be reserved in the human services caseload reserve created by 32 V.S.A. § 308b to be used for potential state budget needs in human services as a result of reduced federal funds availability.

Sec. C.105 33 V.S.A. § 1116(c)(1) is amended to read:

(c)(1)(A) For a first, second, and third month in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's

financial assistance grant shall be reduced by the amount of \$75.00 for each adult sanctioned.

~~(B) For a second month in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's financial assistance grant shall be reduced by the amount of \$100.00 for each adult sanctioned.~~

~~(C) For a third month in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's financial assistance grant shall be reduced by the amount of \$125.00 for each adult sanctioned.~~

Sec. C.105.1 33 V.S.A. § 1116(h) is amended to read:

(h)(1) To receive payments during the fiscal sanction period, an adult who is the subject of the sanction shall meet no less than once each month to report his or her circumstances to the case manager or to participate in assessments as directed by the case manager. In addition, this meeting shall be for initial assessment and development of the family development plan when such tasks have not been completed; reassessment or review and revision of the family development plan, if appropriate; and to encourage the participant to fulfill the work requirement. Meetings required under this section may take place in the district office, a community location, or in the participant's home. Facilitation of meeting the participant's family development plan goals shall be a primary consideration in determining the location of the meeting. The commissioner may waive any meeting when extraordinary circumstances prevent a participant from attending. The commissioner shall adopt rules to implement this subsection.

~~(2) To receive payments during the fourth month of fiscal sanction in a 12-month period, the participating adults shall engage in an assessment that includes the employability and life skills capabilities of the adult participants. If the evaluation reveals that a sanctioned adult should have had a modified or deferred work requirement during the current month of sanction or earlier months of sanction, the department shall strike the sanction, reinstate the full grant amount to which the family is entitled, and modify the participant's family development plan. The months of sanction incorrectly assessed shall be treated as if the months were forgiven as provided for under subsection (d) of this section. The assessment may be conducted by a team consisting of service providers familiar with the family and with an individual family member's needs.~~

Sec. C.106 Sec. B.903 of No. 156 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 42 of No. 3 of the Acts of 2011, is further amended to read:

Sec. B.903 Transportation - program development

Personal services	36,339,478	36,339,478
Operating expenses	220,162,203	220,162,203
Grants	<u>26,819,421</u>	<u>26,819,421</u>
Total	283,321,102	283,321,102
Source of funds		
ARRA funds	45,034,600	45,034,600
TIB fund	<del>15,256,273</del>	15,851,273
Transportation fund	<del>18,246,575</del>	17,651,575
Local match	1,434,254	1,434,254
Federal funds	199,707,420	199,707,420
Interdepartmental transfers	<u>3,641,980</u>	<u>3,641,980</u>
Total	283,321,102	283,321,102

Sec. C.107 Sec. B.905 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. B.905 Transportation – maintenance state system

Personal services	34,530,658	34,530,658
Operating expenses	<del>34,821,229</del>	35,416,229
Grants	<u>30,000</u>	<u>30,000</u>
Total	<del>67,381,887</del>	67,976,887
Source of funds		
Transportation fund	<del>65,552,943</del>	66,147,943
Federal funds	1,728,944	1,728,944
Interdepartmental transfers	<u>100,000</u>	<u>100,000</u>
Total	<del>67,381,887</del>	67,976,887

Sec. C.108 Sec. B.914 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. B.914 Transportation – town highway bridges

Personal services	3,600,000	3,600,000
Operating expenses	<del>15,489,340</del>	<u>12,514,340</u>
Total	<del>19,089,340</del>	16,114,340
Source of funds		
ARRA funds	3,990,070	3,990,070
TIB fund	<del>1,616,014</del>	1,021,014
Transportation fund	658,224	658,244
Local match	766,631	766,631

---

Federal funds	<u>12,058,401</u>	<u>9,678,401</u>
Total	<u>19,089,340</u>	16,114,340

Sec. C.109 Sec. B.921 of No. 156 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 43 of No. 3 of the Acts of 2011, is further amended to read:

Sec. B.921 Total transportation 582,705,976 580,325,976

Source of funds

Transportation fund	182,691,502	182,691,502
TIB fund	19,454,143	19,454,143
Local match	2,450,885	2,450,885
Federal funds	<u>275,885,087</u>	273,505,087
ARRA funds	80,756,516	80,756,516
Internal service funds	17,477,863	17,477,863
Interdepartmental transfers	<u>3,989,980</u>	<u>3,989,980</u>
Total	<u>582,705,976</u>	580,325,976

Sec. C.110 Sec.50 of No.3 of 2011 is amended to read:

Sec. 50. FISCAL YEAR 2011 GENERAL FUND BALANCE

(a) Notwithstanding 32 V.S.A. §§ 308c and 308d, after the general fund budget stabilization reserve attains its statutory maximum, the first \$29,770,000 of any additional unreserved and undesignated general fund balance shall be deposited into the human services caseload reserve established in 32 V.S.A. § 308b in fiscal year 2011 to be used for caseload costs, offsets to federal funding changes, or related human service expenditures in fiscal year 2012.

(b) The next \$3,600,000 of any unreserved and undesignated general fund balance is appropriated to the department of labor for unemployment insurance interest. In the event that federal action is taken that results in a payment of unemployment insurance interest not being required, this appropriation shall not be made. Any payment returned to the state due to it not being required shall be deposited into the general fund.

(c) The next \$7,000,000 of any unreserved and undesignated general fund balance is appropriated to the secretary of administration to be reserved pending emergency board action to allocate these funds to offset reduced federal funding. Pursuant to 32 VSA 706 the emergency board is authorized to allocate and transfer, to the extent necessary this appropriation to offset the loss of existing appropriations of federal funds in this act.

(d) Any remaining unreserved and undesignated general fund balance shall be deposited into the human service caseload reserve fund until unreserved and appropriated by act of the general assembly.



---

Sec. D.100 APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.

(1) The sum of \$488,000 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$488,000 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of \$8,047,500 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above \$8,047,500 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

(3) The sum of \$3,295,476 is appropriated from the municipal and regional planning fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above \$3,295,476 from the property transfer tax that are deposited into the municipal and regional planning fund shall be transferred into the general fund. The \$3,295,476 shall be allocated as follows:

(A) \$2,508,076 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) \$408,700 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) \$378,700 to the Vermont center for geographic information.

## Sec. D.101 FUND TRANSFERS AND RESERVES

(a) Notwithstanding any provisions of law, the following amounts are transferred from the funds indicated:

(1) from the general fund to the:

(A) communications and information technology internal service fund established by 22 V.S.A. § 902a: \$900,000.

(B) next generation initiative fund established by 16 V.S.A. § 2887: \$4,793,000.

(2) from the transportation fund to the downtown transportation and related capital improvement fund established by 24 V.S.A. § 2796 to be used by the Vermont downtown development board for the purposes of the fund: \$400,000.

(3) from the transportation fund to the general fund: \$3,989,279.

(4) from the transportation infrastructure bond fund established by 19 V.S.A. § 11f to the transportation infrastructure bonds debt service fund for the purpose of funding fiscal year 2013 transportation infrastructure bond debt service: \$990,063.

(5) from the DUI Enforcement Special Fund (#21140), established in 23 V.S.A. § 1220a, to the general fund: \$1,500,343.

(b) The amount of \$29,770,000 is unreserved and made available for expenditure in fiscal year 2012 from the human services caseload reserve created by 32 V.S.A. § 308b.

#### Sec. D.102 TOBACCO LITIGATION SETTLEMENT FUND BALANCE

(a) Notwithstanding 18 V.S.A. § 9502(b), the actual balances at the end of fiscal year 2011 in the tobacco litigation settlement fund shall remain for appropriation in fiscal year 2012.

#### Sec. D.103 TRANSFER OF TOBACCO TRUST FUNDS

(a) Notwithstanding 18 V.S.A. § 9502(a)(3) and (4), the actual amount of investment earnings of the tobacco trust fund at the end of fiscal year 2012 and any additional amount necessary to ensure the balance in the tobacco litigation settlement fund at the close of fiscal year 2012 is not negative, shall be transferred from the tobacco trust fund to the tobacco litigation settlement fund in fiscal year 2012.

\* \* \* GENERAL GOVERNMENT \* \* \*

#### Sec. E.101 Information and innovation - communications and information technology

(a) Of this appropriation, \$700,000 is for a grant to the Vermont telecommunications authority established in 30 V.S.A. § 8061. The secretary of administration is authorized to use \$200,000 of the appropriation for expenditures related to expanding and improving statewide telecommunications and internet accessibility.

Sec. E.103 32 V.S.A. § 183 is amended to read:

#### § 183. FINANCIAL AND HUMAN RESOURCE INFORMATION INTERNAL SERVICE FUND

(a) There is established in the department of finance and management a financial and human resource information internal service fund, to consist of revenues from charges to agencies, departments, and similar units of Vermont state government, and to be available to fund the costs of the division of financial operations in the department of finance and management, and the

technical support and services provided by the department of information and innovation for the statewide central accounting and encumbrance, budget development, and human resource management systems. ~~Expenditures shall be managed in accordance with subsection 462(b) of this title.~~

(b) The rate of the charges shall be proposed by the commissioner of finance and management, subject to the approval of the secretary of administration. Proposed rates of charges shall be based upon the cost of operations. ~~The proposed rates to be paid by departments and agencies shall be included in the administration budget recommendations each fiscal year for legislative authorization as part of the budget process. Any changes in rates shall be approved by subsequent legislative action.~~

Sec. E.103.1 32 V.S.A. § 307(e) is amended to read:

(e) The budget shall also include any proposed expenditures and charges for enterprise and internal service funds to be billed to departmental budgets ~~for payment to the financial management, workers' compensation, and facilities operations internal service funds. Such charges shall be subject to legislative approval. The departments of finance and management and buildings and general services shall include with their annual budget submissions details of any such charges to be made projected by department and the financial case for the proposed changes in charges for the three internal services funds.~~ Expenditures from enterprise and internal service funds shall be managed in accordance with subsection 462(b) of this title.

Sec. E.104 3 V.S.A. § 2283 is amended to read:

#### § 2283. DEPARTMENT OF HUMAN RESOURCES

(a) The department of human resources is created in the agency of administration. In addition to other responsibilities assigned to it by law, the department is responsible for the provision of centralized human resources management services for state government, including the administration of a classification and compensation system for state employees under chapter 13 of this title and the performance of duties assigned to the commissioner of human resources under chapter 27 of this title. ~~The department shall administer the human resources functions of the agency of administration in consultation with the agency of administration commissioners and the state librarian. A department~~ All agencies and departments of the agency of administration state which receives receive services of from the consolidated agency human resources unit department shall be charged for those services through an interdepartmental transfer assessment payable to the human resource services internal service fund on a basis established by the commissioner of finance and management in consultation with the

~~commissioner~~ of human resources and with the approval of the secretary of administration.

(b)(1) There is established in the department of human resources a human resource services internal service fund, to consist of revenues from charges to agencies, departments, and similar units of Vermont state government, and to be available to fund the costs of the consolidated human resource services in the department of human resources.

(2) The rate of the charges shall be proposed by the commissioner of human resources, subject to the approval of the secretary of administration. Proposed rates of charges shall be based upon the cost of operations associated with human resource services provided to agencies, departments, and similar units of Vermont state government.

Sec. E.107 Tax – administration/collection

(a) Of this appropriation, \$20,000 is from the current use special fund and shall be appropriated for programming changes to the CAPTAP software used for the valuation of property tax.

Sec. E.109 Buildings and general services - engineering

(a) The \$2,428,802 interdepartmental transfer in this appropriation shall be from the general bond fund appropriation in the Capital Appropriations Act of the 2011 session.

Sec. E.110 [DELETED]

Sec. E.121 29 V.S.A. § 160a is amended to read:

§ 160a FACILITIES OPERATIONS ~~REVOLVING~~ INTERNAL SERVICE FUND

(a) There is created a facilities operations ~~revolving~~ internal service fund in the department of buildings and general services. The purpose of this fund is to provide for:

\* \* \*

(b) The fund shall consist of:

\* \* \*

(3) Fees paid by departments and agencies including the legislative and judicial branches. The rate of said fees shall be proposed ~~to the legislature~~ by the commissioner of buildings and general services subject to the approval of the secretary of administration. Proposed rates shall be based upon the cost of operations, debt service and depreciation. ~~The fees to be paid by departments and agencies shall be included in the administration budget recommendations~~

~~each fiscal year for legislative approval as part of the budget process. Any changes in rates shall be approved by subsequent legislative action.~~

\* \* \*

Sec. E.122 Geographic information system

(a) The Vermont Center for Geographic Information Inc. in consultation with the department of taxes, the agency of natural resources, and the agency of transportation shall report to the house and senate committees on government operations and on appropriations on or before January 15, 2012 on methods to reduce and prevent duplication of services and activities across state government with regard to mapping services and other geographic data resources.

Sec. E.125 Sec. 95 of No. 67 of the Acts of 2010 is amended to read:

Sec. 95. FIVE-PERCENT PAY CUT FOR MEMBERS OF THE GENERAL ASSEMBLY

(a) For the remainder of fiscal year 2010 and for fiscal year 2011 and fiscal year 2012, the annual, weekly, and daily compensation of all members of the general assembly shall be reduced by five percent from the rate of compensation which would otherwise be paid as of January 5, 2010, under the provisions of 32 V.S.A. §§ 1051(a) and 1052(a).

Sec. E.126 [DELETED]

Sec. E.127 Joint fiscal committee

(a) The joint fiscal office is authorized to make a transfer of up to \$65,000 to the office of the secretary of administration provided that the Capitol Health Associates contract and its related work are moved to the secretary's office.

(b) The joint fiscal office is further authorized to make a transfer of up to \$12,500 in fiscal year 2011 in the event that the contract can be moved at an earlier date.

Sec. E.128 Sergeant at arms

(a) Notwithstanding any other provision of law, in fiscal year 2012, the amount of \$20,000 from account #1230001000 shall revert to the general fund.

Sec. E.130 Auditor of accounts

(a) The office of the state auditor shall not increase the number of filled positions assigned to the state auditor's office, including both exempt and classified, above 14 during fiscal year 2011 and fiscal year 2012, and position number 090031 – senior auditor – shall be transferred to the statewide position pool as of July 1, 2011.

Sec. E.130.1 PERFORMANCE AUDIT OF THE STATE'S LONG TERM CARE SYSTEM UNDER THE CHOICES FOR CARE WAIVER

(a) The state auditor shall report to the house and senate committees on appropriations, the senate committee on health and welfare, and the house committee on health care by January 15, 2012 with recommendations on how to evaluate the success of the Choices for Care waiver.

(b) The state auditor shall review the legislative changes made during the 2011 session and submit a revised work plan for the office of the state auditor, including an adjusted budget and preliminary audit schedule for fiscal year 2012, to the department of finance and management and the legislative joint fiscal committee on or before July 5, 2011. The work plan shall include all required audits and any plans for discretionary performance audits in place at that time. In addition the plan shall include a discussion of advance notification protocol options for single audit fund agency billings.

Sec. E.133 Vermont state retirement system

(a) Notwithstanding 3 V.S.A. § 473(d), in fiscal year 2012, investment fees shall be paid from the corpus of the fund.

Sec. E.141 Lottery commission

(a) Of this appropriation, the lottery commission shall transfer \$150,000 to the department of health, office of alcohol and drug abuse programs, to support the gambling addiction program.

(b) The Vermont state lottery shall provide assistance and work with the Vermont council on problem gambling on systems and program development.

Sec. E.142 Payments in lieu of taxes

(a) This appropriation is for state payments in lieu of property taxes under subchapter 4 of chapter 123 of Title 32, and the payments shall be calculated in addition to and without regard to the appropriations for PILOT for Montpelier and for correctional facilities elsewhere in this act.

Sec. E.143 Payments in lieu of taxes - Montpelier

(a) Payments in lieu of taxes under this section shall be paid from the PILOT special fund under 32 V.S.A. § 3709.

Sec. E.144 Payments in lieu of taxes – correctional facilities

(a) Payments in lieu of taxes under this section shall be paid from the PILOT special fund under 32 V.S.A. § 3709.

---

\* \* \* PROTECTION TO PERSONS AND PROPERTY \* \* \*

## Sec. E.200 Attorney general

(a) Notwithstanding any other provisions of law, the office of the attorney general, Medicaid fraud and residential abuse unit, is authorized to retain, subject to appropriation, one-half of the state share of any recoveries from Medicaid fraud settlements, excluding interest, that exceed the state share of restitution to the Medicaid program. All such designated additional recoveries retained shall be used to finance Medicaid fraud and residential abuse unit activities.

(b) Of the revenue available to the attorney general under 9 V.S.A. § 2458(b)(4), \$610,000 is appropriated in Sec. B.200 of this act.

## Sec. E.204 Judiciary

(a) For compensation paid from July 1, 2011 to June 30, 2012, the supreme court is authorized to reduce by up to five percent salaries established by statute that are paid by the judicial department appropriation and to reduce by up to five percent the hourly rates of nonbargaining unit employees.

(b) The chief justice is authorized to apply provisions of the judiciary collective bargaining unit to exempt permanent state employees of the judicial branch who are not judicial officers.

## Sec. E.205 State's attorneys

(a) In fiscal year 2012, the annual salaries of all state's attorneys shall be reduced by five percent from the salaries which would otherwise be paid under the provisions of 32 V.S.A. § 1183.

## Sec. E.206 Special investigative unit

(a) The director of the state's attorneys shall report to the joint fiscal committee and the house and senate committees on judiciary and appropriations by November 15, 2011 on issues related to the effectiveness of the special investigation units (SIU). The report shall be made in consultation with the state and local law enforcement agencies, the department for children and families, and victims' organizations. The report shall include information by SIU about the number of investigations and referrals and total funding including state, county, and local direct and indirect support. The report shall also specifically report by SIU the region covered by each SIU and the support each county and community contribute to the SIU. The report shall also include recommendations for changes in structure and practice that would increase SIU effectiveness or redirect these resources to alternative program models that better achieve the intended outcomes.

## Sec. E.207 Sheriffs

(a) In fiscal year 2012, the annual salaries of sheriffs earning \$60,000 or more shall be reduced by five percent from the salaries which would otherwise be paid under the provisions of 32 V.S.A. § 1182, and the annual salaries of sheriffs earning less than \$60,000 shall be reduced by three percent from the salaries which would otherwise be paid under the provision of 32 V.S.A. § 1182.

## Sec. E.208 Public safety–administration

(a) Of the funds appropriated to the department of public safety, \$25,000 shall be used to make a grant to the Essex County sheriff's department for a performance-based contract to provide after-hours coverage.

## Sec. E.209 Public safety - state police

(a) Of this appropriation, \$35,000 in special funds shall be available for snowmobile law enforcement activities and \$35,000 in general funds shall be available to the southern Vermont wilderness search and rescue team, which comprises state police, the department of fish and wildlife, county sheriffs, and local law enforcement personnel in Bennington, Windham, and Windsor Counties, for snowmobile enforcement.

(b) Of the \$255,000 allocated for grants funded in this section, \$190,000 shall be used by the Vermont drug task force to fund three town task force officers. These town task force officers shall be dedicated to enforcement efforts with respect to both regulated drugs as defined in subdivision 4201(29) of Title 18 and the diversion of legal prescription drugs. Any additional available funds shall remain as a "pool" available to local and county law enforcement to fund overtime costs associated with drug investigations. Any unexpended funds from prior fiscal years' allocations under this section shall be carried forward.

## Sec. E.209.1 STATE POLICE - RECRUITMENT

(a) The secretary of administration, the commissioner of public safety, and the commissioner of human resources shall review the current process, procedures, and entry level pay in recruitment of new state troopers and shall make recommendations for changes by November 15, 2011 to the joint fiscal committee and to the senate and house committees on appropriations, on judiciary, and on government operations.



Sec. E.212 [DELETED]

Sec. E.214 Public safety - emergency management - radiological emergency response plan

(a) Of this special fund appropriation, up to \$30,000 shall be available to contract with any radio station serving the emergency planning zone for the emergency alert system.

Sec. E.215 Military – administration

(a) Of this appropriation, \$100,000 shall be disbursed to the Vermont student assistance corporation for the national guard educational assistance program established in 16 V.S.A. § 2856.

(b) In the event federal funding is not available subsequent to September 20, 2011 to the military department to provide outreach and hotline services for recently deployed Vermont veterans, the emergency board pursuant to 32 V.S.A. § 706 is authorized to transfer up to \$560,000 of general or special funds from existing appropriations to the military.

Sec. E.219 Military - veterans' affairs

(a) Of this appropriation, \$5,000 shall be used for continuation of the Vermont medal program, \$4,800 shall be used for the expenses of the governor's veterans' advisory council, \$7,500 shall be used for the Veterans' Day parade, \$5,000 shall be granted to the Vermont state council of the Vietnam Veterans of America to fund the service officer program, and \$5,000 shall be used for the military, family, and community network.

Sec. E.220 Center for crime victim services

(a) Of this appropriation, the amount of \$806,195 from the victims' compensation fund created by 13 V.S.A. § 5359 is appropriated for the Vermont network against domestic and sexual violence initiative. Expenditures for this initiative shall not exceed the revenues raised in fiscal year 2012 from the \$10.00 increase authorized by Sec. 20 of No. 174 of the Acts of the 2007 Adj. Sess. (2008) applied to the assessment in 13 V.S.A. § 7282(a)(8)(B) and from the \$20.00 authorized by Sec. 21 of No. 174 of the Acts of the 2007 Adj. Sess. (2008) applied to the fee in 32 V.S.A. § 1712(1).

Sec. E.221 REPEAL

(a) 20 V.S.A. § 2363 (criminal justice training council special fund) is repealed. Upon repeal, balances in the fund shall be transferred to the general fund.

Sec. E.221.1 13 V.S.A. chapter 223, subchapter 4 is amended to read:

Subchapter 4. Assessment and Collection of Additional  
Fees Surcharges

\* \* \*

Sec. E.221.2 REPEAL

(a) 13 V.S.A. § 7281 (statement of legislative intent) is repealed.

Sec. E.221.3 13 V.S.A. § 7282 is amended to read:

§ 7282. ASSESSMENT SURCHARGE

(a) In addition to any penalty or fine imposed by the court or judicial bureau for a criminal offense or any civil penalty imposed for a traffic violation, including any violation of a fish and wildlife statute or regulation, violation of a motor vehicle statute, or violation of any local ordinance relating to the operation of a motor vehicle, except violations relating to seat belts and child restraints and ordinances relating to parking violations, the clerk of the court or judicial bureau shall levy an additional fee surcharge of:

\* \* \*

(5) \$20.50 for any offense or violation committed after June 30, 2001, but before July 1, 2003, of which \$13.50 shall be deposited into a special fund account to be known as the victims' compensation fund, ~~and \$2.00 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(6) For any offense or violation committed after June 30, 2003, but before July 1, 2005, \$21.00, of which \$13.75 shall be deposited into the victims' compensation special fund, ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(7) For any offense or violation committed after June 30, 2005, but before July 1, 2006, \$22.00, of which \$14.75 shall be deposited into the victims' compensation special fund ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(8)(A) For any offense or violation committed after June 30, 2006, but before July 1, 2008, \$26.00, of which \$18.75 shall be deposited in the victims' compensation special fund ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(B) For any offense or violation committed after June 30, 2008, \$36.00, of which \$28.75 shall be deposited in the victims' compensation

special fund and ~~\$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(C) For any offense or violation committed after June 30, 2009, \$41.00, of which \$33.75 shall be deposited in the victims' compensation special fund, ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

\* \* \*

(b) The ~~fees~~ surcharges imposed by this section shall ~~be used for the purposes set out in section 7281 of this title and shall~~ not be waived by the court.

(c) ~~SIU Assessment surcharge. Notwithstanding section 7281 of this title and subsection (b) of this section, in~~ In addition to any penalty or fine imposed by the court or judicial bureau for a criminal offense committed after July 1, 2009, the clerk of the court or judicial bureau shall levy an additional ~~fee~~ surcharge of \$100.00 to be deposited ~~with~~ in the general fund, in support of the specialized investigative unit grants board created in 24 V.S.A. § 1940(c) ~~to be, and~~ used to pay for ~~staffing for the costs of~~ specialized investigative units.

#### Sec. E.221.4 REPEAL

(a) 13 V.S.A. § 7283 (collection and transmittal) is repealed.

#### Sec. E.221.5 Criminal justice training council

(a) By January 15, 2012, and as part of testimony on the fiscal year 2013 budget, the executive director of the criminal justice training council shall provide a report to the house and senate committees on appropriations on revenue received and accounts receivable for the period July 1, 2011 to December 31, 2011, due to charges for training programs pursuant to 20 V.S.A. § 2355(f); and revenue collected by the judiciary pursuant to the surcharges in 13 V.S.A. § 7282(a)(1)–(8), approximately five percent of which would have been, prior to July 1, 2011, deposited into the criminal justice training council special fund. By January 15, 2013, and as part of testimony on the fiscal year 2014 budget, the executive director of the criminal justice training council shall provide a corresponding report for fiscal year 2012, and for the period July 1, 2012 to December 31, 2012.

(b) By January 15, 2012 and as part of testimony on the fiscal year 2013 budget, the executive director of the criminal justice training council shall report on training units delivered and training revenues collected in fiscal year 2011, as authorized by 20 V.S.A. § 2355(f); and accounts receivable on June 30, 2011 that were not fully paid by December 31, 2011.

## Sec. E.224 Agriculture, food and markets – agricultural development

(a) The \$75,000 appropriated in H.287 of 2011, an act relating to job creation and economic development, for the farm-to-school investment program, shall be considered base funding.

## Sec. E.225 Agriculture, food and markets - laboratories, agricultural resource management and environmental stewardship

(a) As part of the department's best management practices program, \$50,000 of the appropriation shall be granted to the Farmer's Watershed Alliance as a grant for the purpose of conducting water quality improvement programs and practices in the northern watershed of Lake Champlain.

## Sec. E.231 Banking, insurance, securities, and health care administration – health care administration

(a) The department of banking, insurance, securities, and health care administration (BISHCA) shall use the Global Commitment funds appropriated in this section for health care administration for the purpose of funding certain health-care-related BISHCA programs, projects, and activities to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

## Sec. E.232 Secretary of state

(a) Of this special fund appropriation, \$492,991 represents the corporation division of the secretary of state's office, and these funds shall be from the securities regulation and supervision fund in accordance with 9 V.S.A. § 5613(b).

## \* \* \* HUMAN SERVICES \* \* \*

## Sec. E.300 Agency of human services – secretary's office

(a) The secretary of human services and the commissioner of disabilities, aging, and independent living are authorized to set the level for IADLs and respite/companion services within the Choices for Care program that is consistent both with the funding provided in this act and what the commissioner determines will to the greatest extent possible minimize individuals from moving from his or her home to a nursing home, including the utilization of variances where the commissioner determines appropriate. Prior to reducing the level for these services from the current baseline, the secretary and the commissioner shall review actual fiscal year 2011 Choices for Care expenditures to determine if fiscal year 2012 funding in context with actual expenditure experience of fiscal year 2011 would require a reduction in the baseline. The secretary and the commissioner shall provide a report to the joint fiscal committee in July 2011 on the fiscal year 2012 levels for IADLs

and respite/companion services as well as total actual expenditures of the Choices for Care waiver for fiscal year 2011. The secretary and the commissioner shall provide a report to the joint fiscal committee in November 2011 on the status of the federal Money Follows the Person grant and how any state savings resulting from the grant will be used to strengthen the home and community based services that allow eligible Vermonters to remain in their homes.

(b) The secretary of human services, the commissioner of disabilities, aging, and independent living, the commissioner of mental health, and the designated providers of mental health and developmental disability services shall continue to work in partnership to ensure that to the greatest extent possible any negative impact to consumers of these services as a result of the funding levels provided for in this act is minimized. The secretary is encouraged to seek changes to the current regulatory or statutory provisions regarding these services if such changes result in a more cost-effective provision of high-quality services for Vermonters.

(c) The commissioner of disabilities, aging, and independent living shall report to the house and senate committees on appropriations by January 15, 2012 with recommendations regarding the scope of providers that the department may contract with to provide services under the Choices for Care program. The recommendations shall be made in consultation with home health agencies and other partner organizations and shall consider, among other things: the relative impacts on provider cost structure of state assessments and requirements; whether a lack of access by patients to the services justifies expanding the scope of providers; whether contracting with additional providers will affect the ability of patients to access Choices for Care services; and whether Choices for Care services should be removed from being considered “designated” services.

#### Sec. E 300.1 AUSTISM; DATES OF COVERAGE

(a) Notwithstanding any provision of law to the contrary, the requirements for insurance coverage pursuant to 8 V.S.A. § 4088i shall take effect January 1, 2012 for all insurers, except that coverage by the state Medicaid program shall take effect July 1, 2012.

#### Sec. E.301 Secretary’s office – Global Commitment

(a) The agency of human services shall use the funds appropriated in this section for payment of the actuarially certified premium required under the intergovernmental agreement between the agency of human services and the managed care organization in the department of Vermont health access as provided for in the Global Commitment for Health Waiver (“Global

Commitment”) approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) In addition to the state funds appropriated in this section, a total estimated sum of \$27,726,781 is anticipated to be certified as state matching funds under the Global Commitment as follows:

(1) \$17,066,700 certified state match available from local education agencies for eligible special education school-based Medicaid services under the Global Commitment. This amount combined with \$23,433,300 of federal funds appropriated in Sec. B.301 of this act equals a total estimated expenditure of \$40,500,000. An amount equal to the amount of the federal matching funds for eligible special education school-based Medicaid services under Global Commitment shall be transferred from the Global Commitment fund to the Medicaid reimbursement special fund created in 16 V.S.A. § 2959a.

(2) \$3,774,162 certified state match available from local education agencies for direct school-based health services, including school nurse services, that increases the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

(3) \$2,290,874 certified state match available from local education agencies for eligible services as allowed by federal regulation for early periodic screening, diagnosis, and treatment programs for school-aged children.

(4) \$2,479,534 certified state match available via the University of Vermont’s child health improvement program for quality improvement initiatives for the Medicaid program.

(5) \$2,115,511 certified state match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

#### **Sec. E.301.1 MEDICAID PHARMACY; RADIOLOGY TIER AUTHORIZATION**

(a) The department of Vermont health access shall reduce spending on prescription drugs by managing over-the-counter drugs with the preferred drug list, establishing lower reimbursements for specialty drugs, and requiring justification for prescribing multi-source brand-name drugs.

(b) The department of Vermont health access shall reduce spending on radiology services by implementing a multiple procedure payment reduction to cases with multiple outpatient radiology imaging services.

Sec. E.301.2 CATAMOUNT HEALTH; STATE SAVINGS DIFFERENTIAL ADJUSTMENT

(a) Notwithstanding the provisions of 8 V.S.A. § 4080f, effective July 1, 2011 and thereafter, the carriers offering Catamount Health shall in subscriber billing include in addition to the premium rates established pursuant to 8 V.S.A. § 4080f(g) a state savings differential adjustment of 11 percent based on the lowest premium established by the carriers of the plan. This adjustment shall be remitted by the carriers on a monthly or quarterly basis to the state and deposited into the catamount fund. This adjustment shall be waived or netted from the bills that carriers submit to the state for Catamount Health subscribers who are eligible for premium assistance pursuant to 33 V.S.A. chapter 19, subchapter 3A.

Sec. E.301.3 CATAMOUNT HEALTH; PROVIDER REIMBURSEMENTS

(a) Notwithstanding the reimbursement indexing provided in 8 V.S.A. § 4080f(f)(1), a carrier who sells, offers, or renews Catamount Health shall recalculate the reimbursements paid to health care professionals under Catamount Health to pay the lowest of the health care professional's contracted rate, the health care professional's billed charges, or the rate derived from the Medicare fee schedule, at an amount 10 percent greater than fee schedule amounts paid under the Medicare program in 2006.

Sec. E.301.4 8 V.S.A. § 4080f(f)(2) is amended to read:

(2) Payments for hospital services shall be calculated using a hospital-specific cost-to-charge ratio approved by the commissioner, adjusted for each hospital to ensure payments at ~~44~~ 100 percent of the hospital's actual cost for services. The commissioner may use individual hospital budgets established under 18 V.S.A. § 9456 to determine approved ratios under this subdivision. Payments under this subdivision shall be indexed to changes in the Medicare payment rules, but shall not be lower than ~~40~~ 100 percent of the hospital's actual cost for services. The commissioner may approve adjustments to the amounts paid under this section in accordance with a carrier's pay for performance, quality improvement program, or other payment methodologies in accordance with the Blueprint for Health established under chapter 13 of Title 18.

Sec. E.301.5 [DELETED]

Sec. E.301.6 CATAMOUNT HEALTH; ADMINISTRATION;  
ENFORCEMENT

(a) For fiscal year 2012, a carrier who sells, offers, or renews Catamount Health shall not charge more than six percent of the overall premium for amounts attributable to administrative costs excluding contributions to surplus.

as defined by the commissioner of banking, insurance, securities, and health care administration.

(b) Beginning July 1, 2012, a carrier who sells, offers, or renews Catamount Health shall file for a rates which shall be for a 12- month period with the commissioner of banking, insurance, securities, and health care administration.

(c) Notwithstanding any conflicting provision in 8 V.S.A. chapter 107, the commissioner of banking, insurance, securities, and health care administration shall include the provisions of Secs. E.301.1 through E.301.5 of this act in the rate review and approval process.

#### Sec. E.301.7 CATAMOUNT TRANSITION PROVISIONS

(a) It is the intent of the general assembly that amendments to Catamount Health result in a full year of budgetary savings and the changes are implemented beginning July1, 2011. To achieve this goal, notwithstanding any provision of law to the contrary, all subscribers' anniversary dates will be reset effective July 1, 2011. Rate filings to reflect these changes shall be submitted from the carriers and the rate review processes by the department of banking, insurance, securities, and health care administration shall be made notwithstanding any provision of law to the contrary to be effective July 1, 2011.

(b) For fiscal year 2012, a carrier who sells, offers, or renews Catamount Health shall offer participants in the program as of June 30, 2011 a one-time option to apply their expenditures made from April 1, 2011 to June 30, 2011 in excess of any prior deductible toward the deductible requirements incurred for fiscal year 2012. The participants shall be informed of this opportunity and provided with an application process to access this option.

#### Sec. E.301.8 [DELETED]

#### Sec. E.302 PAYMENT RATES FOR PRIVATE NONMEDICAL INSTITUTIONS PROVIDING RESIDENTIAL CHILD CARE SERVICES

(a) Notwithstanding any other provisions of law, for state fiscal year 2012, the division of rate setting shall calculate payment rates for private nonmedical institutions (PNMI) providing residential child care services as follows.

(1) General rule. The division of rate setting shall calculate PNMI per diem rates for state fiscal year 2012 as 100 percent of each program's final per diem rate in effect on June 30, 2011. These rates shall be issued as final.

(2) Reporting requirements.



(A) Providers are required to submit annual audited financial statements to the division within 30 days of receipt from their certified public accountant, but no later than four months following the end of each provider's fiscal year.

(B) Providers are not required to submit funding applications pursuant to section 3 of the PNMI rate setting rules for state fiscal year 2012.

(3) Exception to the general rule. For programs categorized by the placement authorizing departments (PADs) as crisis/stabilization programs with typical lengths of stay from 0–10 days, final rates for state fiscal year 2012 are set retroactively as follows:

(A) The allowable budget is 100 percent of the final approved budget for the rate year which includes June 30, 2011. The monthly allowable budget is the allowable budget divided by 12.

(B) Within five days of the end of each month in state fiscal year 2012, the program shall submit the prior month's census to the division of rate setting. The per diem rate shall be set for the prior month by dividing the monthly allowable budget amount by the total number of resident days for the month just ended.

(4) Adjustments to rates. Rate adjustment applications may not be used as a tool to circumvent the rate setting process for state fiscal year 2012 in order to submit a new budget for the entire program or for the sole reason that actual costs incurred by the facility exceed the rate of payment.

(A) The following provisions amend section 8 of the PNMI rules regarding adjustments to rates for state fiscal year 2012.

(i) The three-month waiting period of section 8.1(b) for the submission of a rate adjustment application is waived.

(ii) In rate adjustment applications, the division shall only consider budget information specific to the program change and limited to direct program costs. Providers may not apply for increases to costs that are part of the current program and rate structure before the program change.

(iii) In its findings and order, the division may elect to use financial information from prior approved budget submissions to determine allowable costs related to the program change.

(iv) The materiality test in section 8.1(c) is waived.

(B) Adjustments to rates based on changes in licensed capacity. Programs that increase or decrease licensed capacity in state fiscal year 2012

shall provide prior written notification to the division of the change in licensed capacity.

(i) Decreased licensed capacity. In the case of programs that decrease licensed capacity in state fiscal year 2012, programs must have prior written approval from the PADs before applying to the division for an adjustment to the state fiscal year 2012 per diem rate.

(I) The allowable budget amount for state fiscal year 2012 may be no more than the final approved budget for the rate year which includes June 30, 2011.

(II) In its application for a rate adjustment, a program shall provide to the division financial and staffing information directly related to the decrease in licensed capacity.

(III) In its findings and order, the division shall reduce the allowable budget amount by any decreased costs directly related to the change in licensed capacity.

(IV) The division shall divide the final allowable budget amount by the estimated occupancy level at the new licensed capacity to calculate the per diem rate.

(ii) Increased licensed capacity. In the case of programs that increase licensed capacity in state fiscal year 2012, the division shall automatically adjust the program's rate as follows.

(I) The initial allowable budget is 100 percent of the final approved budget amount for the rate year that includes June 30, 2011.

(II) With prior written approval from the PADs, programs may apply to the division for an adjustment to the allowable budget for costs directly related to the program change.

(III) The division shall divide the final allowable budget amount by the estimated occupancy level at the new licensed capacity to calculate the per diem rate.

Sec. E.306 Department of Vermont health access – administration

(a) The establishment of one (1) new classified position - Palliative Care Nurse Manager - is authorized in fiscal year 2012.

Sec. E.306.1 3 V.S.A. § 3051 is amended to read:

§ 3051. COMMISSIONERS; DEPUTY COMMISSIONERS;  
APPOINTMENT; TERM

(a) The secretary, with the approval of the governor, shall appoint a commissioner of each department, who shall be the chief executive and administrative officer and shall serve at the pleasure of the secretary.

(b) For the department of health, the secretary, with the approval of the governor, shall appoint deputy commissioners for the following divisions of the department:

- (1) public health;
- (2) substance abuse.

(c) For the department for children and families, the secretary, with the approval of the governor, shall appoint deputy commissioners for the following divisions of the department:

- (1) economic services;
- (2) child development;
- (3) family services.

(d) For the department of Vermont health access, the secretary, with the approval of the governor, shall appoint deputy commissioners for the following divisions of the department:

- (1) Medicaid health services and managed care;
- (2) Medicaid policy, fiscal, and support services;
- (3) health care reform;
- (4) Vermont health benefit exchange.

(e) Deputy commissioners shall be exempt from the classified service. Their appointments shall be in writing and shall be filed in the office of the secretary of state.

Sec. E.306.2 [DELETED]

Sec. E.307 CATAMOUNT HEALTH ASSISTANCE; WAIVER  
AMENDMENT

(a) If necessary, the commissioner of Vermont health access shall seek an amendment to Global Commitment to include the provisions in Secs. E.301.1 through E.301.7 of this act.

Sec. E.307.1 33 V.S.A. § 1984(b) is amended to read:

(b) The agency of administration or designee shall establish individual and family contribution amounts for Catamount Health under this subchapter based on the individual contributions established in subsection (c) of this section and shall index the contributions annually to the overall growth in spending per enrollee in Catamount Health as established in 8 V.S.A. § 4080f; provided, however, that ~~to the extent that spending per Catamount Health enrollee decreases as a result of changes in benefit design or deductible amounts, contributions shall not be decreased by the percentage change attributable to such benefit design or deductible changes~~ the contribution amount shall not be less than the contribution amount for the previous year. The agency shall establish family contributions by income bracket based on the individual contribution amounts and the average family size.

Sec. E.307.2 REPEAL

(a) Subsections (a), (b), and (c) of Sec. E.309.3 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) as further amended by Sec. 64 of No. 3 of the Acts of 2011 (suspension of automatic premium increases) are repealed.

Sec. E.307.3 EMERGENCY RULES

(a) In order to implement the amendments to the Catamount Health and Catamount Health Assistance program provided in Secs. E.301.1 through E.301.6 of this act no later than July 1, 2011, the agency of human services shall be deemed to have met the standard for the adoption of emergency rules as required in 3 V.S.A. § 844(a).

Sec. E.307.4 [DELETED]

Sec. E.307.5 [DELETED]

Sec. E.307.6 [DELETED]

Sec. E.307.7 [DELETED]

Sec. E.307.8 [DELETED]

Sec. E.307.9 [DELETED]

Sec. E.307.10 [DELETED]

Sec. E.307.11 REPEAL

(a) Sec. 22 of No. 61 of the Acts of 2009 (Global Commitment waiver amendments; rulemaking) is repealed.

---

Sec. E.307.12 REPEAL

(a) Sec 2(c) of No. 71 of the Acts of 2007, as amended by Sec. 5.903 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) and Sec. 103 of No. 4 of the Acts of 2009 (VHAP payment beginning with date of application) is repealed.

## Sec. E.308 FISCAL YEAR 2012 NURSING HOME RATE SETTING

(a) Notwithstanding any other provisions of law, the division of rate setting shall maintain the decrease by one-half in the case-mix weights for the following resource utilization groups: Impaired Cognition A (IA1), Challenging Behavior A (BA1), Reduced Physical Functioning A 2 (PA2), and Reduced Physical Functioning A 1 (PA1). The decrease by one-half in these case-mix weights shall be maintained in each facility's average case-mix score for Medicaid residents from picture dates in the January 2010, April 2010, and July 2010 quarters, which were used to set the July 2010, October 2010, and January 2011 rates.

## Sec. E.309 STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP) AND MEDICAID PROGRAMS COVERING CHILDREN PREMIUM GRACE PERIOD

(a) Notwithstanding any other provisions of law, effective beginning fiscal year 2012 and continuing thereafter, the commissioner shall make such changes in the billing and collection process as are necessary to achieve state compliance with the premium grace period and notice requirements of section 504 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) (42 U.S.C. § 1397cc(e)(3)(C)). These changes shall:

(1) Afford children enrolled in state health programs a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before coverage may be terminated. The new coverage period will begin the month immediately following the last month for which a premium was paid.

(2) Inform children in state health care programs not later than seven days after the first day of such grace period provided under subdivision (1) of this subsection:

(A) that failure to make a required premium payment within the grace period will result in termination of coverage; and

(B) of the individual's right to challenge the proposed termination pursuant to applicable rules.

(3) Provide this same grace period and notice as provided under this subsection for each coverage period for which a premium has not been received.

Sec. E.309.1 HEALTH CARE COVERAGE; LEGAL IMMIGRANT CHILDREN AND PREGNANT WOMEN

(a) In accordance with the provisions of the federal Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111-3, section 214, the agency of human services shall provide coverage under Medicaid and CHIP to legal immigrant children and pregnant women who are residing lawfully in Vermont and who have not met the five-year waiting period required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Sec. E. 311 MEDICATION MANAGEMENT PILOT PROJECT

(a) The department of health shall make recommendations to the joint fiscal committee for a medication management pilot program in September, 2011.

Sec. E.312 Health - public health

(a) AIDS/HIV funding:

(1) In fiscal year 2012 and as provided for in this section, the department of health shall provide grants in the amount of \$335,000 in Global Commitment funds to Vermont AIDS service and peer-support organizations for client-based support services. It is the intent of the general assembly that if the Global Commitment funds appropriated in this subsection are unavailable, the funding for Vermont AIDS service and peer-support organizations for client-based support services shall be maintained through the general fund or other state-funding sources. The department of health AIDS program shall meet at least quarterly with the community advisory group (CAG) with current information and data relating to service initiatives. The funds shall be allocated as follows:

(A) AIDS Project of Southern Vermont, \$84,488;

(B) HIV/HCV Resource Center (formerly ACORN), \$24,599;

(C) VT CARES, \$157,213;

(D) Twin States Network, \$31,850;

(E) People with AIDS Coalition, \$36,850.

(2) Ryan White Title II funds for AIDS services and the AIDS Medication Assistance Program shall be distributed in accordance with federal guidelines. The federal guidelines shall not apply to programs or services funded solely by state general funds.

(3)A) Notwithstanding the provisions of Sec. E.312(a)(6) of Act No. 1 of the 2009 special session, the department of health shall carry forward

\$140,000 in general funds from fiscal year 2009 to provide assistance to individuals in the HIV/AIDS Medication Assistance Program (AMAP), including the costs of prescribed medications, related laboratory testing, and nutritional supplements. These funds may not be used for any administrative purposes by the department of health or by any other state agency or department. Before using the general fund allocation to cover the costs of AMAP, the department of health shall use pharmaceutical rebate special funds to cover the costs of AMAP. Any carry-forward general funds remaining at the end of fiscal year 2012 shall be distributed to AIDS service organizations in the same proportion as those outlined in this subsection.

(B) The secretary of human services shall immediately notify the joint fiscal committee if at any time there are insufficient funds in AMAP to assist all eligible individuals. The secretary shall work in collaboration with persons living with HIV/AIDS to develop a plan to continue access to AMAP medications until such time as the general assembly can take action.

(C) As provided for in this section, the secretary of human services shall work in collaboration with the AMAP advisory committee, which shall be composed of no less than 50 percent of members who are living with HIV/AIDS. If a modification to the program's eligibility requirements or benefit coverage is considered, the committee shall make recommendations regarding the program's formulary of approved medication, related laboratory testing, nutritional supplements, and eligibility for the program.

(4) In fiscal year 2012, the department of health shall provide grants in the amount of \$100,000 in general funds to Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers for community-based HIV prevention programs and services. These funds shall be used for HIV/AIDS prevention purposes, including improving the availability of confidential and anonymous HIV testing; prevention work with at-risk groups such as women, intravenous drug users, and people of color; anti-stigma campaigns; and promotion of needle exchange programs. No more than 15 percent of the funds may be used for the administration of such services by the recipients of these funds. The method by which these prevention funds are distributed shall be determined by mutual agreement of the department of health and the Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers.

(b) The commissioner of health in consultation with AIDS service organizations shall report to the joint fiscal committee by November 15, 2011 on whether the base level of funding for AIDS service organizations should be revised in lieu of providing supplemental funding to these organizations from unexpended AIDS/HIV medication allocations.

(c) Funding for the tobacco programs in fiscal year 2012 shall consist of the \$1,594,000 in tobacco funds and \$302,507 in Global Commitment funds appropriated in Sec. B.312 of this act. The tobacco evaluation and review board shall determine how these funds are allocated to tobacco cessation, community-based, media, public education, surveillance, and evaluation activities. This allocation shall include funding for tobacco cessation programs that serve pregnant women. Of these funds, \$20,000 shall be granted to the teen centers to provide coordination and grant writing assistance in performing and seeking funding for tobacco and substance abuse prevention services.

Sec. E.313 Health - alcohol and drug abuse programs

(a) For the purpose of meeting the need for outpatient substance abuse services when the preferred provider system has a waiting list of five days or more or there is a lack of qualified clinicians to provide services in a region of the state, a state-qualified alcohol and drug abuse counselor may apply to the department of health, division of alcohol and drug abuse programs, for time-limited authorization to participate as a Medicaid provider to deliver clinical and case coordination services, as authorized.

(b)(1) In accordance with federal law, the division of alcohol and drug abuse programs may use the following criteria to determine whether to enroll a state-supported Medicaid and uninsured population substance abuse program in the division's network of designated providers, as described in the state plan:

(A) The program is able to provide the quality, quantity, and levels of care required under the division's standards, licensure standards, and accreditation standards established by the commission of accreditation of rehabilitation facilities, the joint commission on accreditation of health care organizations, or the commission on accreditation for family services.

(B) Any program that is currently being funded in the existing network shall continue to be a designated program until further standards are developed, provided the standards identified in this subdivision (b)(1) are satisfied.

(C) All programs shall continue to fulfill grant or contract agreements.

(2) The provisions of subdivision (1) of this subsection shall not preclude the division's "request for bids" process.

(c) All funding allocated for student assistance professionals in the department of health shall be directly administered by the department and shall be used to provide competitive performance-based grants to schools or supervisory unions for evidence-based department-specified prevention



activities that are in alignment with the department's mission. A criteria for grant award shall be matching funds or in-kind services provided by the grantee. The department shall identify measures and develop a process for evaluating the performance of the grants. The department is authorized to transfer any portion of these funds for eligible expenses to the Global Commitment waiver to maximize the total funding available for these grants.

Sec. E.315 Mental health - Vermont state hospital

(a) Effective July 1, 2011 the classified position of Chief Executive Officer (Position # 840184) shall be converted to the exempt position of Vermont State Hospital Chief Executive Officer.

Sec. E.315.1 18 V.S.A. § 7205 is amended to read:

§ 7205. SUPERVISION OF INSTITUTIONS

(a) The department of mental health shall operate the Vermont State Hospital and shall be responsible for patients receiving involuntary treatment at a hospital designated by the department of mental health.

(b) The commissioner of the department of mental health, in consultation with the secretary, shall appoint a chief executive officer of the Vermont State Hospital to oversee the operations of the hospital. The chief executive officer position shall be an exempt position.

Sec. E.316 [DELETED]

Sec. E.317 Department for children and families - family services

(a) The commissioner for children and families shall provide to the general assembly by January 15, 2012 a geographic inventory of the residential and non-residential services that are available to serve at-risk youth under the age of 23, and the public and private funding available to these providers. The department shall also provide recommendations on how to evaluate this system.

Sec. E.319 33 V.S.A. § 4103 is amended to read:

§ 4103. REGISTRY

\* \* \*

(b) All orders for child support subject to wage withholding shall require that payment be made through the registry and shall be deemed IV-D cases. All orders for child support not subject to wage withholding made or modified on or after July 1, 1990 shall require that payment be made through the registry as a IV-D case unless the parties have agreed that the obligor will pay the obligee directly.

(c) In the case where neither parent requests services under Title IV-D of the Social Security Act or where the case is not a IV-D case by operation of law, the office of child support services may recover the administrative costs of processing payments through the child support registry, not to exceed an administrative fee of \$5.00 per month. The family division of the superior court shall increase the monthly support obligation to take the administrative cost into account unless the noncustodial parent is below the federal poverty level. The office of child support services shall deduct the cost from the first payment received each month. Fees collected under this subsection shall be credited to a special fund and shall be available to the office of child support services to offset the costs of its administrative services.

\* \* \*

Sec. E.320 Department for children and families – aid to aged, blind and disabled

(a) The department for children and families shall analyze the actions necessary for the department to perform the function of transmitting the state supplement to the federal SSI benefit to AABD clients, rather than relying on the federal government to perform this function. Should the analysis result in it being fiscally advantageous for the state to issue the state supplemental benefit, the department shall implement the process.

Sec. E.321 GENERAL ASSISTANCE BENEFITS; FLEXIBILITY PROGRAM

(a) Commencing with state fiscal year 2007, the agency of human services may establish a housing assistance program within the general assistance program to create flexibility to provide these general assistance benefits. The purpose of the program is to mitigate poverty and serve applicants more effectively than they are currently served with the same amount of general assistance funds. The program shall operate in a consistent manner within existing statutes and rules except that it may grant exceptions to this program's eligibility rules and may create programs and services as alternatives to these rules. Eligible activities shall include, among others, the provision of shelter, overflow shelter, case management, transitional housing, deposits, down payments, rental assistance, and related services that assure that all Vermonters have access to shelter, housing, and the services they need to become safely housed. The assistance provided under this section is not an entitlement and may be discontinued when the appropriation has been fully spent.

(b) The program may operate in up to 12 districts designated by the secretary of human services. This program will be budget neutral. For each district in which the agency operates the program, it shall establish procedures for evaluating the pilot and its effects. The agency shall report annually to the

general assembly on its findings from the programs, its recommendations for changes in the general assistance program, and a plan for further implementation of the program.

(c) The agency shall continue to engage interested parties, including both statewide organizations and local agencies, in the design, implementation, and evaluation of the general assistance flexibility program.

Sec. E.321.1 GENERAL ASSISTANCE; EMERGENCY SHELTER GRANTS; OUTCOME MEASURES

(a) The agency of human services shall develop a baseline to measure results of the investment in the emergency shelter grants and case management to assist the homeless population. These measurements shall include homelessness prevention outcome measures for the clients served by the investment. The outcomes shall be reported annually to the house and senate committees on appropriations during the department's budget testimony.

Sec. E.321.2 33 V.S.A. § 2101(1) is amended to read:

(1) "District welfare director" means an employee of the department or of the agency of human services so designated by the commissioner.

Sec. E.323 33 V.S.A. § 1121 is amended to read:

§ 1121. AUTHORIZATION TO SEGREGATE STATE FUNDS AND CREATE SEPARATE STATE AND SOLELY STATE-FUNDED PROGRAMS

\* \* \*

(g)(1) Any family receiving or applying for Reach Up financial assistance who is being referred by the department to apply for or who is applying for Supplemental Security Insurance (SSI) or aid to the aged, blind, or disabled (AABD) under chapter 13 of this title shall authorize the department to reimburse the state for the amounts described in subdivision (2) of this subsection from any initial SSI payment owed the individual that includes SSI payment for retroactive amounts. The family shall authorize the Social Security Administration to send the initial SSI payment directly to the department. The department may require an individual to sign a recovery of financial assistance agreement as authorization.

(2) The department may deduct an amount equal to the state-funded Reach Up financial assistance paid to the family for the needs of the SSI applicant during the period or periods in which the family received Reach Up financial assistance paid for with state funds. The deduction shall be for no more than the prorated portion of Reach Up financial assistance provided for those family

members receiving SSI who are included in the SSI grant. The department shall send any remainder due to the family within 10 days of receiving the payment from the Social Security Administration.

(h) In furtherance of the policy goals of this section and in order to establish an excess of maintenance-of-effort state funds, the commissioner shall maximize maintenance-of-effort state funds in the reports to the U.S. Administration for Children and Families.

Sec. E.324 Department for children and families – home heating fuel assistance/LIHEAP

(a) Of the funds appropriated for home heating fuel assistance/LIHEAP in this act, no more than \$450,000 shall be expended for crisis fuel direct service/administration exclusive of statewide after-hours crisis coverage.

Sec. E.324.1 HOME HEATING FUEL ASSISTANCE/LIHEAP

(a) For the purpose of a crisis set-aside, for seasonal home heating fuel assistance through December 31, 2011, and for program administration, the commissioner of finance and management shall transfer \$2,550,000 from the home weatherization assistance trust fund to the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are not available. An equivalent amount shall be returned to the home weatherization trust fund from the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are received. Should a transfer of funds from the home weatherization assistance trust fund be necessary for the 2011–2012 crisis set-aside and for seasonal home heating fuel assistance through December 31, 2011, and if LIHEAP funds awarded as of December 31, 2011, for fiscal year 2012 do not exceed \$2,550,000, subsequent payments under the home heating fuel assistance program shall not be made prior to January 30, 2012. Notwithstanding any other provision of law, payments authorized by the office of home heating fuel assistance shall not exceed funds available, except that for fuel assistance payments made through December 31, 2011, the commissioner of finance and management may anticipate receipts into the home weatherization assistance trust fund.

Sec. E.325 Department for children and families – office of economic opportunity

(a) Of the general fund appropriation in this section, \$792,000 shall be granted to community agencies for homeless assistance by preserving existing services, increasing services, or increasing resources available statewide. These funds may be granted alone or in conjunction with federal McKinney emergency shelter funds. Grant decisions shall be made with assistance from the coalition of homeless Vermonters.

---

Sec. E.325.1 INDIVIDUAL DEVELOPMENT SAVINGS PROGRAM

(a) In fiscal year 2012, the funding for the individual development (IDA) savings program established in 33 V.S.A. § 1123 shall be from two sources, general funds and community services block grant funds.

Sec. E.326 Department for children and families - OEO - weatherization assistance

(a) Of the special fund appropriation in this section, \$400,000 is for the replacement and repair of home heating equipment.

(b) Appropriations from the weatherization trust fund may be limited based on the revenue forecast for the fund from the gross receipts tax as adopted pursuant to 32 V.S.A. § 305a.

Sec. E.327 Department for children and families – Woodside rehabilitation center

(a) The establishment of one (1) new classified position – nurse – is authorized in fiscal year 2012.

Sec. E.329 VERMONT VETERANS' HOME; REGIONAL BED CAPACITY

(a) The agency of human services shall not include the bed count at the Vermont veterans' home when recommending and implementing policies that are based on or intended to impact regional nursing home bed capacity in the state.

Sec. E.329.1 33 V.S.A. § 7111(i) and (j) are added to read:

(i) The licensing agency may enforce a final order by filing a civil action in the superior court in the county in which the facility is located, or in Washington superior court.

(j) The remedies provided in this chapter are cumulative.

Sec. E.329.2 33 V.S.A. § 7112 is added to read:

§ 7112. CONFIDENTIAL INFORMATION

(a) Information received by the licensing agency through filed reports, inspection, or as otherwise authorized under this chapter, except information that pertains to unsubstantiated complaints or the identity of residents and complainants, shall be made available to the public.

(b) Prior to release of information the commissioner shall consult with representatives from the nursing home industry and the office of state long-term care ombudsman to develop:

(1) Guidelines for the release of information to the public that ensure the confidentiality and privacy of complainants and individuals who are receiving or have received care or services in nursing facilities in conformance with state and federal requirements.

(2) Indicators, derived from information databases maintained by the licensing agency and the division of rate setting, that shall be disseminated to consumers in a readily understandable format designed to facilitate consumers' ability to compare the quality of care provided by nursing facilities. The commissioner shall continually update quality indicators and refine and improve the information disseminated to consumers.

Sec. E.330   Disabilities, aging, and independent living - advocacy and independent living

(a) Certification of adult day providers shall require a demonstration that the new program is filling an unmet need for adult day services in a given geographic region and does not have an adverse impact on existing adult day services.

(b) Of this appropriation, \$209,995 in general funds shall be allocated for base funds to adult day programs in the same proportion as they were allocated in fiscal year 2011. The commissioner is authorized to transfer the state share of funding contained in the choices for care program for adult day services to this appropriation upon determination that state funds and corresponding federal matching funds will not be expended for adult day services due to the need requirements of choices for care eligible enrollees.

(c) The department shall manage the budget for the attendant services program for people whose incomes are over the level required for Medicaid eligibility by reviewing client's service packages prior to freezing enrollment or creating a waiting list. The department shall review the expenditures of this program to determine if any of these expenditures are eligible for inclusion as an investment in the Global Commitment waiver.

Sec. E.330.1   EXPEDITED RULES; LONG-TERM CARE AND DISABILITIES, AGING, AND INDEPENDENT LIVING

(a) In order to administer the provisions of this act in Sections B.308, B.330, and B.333, relating to the changes in Choices for Care 1115 Medicaid Waiver Programs, Attendant Services Programs, Developmental Disabilities Services Waiver Program, notwithstanding the provisions of 3 V.S.A. chapter 25, the department of disabilities, aging, and independent living shall adopt rules pursuant to the following:

(1) The commissioner shall file final proposed rules with the secretary of state and the legislative committee on administrative rules under 3 V.S.A.

§ 841 after publication in three daily newspapers with the highest average circulation in the state of a notice that lists the rules to be adopted pursuant to this process and a seven-day public comment period following publication.

(2) The commissioner shall file final proposed rules with the legislative committee on administrative rules no later than 28 days after the effective date of this act.

(3) The legislative committee on administrative rules shall review and may approve or object to the final proposed rules under 3 V.S.A. § 842, except that its action shall be completed no later than 14 days after the final proposed rules are filed with the committee.

(4) The commissioner may adopt a properly filed final proposed rule after the passage of 14 days from the date of filing final proposed rules with the legislative committee on administrative rules or after receiving notice of approval from the committee, provided the secretary:

(A) has not received a notice of objection from the legislative committee on administrative rules; or

(B) after having received a notice of objection from the committee, has responded pursuant to 3 V.S.A. § 842.

(5) Rules adopted under this section shall be effective upon being filed with the secretary of state and shall have the full force and effect of rules adopted pursuant to 3 V.S.A. chapter 25. Rules filed by the commissioner of disabilities, aging, and independent living with the secretary of state pursuant to this section shall be deemed to be in full compliance with 3 V.S.A. § 843, and shall be accepted by the secretary of state if filed with a certification by the commissioner of disabilities, aging, and independent living that the rule is required to meet the purposes of this section.

Sec. E.333 Disabilities, aging, and independent living – developmental services

(a) Providers shall include developmental service program participants in decisions regarding changes in their service plans.

Sec. E.337 REPEAL

(a) 28 V.S.A. § 120(g) (annual budget: appropriation to the department of corrections based on full-time equivalent students times statewide per pupil spending) is repealed.

Sec. E.338 Corrections – correctional services

(a) The establishment of ten (10) new classified positions - Correctional Officer I –is authorized in fiscal year 2012 to accommodate the expansion of

the Caledonia Community Work Camp (two positions), and the conversion of temporary Correctional Officer I to full-time classified positions (eight positions).

(b) Notwithstanding any law, rule or regulation to the contrary, the commissioner may discontinue use of uniforms for incarcerated persons at any correctional facility where uniforms are currently used.

(c) The commissioner of corrections shall report the joint corrections oversight committee and the joint fiscal committee by September 2011 on the proposed distribution of justice reinvestment funds.

Sec. E.339 Correctional services – out-of-state beds

(a) The level of funding in this appropriation is contingent upon enactment of separate legislation related to reduced incarceration of specified nonviolent misdemeanants.

Sec. E.342 Vermont veterans' home – care and support services

(a) If Global Commitment fund monies are unavailable, the total funding for the Vermont veterans' home shall be maintained through the general fund or other state funding sources.

(b) The Vermont veterans' home will use the Global Commitment funds appropriated in this section for the purpose of increasing the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

\* \* \* LABOR \* \* \*

Sec. E.401 Labor - programs

(a) The workforce development council shall allocate funding to the workforce investment boards based upon the performance of the local workforce investment boards, measured according to standards established by the council.

\* \* \* K-12 EDUCATION \* \* \*

Sec. E.500 Education – finance and administration

(a) The Global Commitment funds appropriated in this section for school health services, including school nurses, shall be used for the purpose of funding certain health-care-related projects. It is the goal of these projects to reduce the rate of uninsured or underinsured persons or both in Vermont and to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.



Sec. E.502 Education – special education: formula grants

(a) Of the appropriation authorized in this section, and notwithstanding any other provision of law, an amount not to exceed \$3,300,654 shall be used by the department of education in fiscal year 2011 as funding for 16 V.S.A. § 2967(b)(2)–(6). In distributing such funds, the commissioner shall not be limited by the restrictions contained within 16 V.S.A. § 2969(c) and (d). In addition to funding for 16 V.S.A. § 2967(b)(2)–(6), up to \$169,061 may be used by the department of education for its participation in the higher education partnership plan.

Sec. E.503 Education – state-placed students

(a) The independence place program of the Lund Family Center shall be considered a 24-hour residential program for the purposes of reimbursement of education costs.

Sec. E.504 Education – adult education and literacy

(a) Of this appropriation, the amount from the education fund shall be distributed to school districts for reimbursement of high school completion services pursuant to 16 V.S.A. § 1049a(c).

Sec. E.512 Education – Act 117 cost containment

(a) Notwithstanding any other provision of law, expenditures made from this section shall be counted under 16 V.S.A. § 2967(b) as part of the state's 60 percent of the statewide total special education expenditures of funds which are not derived from federal sources.

Sec. E.513 Appropriation and transfer to education fund

(a) Notwithstanding the provisions of 16 V.S.A. § 4025(a)(2), for fiscal year 2012, the general fund transfer to the education fund shall be \$276,240,000.

Sec. E.513.1 16 V.S.A. § 4025(a)(2) is amended to read:

(2) For each fiscal year, the amount of the general funds appropriated or transferred to the education fund shall be ~~\$280,200,000.00~~ \$276,240,000.00 increased by the most recent New England economic project cumulative price index, as of November 15, for state and local government purchases of goods and services from fiscal year ~~2008~~ 2012 through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent.

Sec. E.513.2 16 V.S.A. § 4025(b)(1) is amended to read:

(1) To make payments to school districts and supervisory unions for the support of education in accordance with the provisions of section 4028 of this title, other provisions of this chapter, and the provisions of chapter 135 of

Title 32, ~~and~~ to make payments to carry out programs of adult education in accordance with section 1049(a) of this title, and to provide funding for the community high school of Vermont.

Sec. E.514 State teachers' retirement system

(a) The annual contribution to the Vermont state teachers' retirement system shall be \$52,991,932, of which \$51,241,932 shall be contributed in accordance with 16 V.S.A. § 1944(g)(2) and an additional \$1,750,000 in general funds.

(b) In accordance with 16 V.S.A. § 1944(c)(2), of the annual contribution, \$10,574,040 is the "normal contribution," and \$40,667,892 is the "accrued liability contribution."

(c) A combination of \$51,672,307 in general funds and an estimated \$1,319,625 of Medicare Part D reimbursement funds is utilized to achieve funding at \$1,750,000 above the actuarially recommended level of \$51,241,932.

Sec. E.515 [DELETED]

\* \* \* HIGHER EDUCATION \* \* \*

Sec. E.600 University of Vermont

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the University of Vermont on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$380,326 shall be transferred to EPSCoR (Experimental Program to Stimulate Competitive Research) for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

(c) If Global Commitment fund monies are unavailable, the total grant funding for the University of Vermont shall be maintained through the general fund or other state funding sources.

(d) The University of Vermont will use the Global Commitment funds appropriated in this section to support Vermont physician training. The University of Vermont prepares students, both Vermonters and out-of-state, and awards approximately 100 medical degrees annually. Graduates of this program, currently representing a significant number of physicians practicing in Vermont, deliver high-quality health care services to Medicaid beneficiaries and to the uninsured or underinsured persons or both in Vermont and across the nation.

---

Sec. E.600.1 Higher Education Funding

(a) Annually, the higher education subcommittee of the education council created pursuant to 16 V.S.A. § 2905(d) shall review and assess the current state grant funding allocation for the University of Vermont, the Vermont State Colleges, and the Vermont Student Assistance Corporation and report to the house and senate committees on appropriations and on education by January 15 each year, any recommendations for changes to the allocation formula.

(1) In making the recommendation the subcommittee shall consider:

(A) the number of enrolled Vermont students at each institution,

(B) the retention and graduation rates for Vermont students,

(C) financial aid provided by each institution to Vermont students,

(D) the actual cost of attendance for Vermont students,

(E) the grant funding provided for enrolled students through the state appropriation to the Vermont Student Assistance Corporation.

(2) Annually, the subcommittee shall also make recommendation on the base level of funding for higher education and the methodology of how to apply any increase in the base funding for higher education across these entities.

Sec. E.602 Vermont state colleges

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the Vermont state colleges on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$427,898 shall be transferred to the Vermont manufacturing extension center for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

Sec. E.603 Vermont state colleges – allied health

(a) If Global Commitment fund monies are unavailable, the total grant funding for the Vermont state colleges shall be maintained through the general fund or other state funding sources.

(b) The Vermont state colleges shall use the Global Commitment funds appropriated in this section to support the dental hygiene, respiratory therapy, and nursing programs which graduate approximately 250 health care providers annually. These graduates deliver direct, high-quality health care services to Medicaid beneficiaries and uninsured or underinsured persons or both.

## Sec. E.605 Vermont student assistance corporation

(a) Of this appropriation, \$25,000 is appropriated from the general fund to the Vermont Student Assistance Corporation to be deposited into the trust fund established in 16 V.S.A. § 2845.

(b) Except as provided in subsection (a) of this section, not less than 93 percent of grants shall be used for direct student aid.

(c) Of state funds available to the Vermont Student Assistance Corporation pursuant to Secs. E.215(a) and B.1100(a)(3)(B) of this act, \$250,000 shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from these allocations shall carry forward for this purpose.

## \* \* \* NATURAL RESOURCES \* \* \*

## Sec. E.702 Fish and wildlife - support and field services

(a) The commissioner of fish and wildlife shall report to the joint fiscal committee on November 15, 2011 on the status of recruitment for vacant game warden positions.

## Sec. E.704 Forests, parks and recreation - forestry

(a) This special fund appropriation shall be authorized, notwithstanding the provisions of 3 V.S.A. § 2807(c)(2).

## Sec. E.704.1 10 V.S.A. § 2603(h) is added to read:

(h) All interest accrued from bonds deposited in the agency fund and forfeited bonds in the agency fund for the department of forests, parks and recreation's timber management program may be transferred annually by the commissioner, with the approval of the commissioner of finance and management, to the natural resources management fund.

## \* \* \* COMMERCE AND COMMUNITY DEVELOPMENT \* \* \*

## Sec. E.803 Community development block grants

(a) Community development block grants shall carry forward until expended.

(b) Community development block grant (CDBG) funds shall be expended in accordance with and in the order of the following priorities.

(1) The greatest priority for the use of CDBG funds will be the creation and retention of affordable housing and jobs.

(2) The overarching priority and fundamental objective in the use of funds for all affordable housing is to achieve perpetual affordability through the use of mechanisms that produce housing resources that will continue to

remain affordable over time. It is the goal of the state to maintain at least 45 to 55 percent of CDBG funds for affordable housing applications.

(3) Among affordable housing applications, the highest priorities are to preserve and increase the supply of affordable family housing, to reduce and strive to eliminate childhood homelessness, to preserve affordable housing developments and extend their useful life, and to serve families and individuals at or below 30 percent HUD area median income and people with special needs. Housing for seniors should be considered a priority when it meets clear unmet needs in the region for the lowest income seniors.

(4) CDBG and other public funds are intended to create and preserve affordable housing for households for income-eligible families, seniors, and those with special needs. Limited public funding must focus on these households. Therefore, funding for projects which intend to serve households which exceed the CDBG income limits shall be consistent with the Vermont housing finance agency's qualified allocation plan.

(5) Preference shall be given to projects that maintain the historic settlement patterns for compact village and downtown centers separated by a rural landscape. Funds generally should not be awarded on projects that promote or constitute sprawl, defined as dispersed development outside compact urban and village centers or along highways and in rural areas.

\* \* \* TRANSPORTATION \* \* \*

Sec. E.909 Transportation – central garage

(a) Of this appropriation, \$6,070,010 is appropriated from the transportation equipment replacement account within the central garage fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

Sec. E.915 Transportation – town highway aid program

(a) This appropriation is authorized, notwithstanding the provisions of 19 V.S.A. § 306(a).

Sec. E.922 [DELETED]

\* \* \* TRANSPORTATION INFRASTRUCTURE BOND AND DEBT  
SERVICE FUNDS \* \* \*

Sec. F.100 19 V.S.A. § 11f is amended to read:

§ 11f. TRANSPORTATION INFRASTRUCTURE BOND FUND

(a) There is created a special ~~account~~ fund within the transportation fund known as the transportation infrastructure bond fund to consist of funds raised from the motor fuel transportation infrastructure assessments levied pursuant to 23 V.S.A. §§ 3003(a) and 3106(a). Interest from the fund shall be credited

~~annually~~ to the fund, and the amount in the ~~account~~ fund shall carry forward from year to year.

(b)(1) ~~Monies~~ As used in this section, the terms “transportation infrastructure bonds debt service fund” and “debt service obligations” are as defined in 32 V.S.A. § 951a.

(c) Monies in the transportation infrastructure bond fund shall be transferred to the transportation infrastructure bonds debt service fund to cover all debt service obligations of transportation infrastructure bonds that are due in the current fiscal year and as otherwise required in accordance with any trust agreement pertaining to such bonds.

(d) Provided that resources in the transportation infrastructure bonds debt service fund are sufficient in amount to cover all debt service obligations of transportation infrastructure bonds that are due in the current fiscal year and to meet all other obligations set forth in any trust agreement pertaining to any such bonds, any remaining balance in the transportation infrastructure bond fund may be used to pay for:

~~(A) to pay principal, interest, and related costs on transportation infrastructure bonds issued pursuant to 32 V.S.A. § 972; and~~

~~(B) to pay for:~~

~~(i)(1) the rehabilitation, reconstruction, or replacement of state bridges, culverts, roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 10 years;~~

~~(ii)(2) the rehabilitation, reconstruction, or replacement of municipal bridges, culverts, and highways which, after such work, have an estimated minimum remaining useful life of 10 years; and~~

~~(iii)(3) up to \$100,000.00 per year for operating costs associated with administering the capital expenditures.~~

~~(2) However, in any fiscal year, no payments shall be made under this subsection unless the amount needed to pay for the following items for that fiscal year, to the extent required by the terms of any trust agreement applicable to the transportation infrastructure bonds, is either in the fund and available to pay for those items, or the items have been paid: debt service due on the bonds for that fiscal year; any associated reserve or sinking funds; and any associated costs of the bonds as defined in 32 V.S.A. § 972(b).~~

(e) To the extent in the current fiscal year any balance remains in the transportation infrastructure bond fund after all transfers required by subsection (c) of this section have been made and all appropriations authorized by subsection (d) of this section are accounted for, such remaining balance

may be transferred to the transportation infrastructure bonds debt service fund to cover debt service obligations of transportation infrastructure bonds that are due in future fiscal years.

(e)(f) The assessments for motor fuel transportation infrastructure assessments paid pursuant to 23 V.S.A. §§ 3003(a) and 3106(a) shall not be reduced below the rates in effect at the time of issuance of any transportation infrastructure bond until the principal, interest, and all costs which must be paid in order to retire the bond have been paid.

(g) Except as provided in subsection (h) of this section, all transfers of funds from the transportation infrastructure bond fund to the transportation infrastructure bonds debt service fund shall be approved by the general assembly.

(h) To minimize disruption of summer construction schedules, it is the policy of the state to have a balance in the transportation infrastructure bonds debt service fund at the end of each fiscal year that is sufficient in amount to cover all debt service obligations of transportation infrastructure bonds that are due or are anticipated to be due in the succeeding fiscal year. To achieve the policy objective of ensuring the state's transportation infrastructure bond obligations are fulfilled with a minimum of disruption to the construction schedules of approved projects, in the event that revenue, economic, or other conditions vary from those assumed in the consensus forecast and in the budget process in which the general assembly approved transfers to the transportation infrastructure bonds debt service fund, the secretary of transportation with the approval of the secretary of administration may, notwithstanding the provisions of 32 V.S.A. § 706:

(1) transfer appropriations of transportation infrastructure bond funds to the transportation infrastructure bonds debt service fund; and

(2) transfer appropriations of transportation funds to replace transportation infrastructure bond funds transferred under subdivision (1) of this subsection, provided no significant delay in the construction schedule of any approved project results from the transfer.

(i) After executing a transfer authorized by subsection (h) of this section, the administration shall give prompt notice thereof to the joint fiscal office and submit an explanation and description of the action taken to the joint fiscal committee at its next scheduled meeting.

Sec. F.101 32 V.S.A. § 951a is added to read:

§ 951a. DEBT SERVICE FUNDS

(a) Three governmental debt service funds are hereby established:

(1) the general obligation bonds debt service fund to fulfill debt service obligations of general obligation bonds from all funding sources;

(2) the transportation infrastructure bonds debt service fund to fulfill debt service obligations of transportation infrastructure bonds funded primarily by the revenues of the transportation infrastructure bond fund; and

(3) other debt service funds to fulfill debt service obligations of other long term debt funded by governmental fund dedicated revenue sources.

(b) Financial resources in each fund shall consist of appropriations by the general assembly to fulfill debt service obligations, the transfer of funding sources by the general assembly to fulfill future debt service obligations, bond proceeds raised to fund a permanent reserve required by a trust agreement entered into to secure bonds, transfers of appropriations effected pursuant to section 706 of this title, investment income earned on balances held in trust agreement accounts as required by a trust agreement, and such other amounts as directed by the general assembly or that are specifically authorized by provisions of this title. Each debt service fund shall account for the accumulation of resources and the fulfillment of debt service obligations within the current fiscal year and the accumulation of resources for debt service obligations maturing in future fiscal years.

(c) Debt service obligations of general obligation bonds, transportation infrastructure bonds, or other authorized long term obligations shall be fulfilled from the respective governmental debt service funds established in this section.

(d) As used in this section, "debt service obligations" of bonds include requirements to:

(1) pay principal and interest, sinking fund obligations, and redemption premiums;

(2) pay investment return on and the maturity value of capital appreciation bonds;

(3) provide for reserves required by a trust agreement entered into to secure bonds; and

(4) provide any additional security, insurance, or other form of credit enhancement required by a trust agreement entered into to secure bonds.

Sec. F.102 32 V.S.A. § 954 is amended to read:

§ 954. PROCEEDS

(a) The proceeds arising from the sale of such bonds, except premiums, shall be applied to the purposes for which they were authorized and such purposes shall be considered to include the expenses of preparing, issuing and



marketing such bonds and any notes issued under section 955 of this title, and amounts for reserves, but no purchasers of such bonds shall be in any way bound to see to the proper application of the proceeds thereof. The state treasurer shall pay the interest on, principal of, investment return on and maturity value of such bonds and notes as the same fall due or accrue without further order or authority. Any premium received upon the sale of such bonds or notes shall be applied to the payment of the first principal or interest to come due thereon. The state treasurer with the approval of the governor, may establish sinking funds, reserve funds or other special funds of the state as he or she may deem for the best interest of the state. To the extent not otherwise provided, the amount necessary each year to ~~pay~~ fulfill the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on all such bonds then outstanding shall be included in and made a part of the annual appropriation bill for the expense of state government, and such principal and interest on, investment return and maturity value of, and sinking fund installments on the bonds as may come due before appropriations for the ~~payment fulfillment~~ thereof have been made shall be ~~paid fulfilled~~ from the ~~general fund or from the transportation or other applicable special debt service~~ fund.

\* \* \*

Sec. F.103 32 V.S.A. § 972 is amended to read:

§ 972. TRANSPORTATION INFRASTRUCTURE BONDS

\* \* \*

(b) As used in this subchapter, the term “debt service obligations” is as defined in section 951a of this title.

~~(c) Principal and interest on Debt service obligations of the bonds and associated costs shall be paid fulfilled or satisfied in accordance with the terms of any trust agreement pertaining to the bonds from the transportation infrastructure bond fund established in 19 V.S.A. § 11f bonds debt service fund. Associated costs of bonds include sinking fund payments; reserves; redemption premiums; additional security, insurance, or other form of credit enhancement required or provided for in any trust agreement entered to secure bonds; and related costs of issuance.~~

~~(e)~~(d) Funds raised from bonds issued under this section may be used to pay for or fund:

(1) the rehabilitation, reconstruction, or replacement of state bridges and culverts;

(2) the rehabilitation, reconstruction, or replacement of municipal bridges and culverts; ~~and~~

(3) the rehabilitation, reconstruction, or replacement of state roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 30 years or more; and

(4) a permanent reserve required by a trust agreement entered into to secure the bonds.

~~(d)~~(e) Pursuant to section 953 of this title, interest and the investment return on the bonds shall be exempt from taxation in this state.

~~(e)~~(f) Bonds issued under this section shall be legal investments for all persons without limit as to the amount held, regardless of whether they are acting for their own account or in a fiduciary capacity. The bonds shall likewise be legal investments for all public officials authorized to invest in public funds.

Sec. F.104 32 V.S.A. § 973 is amended to read:

\* \* \*

(d) The ~~principal, interest, investment returns, and maturity value~~ debt service obligations of transportation infrastructure bonds which require a cash payment shall be payable in lawful money of the United States or of the country in which the bonds are sold.

\* \* \*

Sec. F.105 32 V.S.A. § 974 is amended to read:

§ 974. SECURITY DOCUMENTS

\* \* \*

(d) For payment of ~~principal, interest, investment returns, and maturity value~~ debt service obligations of transportation infrastructure bonds, the full faith and credit of the state is hereby pledged. However:

(1) if pledging of full faith and credit of the state is not necessary to market a transportation infrastructure bond in the best interest of the state, the treasurer shall enter into an agreement which establishes that the full faith and credit of the state is not pledged for payment of ~~principal, interest, investment returns, and maturity value~~ debt service obligations of the bond. In determining whether to pledge the full faith and credit of the state, the state treasurer shall consider the anticipated effect of such a pledge on the credit standing of the state, the marketability of the transportation infrastructure bond, and other factors he or she deems appropriate; ~~and~~.

~~(2) the treasurer shall only use other revenues to pay for debt service and associated costs as defined in section 972 of this title on transportation infrastructure bonds to which the full faith and credit of the state has been pledged in the event that monies in the transportation infrastructure bond fund are insufficient to pay for it.~~

Sec. F.106 32 V.S.A. § 975 is amended to read:

§ 975. PROCEEDS

(a) Proceeds from the sale of bonds may be expended for the authorized purposes of the bonds; including the expenses of preparing, issuing, and marketing the bonds; any notes issued under section 976 of this title; and amounts for any reserves. However, no purchasers of the bonds shall be bound to see to the proper application of the proceeds thereof.

~~(b) The treasurer may pay for the interest on, principal of, investment return on, maturity value of, and associated costs as defined in subsection 972(b) of this title of bonds issued under this subchapter from the transportation infrastructure bond fund as they fall due without further order or authority.~~

~~(c) The general assembly shall appropriate the amount necessary to pay the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on transportation infrastructure bonds then outstanding in the annual appropriations bill and the principal and interest on, investment return and maturity value of, and sinking fund installments on the transportation infrastructure bonds as may come due before appropriations for payment have been made shall be paid from the transportation infrastructure bond fund, or with respect to bonds to which the full faith and credit of the state has been pledged and in accordance with subdivision 974(d)(2) of this title, from the general fund or other applicable fund.~~

Sec. F.107 32 V.S.A. § 975a is added to read:

§ 975a. AUTHORITY OF TREASURER

The treasurer may fulfill debt service obligations of bonds issued under this subchapter as they fall due without further order or authority. All such fulfillments shall be accounted for as a payment or provision made from the transportation infrastructure bonds debt service fund.

Sec. F.108 32 V.S.A. § 975b is added to read:

§ 975b. DEBT SERVICE APPROPRIATIONS

The general assembly shall appropriate in the annual appropriations bill the amount necessary from the appropriate funds to pay the debt service

obligations of transportation infrastructure bonds which are due in the fiscal year covered by the appropriations bill.

Sec. F.109 32 V.S.A. § 979 is amended to read:

§ 979. AUTHORITIES

In addition to the provisions of this subchapter, the following provisions of this title shall apply to transportation infrastructure bonds:

- (1) sections 951a, 953, 956, 958, and 960;
- (2) subsection 954(c), except that transfers shall be made only among projects to be funded with transportation infrastructure bonds; and
- (3) section 957, except that consolidation may be only among transportation infrastructure bonds, and the bonds shall be the lawful obligation of the transportation infrastructure bond fund and not of the remaining revenues of the state unless the treasurer has agreed to pledge the full faith and credit of the state pursuant to ~~subdivision 974(e)(2)~~ subsection 974(d) of this title.

\* \* \* REPEAL OF REFERENCES TO HCRC \* \* \*

Sec. G.100 3 V.S.A. § 2222a is amended to read:

§ 2222a. HEALTH CARE SYSTEM REFORM; IMPROVING QUALITY AND AFFORDABILITY

\* \* \*

(d) The secretary shall report to ~~the commission on health care reform~~, the health access oversight committee, the house committee on health care, the senate committee on health and welfare, and the governor on or before December 1, 2006, with a five-year strategic plan for implementing Vermont's health care system reform initiatives, together with any recommendations for administration or legislation. Annually, beginning January 15, 2007, the secretary shall report to the general assembly on the progress of the reform initiatives.

(e) The secretary of administration or designee shall provide information and testimony on the activities included in this section to the health access oversight committee, ~~the commission on health care reform~~, and to any legislative committee upon request.

Sec. G.101 8 V.S.A. § 4089k is amended to read:

§ 4089k. HEALTH CARE INFORMATION TECHNOLOGY REINVESTMENT FEE

\* \* \*

(e) No later than June 30, 2011, the secretary of administration, or his or her designee, shall assess the adequacy of funding and make recommendations to the ~~commission on health care reform~~ joint fiscal committee concerning the appropriateness of the duration of the health care information technology reinvestment fee.

Sec. G.102 18 V.S.A. § 702(b)(1)(A) is amended to read:

(b)(1)(A) The commissioner of Vermont health access shall establish an executive committee to advise the director of the Blueprint on creating and implementing a strategic plan for the development of the statewide system of chronic care and prevention as described under this section. The executive committee shall ~~consist of no fewer than 10 individuals, including~~ include the commissioner of health; the commissioner of mental health; a representative from the department of banking, insurance, securities, and health care administration; a representative from the department of Vermont health access; an individual appointed jointly by the president pro tempore of the senate and the speaker of the house of representatives; a representative from the Vermont medical society; a representative from the Vermont nurse practitioners association; a representative from a statewide quality assurance organization; a representative from the Vermont association of hospitals and health systems; two representatives of private health insurers; a consumer; a representative of the complementary and alternative medicine professions; a primary care professional serving low income or uninsured Vermonters; a representative of the Vermont assembly of home health agencies who has clinical experience; a representative from a self-insured employer who offers a health benefit plan to its employees; and a representative of the state employees' health plan, who shall be designated by the ~~director~~ commissioner of human resources and who may be an employee of the third-party administrator contracting to provide services to the state employees' health plan. ~~In addition, the director of the commission on health care reform shall be a nonvoting member of the executive committee.~~

Sec. G.103 18 V.S.A. § 709(a) is amended to read:

(a) The director of the Blueprint shall report annually, no later than January 15, on the status of implementation of the Vermont Blueprint for Health for the prior calendar year and shall provide the report to the house committee on health care, the senate committee on health and welfare, and the health access oversight committee, ~~and the joint legislative commission on health care reform.~~

Sec. G.104 18 V.S.A. § 9351(c) is amended to read:

(c) The secretary of administration or designee shall update the plan annually to reflect emerging technologies, the state's changing needs, and such

other areas as the secretary or designee deems appropriate. The secretary or designee shall solicit recommendations from Vermont Information Technology Leaders, Inc. (VITL) and other entities in order to update the health information technology plan pursuant to this section, including applicable standards, protocols, and pilot programs, and may enter into a contract or grant agreement with VITL or other entities to update some or all of the plan. Upon approval by the secretary, the updated plan shall be distributed to ~~the commission on health care reform~~; the commissioner of information and innovation; the commissioner of banking, insurance, securities, and health care administration; the commissioner of Vermont health access; the secretary of human services; the commissioner of health; the commissioner of mental health; the commissioner of disabilities, aging, and independent living; the senate committee on health and welfare; the house committee on health care; affected parties; and interested stakeholders.

Sec. G.105 18 V.S.A. § 9352(e) is amended to read:

(e) Report. No later than January 15 of each year, VITL shall file a report with ~~the commission on health care reform~~; the secretary of administration; the commissioner of information and innovation; the commissioner of banking, insurance, securities, and health care administration; the commissioner of Vermont health access; the secretary of human services; the commissioner of health; the commissioner of mental health; the commissioner of disabilities, aging, and independent living; the senate committee on health and welfare; and the house committee on health care. The report shall include an assessment of progress in implementing health information technology in Vermont and recommendations for additional funding and legislation required. In addition, VITL shall publish minutes of VITL meetings and any other relevant information on a public website.

Sec. G.106 32 V.S.A. § 10301 is amended to read:

#### § 10301. HEALTH IT-FUND

\* \* \*

(e) VITL and any other entity requesting disbursements from the health IT-fund shall develop a detailed annual plan for proposed expenditures from the health IT-fund for the upcoming fiscal year. The expenditure plan shall be included within the context of the entity's overall budget, including all revenue and expenditures. ~~Beginning with the fiscal quarter commencing October 1, 2008, VITL and any other entity requesting disbursements from the health IT-fund shall submit proposed quarterly spending plans for review by the health care reform commission and approval by the secretary of administration. Upon the general assembly beginning its consideration of the expenditure plans for fiscal year 2010, this quarterly plan requirement shall cease.~~

(f) The plan developed under subsection (e) of this section shall be submitted to the secretary of administration or his or her designee, ~~who shall then submit his or her recommendations on the plan to the health care reform commission.~~ the Green Mountain Care board, the house and senate committees on appropriations, the house committee on health care, and the senate committee on health and welfare.

(g) The secretary of administration or his or her designee shall submit an annual report on the receipts, expenditures, and balances in the health IT-fund to the joint fiscal committee at its September meeting and to the ~~commission on health care reform by October 1~~ Green Mountain Care board. The report shall include information on the results of an annual independent study of the effectiveness of programs and initiatives funded through the health IT-fund, with reference to a baseline, benchmarks, and other measures for monitoring progress and including data on return on investments made.

(h) VITL and any other beneficiary receiving funding shall submit quarterly expenditure reports to the secretary of administration and ~~the health care reform commission~~ to the Green Mountain Care board, including a year-end report by August 1.

\* \* \*

Sec. G.107 33 V.S.A. § 1974(h) is amended to read:

(h) The agency shall report monthly to the joint fiscal committee; and the health access oversight committee; ~~and the commission on health care reform with~~ on the number of individuals enrolled in the premium assistance program, the income levels of the individuals, a description of the range and types of employer-sponsored plans that have been approved, the percentage of premium and cost-sharing amounts paid by employers whose employees participate in the premium assistance program, and the net savings or cost of the program.

Sec. G.108 REPEAL

(a) 2 V.S.A. chapter 25 (joint legislative commission on health care reform) is repealed on July 1, 2011.

\* \* \* RETIREMENT \* \*

Sec. H.1 3 V.S.A. § 470 is amended to read:

§ 470. ~~POST-RETIREMENT~~ POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

\* \* \*

(c) For purposes of this section, Consumer Price Index shall mean the Northeast Region Consumer Price Index for all urban consumers, designated as

“CPI-U,” in the northeast region, as published by the United States Department of Labor, Bureau of Labor Statistics.

\* \* \*

Sec. H.2 16 V.S.A. § 1949 is amended to read:

§ 1949. ~~POST-RETIREMENT~~ POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

\* \* \*

(c) For the purposes of this section, “consumer price index” shall mean the northeast region consumer price index for all urban consumers, designated as “CPI-U,” in the northeast region, as published by the United States Department of Labor, Bureau of Labor Statistics.

\* \* \*

Sec. H.3 24 V.S.A. § 5067 is amended to read:

§ 5067. ~~COST OF LIVING~~ POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

\* \* \*

(b) For purposes of this section, Consumer Price Index shall mean the Northeast Region Consumer Price Index for all urban consumers, designated as “CPI-U,” in the northeast region, as published by the United States Department of Labor, Bureau of Labor Statistics.

\* \* \*

Sec. H.4 3 V.S.A. § 473 is amended to read:

§ 473. FUNDS

(a) All of the assets of the retirement system shall be credited to the Vermont state retirement fund.

(b) Member contributions.

\* \* \*

(2) Contributions shall be made on and after the date of establishment at the rate of ~~five~~ 6.3 percent of compensation ~~except for each group A, D, and F member and~~ at a rate of ~~6.18~~ 8.18 percent of compensation for each group C member ~~unless the member was a group C member on June 30, 1998 in which case contributions shall be at the rate of six percent of compensation for each group C member who has elected not to have his or her compensation from the state be subject to Social Security withholding or at the rate of five percent of compensation if the member elected to have compensation from the state~~



~~subject to Social Security withholding and at the rate of five percent of compensation for each group F member and, commencing July 1, 2019, at the rate of 4.75 percent of compensation for each group F member. For the period of July 1, 2011 through June 30, 2016, should the annual value of the total increased contributions of group C, D, and F member contributions exceed \$5,300,000.00 on an aggregate basis, any amount in excess of \$5,300,000.00 shall remain in the retirement system and the state's contribution shall not be reduced by the amount in excess of \$5,300,000.00. Commencing July 1, 2016 or when the state employees' retirement system has been determined by the actuary to have assets at least equal to its accrued liability, whichever occurs first, contributions shall be five percent of compensation for group A, D, and F members and 6.88 percent of compensation for group C members. Commencing July 1, 2019, the rate of contribution applicable to all active group F members shall be 4.75 percent of compensation.~~ In determining the amount earnable by a member in a payroll period, the retirement board may consider the annual or other periodic rate of earnable compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as, on an annual basis, shall not exceed one-tenth of one percent of the annual earnable compensation upon the basis of which such deduction is to be made. Each of the amounts shall be deducted until the member retires or otherwise withdraws from service, and when deducted shall be paid into the annuity savings fund, and shall be credited to the individual account of the member from whose compensation the deduction was made.

#### Sec. H.5 VERMONT MUNICIPAL RETIREMENT FUND

(a) Notwithstanding the provisions of 24 V.S.A. § 5064(b), for the period July 1, 2011 through June 30, 2012, contributions shall be made by group A members at the rate of 2.5 percent of earnable compensation, by group B members at the rate of 4.5 percent of earnable compensation, and by group C members at the rate of 9.25 percent of earnable compensation.

#### Sec. H.6 REVIEW OF VERMONT STATE EMPLOYEES' RETIREMENT MEMBER CONTRIBUTION RATE STRUCTURE

(a) By July 1, 2016, the governor or his or her designee, the treasurer and representatives from the judicial branch, the Vermont state employees' association, and the Vermont troopers' association shall meet to review and evaluate the Vermont state employees' member contribution rate structure applicable to groups C, D, and F.

## Sec. I.100 EFFECTIVE DATES

(a) This section and Secs. C.100 (human services caseload reserve appropriation), C.101 (transportation infrastructure bond fund debt service transfer), C.102 (contingent transportation fund appropriation), C.103-C.103.1 (tax computer system special fund), C.104 (Medicaid state funds reserve), C.105-C.105.1 (DCF tiered sanctions), C.106-C.109 (transportation appropriations), C.110 (fiscal year 2011 general fund balance), D.102 (tobacco litigation settlement fund balance), E.127(b) (contract transfer), E.130(a) (auditor positions), E.130.1(b) (auditor work plan), E.301.6 (Catamount health administration enforcement), E.301.7(a) (Catamount transition provisions), E.307 (waiver), E.307.2 (suspension of automatic premium increases repeal), E.307.3 (emergency rules), E.329.1-E.329.2 (long-term care facility receivership technical correction), E.330.1 (expedited rules – long-term care and disabilities, aging, and independent living), F.100-F.109 (transportation infrastructure bond and debt service funds), and G.101 (health care information technology reinvestment fee) of this act shall take effect upon passage.

(b) Sec. E.513.1 shall take effect July 1, 2012.

(c) Secs. H.1-H.3 of act shall take effect on July 1, 2011, with determinations for cost-of-living adjustments as required by 3 V.S.A. § 470, 16 V.S.A. § 1949, and 24 V.S.A. § 5067 being made on January 1, 2012 pursuant to the Northeast Region Consumer Price Index as of June 30, 2011.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to.

**Recess**

On motion of Senator Campbell the Senate recessed until one o'clock and thirty minutes.

**Called to Order**

The Senate was called to order by the President.

**Proposal of Amendment; Third Reading Ordered****H. 441.**

House bill entitled:

An act relating to making appropriations for the support of government.

Was taken up.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Kitchel, on behalf of the Committee on Appropriations, moved that the Senate proposal of amendment to the House be amended as follows:

First: By striking out Sec. C.102 in its entirety and inserting lieu thereof a new Sec. C.102 to read as follows:

Sec. C.102 [DELETED]

Second: In Sec. E.307.3, by inserting a new subsection (b) to read as follows:

(b) In order to implement Sec. E. 309.1 (health care coverage; legal immigrant children and pregnant women), Sec. E. 309 (State Children's Health Insurance Program (SCHIP) and Medicaid programs covering children premium grace period), and Sec. E.301.1 (Medicaid pharmacy; radiology tier authorization) of this act no later than July 1, 2011, the agency of human services shall be deemed to have met the standard for adoption of emergency rules as required by 3 V.S.A. § 844(a). Notwithstanding 3 V.S.A. § 844, the agency shall provide a minimum of five business days for public comment in advance of filing the emergency rules as provided for in 3 V.S.A. § 844(c).

Third: By adding a new section to be numbered Sec. E.309.2 to read as follows:

#### Sec. E.309.2 FAMILY PLANNING OPTION

(a) Beginning April 1, 2012, the commissioner of Vermont health access shall modify necessary rules and procedures related to eligibility and services to implement the family planning option of section 2303 of the Affordable Care Act of 2010, Public Law 111-148.

Fourth: By striking out Sec. E.316 in its entirety and inserting in lieu thereof a new Sec. E.316 to read as follows:

Sec. E.316 Department for children and families – administration and support services

(a) The establishment of one (1) new position - Eligibility Worker - in the department for children and families is authorized during fiscal year 2012 to support Sec. E.310.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read the third time?, Senator Flory moved to amend the Senate proposal of amendment by striking out Sec. E.206(a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follow:

(a) The director of the state's attorneys shall report to the joint fiscal committee and the house and senate committees on judiciary and appropriations by November 15, 2011 on issues related to the effectiveness of the special investigation units (SIU). The report shall be made in consultation with the state and local law enforcement agencies, the department for children and families, and victims' organizations. The report shall include information by SIU about the number of investigations and referrals; the number of reported claims of abuse, entity who first responded to the claim, response time, percentage of those cases that were referred to SIU; and total funding including state, county, and local direct and indirect support. The report shall also specifically report by SIU the region covered by each SIU and the support each county and community contribute to the SIU. The report shall also include recommendations for changes in structure and practice that would increase SIU effectiveness or redirect these resources to alternative program models that better achieve the intended outcomes.

Which was agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 28, Nays 1.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, Mazza, McCormack, Miller, Mullin, Nitka, Sears, Snelling, Starr, Westman, White.

**The Senator who voted in the negative was:** Pollina.

**The Senator absent and not voting was:** MacDonald.

#### **Message from the House No. 52**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 294.** An act relating to approving amendments to the charter of the city of Montpelier.

**H. 369.** An act relating to health professionals regulated by the board of medical practice.

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

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

**J.R.S. 26.** Joint resolution strongly reaffirming the general assembly's enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path.

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

**Proposals of Amendment; Consideration Postponed**

**H. 436.**

Senator Cummings, for the Committee on Finance, to which was referred House bill entitled:

An act relating to tax changes, including income taxes, property taxes, economic development credits, health care-related tax provisions, and miscellaneous tax provisions.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 32 V.S.A. § 3113b, in the last sentence, by striking out the word "second" and inserting in lieu thereof the word third, and after the following: "15 V.S.A. § 792" by inserting the following: and the offset of lottery winnings for restitution pursuant to 13 V.S.A. § 7043

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

Sec. 3a. 32 V.S.A. § 5823(a)(8) is added to read:

(8) The amount paid by the state of Vermont pursuant to chapter 181 of Title 20 to the extent that such amount is included in the federal adjusted gross income of the taxpayer for the taxable year.

Third: In Sec. 12, Examination of Renewable Energy Property Tax Issues, in subsection (b), by striking the designation "(1)" in subdivision (1) and by striking out subdivisions (2)–(7) in their entirety.

Fourth: By inserting a new section to be numbered Sec. 13a to read as follows:

Sec. 13a. 32 V.S.A. § 3757(a) is amended to read:

(a) Land which has been classified as agricultural land or managed forest land pursuant to this chapter shall be subject to a land use change tax either upon the development of that land, as defined in section 3752 of this chapter, or two years after the issuance of all permits legally required for any action constituting development. Said tax shall be at the rate of 20 percent of the full fair market value of the changed land determined without regard to the use value appraisal; or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such fair market value shall be determined as of the date the land is no longer eligible for use value appraisal. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

Fifth: By inserting a new section to be numbered Sec. 13b to read as follows:

Sec. 13b. 32 V.S.A. § 6066(i) is added to read:

(i) Adjustments under subsection (a) of this section shall be calculated without regard to any exemption under section 3802(11) of this title.

Sixth: By inserting a new section to be numbered Sec. 13c to read as follows:

Sec. 13c. 32 V.S.A. § 5401(12) is amended to read:

(12) "Excess spending" means:

(A) the per equalized pupil amount of:

~~(i) the district's education spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b); minus~~

~~(ii) the portion of education spending which is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to 16 V.S.A. § 827 for capital construction costs by the independent school which has received approval from~~

~~the state board of education, using the processes for preliminary approval of public school construction costs pursuant to 16 V.S.A. § 3448(a)(2); and minus~~

~~(iii) the portion of education spending attributable to the district's share of special education spending in excess of \$50,000.00 for any one student in the fiscal year occurring two years prior; and minus~~

~~(iv) a budget deficit in a district that pays tuition to a public school for all of its students in one or more grades in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed;~~

(B) in excess of 125 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education on or before November 15 of each year based on the passed budgets to date.

Seventh: By inserting a new section to be numbered Sec. 13d to read as follows:

Sec. 13d. 16 V.S.A. § 4001(6) is amended to read:

(6) "Education spending" means the amount of the school district budget, any assessment for a joint contract school, technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) which is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fund raising, federal funds, nongovernmental grants, or other state funds such as special education funds paid under chapter 101 of this title.

\* \* \*

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), "education spending" shall not include:

(i) Spending during the budget year for approved school capital construction for a project that received preliminary approval under section 3448 of this title, including interest paid on the debt; provided the district shall not be reimbursed or otherwise receive state construction aid for the approved school capital construction.

(ii) For a project that received final approval for state construction aid under chapter 123 of this title:

(I) Spending for approved school capital construction during the budget year that represents the district's share of the project, including interest paid on the debt;

(II) Payment during the budget year of interest on funds borrowed under subdivision 563(21) of this title in anticipation of receiving state aid for the project.

(iii) Spending that is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to section 827 of this title for capital construction costs by the independent school that has received approval from the state board of education, using the processes for preliminary approval of public school construction costs pursuant to subdivision 3448(a)(2) of this title.

(iv) Spending attributable to the cost of planning the merger of a small school, which for purposes of this subdivision means a school with an average grade size of 20 or fewer students, with one or more other schools.

(v) Spending attributable to the district's share of special education spending in excess of \$50,000.00 for any one student in the fiscal year occurring two years prior.

(vi) A budget deficit in a district that pays tuition to a public school or an approved independent school or both for all of its resident students in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed.

(vii) For a district that pays tuition for all of its resident students and into which additional students move after the end of the census period defined in subdivision (1)(A) of this section, the number of students that exceeds the district's most recent average daily membership and for whom the district will pay tuition in the subsequent year multiplied by the district's average rate of tuition paid in that year.

Eighth: By striking out Sec. 15, 24 V.S.A. § 1894(a)(2) in its entirety and inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. 32 V.S.A. § 5404a(1) is amended to read:

~~(1) The state auditor of accounts shall review and audit all active tax increment financing districts every three years.~~

(1) Audits of a tax increment financing district under this subsection shall be performed only if the total value of the education tax increment is projected to exceed \$1,000,000. Notwithstanding this threshold, the department of taxes or the Vermont economic progress council shall retain the



authority to require an independent audit firm to conduct an audit of any tax increment financing district.

(2) An audit of a tax increment financing district under this subsection shall be conducted by an independent audit firm hired by a municipality and paid for by the municipality, and the amount paid for the audit shall be considered a "related cost" as defined in 24 V.S.A. § 1981(6). An audit of a tax increment financing district may be incorporated into a regular comprehensive municipal audit conducted by an independent firm.

(3) An audit of a tax increment financing district that exceeds the threshold established in subdivision (1) of this subsection shall be performed at three separate stages, may be incorporated into a regular comprehensive municipal audit conducted by an independent firm, and shall include the following:

(A) At completion of construction of public infrastructure improvements or five years after the commencement of construction, whichever is earlier, an audit shall be performed and the audit shall, at a minimum, validate that expenditures were for public infrastructure improvements approved by the Vermont economic progress council;

(B) Halfway through the debt repayment period, an audit shall be performed and shall, at a minimum, confirm that appropriate amounts of incremental tax revenue were retained and that those amounts were utilized to pay for authorized debt;

(C) Upon termination of the tax increment financing district, an audit shall be performed and shall, at a minimum, confirm that appropriate amounts of incremental tax revenue were retained for the second half of the debt repayment period and that those amounts were utilized to pay for authorized debt and shall validate that any excess education tax increment was distributed to the education fund in accordance with 24 V.S.A. § 1900. Incremental tax revenue retained by the municipality that was not used to repay debt or to pay for improvements in the tax increment financing district shall be returned to the requisite taxing authority.

(4) The municipality shall share the results of the audits required under this subsection with the office of the auditor of accounts, the department of taxes, and the Vermont economic progress council.

(5) The provisions of this section shall not apply to audits initiated by the auditor of accounts prior to the passage of this act. Municipalities with tax increment financing districts that have been subject to audit by the auditor of accounts are responsible only for those parts of the audits under this subsection that were not addressed by the auditor of accounts.

Ninth: By inserting a new section to be numbered Sec. 17a to read as follows:

Sec. 17a. 32 V.S.A. 5930y(b) is amended to read:

(b) A credit against the income tax liability is available as follows:

(1) A credit of two percent of the wages paid in the taxable year by an employer for services performed in the designated counties associated with the manufacture of finished wood products. The credit shall be available to the employer in any year the counties qualify and for one year after a qualification ends. For purposes of this section, "finished wood products" means wood products that are manufactured into the form in which they are offered for sale to consumers.

\* \* \*

Tenth: In Sec. 24, 33 V.S.A. § 1953(a), in subdivision (1), by striking out the word "budgeted" and removing the striking from the word "full", and by striking out the words "approved by" and removing the striking from the words "reported to"

Eleventh: In Sec. 27, 32 V.S.A. § 7771, in subsection (d), by striking out the following: "125.5" and inserting in lieu thereof the following: 162, and in Sec. 27a, 32 V.S.A. § 7814(b), in subdivision (b), by striking out the following: "\$0.25" and inserting in lieu thereof the following: \$1.00

Twelfth: In Sec. 28, 8 V.S.A. § 4089l(a), in subdivision (1), by striking out the following: "0.80" and inserting in lieu thereof the following: "0.65"

Thirteenth: In Sec. 28, 8 V.S.A. § 4089l, in subsection (c)(1), after the following: "hospital indemnity," in the third sentence, by striking out the following: "dental care,"

Fourteenth: By inserting a new section to be numbered Sec. 32a to read as follows:

Sec. 32a. 33 V.S.A. § 2503(e) is amended to read:

(e) Fuel sellers, which are regulated "companies" as defined in ~~subsection 30 V.S.A. § 201(a) of Title 30~~, which provide conservation programs that meet the goals of the weatherization program in a manner approved by the public service board, and which enhance the weatherization program's capacity to serve low income households may be eligible for rebates from the fuel gross receipts tax imposed under this section. To establish rebate eligibility, such a company shall file with the public service board, on or before August 15 of each year, a request for approval of rebates based on the company's activities during the prior fiscal year. The public service board shall make a

determination of the amount of rebate for each applicant on or before January 15 of each year, and such amount shall be rebated by the state economic opportunity office under the provisions of subsection (g) of this section. The public service board shall authorize rebates equal to the expenditures undertaken by the regulated utilities provided that such expenditures were prudently incurred and cost-effective, that they provided weatherization services following a comprehensive energy audit and work plan, except in cases where the fuel seller and weatherization staff jointly conclude that the need for weatherization services can be determined without a comprehensive energy audit, and that they were targeted to households ~~at or below 150 percent of the federally established poverty guidelines~~ that meet the eligibility criteria for low income weatherization services as determined by the office of economic opportunity.

Fifteenth: In Sec. 36, 32 V.S.A. § 9743, in subdivision (7), by striking out the following: “subdivisions (3) and (5)” and inserting in lieu thereof the following: subdivision (3)

Sixteenth: By inserting a new section to be numbered Sec. 36a to read as follows:

Sec. 36a. 32 V.S.A. § 9783 is added to read:

§ 9783. NOTICE OF USE TAX DUE

(a) As used in this section:

(1) “De minimis online auction website” means an online auction website that facilitated total gross sales in Vermont in the prior calendar year of less than \$100,000.00 and reasonably expects to facilitate total gross sales in Vermont in the current calendar year of less than \$100,000.00.

(2) “De minimis retailer” means any noncollecting retailer that made total gross sales in Vermont in the prior calendar year of less than \$100,000.00 and reasonably expects total gross sales in Vermont in the current calendar year to be less than \$100,000.00.

(3) “Noncollecting retailer” means any retailer not currently registered to collect and remit Vermont sales and use tax who makes sales of tangible personal property, services, and products transferred electronically from a place of business outside Vermont to be shipped to Vermont for use, storage, or consumption and who is not required to collect Vermont sales or use taxes.

(4) “Online auction website” means a collection of web pages on the Internet that allows any person to display tangible personal property, services, or products transferred electronically for sale which is purchased through a

competitive process in which a participant places a bid, with the highest bidder purchasing the property, service, or product when the bidding period ends.

(5) "Vermont purchaser" means any purchaser who purchases tangible personal property, services, or products transferred electronically to be shipped or transferred to Vermont.

(b) Each noncollecting retailer shall give notice that Vermont use tax is due on nonexempt purchases of tangible personal property, services, or products transferred electronically and shall be paid by the Vermont purchaser. The notice in this subsection shall be readily visible and contain the information as follows:

(1) The noncollecting retailer is not required and does not collect Vermont sales and use tax;

(2) The purchase is subject to state use tax unless it is specifically exempt from taxation;

(3) The purchase is not exempt merely because the purchase is made over the Internet, by catalogue, or by other remote means;

(4) The state requires each Vermont purchaser to report any purchase that was not taxed and to pay tax on the purchase. The tax may be reported and paid on the Vermont use tax form; and

(5) The use tax form and corresponding instructions are available on the department of taxes website.

(c) Notice requirements.

(1) The notice required by subsection (b) of this section to be displayed on a website shall occur on a page necessary to facilitate the applicable transaction. The notice shall be sufficient if the noncollecting retailer provides a prominent linking notice that reads as follows: "See important Vermont sales and use tax information regarding the tax you may owe directly to the state of Vermont." The prominent linking notice shall direct the purchaser to the principal notice information required by subsection (b) of this section.

(2) The notice required in a catalogue by subsection (b) of this section shall be part of the order form. The notice shall be sufficient if the noncollecting retailer provides a prominent reference to a supplemental page that reads as follows: "See important Vermont sales and use tax information regarding the tax you may owe directly to the state of Vermont on page \_\_\_\_." The notice on the order form shall direct the purchaser to the page that includes the principal notice required by subsection (b) of this section.

(3) For any Internet purchase made pursuant to this section, the invoice notice shall occur on the electronic order confirmation. The notice shall be sufficient if the noncollecting retailer provides a prominent linking notice that reads as follows: "See important Vermont sales and use tax information regarding the tax you may owe directly to the state of Vermont." The invoice notice link shall direct the purchaser to the principal notice required by subsection (b) of this section. If the noncollecting retailer does not issue an electronic order confirmation, the complete notice shall be placed on the purchase order, bill, receipt, sales slip, order form, or packing statement.

(4) For any catalogue or telephone purchase made pursuant to this section, the complete notice required by subsection (b) of this section shall be placed on the purchase order, bill, receipt, sales slip, order form, or packing statement.

(5) For any Internet purchase made pursuant to this section, notice on the check-out page fulfills simultaneously both the website and invoice notice requirements of subdivisions (1) and (3) of this subsection. The notice shall be sufficient if the noncollecting retailer provides a prominent linking notice that reads as follows: "See important Vermont sales and use tax information regarding the tax you may owe directly to the state of Vermont." The check-out page notice link shall direct the purchaser to the principal notice required by subsection (b) of this section.

(d) Exemptions and limitations.

(1) If a retailer is required to provide a similar notice for another state in addition to Vermont, the retailer may provide a consolidated notice so long as the notice includes the information contained in subsection (b) of this section, specifically references Vermont, and meets the placement requirements of this section.

(2) A noncollecting retailer may not state or display or imply that no tax is due on any Vermont purchase unless the display is accompanied by the notice required by subsection (b) of this section each time the display appears. If a summary of the transaction includes a line designated "sales tax" and shows the amount of sales tax as zero, this constitutes a display implying that no tax is due on the purchase. This display shall be accompanied by the notice required by subsection (b) of this section each time it appears.

(3) Notwithstanding the limitation in this section, if a noncollecting retailer knows that a purchase is exempt from Vermont tax pursuant to Vermont law, the noncollecting retailer may display or indicate that no sales or use tax is due even if the display is not accompanied by the notice required by subsection (b) of this section.

(4) With the exception of notification on an invoice, the provisions of this section apply to online auction websites.

(5) A de minimis retailer and a de minimis online auction website are exempt from the notice requirements provided by this section.

(6) No criminal penalty or civil liability may be applied or assessed for failure to comply with the provisions of this section.

Seventeenth: By inserting a new section to be numbered Sec. 36b to read as follows:

Sec. 36b. LINK-BASED USE TAX RETURNS

The department of taxes shall evaluate the feasibility of providing a voluntary Internet-based use tax reporting and payment system in conjunction with the notice required under Sec. 36a of this act. The department of taxes shall communicate its findings to the senate committee on finance and the house committee on ways and means by memorandum no later than January 15, 2012.

Eighteenth: By inserting a new section to be numbered Sec. 36c to read as follows:

Sec. 36c. REPEAL

Sec. H.6 of No. 1 of the Acts of 2009 (Sp. Sess.) (transition to department of revenue) is repealed.

Nineteenth: By inserting a new section to be numbered Sec. 36d to read as follows:

Sec. 36d. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax of ~~25 percent of the gross revenues~~ is assessed on the gross revenue on the retail sale of spirituous liquor, including fortified wine, sold by ~~or through~~ the liquor control board or sold by a manufacturer or rectifier of spirituous liquor in accordance with the provisions of this title. The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the previous year:

(1) if the gross revenue of the seller is \$250,000.00 or lower a year, the rate of tax is five percent;

(2) if the gross revenue of the seller is between \$250,000.00 and \$450,000.00, the rate of tax is \$12,500.00 plus 15 percent of gross revenues over \$200,000.00;

(3) if the gross revenue of the seller is over \$450,000.00, the rate of tax is 25 percent.

Twentieth: By adding a new section to be numbered Sec. 36e to read as follows:

Sec. 36e. TAXPAYER OUTREACH EDUCATION

The department of taxes shall develop a plan for education outreach to taxpayers in specific classes to insure that taxpayers in those classes are aware of their obligations under law.

Twenty-first: By striking out Sec. 30, Data Collection for Provider Taxes, in its entirety and inserting in lieu thereof a new Sec. 30 to read as follows:

Sec. 30. DATA COLLECTION FOR PROVIDER TAXES

The secretary of administration shall develop systems to identify and collect the data necessary to administer any health-care-related tax under 42 C.F.R. part 433.50 et seq. that is permitted by federal law but that Vermont does not currently levy, including an analysis of the base to which such a tax would apply and mechanisms for collection.

Twenty-second: In Sec. 37 (Effective Dates), in subdivision (4), after “(definition of household income)” by inserting the following: and Sec. 13b (veteran’s exemption adjustment), and by striking out the following: “tax year” and inserting in lieu thereof the following: claim year

Twenty-third: In Sec. 37 (Effective Dates), in subdivision (7), before “22” by striking out the following: “Sec.” and inserting in lieu thereof the following: Secs., and after “(cigar tax)” by inserting the following: , 36a (sales and use tax notification), 36b (link-based use tax reporting), and 36d (tax in spirits)

Twenty-fourth: In Sec. 37 (Effective Dates) by adding a new subdivision (11) to read as follows:

(11) Sec. 13a shall take effect on January 1, 2012.

Twenty-fifth: In Sec. 37 (Effective Dates) by adding a new subdivision (12) to read as follows:

(12) Secs. 13c and 13d of this act shall take effect on passage and shall apply to tax rates calculated for fiscal year 2012 school budgets and after.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Finance?, Senator Sears requested that the question be divided and that the *eleventh* proposal of amendment be voted on separately.

Thereupon, the question, Shall the Senate propose to the House to amend the bill in the *first* through the *tenth* and *twelfth* through *twenty-fifth* proposals of amendment?, which was agreed to.

Thereupon, the *eleventh* proposal of amendment was disagreed to on a roll call, Yeas 14, Nays 16.

Senator Baruth having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Campbell, Cummings, Fox, Galbraith, Kittell, MacDonald, McCormack, Miller, Mullin, Pollina, Westman.

**Those Senators who voted in the negative were:** Benning, Brock, Carris, Doyle, Flory, Giard, Hartwell, Illuzzi, Kitchel, Lyons, Mazza, Nitka, Sears, Snelling, Starr, White.

Thereupon, pending the question, Shall the bill be read a third time? consideration of the bill was postponed.

#### **Recess**

On motion of Senator Campbell the Senate recessed until the fall of the gavel.

#### **Called to Order**

At four o'clock and fifty-five minutes the Senate was called to order by the President.

#### **Bill Passed in Concurrence with Proposal of Amendment**

##### **H. 26.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to limiting the application of fertilizer containing phosphorus or nitrogen to nonagricultural turf.

#### **Consideration Postponed**

##### **H. 426.**

Senator Ayer, for the Committee on Health and Welfare, to which was referred House bill entitled:



An act relating to extending the state's reporting concerning transportation of children in state custody and transportation of individuals in the custody of the commissioner of mental health.

Reported that the bill ought to pass in concurrence.

Thereupon, pending the question, Shall the bill be read the third time?, on motion of Senator Ayer, consideration of the bill was postponed.

**Proposal of Amendment; Third Reading Ordered**

**H. 411.**

Senator Baruth, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to the application of Act 250 to agricultural fairs.

Reported recommending that the Senate propose to the House to amend the bill in, Sec. 2, 10 V.S.A. § 6001(34), by striking out subparagraph (C) in its entirety and inserting in lieu thereof a new subparagraph (C) to read as follows:

(C) conducting contests, displays, and demonstrations designed to advance farming, advance the local food economy, or train or educate farmers, youth, or the public regarding agriculture.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

**Rules Suspended; Third Reading Ordered**

**H. 442.**

Appearing on the Calendar for notice, on motion of Senator Carris, the rules were suspended and House bill entitled:

An act relating to amending the charter of the city of Rutland.

Was taken up for immediate consideration.

Senator Flory, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**Rules Suspended; Bill Amended; Third Reading Ordered****H. 38.**

Appearing on the Calendar for notice, on motion of Senator Carris, the rules were suspended and Senate bill entitled:

An act relating to ensuring educational continuity for children of military families.

Was taken up for immediate consideration.

Senator Mullin, for the Committee on Education, to which the bill was referred, reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. chapter 19 is added to read:

CHAPTER 19. INTERSTATE COMPACT ON EDUCATIONAL  
OPPORTUNITY FOR MILITARY CHILDREN

§ 806. PURPOSE – ARTICLE I

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

§ 806a. DEFINITIONS – ARTICLE II

As used in this compact, unless the context clearly requires a different construction:

A. “Active duty” means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 1211.

B. “Children of military families” means: a school-aged child or children, enrolled in Kindergarten through Twelfth (12th) grade, in the household of an active duty member.

C. “Compact commissioner” means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. “Deployment” means: the period one (1) month prior to the service members’ departure from their home station on military orders through six (6) months after return to their home station.

E. “Education(al) records” means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student’s cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. “Extracurricular activities” means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. “Interstate Commission on Educational Opportunity for Military Children” means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. “Local education agency” means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth (12th) grade public educational institutions.

I. “Member state” means: a state that has enacted this compact.

J. “Military installation” means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the

Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. “Nonmember state” means: a state that has not enacted this compact.

L. “Receiving state” means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. “Rule” means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of a rule promulgated under the Vermont Administrative Procedure Act as found in 3 V.S.A. chapter 25, and includes the amendment, repeal, or suspension of an existing rule.

N. “Sending state” means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. “State” means: a state of the United States, the District 1 of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.

P. “Student” means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth (12th) grade.

Q. “Transition” means: 1) the formal and physical process of transferring from school to school or 2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. “Uniformed service” means: the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. “Veteran” means: a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.

#### § 806b. APPLICABILITY – ARTICLE III

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 1211;

2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and

3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. inactive members of the national guard and military reserves;

2. members of the uniformed services now retired, except as provided in Section A;

3. veterans of the uniformed services, except as provided in Section A; and

4. other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

#### § 806c. EDUCATIONAL RECORDS AND ENROLLMENT – ARTICLE IV

A. Unofficial or “hand-carried” education records – In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records and transcripts – Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student’s official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is

reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations – Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and first grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

#### § 806d. PLACEMENT AND ATTENDANCE – ARTICLE V

A. Course placement – When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school or educational assessments conducted at the school in the sending state if the courses are offered or both. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. Educational program placement – The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services – 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and 2) in compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course and program prerequisites, or other preconditions for placement in courses and programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

#### § 806e. ELIGIBILITY – ARTICLE VI

##### A. Eligibility for enrollment.

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation – State and local education agencies shall facilitate the opportunity for transitioning military children’s inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

§ 806f. GRADUATION – ARTICLE VII

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

A. Waiver requirements – Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams – States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; or 2) national norm-referenced achievement tests; or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, Section C shall apply.

C. Transfers during senior year – Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

§ 806g. STATE COORDINATION – ARTICLE VIII

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state’s participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive



branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

§ 806h. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN – ARTICLE IX

The member states hereby create the “Interstate Commission on Educational Opportunity for Military Children.” The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, nonvoting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense, shall serve as an ex-officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission, any member state, or any local education agency.

---

§ 806i. POWERS AND DUTIES OF THE INTERSTATE COMMISSION –  
ARTICLE X

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of a rule promulgated under the Vermont Administrative Procedure Act as found in 3 V.S.A. chapter 25 and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. To monitor compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws. Any action to enforce compliance with the compact provisions by the Interstate Commission shall be brought against a member state only.

E. To establish and maintain offices which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire, or contract for services of personnel.

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training, and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

§ 806j. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION – ARTICLE XI

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee, and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the

termination of the compact after the payment and reserving of all of its debts and obligations; and

7. Providing “start up” rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson’s absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers, and Personnel.

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

3. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission’s executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or

liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

§ 806k. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION – ARTICLE XII

A. Rulemaking Authority – The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such

an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure – Rules shall be made pursuant to a rulemaking process that substantially conforms to the “Model State Administrative Procedure Act,” of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission’s authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

#### § 806l. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION – ARTICLE XIII

##### A. Oversight.

1. Each member state shall enforce this compact to effectuate the compact’s purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as a rule promulgated under the Vermont Administrative Procedure Act as found in 3 V.S.A. chapter 25.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination – If the Interstate Commission determines that a member state has defaulted in the



performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, not to exceed \$100 per year as provided in Article XIV, Subsection E, of this chapter for each year that the state of Vermont is a member of the compact.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

#### C. Dispute Resolution.

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

§ 806m. FINANCING OF THE INTERSTATE COMMISSION –ARTICLE XIV

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

E. The Interstate Commission may not assess, levy, or collect from Vermont in its annual assessment more than \$100 per year. Other funding sources may be accepted and used to offset expenses related to the state's participation in the compact.

§ 806n. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT – ARTICLE XV

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate

Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

§ 806o. WITHDRAWAL AND DISSOLUTION – ARTICLE XVI

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw immediately from the compact by specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, not to exceed \$100 per year as provided in Article XIV, Subsection E, of this chapter for each year that the state of Vermont is a member of the compact.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact.

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

§ 806p. SEVERABILITY AND CONSTRUCTION – ARTICLE XVII

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

§ 806q. BINDING EFFECT OF COMPACT AND OTHER LAWS – ARTICLE XVIII

A. Other Laws. Nothing herein prevents the enforcement of any other law of a member state.

B. Binding Effect of the Compact.

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

And that after passage the title of the bill be amended to read:

An act relating to adopting the interstate compact on educational opportunity for military children.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

---

**Recess**

On motion of Senator Campbell the Senate recessed until seven o'clock.

**Called to Order**

At eight o'clock in the evening the Senate was called to order by the President.

**Motion to Suspended Rules to Reconsider; Point of Order; Action to  
Suspended Rules to Reconsidered Rejected****H. 436.**

Assuring the Chair that she voted with the majority whereby the *eleventh* proposal of amendment was rejected, Senator Lyons moved that the rules be suspended so that the Senate may reconsider its action on House bill entitled:

An act relating to tax changes, including income taxes, property taxes, economic development credits, health care-related tax provisions, and miscellaneous tax provisions.

Thereupon, pending the question, Shall the rules be suspended so the Senate may reconsider its action on H. 436 with respect to the *eleventh* proposal of amendment of the Committee on Finance?, Senator Pollina raised a point of order regarding the order of business.

The President ruled the point was not well taken as under Senate Rule 36 the President *pro tempore* may take matters out of order and as to the Senator from Chittenden as she had been recognized and moved that the rules be suspended so that she may reconsider her vote on H. 436, her motion was proper given she had requested suspension of the rules.

Thereupon, the recurring question, Shall the rules be suspended to reconsider action on the proposal of amendment?, which was disagreed to on a division of the Senate Yeas 21, Nays 8 (the requisite three fourths majority not having been attained).

**Bill Not Taken Up For Immediate Consideration****H. 202.**

Pending entry on the Calendar for notice, House bill entitled:

An act relating to a universal and unified health system.

Senator Campbell, moved that the rules be suspended and the bill be taken up for immediate consideration.

Which was disagreed to on a division of the Senate Yeas 20, Nays 8 (the requisite three fourths majority not having been attained).

**Adjournment**

On motion of Senator Campbell, the Senate adjourned until eight o'clock and thirty minutes in the morning.

---

**FRIDAY, APRIL 22, 2011**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the President of the Senate.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 294.**

An act relating to approving amendments to the charter of the city of Montpelier.

To the Committee on Rules.

**H. 369.**

An act relating to health professionals regulated by the board of medical practice.

To the Committee on Rules.

**Consideration Resumed; Bill Amended; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment****H. 436.**

Consideration was resumed on House bill entitled:

An act relating to tax changes, including income taxes, property taxes, economic development credits, health care-related tax provisions, and miscellaneous tax provisions.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Cummings, on behalf of the Committee on Finance moved that the Senate propose to the House to amend the bill as follows:

First: In Sec. 27, 32 V.S.A. § 7771(d), by striking out the following: “125.5” and inserting in lieu thereof the following: 138.5, and in Sec. 27a, 32 V.S.A. § 7814(b), by striking out the following: “\$0.25” and inserting in lieu thereof the following: \$0.53

Second: By striking out the *twelfth* proposal of amendment in its entirety and inserting in lieu thereof a new *twelfth* proposal of amendment to read as follows:

Twelfth: In Sec. 28, 8 V.S.A. § 4089I(a)(1), by striking out the following: “0.80” and inserting in lieu thereof the following: 0.90

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Pollina, moved that the Senate propose to the House to amend the bill by adding a new section to be numbered Sec. 3b to read as follows:

Sec. 3b. Sec. 20 of No. 2 of the Acts of 2009 Spec. Sess. is amended to read:

#### Sec. 20. PERSONAL INCOME TAX RATES

(a) For taxable year 2009 only, income tax rates under 32 V.S.A. § 5822, after taking into account any inflation adjustments to taxable income as required under subdivision 5822(b)(2), shall be as follows:

For taxable income which, without the passage of this act, would be subject to tax at the following rate (%):	That taxable income shall instead be taxed at the following rate (%):
3.60	3.55
7.20	7.00
8.50	8.25
9.00	8.90
9.50	9.40

(b) For taxable year 2010 ~~and after~~ only, income tax rates under 32 V.S.A. § 5822, after taking into account any inflation adjustments to taxable income as required under subdivision 5822(b)(2), shall be as follows:

For taxable income which, without the passage of this act, would be subject to tax at the following rate (%):	That taxable income shall instead be taxed at the following rate (%):
3.60	3.55
7.20	6.80
8.50	7.80
9.00	8.80
9.50	8.95

(c) For taxable years 2011, 2012, and 2013, income tax rates under 32 V.S.A. § 5822, after taking into account any inflation adjustments to taxable income as required under subdivision 5822(b)(2), shall be as follows:

For taxable income which, without the passage of this act, would be subject to tax at the following rate (%):

3.60  
7.20  
8.50  
9.00  
9.50

That taxable income shall instead be taxed at the following rate (%):

3.55  
6.80  
7.80  
9.80  
10.45

(d) For taxable year 2014 and after, income tax rates under 32 V.S.A. § 5822, after taking into account any inflation adjustments to taxable income as required under subdivision 5822(b)(2), shall be as follows:

For taxable income which, without the passage of this act, would be subject to tax at the following rate (%):

3.60  
7.20  
8.50  
9.00  
9.50

That taxable income shall instead be taxed at the following rate (%):

3.55  
6.80  
7.80  
8.80  
8.95

Which was disagreed to on a roll call, Yeas 7, Nays 22.

Senator Pollina having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Baruth, Giard, Kittell, McCormack, Pollina, Starr.

**Those Senators who voted in the negative were:** Ayer, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, Miller, Mullin, Nitka, Sears, Snelling, Westman, White.

**The Senator absent and not voting was:** Illuzzi.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Brock moved that the Senate propose to the House to amend the bill as follows:

In the *eighth* proposal of amendment in Sec. 15, 32 V.S.A. § 5404a(1), in subdivision (2), after the following: “regular comprehensive municipal audit conducted by an independent firm.” by inserting the following: Any audit



conducted under this subsection shall comply with generally accepted government auditing standards.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Brock moved that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. STATE REVENUE SYSTEM REVIEW COMMISSION

(a) There is hereby established a state revenue system review commission consisting of five members to be appointed as follows:

(1) The governor, the lieutenant governor, the president pro tempore of the senate, and the speaker of the house shall each appoint one member; and

(2) The governor, the president pro tempore of the senate, and the speaker of the house shall together appoint one additional member with experience in and understanding of the current education finance system to be the chair of the commission.

(b) The commission members shall be appointed on or before July 1, 2011.

(c) The commission shall prepare a structural analysis and offer recommendations for improvements and modernization of the state revenue system. In doing so, the commission shall review the report of the Blue Ribbon Tax Structure Commission and the data upon which that report was based. The commission shall integrate the analysis and recommendations of the Blue Ribbon Tax Structure Commission into evaluation of the state's revenue system, including Vermont education finance system. The commission shall offer recommendations based on its analysis, with particular emphasis on recommendations related to Vermont's education finance system. The commission shall engage in public hearings and other activities for public involvement.

(d) The commission shall receive technical support from the department of taxes, the department of education, the joint fiscal office, and consultants.

(e) The joint fiscal office with the assistance of the legislative council, the department of education, and the department of taxes may contract with one or more consultants to provide assistance with achieving the goals for the commission. The consultants shall have experience working in a public policy development process.

(f) Nonlegislative members of the commission shall be entitled to compensation as provided under 32 V.S.A. § 1010. Any legislative members of the commission shall be entitled to the same per diem compensation and reimbursement of necessary expenses for attendance at a meeting when the general assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.

(g) The commission shall report its analysis and recommendations to the house and senate committees on education and on appropriations, the house committee on ways and means, and the senate committee on finance on or before January 15, 2012.

Second: By striking out Sec. 9 (authorization to spend) in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. AUTHORIZATION TO SPEND

The joint fiscal office is authorized to expend up to a total of \$210,000.00 for the commission established by Sec. 8 of this act and related expenses by using funds from its existing budget, and, if necessary, the joint fiscal committee is authorized to transfer additional funds from other legislative departments to the joint fiscal office to cover the amount of the commission's expenses.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by Senator Brock?, Senator MacDonald moved to substitute a proposal of amendment for the proposal of amendment offered by Senator Brock in Sec. 8, (EVALUATION OF EDUCATION FINANCING SYSTEM), in subdivision (e)(2), by striking out the following: "March 30, 2012" and inserting in lieu thereof the following: December 15, 2011

Thereupon, pending the question, Shall the proposal of amendment of Senator Brock be substituted as proposed by Senator MacDonald?, Senator MacDonald, requested and was granted leave to withdraw his proposal of amendment.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by Senator Brock?, Senator Brock requested and was granted leave to withdraw his proposal of amendment.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Westman and MacDonald, moved that the Senate propose to the House to amend the bill by striking out Sec. 36e in its entirety and by inserting in lieu thereof a new Sec. 36e to read as follows:

---

**Sec. 36e. TAXPAYER OUTREACH EDUCATION**

The department of taxes shall develop a plan for education outreach to taxpayers in specific industries or classes to ensure that taxpayers in those industries and classes are aware of their obligations under law and to ensure that the department of taxes is able to track and respond to industry- or class-wide concerns. The department of taxes shall report to the senate committee on finance and the house committee on ways and means no later than January 15, 2012 with specific recommendations for implementing the plan required under this section.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Westman and MacDonald, moved that the Senate propose to the House to amend the bill by adding a new section to be numbered Sec. 36f to read as follows:

**Sec. 36f. ABATEMENT OF PENALTIES AND INTEREST**

(a) Any auctioneer licensed under chapter 89 of Title 26 who has been assessed a liability under chapter 233 of this title for failing to collect the required sales tax on the sale of tangible personal property on the premises of the owner of some of that property shall have any liability and related interest and penalties abated. This provision shall apply only to liabilities, interest, and penalties assessed for tax years 2008, 2009, and 2010.

(b) Any caterer engaged in the business of providing food or beverages for sale in this state who has been assessed a liability under chapter 225 of this title for failing to collect the required tax on the service charge associated with the catering sale shall have any liability and related interest and penalties abated. This provision shall apply only to liabilities, interest, and penalties assessed for tax years 2008, 2009, and 2010.

(c) It is the intent of the general assembly that for tax years 2011 and after the tax department shall implement its current regulations and interpretations related to the imposition of sales tax on auction sales under subdivision (a) or related to the imposition of meals tax on caterer service charges under subdivision (b), as those regulations and interpretations may be amended from time to time.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Starr, moved that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be numbered Sec. 13e to read as follows:

## Sec. 13e. HEALTH CARE REFORM PROPERTY TAX EXEMPTION

In fiscal year 2012, the following two properties shall be exempt from education property tax under chapter 135 of Title 32: Buildings and land owned and occupied by a health, recreation, and fitness organization which is exempt under Section 501(c)(3) of the Internal Revenue Code, the income of which is entirely used for its exempt purpose, one of which is designated by the Springfield Hospital and the other designated by the North Country Hospital, to promote exercise and healthy lifestyles for the community and to serve citizens of all income levels in this mission. This exemption shall apply, notwithstanding the provisions of 32 V.S.A. § 3832(7).

Second: By adding a new section to be numbered Sec. 13f to read as follows:

Sec. 13f. Sec. 40 of No. 190 of the Acts of 2007 Adj. Sess. (2008), as amended by Sec. 22 of No. 160 of the Acts of 2009 Adj. Sess. (2010), is further amended to read:

Sec. 40. EDUCATION PROPERTY TAX EXEMPTION FOR SKATINGRINKS USED FOR PUBLIC SCHOOLS

Real and personal property operated as a skating rink, owned and operated on a nonprofit basis but not necessarily by the same entity, and which, in the most recent calendar year, provided facilities to local public schools for a sport officially recognized by the Vermont Principals' Association shall be exempt from education property taxes for fiscal years 2009, 2010, ~~and 2011~~, and 2012 only.

Which was agreed to on a roll call, Yeas 15, Nays 14.

There being a tie, the Secretary took the casting vote of the President, who voted "Yea".

Senator McCormack having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Benning, Brock, Cummings, Doyle, Fox, Giard, Illuzzi, Kitchel, Kittell, McCormack, Nitka, Pollina, Starr.

**Those Senators who voted in the negative were:** Ayer, Baruth, Campbell, Carris, Flory, Galbraith, Hartwell, Lyons, MacDonald, Mazza, Miller, Sears, Snelling, White.

**Those Senators absent and not voting were:** Mullin, Westman.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Kittell, moved that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be numbered Sec. 13e to read as follows:

Sec. 13e. 32 V.S.A. § 3756(i) is amended to read:

(i) ~~The~~ When the department of forests, parks and recreation has not received a management activity report as required by section 3755 of this chapter or has received an adverse inspection report, the director shall notify the owner and remove from use value appraisal ~~an entire parcel of managed forest land and notify the owner in accordance with the procedure in subsection (b) of this section when the department of forests, parks and recreation has not received a management activity report or has received an adverse inspection report~~ all contiguous enrolled forest land of the owner in the municipality in which the activity resulting in the adverse inspection report occurred, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

Second: By adding a new section to be numbered Sec. 13f to read as follows:

Sec. 13f. 32 V.S.A. § 3755(d) is amended to read:

(d) After ~~a parcel of managed forest land~~ forestland has been removed from use value appraisal due to an adverse inspection report pursuant to subsection 3756(i) of this title, a new application for use value appraisal will not be considered for a period of five years, and then shall be approved by the department of forests, parks and recreation only if a compliance report has been filed with the new application certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by Senator Kittell?, Senator Kittell requested and was granted leave to withdraw her proposal of amendment.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Brock, moved that the Senate propose to the House that the bill be amended as follows:

First: By adding a new section to be numbered Sec. 36f to read as follows:

Sec. 36f. 33 V.S.A. § 1955c is added to read:

§ 1955c. MEDICAL MARIJUANA DISPENSARY ASSESSMENT

There is imposed on any medical marijuana dispensary, as that term is defined under 18 V.S.A. § 4472(5), an assessment of six percent of the gross revenues resulting from the sale, transfer, dispensation, or supplying of marijuana, marijuana-infused products, and marijuana-related supplies and educational materials. Any revenue raised by this assessment shall be deposited in the health care resources fund established in section 1901d of this title. For the purpose of implementing this assessment, a medical marijuana dispensary, as defined in 18 V.S.A. § 4472(5), shall be treated as a health care provider, as defined in 18 V.S.A. § 1951(5).

Second: In Sec. 37, subdivision (4), after the words “(definition of household income)” by inserting the following: and Sec. 37f (medical marijuana dispensary assessment)

Which was disagreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Brock, moved that the Senate propose to the House that the bill be amended as follows:

First: By striking out Sec. 8 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 8 to read as follows:

Sec. 8. STATE REVENUE SYSTEM REVIEW COMMISSION

(a) There is hereby established a state revenue system review commission consisting of five members to be appointed as follows:

(1) The speaker of the house and the committee on committees shall each appoint two members; and

(2) The governor shall appoint one additional member with experience in and understanding of the current education finance system to be the chair of the commission.

(b) The commission members shall be appointed on or before July 1, 2011.

(c) The commission shall prepare a structural analysis and offer recommendations for improvements and modernization of the state revenue system. In doing so, the commission shall review the report of the Blue Ribbon Tax Structure Commission and the data upon which that report was based. The commission shall integrate the analysis and recommendations of the Blue Ribbon Tax Structure Commission into evaluation of the state's revenue system, including Vermont education finance system. The commission shall offer recommendations based on its analysis, with particular

emphasis on recommendations related to Vermont's education finance system. The commission shall engage in public hearings and other activities for public involvement.

(d) The commission shall receive technical support from the department of taxes, the department of education, the joint fiscal office, and consultants.

(e) The joint fiscal office with the assistance of the legislative council, the department of education, and the department of taxes may contract with one or more consultants to provide assistance with achieving the goals for the commission. The consultants shall have experience working in a public policy development process.

(f) Nonlegislative members of the commission shall be entitled to compensation as provided under 32 V.S.A. § 1010. Any legislative members of the commission shall be entitled to the same per diem compensation and reimbursement of necessary expenses for attendance at a meeting when the general assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.

(g) The commission shall report its analysis and recommendations to the house and senate committees on education and on appropriations, the house committee on ways and means, and the senate committee on finance on or before January 15, 2012.

Second: By striking out Sec. 9 (authorization to spend) in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

#### Sec. 9. AUTHORIZATION TO SPEND

The joint fiscal office is authorized to expend up to a total of \$210,000.00 for the commission established by Sec. 8 of this act and related expenses by using funds from its existing budget, and, if necessary, the joint fiscal committee is authorized to transfer additional funds from other legislative departments to the joint fiscal office to cover the amount of the commission's expenses.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by Senator Brock?, Senator Brock requested and was granted leave to substitute his proposal of amendment as follows:

First: By striking out Sec. 8 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 8 to read as follows:

#### Sec. 8. STATE REVENUE SYSTEM REVIEW COMMISSION

(a) There is hereby established a state revenue system review commission consisting of five members to be appointed as follows:

(1) The speaker of the house and the committee on committees shall each appoint two members; and

(2) The governor shall appoint one additional member with experience in and understanding of the current education finance system to be the chair of the commission.

(3) No member of the General Assembly shall be appointed to the commission.

(b) The commission members shall be appointed on or before July 1, 2011.

(c) The commission shall prepare a structural analysis and offer recommendations for improvements and modernization of the state revenue system. In doing so, the commission shall review the report of the Blue Ribbon Tax Structure Commission and the data upon which that report was based. The commission shall integrate the analysis and recommendations of the Blue Ribbon Tax Structure Commission into evaluation of the state's revenue system, including Vermont education finance system. The commission shall offer recommendations based on its analysis, with particular emphasis on recommendations related to Vermont's education finance system. The commission shall engage in public hearings and other activities for public involvement.

(d) The commission shall receive technical support from the department of taxes, the department of education, the joint fiscal office, and consultants.

(e) The joint fiscal office with the assistance of the legislative council, the department of education, and the department of taxes may contract with one or more consultants to provide assistance with achieving the goals for the commission. The consultants shall have experience working in a public policy development process.

(f) Members of the commission shall be entitled to compensation as provided under 32 V.S.A. § 1010.

(g) The commission shall report its analysis and recommendations to the house and senate committees on education and on appropriations, the house committee on ways and means, and the senate committee on finance on or before January 15, 2012.

Second: By striking Sec. 9 (authorization to spend) in its entirety and inserting in lieu thereof the following:

#### **Sec. 9. AUTHORIZATION TO SPEND**

The joint fiscal office is authorized to expend up to a total of \$210,000.00 for the commission established by Sec. 8 of this act and related expenses by



using funds from its existing budget, and, if necessary, the joint fiscal committee is authorized to transfer additional funds from other legislative departments to the joint fiscal office to cover the amount of the commission's expenses.

Which was agreed to.

Thereupon, the question, Shall the bill be read the third time?, which was agreed to on a roll call, Yeas 20, Nays 8.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Campbell, Carris, Cummings, Fox, Galbraith, Hartwell, Kitchel, Kittell, Lyons, MacDonald, Mazza, Miller, Nitka, Sears, Snelling, Starr, White.

**Those Senators who voted in the negative were:** Benning, Brock, Doyle, Flory, Giard, Illuzzi, McCormack, Pollina.

**Those Senators absent and not voting were:** Mullin, Westman.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

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

### **Rules Suspended; House Proposal of Amendment Concurred In**

#### **J.R.S. 26.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to joint resolution entitled:

Joint resolution strongly reaffirming the general assembly's enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the resolution by striking out all after the title and inserting in lieu thereof the following:

*Whereas*, the St. Johnsbury and Lake Champlain Railroad was completed in 1877 as a 93-mile rail line extending from St. Johnsbury in the east to Swanton in the west, and

*Whereas*, the rail line continued as a privately owned commercial transportation corridor until the state of Vermont purchased it in 1973, renaming it the Lamoille Valley Railroad (LVR), and

*Whereas*, in 1995 and 1997, severe flooding caused major damage to the tracks and ties of the railroad, and

*Whereas*, at the agency of transportation's (AOT's) request, the regional planning commissions, local chambers of commerce, and economic development officials, operating as the Mountain Valley Corridor Consortium, assumed responsibility for conducting the LVR corridor proposal process, and the proposal of the Vermont Association of Snow Travelers (VAST) to create a four-season recreational corridor and alternative transportation path was selected, and

*Whereas*, in accordance with Sec. 16 of No. 141 of the Acts of the 2001 Adj. Sess. (2002), the AOT was directed to obtain federal approval for discontinuance of rail service, as required under the Surface Transportation Act, and to gain approval to designate the LVR rail bed for interim trail use, and subject to receiving the federal approval, to enter into leases with VAST to construct the four-season recreational corridor and alternative transportation path and with St. Johnsbury and Swanton for municipally managed recreation trails on small segments of the LVR located in those towns, and

*Whereas*, in Sec. 78 of No. 93 of the Acts of the 2005 Adj. Sess. (2006), the general assembly authorized the establishment of the Lamoille Valley Rail Trail (LVRT) project and the acceptance of federal funding that was authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub.L. No. 109-59) which provided \$5.3 million of federal funds, and

*Whereas*, also in 2006, AOT entered into a long-term lease agreement with VAST to build and maintain the LVRT, and

*Whereas*, the LVRT extends through Act 250 districts 5, 6, and 7, and on September 30, 2009 the majority of the coordinators for those districts determined that an Act 250 permit is required, and

*Whereas*, the proposed LVRT project provides an unprecedented opportunity to enhance the protection of natural and cultural resources within the project corridor through the repair of existing areas of trail washout and soil erosion, improved stream crossings, the cleanup of existing hazards, eliminating existing encroachments, and the refurbishment of existing drainage

infrastructure, combined with implementation of ongoing maintenance activities, and

*Whereas*, the economic, environmental, and recreational tourism benefits of the LVRT would be of enormous benefit to Vermonters and especially the towns along its path, *now therefore be it*

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

That the General Assembly reaffirms its enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path, *and be it further*

***Resolved:*** That the executive branch of Vermont state government is urged to demonstrate similarly enthusiastic support, including:

1) That the agencies of transportation and of natural resources aid VAST in the efficient and timely acquisition of the necessary permits.

2) That the agencies of commerce and community development, of natural resources, and of transportation assist VAST in the securing of the remaining funding necessary to proceed with the full conversion of the rail bed.

3) That the agency of transportation adhere to all commitments it made in the 2006 lease agreement with VAST, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to VAST Executive Director Bryant Watson, to Secretary of Transportation Brian Searles, to Secretary of Natural Resources Deborah Markowitz, and to Secretary of Commerce and Community Development Lawrence Miller.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

**Proposal of Amendment Amended; Bill Passed in Concurrence with  
Proposal of Amendment**

**H. 441.**

House bill entitled:

An act relating to making appropriations for the support of government.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved that the Senate propose to the House to amend the bill by inserting a new section to be numbered Sec. H.7 to read as follows:

Sec. H.7 3 V.S.A. § 457(e) is added to read:

(e) For purposes of benefits available under this chapter, former county court employees hired by the counties to court positions on or before June 30, 2008 who became state employees on February 1, 2011 pursuant to No. 154 of the Acts of the 2009 Adj. Sess. (2010) shall be deemed to have been first included in membership of the system on or before June 30, 2008.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 27, Nays 1.

Senator Illuzzi having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Sears, Snelling, Starr, White.

**The Senator who voted in the negative was:** Pollina.

**Those Senators absent and not voting were:** Mullin, Westman.

#### **Rules Suspended; Bills Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**H. 436, H. 441.**

#### **House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were by rule adopted in concurrence:

By Senators Carris, Flory and Mullin,

By Representative Andrews and others,

#### **H.C.R. 142.**

House concurrent resolution congratulating Michael Smith on his winning the 2011 CVPS-Zetterstrom Environmental Award.

---

By Representatives Bissonnette and Atkins,

**H.C.R. 143.**

House concurrent resolution congratulating the St. Francis Xavier of Winooski boys' basketball team on winning the 2011 New England Catholic Youth Organization seventh- and eighth-grade parish division championship.

By Senators Ayer and Giard,

By Representative Nuovo and others,

**H.C.R. 144.**

House concurrent resolution congratulating Middlebury Union High School on being named a 2011 Fit & Healthy Kids School Wellness Award gold-level winner .

By Senators Nitka, Campbell and McCormack,

By Representative Devereux,

**H.C.R. 145.**

House concurrent resolution honoring the town of Ludlow on its 250th anniversary.

By Senators Campbell, McCormack and Nitka,

By Representative Devereux,

**H.C.R. 146.**

House concurrent resolution honoring the town of Plymouth on its 250th anniversary.

By Representative Devereux and others,

**H.C.R. 147.**

House concurrent resolution commemorating the incorporation of Vermont towns observing their 250th anniversary in 2011.

By Representatives Pearson and Ram,

**H.C.R. 148.**

House concurrent resolution in memory of Karen Ann Quill of Burlington.

By Senators Carris, Flory and Mullin,

By Representative Andrews and others,

**H.C.R. 149.**

House concurrent resolution congratulating the Rutland Area Visiting Nurse Association & Hospice on being named one of the top 500 home health agencies in the United States.

By Representative Olsen,

**H.C.R. 150.**

House concurrent resolution congratulating former Jamaica town clerk and treasurer Warren Patrick on his centennial birthday.

By Representative Lenes and others,

**H.C.R. 151.**

House concurrent resolution congratulating the 2011 Champlain Valley Union High School Redhawks Division I championship boys' hockey team.

By Senators Ashe, Baruth, Fox, Lyons, Miller and Snelling,

By Representative Yantachka,

**H.C.R. 152.**

House concurrent resolution honoring Frank Thornton of Charlotte.

By Senators Kittell and Ayer,

By Representative Spengler and others,

**H.C.R. 153.**

House concurrent resolution recognizing the role of registered nurses in the delivery of health care in Vermont .

By Senator Flory,

By Representative Shaw,

**H.C.R. 154.**

House concurrent resolution commemorating the 250th anniversary of the town of Pittsford.

By Representatives Stevens and Ellis,

**H.C.R. 155.**

House concurrent resolution congratulating Revitalizing Waterbury on its 20th anniversary.

---

By Representatives Head and Ram,

**H.C.R. 156.**

House concurrent resolution designating April as Fair Housing Month in Vermont.

By Senators Cummings, Doyle and Pollina,

By Representative Ancel,

**H.C.R. 157.**

House concurrent resolution congratulating the 2011 Twinfield Union High School Trojans Division IV championship boys' basketball team.

By Representatives Trieber and Partridge,

**H.C.R. 158.**

House concurrent resolution congratulating L. Raymond Massucco on being named the Great Falls Regional Chamber of Commerce 2011 Person of the Year.

By Senators Hartwell and Sears,

By Representative Campion and others,

**H.C.R. 159.**

House concurrent resolution honoring Joan Goodrich for her exemplary higher education leadership in Vermont.

**Adjournment**

On motion of Senator Campbell, the Senate adjourned, to reconvene on Monday, April 25, 2011, at two o'clock in the afternoon pursuant to J.R.S. 29.

---

**MONDAY, APRIL 25, 2011**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Pledge of Allegiance**

The President then led the members of the Senate in the pledge of allegiance.

**Message from the House No. 53**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that the House has passed House bills of the following titles:

**H. 298.** An act relating to standardized ballots and vote tabulators.

**H. 378.** An act relating to town payments of county taxes.

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

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

**H. 443.** An act relating to the state's transportation program.

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

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Brennan of Colchester  
Rep. Potter of Clarendon  
Rep. Corcoran of Bennington

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

**H. 446.** An act relating to capital construction and state bonding.

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

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Emmons of Springfield  
Rep. Myers of Essex  
Rep. Hooper of Montpelier

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 142.** House concurrent resolution congratulating Michael Smith on his winning the 2011 CVPS-Zetterstrom Environmental Award.

**H.C.R. 143.** House concurrent resolution congratulating the St. Francis Xavier of Winooski boys' basketball team on winning the 2011 New England Catholic Youth Organization seventh- and eighth-grade parish division championship.



**H.C.R. 144.** House concurrent resolution congratulating Middlebury Union High School on being named a 2011 Fit & Healthy Kids School Wellness Award gold-level winner .

**H.C.R. 145.** House concurrent resolution honoring the town of Ludlow on its 250th anniversary.

**H.C.R. 146.** House concurrent resolution honoring the town of Plymouth on its 250th anniversary.

**H.C.R. 147.** House concurrent resolution commemorating the incorporation of Vermont towns observing their 250th anniversary in 2011.

**H.C.R. 148.** House concurrent resolution in memory of Karen Ann Quill of Burlington.

**H.C.R. 149.** House concurrent resolution congratulating the Rutland Area Visiting Nurse Association & Hospice on being named one of the top 500 home health agencies in the United States.

**H.C.R. 150.** House concurrent resolution congratulating former Jamaica town clerk and treasurer Warren Patrick on his centennial birthday.

**H.C.R. 151.** House concurrent resolution congratulating the 2011 Champlain Valley Union High School Redhawks Division I championship boys' hockey team.

**H.C.R. 152.** House concurrent resolution honoring Frank Thornton of Charlotte.

**H.C.R. 153.** House concurrent resolution recognizing the role of registered nurses in the delivery of health care in Vermont.

**H.C.R. 154.** House concurrent resolution commemorating the 250th anniversary of the town of Pittsford.

**H.C.R. 155.** House concurrent resolution congratulating Revitalizing Waterbury on its 20th anniversary.

**H.C.R. 156.** House concurrent resolution designating April as Fair Housing Month in Vermont.

**H.C.R. 157.** House concurrent resolution congratulating the 2011 Twinfield Union High School Trojans Division IV championship boys' basketball team.

**H.C.R. 158.** House concurrent resolution congratulating L. Raymond Massucco on being named the Great Falls Regional Chamber of Commerce 2011 Person of the Year.

**H.C.R. 159.** House concurrent resolution honoring Joan Goodrich for her exemplary higher education leadership in Vermont.

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

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 298.**

An act relating to standardized ballots and vote tabulators.

To the Committee on Rules.

**H. 378.**

An act relating to town payments of county taxes.

To the Committee on Rules.

**Joint Senate Resolution Adopted on the Part of the Senate**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Carris and Mullin,

**J.R.S. 31.** Joint resolution relating to weekend adjournment.

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

That when the two Houses adjourn on Friday, April 29, 2011, it be to meet again no later than Tuesday, May 3, 2011.

**Proposal of Amendment; Consideration Interrupted by Adjournment**

**H. 202.**

Senator Ayer, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to a universal and unified health system.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

**Sec. 1. INTENT**

(a) It is the intent of the general assembly to create Green Mountain Care to contain costs and to provide, as a public good, comprehensive, affordable, high-quality, publicly financed health care coverage for all Vermont residents in a seamless manner regardless of income, assets, health status, or availability

of other health coverage. It is the intent of the general assembly to achieve health care reform through the coordinated efforts of an independent board, state government, and the citizens of Vermont, with input from health care professionals, businesses, and members of the public.

(b) It is also the intent of the general assembly to maximize the receipt of federal funds, including those available pursuant to the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and to create a reasonable plan to implement Green Mountain Care as set forth in this act.

#### Sec. 1a. PRINCIPLES FOR HEALTH CARE REFORM

The general assembly adopts the following principles as a framework for reforming health care in Vermont:

(1) The state of Vermont must ensure universal access to and coverage for high-quality, medically necessary health services for all Vermonters. Systemic barriers, such as cost, must not prevent people from accessing necessary health care. All Vermonters must receive appropriate health care at the appropriate time in the appropriate setting.

(2) Overall health care costs must be contained and growth in health care spending in Vermont must balance the health care needs of the population with the ability to pay for such care. Growth in Vermont's per-capita health care spending must not outpace growth in per-capita health care spending nationally.

(3) The health care system must be transparent in design, efficient in operation, and accountable to the people it serves. The state must ensure public participation in the design, implementation, evaluation, and accountability mechanisms of the health care system.

(4) Primary care must be preserved and enhanced so that Vermonters have care available to them, preferably within their own communities. Other aspects of Vermont's health care infrastructure, including the educational and research missions of the state's academic medical center and other postsecondary educational institutions, the nonprofit missions of the community hospitals, and the critical access designation of rural hospitals, must be supported in such a way that all Vermonters, including those in rural areas, have access to necessary health services and that these health services are sustainable.

(5) Every Vermonter should be able to choose his or her health care providers.

(6) Vermonters should be aware of the costs of the health services they receive. Costs should be transparent and easy to understand.

(7) Individuals have a personal responsibility to maintain their own health and to use health resources wisely, and all individuals should have a financial stake in the health services they receive.

(8) The health care system must recognize the primacy of the relationship between patients and their health care practitioners, respecting the professional judgment of health care practitioners and the informed decisions of patients.

(9) Vermont's health delivery system must seek continuous improvement of health care quality and safety and of the health of the population and promote and incent healthy lifestyles. The system therefore must be evaluated regularly for improvements in access, quality, and cost containment, and it must recognize that additional evaluation tools may be required to ensure access to and quality of mental health care.

(10) Vermont's health care system must include mechanisms for containing all system costs and eliminating unnecessary expenditures, including by reducing administrative costs and by reducing costs that do not contribute to efficient, high-quality health services or improve health outcomes. Efforts to reduce overall health care costs should identify sources of excess cost growth.

(11) The financing of health care in Vermont must be sufficient, fair, predictable, transparent, sustainable, and shared equitably.

(12) The system must consider the effects of payment reform on individuals and on health care professionals and suppliers. It must enable health care professionals to provide, on a solvent basis, effective and efficient health services that are in the public interest.

(13) Vermont's health care system must operate as a partnership between consumers, employers, health care professionals, hospitals, and the state and federal government.

(14) State government must ensure that the health care system satisfies the principles expressed in this section.

Sec 1b. 3 V.S.A. § 2222a is amended to read:

§ 2222a. HEALTH CARE SYSTEM REFORM; IMPROVING QUALITY AND AFFORDABILITY

(a) The ~~secretary~~ director of health care reform in the agency of administration shall be responsible for the coordination of health care system

reform ~~initiatives efforts~~ among executive branch agencies, departments, and offices, and for coordinating with the Green Mountain Care board established in 18 V.S.A. chapter 220.

(b) The ~~secretary~~ director shall ensure that those executive branch agencies, departments, and offices responsible for the development, improvement, and implementation of Vermont's health care system reform do so in a manner that is coordinated, timely, equitable, patient-centered, and evidence-based, ~~and~~ seeks to inform and improve the quality and affordability of patient care and public health, contain costs, and attract and retain well-paying jobs in this state.

(c) Vermont's health care system reform ~~initiatives efforts~~ include:

(1) The state's chronic care infrastructure, disease prevention, and management program contained in the blueprint for health established by ~~chapter 13 of Title 18 V.S.A. chapter 13,~~ the goal of which is to achieve a unified, comprehensive, statewide system of care that improves the lives of all Vermonters with or at risk for a chronic condition or disease.

(2) The Vermont health information technology project pursuant to ~~chapter 219 of Title 18 V.S.A. chapter 219.~~

(3) The multi-payer data collection project pursuant to 18 V.S.A. § 9410.

(4) The common claims administration project pursuant to 18 V.S.A. § 9408.

(5) The consumer price and quality information system pursuant to 18 V.S.A. § 9410.

(6) ~~Any~~ The information technology work done by the quality assurance system pursuant to 18 V.S.A. § 9416.

(7) The public health promotion programs of the agency of human services, including primary prevention for chronic disease, community assessments, school wellness programs, public health information technology, data and surveillance systems, healthy retailers, healthy community design, and alcohol and substance abuse treatment and prevention programs.

(8) ~~Medicaid, the Vermont health access plan, Dr. Dynasaur, premium assistance programs for employer-sponsored insurance, VPharm, and Vermont Rx, which are established in chapter 19 of Title 33 and provide health care coverage to elderly, disabled, and low to middle income Vermonters. The creation of a universal health care system to provide affordable, high-quality health care coverage to all Vermonters and to include federal funds to the maximum extent allowable under federal law and waivers from federal law.~~

(9) ~~Catamount Health, established in 8 V.S.A. § 4080f, which provides a comprehensive benefit plan with a sliding scale premium based on income to uninsured Vermonters. A reformation of the payment system for health services to encourage quality and efficiency in the delivery of health care as set forth in 18 V.S.A. chapter 220.~~

(10) ~~The uniform hospital uncompensated care policies. A strategic approach to workforce needs set forth in 18 V.S.A. chapter 222, including retraining programs for workers displaced through increased efficiency and reduced administration in the health care system and ensuring an adequate health care workforce to provide access to health care for all Vermonters.~~

(11) ~~A plan for public financing of health care coverage for all Vermonters.~~

(d) ~~The secretary shall report to the commission on health care reform, the health access oversight committee, the house committee on health care, the senate committee on health and welfare, and the governor on or before December 1, 2006, with a five year strategic plan for implementing Vermont's health care system reform initiatives, together with any recommendations for administration or legislation. Annually, beginning January 15, 2007, the secretary shall report to the general assembly on the progress of the reform initiatives.~~

(e) ~~The secretary of administration~~ director of health care reform or designee shall provide information and testimony on the activities included in this section to the health access oversight committee, ~~the commission on health care reform,~~ and to any legislative committee upon request.

\* \* \* Road Map to a Universal and a Unified Health System \* \* \*

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

(a) Vermont must begin to plan now for health care reform, including simplified administration processes, payment reform, and delivery reform, in order to have a publicly financed program of universal and unified health care operational after the occurrence of specific events, including the receipt of a waiver from the federal Exchange requirement from the U.S. Department of Health and Human Services. A waiver will be available in 2017 under the provisions of existing law in the Patient Protection and Affordable Care Act (Public Law 111-148) ("Affordable Care Act"), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and may be available in 2014 under the provisions of two bills, H.R. 844 and S.248, introduced in the 112<sup>th</sup> Congress. In order to begin the planning efforts, the director of health care reform in the agency of administration shall

establish a strategic plan, which shall include timelines and allocations of the responsibilities associated with health care system reform, to further the containment of health care costs, to further Vermont's existing health care system reform efforts as described in 3 V.S.A. § 2222a and to further the following:

(1) As provided in Sec. 4 of this act, all Vermont residents shall be eligible for Green Mountain Care, a universal health care program that will provide health benefits through a single payment system. To the maximum extent allowable under federal law and waivers from federal law, Green Mountain Care shall include health coverage provided under the health benefit exchange established under 33 V.S.A. chapter 18, subchapter 1; under Medicaid; under Medicare; by employers that choose to participate; and to state employees and municipal employees, including teachers. In the event of a modification to the Affordable Care Act by congressional, judicial, or federal administrative action which prohibits implementation of the health benefit exchange; eliminates federal funds available to individuals, employees, or employers; or eliminates the waiver under Section 1332 of the Affordable Care Act, the director of health care reform shall continue, and adjust as appropriate, the planning and cost-containment activities provided in this act related to Green Mountain Care and to creation of a unified, simplified administration system for health insurers offering health benefit plans, including identifying the financing impacts of such a modification on the state and its effects on the activities proposed in this act.

(2)(A) As provided in Sec. 4 of this act, no later than November 1, 2013, the Vermont health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1 shall begin enrolling individuals and small employers for coverage beginning January 1, 2014. The intent of the general assembly is to establish the Vermont health benefit exchange in a manner such that it may become the foundation for Green Mountain Care.

(B) No later than February 15, 2012, the director of health care reform or designee shall provide the house committee on health care and the senate committee on finance and on health and welfare the following information related to the Vermont health benefit exchange, to the extent available:

(i) a list of the federal health benefits required under the Affordable Care Act as defined in chapter 18, subchapter 1 of Title 33, including covered services and cost-sharing;

(ii) a comparison of the federal health benefits with the Vermont health insurance benefit requirements provided for in 8 V.S.A. chapter 108;

(iii) information relating to the silver, gold, and platinum benefit levels of qualified health benefit plans that may be available in the Vermont health benefit exchange;

(iv) a draft of qualified health benefit plan choices that may be available in the Vermont health benefit exchange;

(v) in collaboration with the three insurers with the largest number of lives, premium estimates for draft plan choices described in subdivision (iv) of this subdivision (B); and

(vi) the status of related tax credits, including small employer tax credits, and of cost-sharing subsidies.

(C) The director shall deliver to the general assembly by January 15, 2015 a report including:

(i) the qualified health benefit plans available in and outside the exchange, current and projected premiums, and enrollment data;

(ii) recommendations for any statutory changes needed to improve the functioning of the exchange, including those needed to reduce premiums and administrative costs for qualified health benefit plans and others the director determines are necessary to achieve cost-effectiveness; and

(iii) Vermont's efforts to obtain a waiver from the exchange requirement under Section 1332 of the Affordable Care Act.

(3) As provided in Sec. 4 of this act, no later than November 1, 2016, the Vermont health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1 shall begin enrolling large employers for coverage beginning January 1, 2017.

(4) No later than January 1, 2014, the commissioner of banking, insurance, securities, and health care administration may require that all individual and small group health insurance products be sold only through the Vermont health benefit exchange and may require all large group insurance products to be aligned with the administrative requirements and essential benefits required in the Vermont health benefit exchange. The commissioner shall provide recommendations necessary to effect the intent of this subdivision as part of the integration plan established in Sec. 8 of this act.

(5) The director shall supervise the planning efforts, reports of which are due on January 15, 2012, as provided in Secs. 8 and 10 through 13 of this act, including integration of multiple payers into the Vermont health benefit exchange; a continuation of the planning necessary to ensure an adequate, well-trained primary care workforce; necessary retraining for any employees dislocated from health care professionals or from health insurers due to the



simplification in the administration of health care; and unification of health system planning, regulation, and public health.

(6) The director shall supervise the planning efforts, reports of which are due January 15, 2013, as provided in Sec. 9 of this act, to establish the financing necessary for Green Mountain Care, for recruitment and retention programs for health care professionals, and for covering the uninsured and underinsured through Medicaid and the Vermont health benefit exchange.

(7) The director, in collaboration with the agency of human services, shall obtain waivers, exemptions, agreements, legislation, or a combination thereof to ensure that, to the extent possible under federal law, all federal payments provided within the state for health services are paid directly to Green Mountain Care. Green Mountain Care shall assume responsibility for the benefits and services previously paid for by the federal programs, including Medicaid, Medicare, and, after implementation, the Vermont health benefit exchange. In obtaining the waivers, exemptions, agreements, legislation, or combination thereof, the secretary shall negotiate with the federal government a federal contribution for health care services in Vermont that reflects medical inflation, the state gross domestic product, the size and age of the population, the number of residents living below the poverty level, the number of Medicare-eligible individuals, and other factors that may be advantageous to Vermont and that do not decrease in relation to the federal contribution to other states as a result of the waivers, exemptions, agreements, or savings from implementation of Green Mountain Care.

(8) No later than January 15, 2012, the secretary of administration or designee shall submit to the house committees on health care and on judiciary and the senate committees on health and welfare and on judiciary a proposal for potential improvement or reforms to the medical malpractice system for Vermont. The proposal shall be designed to address any findings of defensive medicine, reduce health care costs and medical errors, and protect patients' rights, and shall include the secretary's or designee's consideration of a no-fault system and of confidential pre-suit mediation.

(b) The chair of the Green Mountain Care board established in 18 V.S.A. chapter 220, in collaboration with the director of health care reform in the agency of administration, shall develop a work plan for the board, which may include any necessary processes for implementation of the board's duties, a timeline for implementation of the board's duties, and a plan for ensuring sufficient staff to implement the board's duties. The work plan shall be provided to the house committee on health care and the senate committee on health and welfare no later than January 15, 2012.

\* \* \* Cost Containment, Budgeting, and Payment Reform \* \* \*

Sec. 3. 18 V.S.A. chapter 220 is added to read:

CHAPTER 220. GREEN MOUNTAIN CARE BOARD

Subchapter 1. Green Mountain Care Board

§ 9371. PRINCIPLES FOR HEALTH CARE REFORM

The general assembly adopts the following principles as a framework for reforming health care in Vermont:

(1) The state of Vermont must ensure universal access to and coverage for high-quality, medically necessary health services for all Vermonters. Systemic barriers, such as cost, must not prevent people from accessing necessary health care. All Vermonters must receive appropriate health care at the appropriate time in the appropriate setting.

(2) Overall health care costs must be contained and growth in health care spending in Vermont must balance the health care needs of the population with the ability to pay for such care. Growth in Vermont's per-capita health care spending must not outpace growth in per-capita health care spending nationally.

(3) The health care system must be transparent in design, efficient in operation, and accountable to the people it serves. The state must ensure public participation in the design, implementation, evaluation, and accountability mechanisms of the health care system.

(4) Primary care must be preserved and enhanced so that Vermonters have care available to them, preferably within their own communities. Other aspects of Vermont's health care infrastructure, including the educational and research missions of the state's academic medical center and other postsecondary educational institutions, the nonprofit missions of the community hospitals, and the critical access designation of rural hospitals, must be supported in such a way that all Vermonters, including those in rural areas, have access to necessary health services and that these health services are sustainable.

(5) Every Vermonter should be able to choose his or her health care providers.

(6) Vermonters should be aware of the costs of the health services they receive. Costs should be transparent and easy to understand.

(7) Individuals have a personal responsibility to maintain their own health and to use health resources wisely, and all individuals should have a financial stake in the health services they receive.

(8) The health care system must recognize the primacy of the relationship between patients and their health care practitioners, respecting the professional judgment of health care practitioners and the informed decisions of patients.

(9) Vermont's health delivery system must seek continuous improvement of health care quality and safety and of the health of the population and promote and incent healthy lifestyles. The system therefore must be evaluated regularly for improvements in access, quality, and cost containment, and it must recognize that additional evaluation tools may be required to ensure access to and quality of mental health care.

(10) Vermont's health care system must include mechanisms for containing all system costs and eliminating unnecessary expenditures, including by reducing administrative costs and by reducing costs that do not contribute to efficient, high-quality health services or improve health outcomes. Efforts to reduce overall health care costs should identify sources of excess cost growth.

(11) The financing of health care in Vermont must be sufficient, fair, predictable, transparent, sustainable, and shared equitably.

(12) The system must consider the effects of payment reform on individuals and on health care professionals and suppliers. It must enable health care professionals to provide, on a solvent basis, effective and efficient health services that are in the public interest.

(13) Vermont's health care system must operate as a partnership between consumers, employers, health care professionals, hospitals, and the state and federal government.

(14) State government must ensure that the health care system satisfies the principles expressed in this section.

#### § 9372. PURPOSE

It is the intent of the general assembly to create an independent board to promote the general good of the state by:

(1) improving the health of the population;

(2) reducing the per-capita rate of growth in expenditures for health services in Vermont across all payers while ensuring that access to care and quality of care are not compromised.

(3) enhancing the patient and health care professional experience of care;

(4) recruiting and retaining high-quality health care professionals; and

(5) achieving administrative simplification in health care financing and delivery.

§ 9373. DEFINITIONS

As used in this chapter:

(1) “Board” means the Green Mountain Care board established in this chapter.

(2) “Chronic care” means health services provided by a health care professional for an established clinical condition that is expected to last one year or more; that requires ongoing clinical management; and that requires health services that attempt to restore the individual to highest function, minimize the negative effects of the condition, and prevent complications related to chronic conditions.

(3) “Chronic care management” means a system of coordinated health care interventions and communications for individuals with chronic conditions, including significant patient self-care efforts, systemic supports for licensed health care practitioners and their patients, and a plan of care emphasizing prevention of complications, utilizing evidence-based practice guidelines, patient empowerment strategies, and evaluation of clinical, humanistic, and economic outcomes on an ongoing basis with the goal of improving overall health.

(4) “Global payment” means a payment from a health insurer, Medicaid, Medicare, or other payer for the health services of a defined population of patients for a defined period of time. Such payments may be adjusted to account for the population’s underlying risk factors, including severity of illness and socioeconomic factors that may influence the cost of health care for the population.

(5) “Green Mountain Care” means the public–private universal health care program designed to provide health benefits through a simplified, uniform, single administrative system pursuant to 33 V.S.A. chapter 18, subchapter 2.

(6) “Health care professional” means an individual, partnership, corporation, facility, or institution licensed or certified or otherwise authorized by Vermont law to provide professional health services.

(7) “Health care system” means the local, state, regional, or national system of delivering health services, including administrative costs, capital expenditures, preventive care and wellness services.

(8) “Health insurer” means any health insurance company, nonprofit hospital and medical service corporation, managed care organization, and, to

the extent permitted under federal law, any administrator of a health benefit plan offered by a public or a private entity. The term does not include Medicaid, the Vermont health access plan, or any other state health care assistance program financed in whole or in part through a federal program.

(9) "Health service" means any treatment or procedure delivered by a health care professional to maintain an individual's physical or mental health or to diagnose or treat an individual's physical or mental health condition, including services ordered by a health care professional, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

(10) "Integrated delivery system" means a group of health care professionals, associated either through employment by a single entity or through a contractual arrangement, that provides health services for a defined population of patients and is compensated through a global payment.

(11) "Manufacturers of prescribed products" shall have the same meaning as "manufacturers" in section 4631a of this title.

(12) "Payment reform" means modifying the method of payment from a fee-for-service basis to one or more alternative methods for compensating health care professionals, health care provider bargaining groups created pursuant to section 9409 of this title, integrated delivery systems, and other health care professional arrangements, manufacturers of prescribed products, medical supply companies, and other companies providing health services or health supplies for the provision of high-quality and efficient health services, products, and supplies while measuring quality and efficiency. The term may include shared savings agreements, bundled payments, episode-based payments, and global payments.

(13) "Preventive care" means health services provided by health care professionals to identify and treat asymptomatic individuals who have risk factors or preclinical disease, but in whom the disease is not clinically apparent, including immunizations and screening, counseling, treatment, and medication determined by scientific evidence to be effective in preventing or detecting a condition.

(14) "Wellness services" means health services, programs, or activities that focus on the promotion or maintenance of good health.

#### § 9374. BOARD MEMBERSHIP; AUTHORITY

(a)(1) On July 1, 2011, the Green Mountain Care board is created and shall consist of a chair and four members. The chair and all of the members shall be state employees and shall be exempt from the state classified system.

(2) The chair and the members of the board shall be nominated by the Green Mountain Care board nominating committee established in subchapter 2 of this chapter using the qualifications described in section 9392 of this chapter and shall be otherwise appointed and confirmed in the manner of a superior judge. The governor shall not appoint a nominee who was denied confirmation by the senate within the past six years.

(b)(1) The initial term of the chair shall be seven years, and the term of the chair shall be six years thereafter.

(2) The term of each member other than the chair shall be six years, except that of the members first appointed, one each shall serve a term of three years, four years, five years, and six years.

(3) Subject to the nomination and appointment process, a member may serve more than one term.

(4) Members of the board may be removed only for cause. The board shall adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and process for removal.

(c)(1) No board member shall, during his or her term or terms on the board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to supervision or regulation by the board; nor receive directly or indirectly any payment or gratuity from any person subject to supervision or regulation by the board; nor have a direct or indirect financial relationship with any person or interest in any entity subject to supervision or regulation by the board.

(2) The prohibitions contained in subdivision (1) this subsection shall not be construed to prohibit a board member from:

(A) being an insurance policyholder or from receiving health services on the same terms as are available to the public generally;

(B) owning a stock, bond, or other security in an entity subject to supervision or regulation by the board that is purchased by or through a mutual fund, blind trust, or other mechanism where a person other than the board member chooses the stock, bond, or security; or

(C) receiving retirement benefits through a defined benefit plan from an entity subject to supervision or regulation by the board.

(d) The chair shall have general charge of the offices and employees of the board but may hire a director to oversee the administration and operation.

(e)(1) The board shall establish a consumer, patient, business, and health care professional advisory group to provide input and recommendations to the

board. Members of such advisory group who are not state employees or whose participation is not supported through their employment or association shall receive per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, including costs of travel, child care, personal assistance services, and any other service necessary for participation in the advisory group and approved by the board.

(2) The board may establish additional advisory groups and subcommittees as needed to carry out its duties. The board shall appoint diverse health care professionals to the additional advisory groups and subcommittees as appropriate.

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

#### § 9375. DUTIES

(a) The board shall execute its duties consistent with the principles expressed in 18 V.S.A. § 9371.

(b) The board shall have the following duties:

(1) Oversee the development and implementation, and evaluate the effectiveness, of health care payment and delivery system reforms designed to control the rate of growth in health care costs and maintain health care quality in Vermont, including ensuring that the payment reform pilot projects set forth in chapter 13, subchapter 2 of this title are consistent with such reforms.

(A) Implement by rule, pursuant to 3 V.S.A. chapter 25, methodologies for achieving payment reform and containing costs, which may include the creation of health care professional cost-containment targets, global payments, bundled payments, global budgets, risk-adjusted capitated payments, or other uniform payment methods and amounts for integrated delivery systems, health care professionals, or other provider arrangements.

(B) Prior to the initial adoption of the rules described in subdivision (A) of this subdivision (1), report the board's proposed methodologies to the house committee on health care and the senate committee on health and welfare.

(C) In developing methodologies pursuant to subdivision (A) of this subdivision (1), engage Vermonters in seeking ways to equitably distribute

health services while acknowledging the connection between fair and sustainable payment and access to health care.

(D) Nothing in this subdivision (1) shall be construed to limit the authority of other agencies or departments of state government to engage in additional cost-containment activities to the extent permitted by state and federal law.

(3) Review and approve Vermont's statewide health information technology plan pursuant to section 9351 of this title to ensure that the necessary infrastructure is in place to enable the state to achieve the principles expressed in section 9371 of this title.

(4) Review the health care workforce development strategic plan created in chapter 222 of this title.

(5) Review the health resource allocation plan created in chapter 221 of this title.

(6) Set rates for health care professionals pursuant to section 9376 of this title, to be implemented over time, and make adjustments to the rules on reimbursement methodologies as needed.

(7) Review and approve recommendations from the commissioner of banking, insurance, securities, and health care administration, within 10 business days of receipt of such recommendations and taking into consideration the requirements in the underlying statutes, changes in health care delivery, changes in payment methods and amounts, and other issues at the discretion of the board, on:

(A) any insurance rate increases pursuant to 8 V.S.A. chapter 107, beginning January 1, 2012;

(B) hospital budgets pursuant to chapter 221, subchapter 7 of this title, beginning July 1, 2012; and

(C) certificates of need pursuant to chapter 221, subchapter 5 of this title, beginning July 1, 2012.

(8) Prior to the adoption of rules, review and approve, with recommendations from the commissioner of Vermont health access, the benefit package or packages for qualified health benefit plans pursuant to 33 V.S.A. chapter 18, subchapter 1 no later than January 1, 2013. The board shall report to the house committee on health care and the senate committee on health and welfare within 15 days following its approval of the initial benefit package and any subsequent substantive changes to the benefit package.



(9)(A) Develop and maintain a method for evaluating systemwide performance and quality, including identification of the appropriate process and outcome measures:

(i) for determining public and health care professional satisfaction with the health system;

(ii) for utilization of health services;

(iii) in consultation with the department of health and the director of the Blueprint for Health, for quality of health services and the effectiveness of prevention and health promotion programs;

(iv) for cost-containment and limiting the growth in health care expenditures;

(v) for determining the adequacy of the supply and distribution of health care resources in this state; and

(vi) for other measures as determined by the board.

(B) The board shall adopt evaluation criteria pursuant to subdivision (A) of this subdivision (5) by October 15, 2013 and, beginning in 2014, shall present testimony each year during the legislative session to the house committees on appropriations and on health care and the senate committees on appropriations and on health and welfare regarding the criteria or modifications to such criteria, an assessment of the health care system's performance and any resulting recommendations, and the process and outcome measures used.

(c) The board shall have the following duties related to Green Mountain Care:

(1) Prior to implementing Green Mountain Care, review and approve, upon recommendation from the agency of human services, the Green Mountain Care benefit package within the parameters established in 33 V.S.A. chapter 18, subchapter 2.

(2) When providing its recommendations for the benefit package pursuant to subdivision (1) of this subsection, the agency of human services shall present a report on the benefit package proposal to the house committee on health care and the senate committee on health and welfare. The report shall describe the covered services to be included in the Green Mountain Care benefit package and any cost-sharing requirements. If the general assembly is not in session at the time that the agency makes its recommendations, the agency shall send its report by first class mail to each member of the house committee on health care and the senate committee on health and welfare.

(3) Prior to implementing Green Mountain Care and annually after implementation, recommend to the general assembly and the governor a three-year Green Mountain Care budget pursuant to 32 V.S.A. chapter 5, to be adjusted annually in response to realized revenues and expenditures, that reflects any modifications to the benefit package and includes recommended appropriations, revenue estimates, and necessary modifications to tax rates and other assessments.

(d) Annually on or before January 15, the board shall submit a report of its activities for the preceding state fiscal year to the house committee on health care and the senate committee on health and welfare. The report shall include any changes to the payment rates for health care professionals pursuant to section 9376 of this title, any new developments with respect to health information technology, the results of the systemwide performance and quality evaluations required by subdivision (b)(9) of this section, any recommendations for modifications to Vermont statutes, and any actual or anticipated impacts on the work of the board as a result of modifications to federal laws, regulations, or programs. The report shall identify how the work of the board comports with the principles expressed in section 9371 of this title.

(f) All reports prepared by the board shall be available to the public and shall be posted on the board's website.

#### § 9376. PAYMENT AMOUNTS; METHODS

(a) It is the intent of the general assembly to ensure payments to health care professionals that are consistent with efficiency, economy, and quality of care and will permit them to provide, on a solvent basis, effective and efficient health services that are in the public interest. It is also the intent of the general assembly to eliminate the shift of costs between the payers of health services to ensure that the amount paid to health care professionals is sufficient to enlist enough providers to ensure that health services are available to all Vermonters and are distributed equitably.

(b)(1) The board shall set reasonable rates for health care professionals, health care provider bargaining groups created pursuant to section 9409 of this title, manufacturers of prescribed products, medical supply companies, and other companies providing health services or health supplies based on methodologies pursuant to section 9375 of this title, in order to have a consistent reimbursement amount accepted by these persons. In its discretion, the board may implement rate-setting for different groups of health care professionals over time and need not set rates for all types of health care professionals. In establishing rates, the board may consider legitimate differences in costs among health care professionals, such as the cost of

providing a specific necessary service or services that may not be available elsewhere in the state, and the need for health care professionals in particular areas of the state, particularly in underserved geographic or practice shortage areas.

(2) Nothing in this subsection shall be construed to limit the ability of a health care professional to accept less than the rate established in subdivision (1) of this subsection from a patient without health insurance or other coverage for the service or services received.

(c) The board shall approve payment methodologies that encourage cost-containment; provision of high-quality, evidence-based health services in an integrated setting; patient self-management; access to primary care health services for underserved individuals, populations, and areas; and healthy lifestyles. Such methodologies shall be consistent with payment reform and with evidence-based practices, and may include fee-for-service payments if the board determines such payments to be appropriate.

(d) To the extent required to avoid federal antitrust violations and in furtherance of the policy identified in subsection (a) of this section, the board shall facilitate and supervise the participation of health care professionals and health care provider bargaining groups in the process described in subsection (b) of this section.

#### § 9377. PAYMENT REFORM; PILOTS

(a) It is the intent of the general assembly to achieve the principles stated in section 9371 of this title. In order to achieve this goal and to ensure the success of health care reform, it is the intent of the general assembly that payment reform be implemented and that payment reform be carried out as described in this section. It is also the intent of the general assembly to ensure sufficient state involvement and action in the design and implementation of the payment reform pilot projects described in this section to comply with federal and state antitrust provisions by replacing competition between payers and others with state-supervised cooperation and regulation.

(b)(1) The board shall be responsible for payment and delivery system reform, including setting the overall policy goals for the pilot projects established in chapter 13, subchapter 2 of this title. The director of payment reform in the department of Vermont health access shall develop and implement the payment reform pilot projects in accordance with policies established by the board, and the board shall evaluate the effectiveness of such pilot projects in order to inform the payment and delivery system reform.

(2) Payment reform pilot projects shall be developed and implemented to manage the costs of the health care delivery system, improve health

outcomes for Vermonters, provide a positive health care experience for patients and health care professionals, and further the following objectives:

(A) payment reform pilot projects should align with the Blueprint for Health strategic plan and the statewide health information technology plan;

(B) health care professionals should coordinate patient care through a local entity or organization facilitating this coordination or another structure which results in the coordination of patient care and a sustained focus on disease prevention and promotion of wellness that includes individuals, employers, and communities;

(C) health insurers, Medicaid, Medicare, and all other payers should reimburse health care professionals for coordinating patient care through consistent payment methodologies, which may include a global budget; a system of cost containment limits, health outcome measures, and patient consumer satisfaction targets which may include risk-sharing or other incentives designed to reduce costs while maintaining or improving health outcomes and patient consumer satisfaction; or another payment method providing an incentive to coordinate care and control cost growth;

(D) the scope of services in any capitated payment should be broad and comprehensive, including prescription drugs, diagnostic services, acute and sub-acute home health services, services received in a hospital, mental health and substance abuse services, and services from a licensed health care practitioner; and

(E) health insurers, Medicaid, Medicare, and all other payers should reimburse health care professionals for providing the full spectrum of evidence-based health services.

(3) In addition to the objectives identified in subdivision (a)(3) of this section, the design and implementation of payment reform pilot projects may consider:

(A) alignment with the requirements of federal law to ensure the full participation of Medicare in multipayer payment reform; and

(B) with input from long-term care providers, the inclusion of home health services and long-term care services as part of capitated payments.

(c) To the extent required to avoid federal antitrust violations, the board shall facilitate and supervise the participation of health care professionals, health care facilities, and insurers in the planning and implementation of the payment reform pilot projects, including by creating a shared incentive pool if appropriate. The board shall ensure that the process and implementation include sufficient state supervision over these entities to comply with federal

antitrust provisions and shall refer to the attorney general for appropriate action the activities of any individual or entity that the board determines, after notice and an opportunity to be heard, violate state or federal antitrust laws without a countervailing benefit of improving patient care, improving access to health care, increasing efficiency, or reducing costs by modifying payment methods.

(d) The board or designee shall apply for grant funding, if available, for the evaluation of the pilot projects described in this section.

#### § 9378. PUBLIC PROCESS

The Green Mountain Care board shall provide a process for soliciting public input. The process may include receiving written comments on proposed new or amended rules or holding public hearings or both.

#### § 9379. AGENCY COOPERATION

The secretary of administration shall ensure that, in accordance with state and federal privacy laws, the Green Mountain Care board has access to data and analysis held by any executive branch agency which is necessary to carry out the board's duties as described in this chapter.

#### § 9380. RULES

The board may adopt rules pursuant to 3 V.S.A. chapter 25 as needed to carry out the provisions of this chapter.

#### § 9381. APPEALS

(a) The Green Mountain Care board shall adopt procedures for administrative appeals of its actions, orders, or other determinations. Such procedures shall provide for the issuance of a final order and the creation of a record sufficient to serve as the basis for judicial review pursuant to subsection (b) of this section.

(b) Any person aggrieved by a final action, order, or other determination of the Green Mountain Care board may, upon exhaustion of all administrative appeals available pursuant to subsection (a) of this section, appeal to the supreme court pursuant to the Vermont Rules of Appellate Procedure.

#### Subchapter 2. Green Mountain Care Board Nominating Committee

#### § 9390. GREEN MOUNTAIN CARE BOARD NOMINATING COMMITTEE CREATED; COMPOSITION

(a) A Green Mountain Care board nominating committee is created for the nomination of the chair and members of the Green Mountain Care board.

(b)(1) The committee shall consist of nine members who shall be selected as follows:

(A) Two members appointed by the governor.

(B) Two members of the senate, not all of whom shall be members of the same party, to be appointed by the committee on committees.

(C) Two members of the house of representatives, not all of whom shall be members of the same party, to be appointed by the speaker of the house of representatives.

(D) One member each to be appointed by the governor, the president pro tempore of the senate, and the speaker of the house, with knowledge of or expertise in health care policy, health care delivery, or health care financing, to complement that of the remaining members of the committee.

(2) The members of the committee shall serve for terms of two years and may serve for no more than three consecutive terms. All appointments shall be made between January 1 and February 1 of each odd-numbered year, except to fill a vacancy. Members shall serve until their successors are appointed.

(3) The members shall elect their own chair who shall serve for a term of two years.

(c) For committee meetings held when the general assembly is not in session, the legislative members of the Green Mountain Care board nominating committee shall be entitled to per diem compensation and reimbursement of expenses in accordance with the provisions of 2 V.S.A. § 406. Committee members who are not legislators shall be entitled to per diem compensation and reimbursement of expenses on the same basis as that applicable to the legislative members, and their compensation and reimbursements shall be paid out of the budget of the Green Mountain Care board.

(d) The Green Mountain Care board nominating committee shall use the qualifications described in section 9392 of this title for the nomination of candidates for the chair and members of the Green Mountain Care board. The nominating committee shall adopt procedures for a nomination process based on the rules adopted by the judicial nominating board, and shall make such procedures available to the public.

(e) A quorum of the committee shall consist of five members.

(f) The board is authorized to use the staff and services of appropriate state agencies and departments as necessary to conduct investigations of applicants.

#### § 9391. NOMINATION AND APPOINTMENT PROCESS

(a) Whenever a vacancy occurs on the Green Mountain Care board, or when an incumbent does not declare that he or she will be a candidate to

succeed himself or herself, the Green Mountain Care board nominating committee shall select by majority vote, provided that a quorum is present, from the list of persons interested in serving on the Green Mountain Care board as many candidates as it deems qualified for the position or positions to be filled. The committee shall base its determinations on the qualifications set forth in section 9392 of this section.

(b) The committee shall submit to the governor the names of the persons it deems qualified to be appointed to fill the position or positions.

(c) The governor shall make an appointment to the Green Mountain Care board from the list of qualified candidates submitted pursuant to subsection (b) of this section. The appointment shall be subject to the consent of the senate.

(d) All proceedings of the committee, including the names of candidates considered by the committee and information about any candidate submitted by any source, shall be confidential.

#### § 9392. QUALIFICATIONS FOR NOMINEES

The Green Mountain Care board nominating committee shall assess candidates using the following criteria:

(1) commitment to the principles expressed in section 9371 of this title.

(2) knowledge of or expertise in health care policy, health care delivery, or health care financing, and openness to alternative approaches to health care.

(3) possession of desirable personal characteristics, including integrity, impartiality, health, empathy, experience, diligence, neutrality, administrative and communication skills, social consciousness, public service, and regard for the public good.

(4) knowledge, expertise, and characteristics that complement those of the remaining members of the board.

Sec. 3a. 8 V.S.A. § 4089w(b) is amended to read:

(b) The health care ombudsman office shall:

\* \* \*

(5) Analyze and monitor the development and implementation of federal, state and local laws, regulations, and policies relating to patients and health insurance consumers, including the activities and policies of the Green Mountain Care board established in 18 V.S.A. chapter 220, and recommend changes it deems necessary.

\* \* \*

Sec. 3b. GREEN MOUNTAIN CARE BOARD AND EXCHANGE POSITIONS

(a) On July 1, 2011, five exempt positions are created on the Green Mountain Care board, including:

(1) one chair, Green Mountain Care board; and

(2) four members, Green Mountain Care board.

(b)(1) On or before January 1, 2012, up to nine positions and appropriate amounts for personal services and operating expenses shall be transferred from the division of health care administration in the department of banking, insurance, securities, and health care administration to the Green Mountain Care board.

(2) One exempt attorney position shall be transferred from the administrative division in the department of banking, insurance, securities, and health care administration to the Green Mountain Care board.

(c) On July 1, 2011, one classified administrative assistant position is created for the Green Mountain Care board.

(d) On or after January 1, 2012, one exempt deputy commissioner position is created in the department of Vermont health access to support the functions provided for in Sec. 4 of this act establishing 33 V.S.A. chapter 18, subchapter 1. The salary and benefits for this position shall be funded from federal funds provided to establish the Vermont health benefit exchange.

(e) On July 1, 2011, one exempt position, director of health care reform, is created in the agency of administration.

\* \* \*

Sec. 3c. 18 V.S.A. chapter 13 is amended to read:

CHAPTER 13. CHRONIC CARE INFRASTRUCTURE AND PREVENTION MEASURES

§ 701. DEFINITIONS

For the purposes of this chapter:

(1) “Blueprint for Health” or “Blueprint” means the state’s program for integrating a system of health care for patients, improving the health of the overall population, and improving control over health care costs by promoting health maintenance, prevention, and care coordination and management.

(2) “Board” means the Green Mountain Care board established in chapter 220 of this title.



~~(3)~~ (4) “Chronic care” means health services provided by a health care professional for an established clinical condition that is expected to last a year or more and that requires ongoing clinical management attempting to restore the individual to highest function, minimize the negative effects of the condition, prevent complications related to chronic conditions, engage in advanced care planning, and promote appropriate access to palliative care. Examples of chronic conditions include diabetes, hypertension, cardiovascular disease, cancer, asthma, pulmonary disease, substance abuse, mental illness, spinal cord injury, hyperlipidemia, and chronic pain.

~~(3)~~~~(4)~~ “Chronic care information system” means the electronic database developed under the Blueprint for Health that shall include information on all cases of a particular disease or health condition in a defined population of individuals.

~~(4)~~(5) “Chronic care management” means a system of coordinated health care interventions and communications for individuals with chronic conditions, including significant patient self-care efforts, systemic supports for licensed health care practitioners and their patients, and a plan of care emphasizing prevention of complications utilizing evidence-based practice guidelines, patient empowerment strategies, and evaluation of clinical, humanistic, and economic outcomes on an ongoing basis with the goal of improving overall health.

(6) “Global payment” means a payment from a health insurer, Medicaid, Medicare, or other payer for the health services of a defined population of patients for a defined period of time. Such payments may be adjusted to account for the population’s underlying risk factors, including severity of illness and socioeconomic factors that may influence the cost of health care for the population.

~~(5)~~(7) “Health care professional” means an individual, partnership, corporation, facility, or institution licensed or certified or authorized by law to provide professional health care services.

~~(6)~~(8) “Health benefit plan” shall have the same meaning as in 8 V.S.A. § 4088h.

~~(7)~~(9) “Health insurer” shall have the same meaning as in section 9402 of this title.

(10) “Health service” means any treatment or procedure delivered by a health care professional to maintain an individual’s physical or mental health or to diagnose or treat an individual’s physical or mental health condition, including services ordered by a health care professional, chronic care

management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

~~(8)~~(11) “Hospital” shall have the same meaning as in section 9456 of this title.

(12) “Integrated delivery system” means a group of health care professionals, associated either through employment by a single entity or through a contractual arrangement, that provides health services for a defined population of patients and is compensated through a global payment.

(13) “Payment reform” means modifying the method of payment from a fee for-service basis to one or more alternative methods for compensating health care professionals, health care provider bargaining groups created pursuant to section 9409 of this title, integrated delivery systems and other health care professional arrangements, manufacturers of prescribed products, medical supply companies, and other companies providing health services or health supplies, for the provision of high-quality and efficient health services, products, and supplies while measuring quality and efficiency. The term may include shared savings agreements, bundled payments, episode-based payments, and global payments.

(14) “Preventive care” means health services provided by health care professionals to identify and treat asymptomatic individuals who have risk factors or preclinical disease, but in whom the disease is not clinically apparent, including immunizations and screening, counseling, treatment, and medication determined by scientific evidence to be effective in preventing or detecting a condition.

(15) “Wellness services” means health services, programs, or activities that focus on the promotion or maintenance of good health.

#### Subchapter 1. Blueprint for Health

### § 702. BLUEPRINT FOR HEALTH; STRATEGIC PLAN

\* \* \*

#### Subchapter 2. Payment Reform

### § 721. PURPOSE

It is the intent of the general assembly to achieve the principles stated in section 9371 of this title. In order to achieve this goal and to ensure the success of health care reform, it is the intent of the general assembly that payment reform be implemented and that payment reform be carried out as described in this section. It is also the intent of the general assembly to ensure sufficient state involvement and action in the design and implementation of the

payment reform pilot projects described in this section to comply with federal and state antitrust provisions by replacing competition between payers and others with state-supervised cooperation and regulation.

#### § 722. PILOT PROJECTS

(a) The Green Mountain Care board shall be responsible for payment reform and delivery system reform, including setting the overall policy goals for the pilot projects as provided in this subchapter. The director of payment reform in the department of Vermont health access shall develop and implement the payment reform pilot projects consistent with policies established by the board and the board shall evaluate the effectiveness of the pilot projects in order to inform the payment and delivery system reform. Whenever health insurers are involved, the director and the Green Mountain Care board shall collaborate with the commissioner of banking, insurance, securities, and health care administration.

(b) The director of payment reform shall convene a broad-based group of stakeholders, including health care professionals who provide health services, health insurers, professional organizations, community and nonprofit groups, consumers, businesses, school districts, the state health care ombudsman, and state and local governments to advise the director in developing and implementing the pilot projects and the Green Mountain Care board in setting overall policy goals.

(c) Payment reform pilot projects shall be developed and implemented to manage the costs of the health care delivery system, improve health outcomes for Vermonters, provide a positive health care experience for patients and health care professionals, and further the following objectives:

(1) payment reform pilot projects should align with the Blueprint for Health strategic plan and the statewide health information technology plan;

(2) health care professionals should coordinate patient care through a local entity or organization facilitating this coordination or another structure which results in the coordination of patient care and a sustained focus on disease prevention and promotion of wellness that includes individuals, employers, and communities;

(3) health insurers, Medicaid, Medicare, and all other payers should reimburse health care professionals for coordinating patient care through consistent payment methodologies, which may include a global budget; a system of cost containment limits, health outcome measures, and patient consumer satisfaction targets which may include risk-sharing or other incentives designed to reduce costs while maintaining or improving health

outcomes and patient consumer satisfaction; or another payment method providing an incentive to coordinate care and control cost growth; and

(4) the scope of services in any capitated payment should be broad and comprehensive, including prescription drugs, diagnostic services, acute and sub-acute home health services, services received in a hospital, mental health and substance abuse services, and services from a licensed health care practitioner; and

(5) health insurers, Medicaid, Medicare, and all other payers should reimburse health care professionals for providing the full spectrum of evidence-based health services.

(d) In addition to the objectives identified in subsection (c) of this section, the design and implementation of payment reform pilot projects may consider:

(1) alignment with the requirements of federal law to ensure the full participation of Medicare in multipayer payment reform; and

(2) with input from long-term care providers, the inclusion of home health services and long-term care services as part of capitated payments.

(e) The first pilot project shall become operational no later than January 1, 2012, and two or more additional pilot projects shall become operational no later than July 1, 2012.

(f) The Green Mountain Care board shall ensure that payment reform pilot projects are consistent with the board's overall efforts to control the rate of growth in health care costs while maintaining or improving health care quality.

#### § 723. HEALTH INSURER PARTICIPATION

(a)(1) Health insurers shall participate in the development of the payment reform strategic plan for the pilot projects and in the implementation of the pilot projects, including providing incentives, fees, or payment methods, as required in this section. This requirement may be enforced by the department of banking, insurance, securities, and health care administration to the same extent as the requirement to participate in the Blueprint for Health pursuant to 8 V.S.A. § 4088h.

(2) The board may establish procedures to exempt or limit the participation of health insurers offering a stand-alone dental plan or specific disease or other limited-benefit coverage or participation by insurers with a minimal number of covered lives as defined by the board, in consultation with the commissioner of banking, insurance, securities, and health care administration. Health insurers shall be exempt from participation if the insurer offers only benefit plans which are paid directly to the individual

insured or the insured's assigned beneficiaries and for which the amount of the benefit is not based upon potential medical costs or actual costs incurred.

(b) In the event that the secretary of human services is denied permission from the Centers for Medicare and Medicaid Services to include financial participation by Medicare in the pilot projects, health insurers shall not be required to cover the costs associated with individuals covered by Medicare.

#### § 724. ANTITRUST PROTECTION

To the extent required to avoid federal antitrust violations, the director shall facilitate and supervise the participation of health care professionals, health care facilities, and insurers in the planning and implementation of the payment reform pilot projects, including by creating a shared incentive pool if appropriate. The director shall ensure that the process and implementation include sufficient state supervision over these entities to comply with federal antitrust provisions and shall refer to the attorney general for appropriate action the activities of any individual or entity that the director determines, after notice and an opportunity to be heard, violate state or federal antitrust laws without a countervailing benefit of improving patient care, improving access to health care, increasing efficiency, or reducing costs by modifying payment methods.

#### § 725. ADMINISTRATION; RULES

(a) The director of payment reform shall apply for grant funding, if available, for the design and implementation evaluation of the pilot projects described in this section.

(b) The agency of human services may adopt rules pursuant to 3 V.S.A. chapter 25 as needed to carry out the provisions of this chapter.

(c) After implementation of the pilot projects described in this subchapter, health insurers shall have appeal rights pursuant to section 9381 of this title.

Sec. 3d. 18 V.S.A. § 4631a is amended to read:

#### § 4631a. EXPENDITURES BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a) As used in this section:

\* \* \*

(5) "Gift" means:

(A) Anything of value provided for free to a health care provider for free or to a member of the Green Mountain Care board established in chapter 220 of this title; or

(B) Except as otherwise provided in subdivision (a)(1)(A)(ii) of this section, any payment, food, entertainment, travel, subscription, advance, service, or anything else of value provided to a health care provider or to a member of the Green Mountain Care board established in chapter 220 of this title, unless:

(i) it is an allowable expenditure as defined in subdivision (a)(1) of this section; or

(ii) the health care provider or board member reimburses the cost at fair market value.

\* \* \*

(b)(1) It is unlawful for any manufacturer of a prescribed product or any wholesale distributor of medical devices, or any agent thereof, to offer or give any gift to a health care provider or to a member of the Green Mountain Care board established in chapter 220 of this title.

\* \* \*

Sec. 3e. 18 V.S.A. § 4632 is amended to read:

**§ 4632. DISCLOSURE OF ALLOWABLE EXPENDITURES AND GIFTS BY MANUFACTURERS OF PRESCRIBED PRODUCTS**

(a)(1) Annually on or before October 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general for the fiscal year ending the previous June 30th the value, nature, purpose, and recipient information of:

(A) any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to any health care provider or to a member of the Green Mountain Care board established in chapter 220 of this title, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title;

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start

date, and the web link to the clinical trial registration on the national clinical trials registry;

(iv) interview expenses as described in subdivision 4631a(a)(1)(G) of this title; and

(v) coffee or other snacks or refreshments at a booth at a conference or seminar.

\* \* \*

(5) The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before April 1. The report shall include:

(A) Information on allowable expenditures and gifts required to be disclosed under this section, which shall ~~be presented in both present information in~~ aggregate form; ~~and~~ by selected types of health care providers or individual health care providers, as prioritized each year by the office; and showing the amounts expended on the Green Mountain Care board established in chapter 220 of this title.

(B) Information on violations and enforcement actions brought pursuant to this section and section 4631a of this title.

(6) After issuance of the report required by subdivision (5) of this subsection and except as otherwise provided in subdivision (2)(A)(i) of this subsection, the office of the attorney general shall make all disclosed data used for the report publicly available and searchable through an Internet website.

\* \* \*

\* \* \* Public-Private Universal Health Care System \* \* \*

Sec. 4. 33 V.S.A. chapter 18 is added to read

## CHAPTER 18. PUBLIC-PRIVATE UNIVERSAL HEALTH CARE SYSTEM

### Subchapter 1. Vermont Health Benefit Exchange

#### § 1801. PURPOSE

(a) It is the intent of the general assembly to establish a Vermont health benefit exchange which meets the policy established in 18 V.S.A. § 9401 and, to the extent allowable under federal law or a waiver of federal law, becomes the mechanism to create Green Mountain Care.

(b) The purpose of the Vermont health benefit exchange is to facilitate the purchase of affordable, qualified health benefit plans in the individual and group markets in this state in order to reduce the number of uninsured and

underinsured; to reduce disruption when individuals lose employer-based insurance; to reduce administrative costs in the insurance market; to contain costs; to promote health, prevention, and healthy lifestyles by individuals; and to improve quality of health care.

(c) Nothing in this chapter shall be construed to reduce, diminish, or otherwise infringe upon the benefits provided to eligible individuals under Medicare.

#### § 1802. DEFINITIONS

For purposes of this subchapter:

(1) “Affordable Care Act” means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and as further amended.

(2) “Commissioner” means the commissioner of the department of Vermont health access.

(3) “Health benefit plan” means a policy, contract, certificate, or agreement offered or issued by a health insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health services. This term does not include coverage only for accident or disability income insurance, liability insurance, coverage issued as a supplement to liability insurance, workers’ compensation or similar insurance, automobile medical payment insurance, credit-only insurance, coverage for on-site medical clinics, or other similar insurance coverage where benefits for health services are secondary or incidental to other insurance benefits as provided under the Affordable Care Act. The term also does not include stand-alone dental or vision benefits; long-term care insurance; specific disease or other limited benefit coverage, Medicare supplemental health benefits, Medicare Advantage plans, and other similar benefits excluded under the Affordable Care Act.

(4) “Health insurer” shall have the same meaning as in 18 V.S.A. § 9402.

(5) “Qualified employer” means an employer that:

(A) has its principal place of business in this state and elects to provide coverage for its eligible employees through the Vermont health benefit exchange, regardless of where an employee resides; or

(B) elects to provide coverage through the Vermont health benefit exchange for all of its eligible employees who are principally employed in this state.



(6) “Qualified entity” means an entity with experience in individual and group health insurance, benefit administration, or other experience relevant to health benefit program eligibility, enrollment, or support.

(7) “Qualified health benefit plan” means a health benefit plan which meets the requirements set forth in section 1806 of this title.

(8) “Qualified individual” means an individual, including a minor, who is a Vermont resident and, at the time of enrollment:

(A) is not incarcerated, or is only incarcerated awaiting disposition of charges; and

(B) is, or is reasonably expected to be during the time of enrollment, a citizen or national of the United States or an immigrant lawfully present in the United States as defined by federal law.

#### § 1803. VERMONT HEALTH BENEFIT EXCHANGE

(a)(1) The department of Vermont health access shall establish the Vermont health benefit exchange, which shall be administered by the department in consultation with the advisory committee established in section 402 of this title.

(2) The Vermont health benefit exchange shall be considered a division within the department of Vermont health access and shall be headed by a deputy commissioner as provided in 3 V.S.A. chapter 53.

(b)(1)(A) The Vermont health benefit exchange shall provide qualified individuals and qualified employers with qualified health benefit plans, including the multistate plans required by the Affordable Care Act, with effective dates beginning on or before January 1, 2014. The Vermont health benefit exchange may contract with qualified entities or enter into intergovernmental agreements to facilitate the functions provided by the Vermont health benefit exchange.

(B) Prior to contracting with any health insurer, the Vermont health benefit exchange shall consider the insurer’s historic rate increase information required under section 1806 of this title, along with the information and the recommendations provided to the Vermont health benefit exchange by the commissioner of banking, insurance, securities, and health care administration under Section 2794(b)(1)(B) of the federal Public Health Service Act.

(2) To the extent allowable under federal law, the Vermont health benefit exchange may offer health benefits to populations in addition to those eligible under Subtitle D of Title I of the Affordable Care Act, including:

(A) to individuals and employers who are not qualified individuals or qualified employers as defined by this subchapter and by the Affordable Care Act;

(B) Medicaid benefits to individuals who are eligible, upon approval by the Centers for Medicare and Medicaid Services and provided that including these individuals in the health benefit exchange would not reduce their Medicaid benefits;

(C) Medicare benefits to individuals who are eligible, upon approval by the Centers for Medicare and Medicaid Services and provided that including these individuals in the health benefit exchange would not reduce their Medicare benefits; and

(D) state employees and municipal employees, including teachers.

(3) To the extent allowable under federal law, the Vermont health benefit exchange may offer health benefits to employees for injuries arising out of or in the course of employment in lieu of medical benefits provided pursuant to chapter 9 of Title 21 (workers' compensation).

(c)(1) The Vermont health benefit exchange may determine an appropriate method to provide a unified, simplified administration system for health insurers offering qualified health benefit plans. The exchange may include claims administration, benefit management, billing, or other components in the unified system and may achieve simplification by contracting with a single entity for administration and management of all qualified health benefit plans, by licensing or requiring the use of particular software, by requiring health insurers to conform to a standard set of systems and rules, or by another method determined by the commissioner.

(2) The Vermont health benefit exchange may offer certain services, such as wellness programs and services designed to simplify administrative processes, to health insurers offering plans outside the exchange, to workers' compensation insurers, to employers, and to other entities.

(d) The Vermont health benefit exchange may enter into information-sharing agreements with federal and state agencies and other state exchanges to carry out its responsibilities under this subchapter provided such agreements include adequate protections with respect to the confidentiality of the information to be shared and provided such agreements comply with all applicable state and federal laws and regulations.

#### § 1804. QUALIFIED EMPLOYERS

[Reserved.]

---

§ 1805. DUTIES AND RESPONSIBILITIES

The Vermont health benefit exchange shall have the following duties and responsibilities consistent with the Affordable Care Act:

(1) Offering coverage for health services through qualified health benefit plans, including by creating a process for:

(A) the certification, decertification, and recertification of qualified health benefit plans as described in section 1806 of this title;

(B) enrolling qualified individuals in qualified health benefit plans, including through open enrollment periods as provided in the Affordable Care Act, and ensuring that individuals may transfer coverage between qualified health benefit plans and other sources of coverage as seamlessly as possible;

(C) collecting premium payments made for qualified health benefit plans from employers and individuals on a pretax basis, including collecting premium payments from multiple employers of one individual for a single plan covering that individual; and

(D) creating a simplified and uniform system for the administration of health benefits.

(2) Determining eligibility for and enrolling individuals in Medicaid, Dr. Dynasaur, VPharm, and VermontRx pursuant to chapter 19 of this title, as well as any other public health benefit program.

(3) Creating and maintaining consumer assistance tools, including a website through which enrollees and prospective enrollees of qualified health benefit plans may obtain standardized comparative information on such plans, a toll-free telephone hotline to respond to requests for assistance, and interactive online communication tools, in a manner that complies with the Americans with Disabilities Act.

(4) Creating standardized forms and formats for presenting health benefit options in the Vermont health benefit exchange, including the use of the uniform outline of coverage established under Section 2715 of the federal Public Health Services Act.

(5) Assigning a quality and wellness rating to each qualified health benefit plan offered through the Vermont health benefit exchange and determining each qualified health benefit plan's level of coverage in accordance with regulations issued by the U.S. Department of Health and Human Services.

(6) Determining enrollee premiums and subsidies as required by the secretary of the U.S. Treasury or of the U.S. Department of Health and Human

Services and informing consumers of eligibility for premiums and subsidies, including by providing an electronic calculator to determine the actual cost of coverage after application of any premium tax credit under Section 36B of the Internal Revenue Code of 1986 and any cost-sharing reduction under Section 1402 of the Affordable Care Act.

(7) Transferring to the secretary of the U.S. Department of the Treasury the name and taxpayer identification number of each individual who was an employee of an employer but who was determined to be eligible for the premium tax credit under Section 36B of the Internal Revenue Code of 1986 for the following reasons:

(A) The employer did not provide minimum essential coverage; or

(B) The employer provided the minimum essential coverage, but it was determined under Section 36B(c)(2)(C) of the Internal Revenue Code to be either unaffordable to the employee or not to provide the required minimum actuarial value.

(8) Performing duties required by the secretary of the U.S. Department of Health and Human Services or the secretary of the U.S. Department of the Treasury related to determining eligibility for the individual responsibility requirement exemptions, including:

(A) Granting a certification attesting that an individual is exempt from the individual responsibility requirement or from the penalty for violating that requirement, if there is no affordable qualified health benefit plan available through the Vermont health benefit exchange or the individual's employer for that individual or if the individual meets the requirements for any exemption from the individual responsibility requirement or from the penalty pursuant to Section 5000A of the Internal Revenue Code of 1986; and

(B) transferring to the secretary of the U.S. Department of the Treasury a list of the individuals who are issued a certification under subdivision (8)(A) of this section, including the name and taxpayer identification number of each individual.

(9)(A) Transferring to the secretary of the U.S. Department of the Treasury the name and taxpayer identification number of each individual who notifies the Vermont health benefit exchange that he or she has changed employers and of each individual who ceases coverage under a qualified health benefit plan during a plan year and the effective date of that cessation; and

(B) Communicating to each employer the name of each of its employees and the effective date of the cessation reported to the U.S. Department of the Treasury under this subdivision.

(10) Establishing a navigator program as described in section 1807 of this title.

(11) Reviewing the rate of premium growth within and outside the Vermont health benefit exchange.

(12) Crediting the amount of any free choice voucher provided pursuant to Section 10108 of the Affordable Care Act to the monthly premium of the plan in which a qualified employee is enrolled and collecting the amount credited from the offering employer.

(13) Providing consumers and health care professionals with satisfaction surveys and other mechanisms for evaluating the performance of qualified health benefit plans and informing the commissioner of Vermont health access and the commissioner of banking, insurance, securities, and health care administration of such performance.

(14) Ensuring consumers have easy and simple access to the relevant grievance and appeals processes pursuant to 8 V.S.A. chapter 107 and 3 V.S.A. § 3090 (human services board).

(15) Consulting with the advisory committee established in section 402 of this title to obtain information and advice as necessary to fulfill the duties outlined in this subchapter.

(16) Referring consumers to the office of health care ombudsman for assistance with grievances, appeals, and other issues involving the Vermont health benefit exchange.

#### § 1806. QUALIFIED HEALTH BENEFIT PLANS

(a) Prior to contracting with a health insurer to offer a qualified health benefit plan, the commissioner shall determine that making the plan available through the Vermont health benefit exchange is in the best interest of individuals and qualified employers in this state. In determining the best interest, the commissioner shall consider affordability; promotion of high-quality care, prevention, and wellness; promotion of access to health care; participation in the state's health care reform efforts; and such other criteria as the commissioner, in his or her discretion, deems appropriate.

(b) A qualified health benefit plan shall provide the following benefits:

(1)(A) The essential benefits package required by Section 1302(a) of the Affordable Care Act and any additional benefits required by the secretary of human services by rule after consultation with the advisory committee established in section 402 of this title and after approval from the Green Mountain Care board established in 18 V.S.A. chapter 220.

(B) Notwithstanding subdivision (1)(A) of this subsection, a health insurer may offer a plan that provides more limited dental benefits if such plan meets the requirements of Section 9832(c)(2)(A) of the Internal Revenue Code and provides pediatric dental benefits meeting the requirements of Section 1302(b)(1)(J) of the Affordable Care Act either separately or in conjunction with a qualified health benefit plan.

(2) At least the silver level of coverage as defined by Section 1302 of the Affordable Care Act and the cost-sharing limitations for individuals provided in Section 1302 of the Affordable Care Act, as well as any more restrictive cost-sharing requirements specified by the secretary of human services by rule after consultation with the advisory committee established in section 402 of this title and after approval from the Green Mountain Care board established in 18 V.S.A. chapter 220.

(3) For qualified health benefit plans offered to employers, a deductible which meets the limitations provided in Section 1302 of the Affordable Care Act and any more restrictive deductible requirements specified by the secretary of human services by rule after consultation with the advisory committee established in section 402 of this title and after approval from the Green Mountain Care board established in 18 V.S.A. chapter 220.

(c) A qualified health benefit plan shall meet the following minimum prevention, quality, and wellness requirements:

(1) standards for marketing practices, network adequacy, essential community providers in underserved areas, appropriate services to enable access for underserved individuals or populations, accreditation, quality improvement, and information on quality measures for health benefit plan performance, as provided in Section 1311 of the Affordable Care Act and any more restrictive requirements provided by 8 V.S.A. chapter 107;

(2) quality and wellness standards as specified in rule by the secretary of human services, after consultation with the commissioners of health and of banking, insurance, securities, and health care administration and with the advisory committee established in section 402 of this title; and

(3) standards for participation in the Blueprint for Health as provided in 18 V.S.A. chapter 13.

(d) A health insurer offering a qualified health benefit plan shall use the uniform enrollment forms and descriptions of coverage provided by the commissioner of Vermont health access and the commissioner of banking, insurance, securities, and health care administration.

(e)(1) A health insurer offering a qualified health benefit plan shall comply with the following insurance and consumer information requirements:

(A)(i) Obtain premium approval through the rate review process provided in 8 V.S.A. chapter 107; and

(ii) Submit to the commissioner of banking, insurance, securities, and health care administration a justification for any premium increase before implementation of that increase and prominently post this information on the health insurer's website.

(B) Offer at least one qualified health benefit plan at the silver level and at least one qualified health benefit plan at the gold level that meet the requirements of Section 1302 of the Affordable Care Act and any additional requirements specified by the secretary of human services by rule. In addition, a health insurer may choose to offer one or more qualified health benefit plans at the platinum level that meet the requirements of Section 1302 of the Affordable Care Act and any additional requirements specified by the secretary of human services by rule.

(C) Charge the same premium rate for a health benefit plan without regard to whether the plan is offered through the Vermont health benefit exchange and without regard to whether the plan is offered directly from the carrier or through an insurance agent.

(D) Provide accurate and timely disclosure of information to the public and to the Vermont health benefit exchange relating to claims denials, enrollment data, rating practices, out-of-network coverage, enrollee and participant rights provided by Title I of the Affordable Care Act, and other information as required by the commissioner of Vermont health access or by the commissioner of banking, insurance, securities, and health care administration. The commissioner of banking, insurance, securities, and health care administration shall define, by rule, the acceptable time frame for provision of information in accordance with this subdivision.

(E) Provide information in a timely manner to an individual, upon request, regarding the cost-sharing amounts for that individual's health benefit plan.

(2) A health insurer offering a qualified health benefit plan shall comply with all other insurance requirements for health insurers as provided in 8 V.S.A. chapter 107 and as specified by rule by the commissioner of banking, insurance, securities, and health care administration.

(f) Consistent with Section 1311(e)(1)(B) of the Affordable Care Act, the Vermont health benefit exchange shall not exclude a health benefit plan:

(1) on the basis that the plan is a fee-for-service plan;

(2) through the imposition of premium price controls by the Vermont health benefit exchange; or

(3) on the basis that the health benefit plan provides for treatments necessary to prevent patients' deaths in circumstances the Vermont health benefit exchange determines are inappropriate or too costly.

§ 1807. NAVIGATORS

(a)(1) The Vermont health benefit exchange shall establish a navigator program to assist individuals and employers in enrolling in a qualified health benefit plan offered under the Vermont health benefit exchange. The Vermont health benefit exchange shall select individuals and entities qualified to serve as navigators and shall award grants to navigators for the performance of their duties.

(2) The Vermont health benefit exchange shall ensure that navigators are available to provide assistance in person or through interactive technology to individuals in all regions of the state in a manner that complies with the Americans with Disabilities Act.

(3) Consistent with Section 1311(i)(4) of the Affordable Care Act, health insurers shall not serve as navigators, and no navigator shall receive any compensation from a health insurer in connection with enrolling individuals or employees in qualified health benefit plans.

(b) Navigators shall have the following duties:

(1) Conduct public education activities to raise awareness of the availability of qualified health benefit plans;

(2) Distribute fair and impartial information concerning enrollment in qualified health benefit plans and concerning the availability of premium tax credits and cost-sharing reductions;

(3) Facilitate enrollment in qualified health benefit plans, Medicaid, Dr. Dynasaur, VPharm, VermontRx, and other public health benefit programs;

(4) Provide referrals to the office of health care ombudsman and any other appropriate agency for any enrollee with a grievance, complaint, or question regarding his or her health benefit plan, coverage, or a determination under that plan or coverage;

(5) Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Vermont health benefit exchange; and

(6) Distribute information to health care professionals, community organizations, and others to facilitate the enrollment of individuals who are



eligible for Medicaid, Dr. Dynasaur, VPharm, VermontRx, other public health benefit programs, or the Vermont health benefit exchange in order to ensure that all eligible individuals are enrolled.

#### § 1808. FINANCIAL INTEGRITY

(a) The Vermont health benefit exchange shall:

(1) Keep an accurate accounting of all activities, receipts, and expenditures and submit this information annually as required by federal law;

(2) Cooperate with the secretary of the U.S. Department of Health and Human Services or the inspector general of the U.S. Department of Health and Human Services in any investigation into the affairs of the Vermont health benefit exchange, any examination of the properties and records of the Vermont health benefit exchange, or any requirement for periodic reports in relation to the activities undertaken by the Vermont health benefit exchange.

(b) In carrying out its activities under this subchapter, the Vermont health benefit exchange shall not use any funds intended for the administrative and operational expenses of the Vermont health benefit exchange for staff retreats, promotional giveaways, excessive executive compensation, or promotion of federal or state legislative or regulatory modifications.

#### § 1809. PUBLICATION OF COSTS AND SATISFACTION SURVEYS

(a) The Vermont health benefit exchange shall publish the average costs of licensing, regulatory fees, and any other payments required by the exchange, as well as the administrative costs of the exchange on a website intended to educate consumers about such costs. This information shall include information on monies lost to waste, fraud, and abuse.

(b) The Vermont health benefit exchange shall publish the deidentified results of the satisfaction surveys and other evaluation mechanisms required pursuant to subdivision 1805(13) of this title on a website intended to enable consumers to compare the qualified health benefit plans offered through the exchange.

#### § 1810. RULES

The secretary of human services may adopt rules pursuant to 3 V.S.A. chapter 25 as needed to carry out the duties and functions established in this subchapter.

#### Subchapter 2. Green Mountain Care

#### § 1821. PURPOSE

The purpose of Green Mountain Care is to provide, as a public good, comprehensive, affordable, high-quality, publicly financed health care

coverage for all Vermont residents in a seamless and equitable manner regardless of income, assets, health status, or availability of other health coverage. Green Mountain Care shall contain costs by:

(1) providing incentives to residents to avoid preventable health conditions, promote health, and avoid unnecessary emergency room visits;

(2) establishing innovative payment mechanisms to health care professionals, such as global payments;

(3) encouraging the management of health services through the Blueprint for Health; and

(4) reducing unnecessary administrative expenditures.

§ 1822. IMPLEMENTATION; WAIVER

(a) Green Mountain Care shall not be implemented unless the Green Mountain Care Board has determined that each of the following conditions will be met:

(1) Each Vermont resident covered by Green Mountain Care will receive benefits with an actuarial value of 80 percent or greater.

(2) Implementation of Green Mountain Care will not have a negative aggregate impact on Vermont's economy.

(3) The financing for Green Mountain Care is fair, equitable, and sustainable.

(4) Administrative expenses will be reduced.

(5) Cost-containment efforts will result in a reduction in Vermont's per-capita health care spending below the rate of growth in per-capita health care spending nationally, adjusted to account for demographic differences.

(6) Health care professionals will be reimbursed at levels sufficient to allow Vermont to recruit and retain high-quality health care professionals.

(b) Green Mountain Care shall be implemented 90 days following the last to occur of:

(1) Receipt of a waiver under Section 1332 of the Affordable Care Act pursuant to subsection (c) of this section.

(2) Enactment of a law establishing the financing for Green Mountain Care.

(3) Approval by the Green Mountain Care board of the initial Green Mountain Care benefit package pursuant to 18 V.S.A. § 9375.

(4) Enactment of the appropriations for the initial Green Mountain Care benefit package proposed by the Green Mountain Care board pursuant to 18 V.S.A. § 9375.

(5) The board's determinations pursuant to subsection (a) of this section.

(c) As soon as allowed under federal law, the secretary of administration shall seek a waiver to allow the state to suspend operation of the Vermont health benefit exchange and to enable Vermont to receive the appropriate federal fund contribution in lieu of the federal premium tax credits, cost-sharing subsidies, and small business tax credits provided in the Affordable Care Act. The secretary may seek a waiver from other provisions of the Affordable Care Act as necessary to ensure the operation of Green Mountain Care.

#### § 1823. DEFINITIONS

For purposes of this subchapter:

(1) "Agency" means the agency of human services.

(2) "Board" means the Green Mountain Care board established in 18 V.S.A. chapter 220.

(3) "CHIP funds" means federal funds available under Title XXI of the Social Security Act.

(4) "Chronic care" means health services provided by a health care professional for an established clinical condition that is expected to last one year or more; that requires ongoing clinical management; and that requires health services that attempt to restore the individual to highest function, minimize the negative effects of the condition, and prevent complications related to chronic conditions. Examples of chronic conditions include diabetes, hypertension, cardiovascular disease, cancer, asthma, pulmonary disease, substance abuse, mental illness, spinal cord injury, and hyperlipidemia.

(5) "Chronic care management" means a system of coordinated health care interventions and communications for individuals with chronic conditions, including significant patient self-care efforts, systemic supports for licensed health care practitioners and their patients, and a plan of care emphasizing prevention of complications utilizing evidence-based practice guidelines, patient empowerment strategies, and evaluation of clinical, humanistic, and economic outcomes on an ongoing basis with the goal of improving overall health.

(6) “Health care professional” means an individual, partnership, corporation, facility, or institution licensed or certified or otherwise authorized by Vermont law to provide professional health services.

(7) “Health service” means any treatment or procedure delivered by a health care professional to maintain an individual’s physical or mental health or to diagnose or treat an individual’s physical or mental health condition, including services ordered by a health care professional, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

(8) “Hospital” shall have the same meaning as in 18 V.S.A. § 1902 and may include hospitals located outside the state.

(9) “Preventive care” means health services provided by health care professionals to identify and treat asymptomatic individuals who have risk factors or preclinical disease, but in whom the disease is not clinically apparent, including immunizations and screening, counseling, treatment, and medication determined by scientific evidence to be effective in preventing or detecting a condition.

(10) “Primary care” means health services provided by health care professionals specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis, and shall include family planning, prenatal care, and mental health and substance abuse treatment.

(11) “Secretary” means the secretary of human services.

(12) “Vermont resident” means an individual domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent. An individual shall not be considered to be a Vermont resident if he or she is 18 years of age or older and is claimed as a dependent on the tax return of a resident of another state.

(13) “Wellness services” means health services, programs, or activities that focus on the promotion or maintenance of good health.

#### § 1824. ELIGIBILITY

(a)(1) Upon implementation, all Vermont residents shall be eligible for Green Mountain Care, regardless of whether an employer offers health insurance for which they are eligible. The agency shall establish standards by rule for proof and verification of residency.

(2)(A) Except as otherwise provided in subdivision (C) of this subdivision (2), if an individual is determined to be eligible for Green

Mountain Care based on information later found to be false, the agency shall make reasonable efforts to recover from the individual the amounts expended for his or her care. In addition, if the individual knowingly provided the false information, he or she shall be assessed an administrative penalty of not more than \$5,000.00.

(B) The agency shall include information on the Green Mountain Care application to provide notice to applicants of the penalty for knowingly providing false information as established in subdivision (2)(A) of this subsection.

(C) An individual determined to be eligible for Green Mountain Care whose health services are paid in whole or in part by Medicaid funds who commits fraud shall be subject to the provisions of chapter 1, subchapter V of this title in lieu of the administrative penalty described in subdivision (A) of this subdivision (2).

(3)(A) Except as otherwise provided in this section, a person who is not a Vermont resident shall not be eligible for Green Mountain Care.

(B) Except as otherwise provided in subdivision (C) of this subdivision (3), an individual covered under Green Mountain Care shall inform the agency within 60 days of becoming a resident of another state. An individual who obtains or attempts to obtain health services through Green Mountain Care more than 60 days after becoming a resident of another state shall reimburse the agency for the amounts expended for his or her care and shall be assessed an administrative penalty of not more than \$1,000.00 for a first violation and not more than \$2,000.00 for any subsequent violation.

(C) An individual whose health services are paid in whole or in part by Medicaid funds who obtains or attempts to obtain health services through Green Mountain Care more than 60 days after becoming a resident of another state shall be subject to the provisions of chapter 1, subchapter V of this title in lieu of the administrative penalty described in subdivision (B) of this subdivision (3).

(b) The agency shall establish a procedure to enroll residents in Green Mountain Care.

(c)(1) The agency shall establish by rule a process to allow health care professionals to presume an individual is eligible based on the information provided on a simplified application.

(2) After submission of the application, the agency shall collect additional information as necessary to determine whether Medicaid, Medicare, CHIP, or other federal funds may be applied toward the cost of the health

services provided, but shall provide payment for any health services received by the individual from the time the application is submitted.

(3) If an individual presumed eligible for Green Mountain Care pursuant to subdivision (1) of this subsection is later determined not to be eligible for the program, the agency shall make reasonable efforts to recover from the individual the amounts expended for his or her care.

(d) The agency shall adopt rules pursuant to 3 V.S.A. chapter 25 to ensure that Vermont residents who are temporarily out of the state and who intend to return and reside in Vermont remain eligible for Green Mountain Care while outside Vermont. The agency shall consider imposing a supplemental financial contribution requirement and, if such a requirement is to be imposed, shall define the circumstances in which it will be applied.

(e) A nonresident visiting Vermont, or his or her insurer, shall be billed for all services received. The agency may enter into intergovernmental arrangements or contracts with other states and countries to provide reciprocal coverage for temporary visitors and shall adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this subsection.

#### § 1825. HEALTH BENEFITS

(a)(1) Green Mountain Care shall include primary care, preventive care, chronic care, acute episodic care, and hospital services and shall include at least the same covered services as those included in the benefit package in effect for the lowest cost Catamount Health plan offered on January 1, 2011.

(2) It is the intent of the general assembly that Green Mountain Care provide a level of coverage that includes benefits that are actuarially equivalent to at least 87 percent of the full actuarial value of the covered health services.

(3) The Green Mountain Care board shall consider whether to impose cost-sharing requirements; if so, whether to vary the cost-sharing requirements based on an individual's ability to pay; and the impact of any cost-sharing requirements on an individual's ability to access care. The board shall consider waiving any cost-sharing requirement for chronic care for evidence-based primary and preventive care; for palliative care; and for individuals participating in chronic care management and, where circumstances warrant, for individuals with chronic conditions who are not participating in a chronic care management program.

(4)(A) The Green Mountain Care board established in 18 V.S.A. chapter 220 shall consider whether to include dental, vision, and hearing benefits in the Green Mountain Care benefit package.

(B) The Green Mountain Care board shall consider whether to include long-term care benefits in the Green Mountain Care benefit package.

(5) Green Mountain Care shall not limit coverage of preexisting conditions.

(6) The Green Mountain Care board shall approve the benefit package and present it to the general assembly as part of its recommendations for the Green Mountain Care budget.

(b)(1)(A) For individuals eligible for Medicaid or CHIP, the benefit package shall include the benefits required by federal law, as well as any additional benefits provided as part of the Green Mountain Care benefit package.

(B) Upon implementation of Green Mountain Care, the benefit package for individuals eligible for Medicaid or CHIP shall also include any optional Medicaid benefits pursuant to 42 U.S.C. § 1396d or services covered under the state plan for CHIP as provided in 42 U.S.C. § 1397cc for which these individuals are eligible on January 1, 2014. Beginning with the second year of Green Mountain Care and going forward, the Green Mountain Care board may, consistent with federal law, modify these optional benefits, as long as at all times the benefit package for these individuals contains at least the benefits described in subdivision (A) of this subdivision (b)(1).

(2) For children eligible for benefits paid for with Medicaid funds, the benefit package shall include early and periodic screening, diagnosis, and treatment services as defined under federal law.

(3) For individuals eligible for Medicare, the benefit package shall include the benefits provided to these individuals under federal law, as well as any additional benefits provided as part of the Green Mountain Care benefit package.

#### § 1826. BLUEPRINT FOR HEALTH

(a) It is the intent of the general assembly that within five years following the implementation of Green Mountain Care, each individual enrolled in Green Mountain Care will have a primary health care professional who is involved with the Blueprint for Health established in 18 V.S.A. chapter 13.

(b) Consistent with the provisions of 18 V.S.A. chapter 13, if an individual enrolled in Green Mountain Care does not have a medical home through the Blueprint for Health, the individual may choose a primary health care professional who is not participating in the Blueprint to serve as the individual's primary care point of contact.

(c) The agency shall determine a method to approve a specialist as a patient's primary health care professional for the purposes of establishing a medical home or primary care point of contact for the patient. The agency shall approve a specialist as a patient's medical home or primary care point of contact on a case-by-case basis and only for a patient who receives the majority of his or her health care from that specialist.

(d) Green Mountain Care shall be integrated with the Blueprint for Health established in 18 V.S.A. chapter 13.

#### § 1827. ADMINISTRATION; ENROLLMENT

(a)(1) The agency shall, under an open bidding process, solicit bids from and award contracts to public or private entities for administration of certain elements of Green Mountain Care, such as claims administration and provider relations.

(2) The agency shall ensure that entities awarded contracts pursuant to this subsection do not have a financial incentive to restrict individuals' access to health services. The agency may establish performance measures that provide incentives for contractors to provide timely, accurate, transparent, and courteous services to individuals enrolled in Green Mountain Care and to health care professionals.

(3) When considering contract bids pursuant to this subsection, the agency shall consider the interests of the state relating to the economy, the location of the entity, and the need to maintain and create jobs in Vermont. The agency may utilize an econometric model to evaluate the net costs of each contract bid.

(b) Nothing in this subchapter shall require an individual with health coverage other than Green Mountain Care to terminate that coverage.

(c) An individual enrolled in Green Mountain Care may elect to maintain supplemental health insurance if the individual so chooses.

(d) Except for cost-sharing, Vermonters shall not be billed any additional amount for health services covered by Green Mountain Care.

(e) The agency shall seek permission from the Centers for Medicare and Medicaid Services to be the administrator for the Medicare program in Vermont. If the agency is unsuccessful in obtaining such permission, Green Mountain Care shall be the secondary payer with respect to any health service that may be covered in whole or in part by Title XVIII of the Social Security Act (Medicare).

(f) Green Mountain Care shall be the secondary payer with respect to any health service that may be covered in whole or in part by any other health



benefit plan, including private health insurance, retiree health benefits, or federal health benefit plans offered by the Veterans' Administration, by the military, or to federal employees.

(g) The agency may seek a waiver under Section 1115 of the Social Security Act to include Medicaid and under Section 2107(e)(2)(A) of the Social Security Act to include SCHIP in Green Mountain Care. If the agency is unsuccessful in obtaining one or both of these waivers, Green Mountain Care shall be the secondary payer with respect to any health service that may be covered in whole or in part by Title XIX of the Social Security Act (Medicaid) or Title XXI of the Social Security Act (CHIP), as applicable.

(h) Any prescription drug coverage offered by Green Mountain Care shall be consistent with the standards and procedures applicable to the pharmacy best practices and cost control program established in sections 1996 and 1998 of this title.

(i) Green Mountain Care shall maintain a robust and adequate network of health care professionals located in Vermont or regularly serving Vermont residents, including mental health and substance abuse professionals. The agency shall contract with outside entities as needed to allow for the appropriate portability of coverage under Green Mountain Care for Vermont residents who are temporarily out of the state.

(j) The agency shall make available the necessary information, forms, access to eligibility or enrollment systems, and billing procedures to health care professionals to ensure immediate enrollment for individuals in Green Mountain Care at the point of service or treatment.

(k) An individual aggrieved by an adverse decision of the agency or plan administrator may appeal to the human services board as provided in 3 V.S.A. § 3090.

(l) The agency, in collaboration with the department of banking, insurance, securities, and health care administration, shall monitor the extent to which residents of other states move to Vermont for the purpose of receiving health services and the impact of any such migration on Vermont's health care system and on the state's economy, and recommend to the general assembly strategies to address any related problems the agency and or department identifies.

#### § 1828. BUDGET PROPOSAL

The Green Mountain Care board, in collaboration with the agencies of administration and of human services, shall be responsible for developing each year a three-year Green Mountain Care budget for proposal to the general assembly and to the governor, to be adjusted annually in response to realized revenues and expenditures, that reflects any modifications to the benefit

package and includes recommended appropriations, revenue estimates, and necessary modifications to tax rates and other assessments.

§ 1829. GREEN MOUNTAIN CARE FUND

(a) The Green Mountain Care fund is established in the state treasury as a special fund to be the single source to finance health care coverage for Green Mountain Care.

(b) Into the fund shall be deposited:

(1) transfers or appropriations from the general fund, authorized by the general assembly;

(2) if authorized by a waiver from federal law, federal funds for Medicaid, Medicare, and the Vermont health benefit exchange established in chapter 18, subchapter 1 of this title; and

(3) the proceeds from grants, donations, contributions, taxes, and any other sources of revenue as may be provided by statute or by rule.

(c) The fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the fund and any remaining balance shall be retained in the fund. The agency shall maintain records indicating the amount of money in the fund at any time.

(d) All monies received by or generated to the fund shall be used only for:

(1) the administration and delivery of health services covered by Green Mountain Care as provided in this subchapter; and

(2) expenses related to the duties and operation of the Green Mountain Care board pursuant to 18 V.S.A. chapter 220.

§ 1830. COLLECTIVE BARGAINING RIGHTS

Nothing in this subchapter shall be construed to limit the ability of collective bargaining units to negotiate for coverage of health services pursuant to 3 V.S.A. § 904 or any other provision of law.

§ 1831. PUBLIC PROCESS

The agency of human services shall provide a process for soliciting public input on the Green Mountain Care benefit package on an ongoing basis, including a mechanism by which members of the public may request inclusion of particular benefits or services. The process may include receiving written comments on proposed new or amended rules or holding public hearings or both.

---

**Sec. 4a. HOUSEHOLD HEALTH INSURANCE SURVEY**

The department of banking, insurance, securities, and health care administration shall include questions on its household health insurance survey that enable the department to determine the extent to which residents of other states move to Vermont for the purpose of receiving health services. The department shall provide its findings to the agency of human services to enable the agency to monitor migration into the state as required in 33 V.S.A. § 1827.

**Sec. 4b. EXCHANGE IMPLEMENTATION**

(a) The commissioner of Vermont health access shall contract with at least two health insurers to provide qualified health benefit plans, in addition to the multistate plans required by the Affordable Care Act, in the Vermont health benefit exchange in 2014; provided that the commissioner shall not be required to solicit participation by insurers outside the state in order to contract with two insurers.

(b) Nothing in this section shall be construed to require the commissioner to contract with a health insurer to provide a plan that does not meet the requirements specified in 33 V.S.A. chapter 18, subchapter 1.

Sec. 5. 33 V.S.A. § 401 is amended to read:

**§ 401. COMPOSITION OF DEPARTMENT**

The department of Vermont health access, created under 3 V.S.A. § 3088, shall consist of the commissioner of Vermont health access, the medical director, a health care eligibility unit; and all divisions within the department, including the divisions of managed care; health care reform; the Vermont health benefit exchange; and Medicaid policy, fiscal, and support services.

**Sec. 6. TRANSFER OF POSITIONS; HEALTH CARE ELIGIBILITY UNIT**

After March 15, 2012 but not later than July 1, 2013, the secretary of administration shall transfer to and place under the supervision of the commissioner of Vermont health access all employees, professional and support staff, consultants, positions, and all balances of all appropriation amounts for personal services and operating expenses for the administration of health care eligibility currently contained in the department for children and families. No later than January 15, 2012, the secretary shall provide to the house committees on health care and on human services and the senate committee on health and welfare a plan for transferring the positions and funds.

\* \* \* Consumer and Health Care Professional Advisory Committee \* \* \*

Sec. 7. 33 V.S.A. § 402 is added to read:

§ 402. MEDICAID AND EXCHANGE ADVISORY COMMITTEE

(a) A Medicaid and exchange advisory committee is created for the purpose of advising the commissioner of Vermont health access with respect to policy development and program administration for the Vermont health benefit exchange, Medicaid, and Medicaid-funded programs, consistent with the requirements of federal law.

(b)(1) The commissioner shall appoint members of the advisory committee established by this section, who shall serve staggered three-year terms. The total membership of the advisory committee shall be 23 members. The commissioner may remove members of the committee who fail to attend three consecutive meetings and may appoint replacements.

(2)(A) The commissioner shall appoint up to three representatives of health insurers licensed to do business in Vermont to serve on the advisory committee.

(B) Of the remaining members of the advisory committee, one-quarter of the members shall be from each of the following constituencies:

(i) beneficiaries of Medicaid or Medicaid-funded programs.

(ii) individuals, self-employed individuals, and representatives of small businesses eligible for or enrolled in the Vermont health benefit exchange.

(iii) advocates for consumer organizations.

(iv) health care professionals and representatives from a broad range of health care professionals.

(3) Members whose participation is not supported through their employment or association shall receive per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, including costs of travel, child care, personal assistance services, and any other service necessary for participation in the advisory group and approved by the commissioner.

(c)(1) The advisory committee shall have an opportunity to review and comment on agency policy initiatives pertaining to quality improvement initiatives and to health care benefits and eligibility for individuals receiving services through Medicaid, programs funded with Medicaid funds under a Section 1115 waiver, or the Vermont health benefit exchange. It also shall have the opportunity to comment on proposed rules prior to commencement of the rulemaking process pursuant to 3 V.S.A. chapter 25 and on waiver or

waiver amendment applications prior to submission to the Centers for Medicare and Medicaid Services.

(2) Prior to the annual budget development process, the department of Vermont health access shall engage the advisory committee in setting priorities, including consideration of scope of benefits, beneficiary eligibility, health care professional reimbursement rates, funding outlook, financing options, and possible budget recommendations.

(d)(1) The advisory committee shall make policy recommendations on proposals of the department of Vermont health access to the department, the Green Mountain Care board, the health access oversight committee, the senate committee on health and welfare, and the house committees on health care and on human services. When the general assembly is not in session, the commissioner shall respond in writing to these recommendations, a copy of which shall be provided to the members of each of the legislative committees of jurisdiction and to the Green Mountain Care board.

(2) During the legislative session, the commissioner shall provide the advisory committee at regularly scheduled meetings with updates on the status of policy and budget proposals.

(e) The commissioner shall convene the advisory committee at least 10 times during each calendar year. If at least one-third of the members of the advisory committee so choose, the members may convene up to four additional meetings per calendar year on their own initiative by sending a request to the commissioner. The department shall provide the committee with staffing and independent technical assistance as needed to enable it to make effective recommendations.

## Sec. 8. INTEGRATION PLAN

(a) No later than January 15, 2012, the secretary of administration or designee shall make recommendations to the house committee on health care and the senate committee on health and welfare on the following issues:

(1) How to fully integrate or align Medicaid, Medicare, private insurance, associations, state employees, and municipal employees into or with the Vermont health benefit exchange and Green Mountain Care established in chapter 18 of Title 33, including:

(A) Whether it is advisable to establish a basic health program for individuals with incomes above 133 percent of the federal poverty level (FPL) and at or below 200 percent of FPL pursuant to Section 1331 of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law

111-152), and as further amended (“Affordable Care Act”), to ensure that the health coverage is comprehensive and affordable for this population.

(B)(i) The statutory changes necessary to integrate the private insurance markets with the Vermont health benefit exchange, including whether to impose a moratorium on the issuance of new association policies prior to 2014, as well as whether to continue exemptions for associations pursuant to 8 V.S.A. § 4080a(h)(3) after implementation of the Vermont health benefit exchange and if so, what criteria to use.

(ii) The advantages and disadvantages for the state, for employers, and for employees, of defining a small employer for purposes of the Vermont health benefit exchange for the period from January 1, 2014 through December 31, 2015 as an employer with up to 50 employees or as an employer with up to 100 employees, including an analysis of the impacts of the definition on teachers, municipal employees, and associations. For purposes of the analysis pursuant to this subdivision, “employer” means all for-profit entities, not-for profit entities, and individuals who are self-employed.

(C) In consultation with the chair of the Green Mountain Care board, the design of a common benefit package for the Vermont health benefit exchange. When creating the common benefit package, the secretary shall compare the essential benefits package defined under federal regulations implementing the Affordable Care Act with Vermont’s insurance mandates, consider the affordability of cost-sharing both with and without the cost-sharing subsidy provided under federal regulations implementing the Affordable Care Act, and determine the feasibility and appropriate design of cost-sharing amounts for evidence-based health services with proven effectiveness.

(D) The impact of the availability of supplemental insurance plans on offerings in the small and individual group markets.

(E) The potential for purchasing prescription drugs in Green Mountain Care through Medicaid, the 340B drug pricing program, or another bulk purchasing mechanism.

(2) Once Green Mountain Care is implemented, whether to allow employers and individuals to purchase coverage for supplemental health services from Green Mountain Care or to allow private insurers to provide supplemental insurance plans.

(3) How to collect data to enable the Green Mountain Care board to monitor the extent to which residents of other states move to Vermont for the purpose of receiving health services and the impact of such migration on the Vermont’s health care system and the state’s economy.

(4) How to enable parents to make coverage under Green Mountain Care available to an adult child up to age 26 who would not otherwise be eligible for coverage under the program, including a recommendation on the amount of and mechanism for collecting a financial contribution for such coverage and information on the difference in costs to the system between allowing all adult children up to age 26 to be eligible and limiting eligibility to adult children attending a college or university.

(5) whether it is necessary or advisable to implement a financial reserve requirement or reinsurance mechanism to reduce the state's exposure to financial risk in the operation of Green Mountain Care; if so, how to accomplish such implementation; and the impact, if any, on the state's bond rating.

(b) The commissioner of labor, in consultation with the commissioner of Vermont health access, the commissioner of banking, insurance, securities, and health care administration, and interested stakeholders, shall evaluate the feasibility of integrating or aligning Vermont's workers' compensation system with Green Mountain Care, including providing any covered services in addition to those in the Green Mountain Care benefit package that may be appropriate for injuries arising out of and in the course of employment. No later than January 15, 2012, the commissioner of labor shall report the results of the evaluation and, if integration or alignment has been found to be feasible, make recommendations on how to achieve it.

#### Sec. 9. FINANCING PLANS

(a) The secretary of administration or designee shall recommend two financing plans to the house committees on health care and on ways and means and the senate committees on health and welfare and on finance no later than January 15, 2013.

(1) One plan shall recommend the amounts and necessary mechanisms to finance any initiatives which must be implemented by January 1, 2014 in order to provide coverage to all Vermonters in the absence of a waiver from certain federal health care reform provisions established in Section 1332 of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and as further amended ("Affordable Care Act").

(2) The second plan shall recommend the amounts and necessary mechanisms to finance Green Mountain Care and any systems improvements needed to achieve a public-private universal health care system. The secretary shall recommend whether nonresidents employed by Vermont businesses should be eligible for Green Mountain Care and solutions to other cross-border issues.

(b) In developing both financing plans, the secretary shall consider the following:

(1) all financing sources, including adjustments to the income tax, a payroll tax, consumption taxes, provider assessments required under 33 V.S.A. chapter 19, the employer assessment required by 21 V.S.A. chapter 25, other new or existing taxes, and additional options as determined by the secretary;

(2) the impacts of the various financing sources, including levels of deductibility of any tax or assessment system contemplated and consistency with the principles of equity expressed in 18 V.S.A. § 9371;

(3) issues involving federal law and taxation;

(4) impacts of tax system changes:

(A) on individuals, households, businesses, public sector entities, and the nonprofit community, including the circumstances under which a particular tax change may result in double payments, such as premiums and tax obligations; and

(B) over time, on changing revenue needs;

(5) growth in health care spending relative to needs and capacity to pay;

(6) anticipated federal funds that may be used for health services and how to maximize the amount of federal funding available for this purpose;

(7) the amounts required to maintain existing state insurance benefit requirements and other appropriate considerations in order to determine the state contribution toward federal premium tax credits available in the Vermont health benefit exchange pursuant to the Affordable Care Act;

(8) additional funds needed to support recruitment and retention programs for high-quality health care professionals in order to address the shortage of primary care professionals and other specialty care professionals in this state;

(9) additional funds needed to provide coverage for the uninsured who are eligible for Medicaid, Dr. Dynasaur, and the Vermont health benefit exchange in 2014;

(10) funding mechanisms to ensure that operations of both the Vermont health benefit exchange and Green Mountain Care are self-sustaining;

(11) how to maximize the flow of federal funds to the state for individuals eligible for Medicare;



(12) the use of financial or other incentives to encourage healthy lifestyles and patient self-management for individuals enrolled in Green Mountain Care;

(13) preserving retirement health benefits while enabling retirees to participate in Green Mountain Care;

(14) the implications of Green Mountain Care on funds set aside to pay for future retiree health benefits; and

(15) changes in federal health funding through reduced payments to health care professionals or through limitations or restrictions on the availability of grant funding or federal matching funds available to states through the Medicaid program.

(c) In developing the financing plan for Green Mountain Care, the secretary of administration or designee shall consult with interested stakeholders, including health care professionals, employers, and members of the public, to determine the potential impact of various financing sources on Vermont businesses and on the state's economy and economic climate. No later than February 1, 2012, the secretary or designee shall report his or her findings and recommendations on the impact on businesses and the economy to the house committees on health care and on commerce and to the senate committees on health and welfare and on economic development, housing and general affairs.

(d) In addition to the consultation required by subsection (c) of this section, in developing the financing plan for Green Mountain Care, the secretary of administration or designee shall solicit input from interested stakeholders, including health care professionals, employers, and members of the public and shall provide opportunities for public engagement in the design of the financing plan.

#### Sec. 10. HEALTH INFORMATION TECHNOLOGY PLAN

(a) The secretary of administration or designee, in consultation with the Green Mountain Care board and the commissioner of Vermont health access, shall review the health information technology plan required by 18 V.S.A. § 9351 to ensure that the plan reflects the creation of the Vermont health benefit exchange; the transition to a public-private universal health care system pursuant to 33 V.S.A. chapter 18, subchapter 2; and any necessary development or modifications to public health information technology and data and to public health surveillance systems, to ensure that there is progress toward full implementation.

(b) In conducting this review, the secretary of administration may issue a request for proposals for an independent design and implementation plan which would describe how to integrate existing health information systems to

carry out the purposes of this act, detail how to develop the necessary capacity in health information systems, determine the funding needed for such development, and quantify the funding sources available for such development. The health information technology plan or design and implementation plan shall also include a review of the multi-payer database established in 18 V.S.A. § 9410 to determine whether there are systems modifications needed to use the database to reduce fraud, waste, and abuse; and shall include other systems analysis as specified by the secretary.

(c) The secretary shall make recommendations to the house committee on health care and the senate committee on health and welfare based on the design and implementation plan no later than January 15, 2012.

#### Sec. 11. HEALTH SYSTEM PLANNING, REGULATION, AND PUBLIC HEALTH

(a) No later than January 15, 2012, the secretary of administration or designee shall make recommendations to the house committee on health care and the senate committee on health and welfare on how to unify Vermont's current efforts around health system planning, regulation, and public health, including:

(1) How best to align the agency of human services' public health promotion activities with Medicaid, the Vermont health benefit exchange functions, Green Mountain Care, and activities of the Green Mountain Care board established in 18 V.S.A. chapter 220.

(2) After reviewing current resources, including the community health assessments, how to create an integrated system of community health assessments, health promotion, and planning, including by:

(A) improving the use and usefulness of the health resource allocation plan established in 18 V.S.A. § 9405 in order to ensure that health resource planning is effective and efficient; and

(B) recommending a plan to institute a public health impact assessment process to ensure appropriate consideration of the impacts on public health resulting from major policy or planning decisions made by municipalities, local entities, and state agencies.

(3) In collaboration with the director of the Blueprint for Health established in 18 V.S.A. chapter 13 and health care professionals, how to coordinate quality assurance efforts across state government and private payers; optimize quality assurance programs; and ensure that health care professionals in Vermont utilize, are informed of, and engage in evidence-based practice, using standards and algorithms such as those developed by the National Committee for Quality Assurance.

(4) Providing a progress report on payment reform planning and other activities authorized in 18 V.S.A. chapter 220.

(5) How to reorganize and consolidate health care-related functions in agencies and departments across state government in order to ensure integrated and efficient administration of all of Vermont's health care programs and initiatives.

(b) No later than January 15, 2012, the commissioner of banking, insurance, securities, and health care administration shall review the hospital budget review process provided in 18 V.S.A. chapter 221, subchapter 7, and the certificate of need process provided in 18 V.S.A. chapter 221, subchapter 5 and recommend to the house committee on health care and the senate committee on health and welfare statutory modifications needed to enable the participation of the Green Mountain Care board as set forth in 18 V.S.A. § 9375.

## Sec. 12. PAYMENT REFORM; REGULATORY PROCESSES

No later than March 15, 2012, the Green Mountain Care board established in 18 V.S.A. chapter 220, in consultation with the commissioner of banking, insurance, securities, and health care administration and the commissioner of Vermont health access, shall recommend to the house committee on health care and the senate committee on health and welfare any necessary modifications to the regulatory processes for health care professionals and managed care organizations in order to align these processes with the payment reform strategic plan.

## § 1831. HEALTH CARE WORKFORCE; STRATEGIC PLAN

(a) The director of health care reform in the agency of administration shall oversee the development and maintenance of a current health care workforce development strategic plan that continues efforts to ensure that Vermont has the health care workforce necessary to provide care to all Vermont residents. The director of health care reform may designate an entity responsible for convening meetings and for drafting the strategic plan.

(b) The director or designee shall collaborate with the area health education centers, the workforce development council established in 10 V.S.A. § 541, the prekindergarten-16 council established in 16 V.S.A. § 2905, the department of labor, the department of health, the department of Vermont health access and other interested parties, to develop and maintain the plan. The director of health care reform shall ensure that the strategic plan includes recommendations on how to develop Vermont's health care workforce, including:

(1) the current capacity and capacity issues of the health care workforce and delivery system in Vermont, including the shortages of health care professionals, specialty practice areas that regularly face shortages of qualified health care professionals, issues with geographic access to services, and unmet health care needs of Vermonters.

(2) the resources needed to ensure that the health care workforce and the delivery system are able to provide sufficient access to services given demographic factors in the population and in the workforce as well as other factors, and able to participate fully in health care reform initiatives, including how to ensure that all Vermont residents have a medical home through the Blueprint for Health pursuant to 18 V.S.A. chapter 13 and how to transition to electronic medical records; and

(3) how state government, universities and colleges, the state's educational system, entities providing education and training programs related to the health care workforce, and others may develop the resources in the health care workforce and delivery system to educate, recruit, and retain health care professionals to achieve Vermont's health care reform principles and purposes.

(4) review data on the extent to which individual health care professionals begin and cease to practice in their applicable fields in Vermont.

(5) identify factors which either hinder or assist in recruitment or retention of health care professionals, including an examination of the processes for prior authorizations, and make recommendations for further improving recruitment and retention efforts.

(6) assess the availability of state and federal funds for health care workforce development.

(c) Beginning January 15, 2013, the director or designee shall provide the strategic plan to the general assembly and shall provide periodic updates as necessary.

### Sec. 13. WORKFORCE ISSUES

(a)(1) Currently, Vermont has a shortage of primary care professionals, and many practices are closed to new patients. It also experiences periodic and geographic shortages of specialty care professionals necessary to ensure that Vermonters have reasonable access to a broad range of health services within the state. In order to ensure sufficient patient access now and in the future, it is necessary to plan for the implementation of Green Mountain Care and utilize Vermont's health care professionals to the fullest extent of their professional competence.

(2) The board of nursing, the board of medical practice, and the office of professional regulation shall collaborate to determine how to optimize the primary care workforce by reviewing the licensure process, scope of practice requirements, reciprocity of licensure, and efficiency of the licensing process, and by identifying any other barriers to augmenting Vermont's primary care workforce. No later than January 15, 2012, the boards and office shall provide to the house committee on health care and the senate committee on health and welfare joint recommendations for improving the primary care workforce through the boards' and office's rules and procedures, including specific recommendations to modify scopes of practice to enable health care professionals to perform to the fullest extent of their professional competence.

(c) The director of health care reform or designee, in collaboration with the department of labor, and the agency of human services, the prekindergarten-16 council established in 16 V.S.A. § 2905, the workforce development council, and other interested parties, shall create a plan to address the retraining needs of employees who may become dislocated due to a reduction in health care administrative functions when the Vermont health benefit exchange and Green Mountain Care are implemented. The plan shall include consideration of new training programs and scholarships or other financial assistance necessary to ensure adequate resources for training programs and to ensure that employees have access to these programs. The department and agency shall provide information to employers whose workforce may be reduced in order to ensure that the employees are informed of available training opportunities. The department shall provide the plan to the house committee on health care and the senate committee on health and welfare no later than January 15, 2012.

#### Sec. 13a. PRIOR AUTHORIZATIONS

The Green Mountain Care board shall consider:

(1) compensating health care providers for the completion of requests for prior authorization; and

(2) exempting from any prior authorization requirements in Green Mountain Care those health care professionals whose prior authorization requests are routinely granted.

\* \* \* Cost Estimates \* \* \*

#### Sec. 14. COST ESTIMATES

(a) No later than April 21, 2011, the legislative joint fiscal office and the department of banking, insurance, securities, and health care administration shall provide to the house committee on health care and the senate committee on health and welfare an initial, draft estimate of the costs of Vermont's current health care system compared to the costs of a reformed health care

system upon implementation of Green Mountain Care and the additional provisions of this act. To the extent possible, the estimates shall be based on the department of banking, insurance, securities, and health care administration's expenditure report and additional data available in the multi-payer database established in 18 V.S.A. § 9410.

(b) The legislative joint fiscal office and the department of banking, insurance, securities, and health care administration shall report their final estimates of the costs described in subsection (a) of this section to the committees of jurisdiction no later than November 1, 2011.

\* \* \* Rate Review \* \* \*

Sec. 15. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

(a)(1) No policy of health insurance or certificate under a policy not exempted by subdivision 3368(a)(4) of this title shall be delivered or issued for delivery in this state nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until a copy of the form, premium rates, and rules for the classification of risks pertaining thereto have been filed with the commissioner of banking, insurance, securities, and health care administration; nor shall any such form, premium rate, or rule be so used until the expiration of 30 days after having been filed, or in the case of a request for a rate increase, until a decision by the Green Mountain Care board as provided herein, unless the commissioner shall sooner give his or her written approval thereto. Beginning July 1, 2013, prior to approving a rate increase, the commissioner shall seek approval for such rate increase from the Green Mountain Care board established in 18 V.S.A. chapter 220, which shall approve or disapprove the rate increase within 10 business days. The commissioner shall apply the decision of the Green Mountain Care board as to rates referred to the board.

(2) The commissioner shall review policies and rates to determine whether a policy or rate is affordable, promotes quality care, promotes access to health care, and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this state. The commissioner shall notify in writing the insurer which has filed any such form, premium rate, or rule if it contains any provision which is unjust, unfair, inequitable, misleading, or contrary to the law of this state does not meet the standards expressed in this section. In such notice, the commissioner shall state that a hearing will be granted within 20 days upon written request of the insurer. In all other cases, the commissioner shall give his or her approval.

(3) After the expiration of ~~such 30 days from the filing of any such form, premium rate or rule,~~ the review period provided herein or at any time after having given written approval, the commissioner may, after a hearing of which at least 20 ~~days~~ days' written notice has been given to the insurer using such form, premium rate, or rule, withdraw approval on any of the grounds stated in this section. Such disapproval shall be effected by written order of the commissioner which shall state the ground for disapproval and the date, not less than 30 days after such hearing when the withdrawal of approval shall become effective.

(b) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of any requested rate increase of five percent or greater. If, during the plan year, the insurer files for rate increases that are cumulatively five percent or greater, the insurer shall file a summary applicable to the cumulative rate increase. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any other information required by the commissioner. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and shall include notification of the public comment period established in subsection (c) of this section. In addition, the insurer shall post the summaries on its website.

(c)(1) The commissioner shall provide information to the public on the department's website about the public availability of the filings and summaries required under this section.

(2) Beginning no later than January 1, 2012, the commissioner shall post the filings pursuant to subsection (a) of this section and summaries pursuant to subsection (b) of this section on the department's website within five days of filing. The department shall provide an electronic mechanism for the public to comment on proposed rate increases over five percent. The public shall have 21 days from the posting of the summaries and filings to provide public comment. The department shall review and consider the public comments prior to the expiration of the review period pursuant to subsection (a) of this section. The department shall provide the Green Mountain Care board with the public comments for their consideration in approving any rate increases.

Sec. 15a. 8 V.S.A. § 4512(b) is amended to read:

(b) Subject to the approval of the commissioner, a hospital service corporation may establish, maintain and operate a medical service plan as defined in section 4583 of this title. The commissioner may refuse approval if

the commissioner finds that the rates submitted are excessive, inadequate, or unfairly discriminatory or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. The contracts of a hospital service corporation which operates a medical service plan under this subsection shall be governed by chapter 125 of this title to the extent that they provide for medical service benefits, and by this chapter to the extent that the contracts provide for hospital service benefits.

Sec. 15b. 8 V.S.A. § 4515a is amended to read:

§ 4515a. FORM AND RATE FILING; FILING FEES

Every contract or certificate form, or amendment thereof, including the rates charged therefor by the corporation shall be filed with the commissioner for his or her approval prior to issuance or use. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. In addition, each such filing shall be accompanied by payment to the commissioner of a nonrefundable fee of \$50.00 and the plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 15c. 8 V.S.A. § 4587 is amended to read:

§ 4587. FILING AND APPROVAL OF CONTRACTS

A medical service corporation which has received a permit from the commissioner of banking, insurance, securities, and health care administration under section 4584 of this title shall not thereafter issue a contract to a subscriber or charge a rate therefor which is different from copies of contracts and rates originally filed with such commissioner and approved by him or her at the time of the issuance to such medical service corporation of its permit, until it has filed copies of such contracts which it proposes to issue and the rates it proposes to charge therefor and the same have been approved by such commissioner. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. Each such filing of a contract or the rate therefor shall be accompanied by payment to the commissioner of a nonrefundable fee of \$50.00. A medical service corporation shall file a plain language summary of rate increases pursuant to section 4062 of this title.

Sec. 15d. 8 V.S.A. § 5104(a) is amended to read:

(a)(1) A health maintenance organization which has received a certificate of authority under section 5102 of this title shall file and obtain approval of all policy forms and rates as provided in sections 4062 and 4062a of this title. This requirement shall include the filing of administrative retentions for any business in which the organization acts as a third party administrator or in any other administrative processing capacity. The commissioner may request and shall receive any information that is needed to determine whether to approve



the policy form or rate. In addition to any other information requested, the commissioner shall require the filing of information on costs for providing services to the organization's Vermont members affected by the policy form or rate, including but not limited to Vermont claims experience, and administrative and overhead costs allocated to the service of Vermont members. Prior to approval, there shall be a public comment period pursuant to section 4062 of this title. A health maintenance organization shall file a summary of rate filings pursuant to section 4062 of this title.

(2) The commissioner shall refuse to approve the form of evidence of coverage, filing or rate if it contains any provision which is unjust, unfair, inequitable, misleading or contrary to the law of the state or plan of operation, or if the rates are excessive, inadequate or unfairly discriminatory, or fail to meet the standards of affordability, promotion of quality care, and promotion of access pursuant to section 4062 of this title. No evidence of coverage shall be offered to any potential member unless the person making the offer has first been licensed as an insurance agent in accordance with chapter 131 of this title.

\* \* \* Health Benefit Information \* \* \*

Sec. 16. 21 V.S.A. § 2004 is added to read:

§ 2004. HEALTH BENEFIT COSTS

(a) Employers shall provide their employees with an annual statement indicating:

(1) the total monthly premium cost paid for any employer-sponsored health benefit plan;

(2) the employer's share and the employee's share of the total monthly premium; and

(3) any amount the employer contributes toward the employee's cost-sharing requirement or other out-of-pocket expenses.

(b) Notwithstanding the provisions of subsection (a) of this section, an employer who reports the cost of coverage under an employer-sponsored health benefit plan as required by 26 U.S.C. § 6051(a)(14) shall be deemed to be in full compliance with the requirements of this section.

Sec. 16a. 33 V.S.A. § 1901(g) is added to read:

(g) The department of Vermont health access shall post prominently on its website the total per-member per-month cost for each of its Medicaid and Medicaid waiver programs and the amount of the state's share and the beneficiary's share of such cost.

## \* \* \* Consumer Protection \* \* \*

## Sec. 17. REVIEW OF BAN ON DISCRETIONARY CLAUSES

(a) It is the intent of the general assembly to determine the advantages and disadvantages of enacting a National Association of Insurance Commissioners (NAIC) model act prohibiting insurers from using discretionary clauses in their health benefit contracts. The purpose of the NAIC model act is to prohibit insurance clauses that purport to reserve discretion to the insurer to interpret the terms of the policy, or to provide standards of interpretation or review that are inconsistent with the laws of this state.

(b) No later than January 15, 2012, the commissioner of banking, insurance, securities, and health care administration shall provide a report to the house committee on health care and the senate committee on health and welfare on the advantages and disadvantages of Vermont adopting the NAIC model act.

## \* \* \* Single Formulary \* \* \*

## Sec. 18. SINGLE FORMULARY RECOMMENDATIONS

No later than January 15, 2012, the department of Vermont health access, after consultation with health insurers, third-party administrators, and the drug utilization and review board, shall provide recommendations to the house committee on health care and the senate committee on health and welfare regarding:

(1) A single prescription drug formulary to be used by all payers of health services which allows for some variations for Medicaid due to the availability of rebates and discounts and which allows health care professionals prescribing drugs purchased pursuant to Section 340B of the Public Health Service Act to use the 340B formulary. The recommendations shall address the feasibility of requesting a waiver from Medicare Part D in order to ensure Medicare participation in the formulary, as well as the feasibility of enabling all prescription drugs purchased by or on behalf of Vermont residents to be purchased through the Medicaid program or pursuant to the 340B drug pricing program.

(2) A single mechanism for negotiating rebates and discounts across payers using a single formulary, and the advantages and disadvantages of using a single formulary to achieve uniformity of coverage.

(3) A uniform set of drug management rules aligned with Medicare to the extent possible, to minimize administrative burdens and promote uniformity of benefit management. The standards for pharmacy benefit management shall address timely decisions, access to clinical peers, access to

evidence-based rationales, exemption processes, and tracking and reporting data on prescriber satisfaction.

\* \* \* Repeal of Public Oversight Commission \* \* \*

Sec. 19. 18 V.S.A. § 9402 is amended to read:

§ 9402. DEFINITIONS

As used in this chapter, unless otherwise indicated:

\* \* \*

(15) ~~“Public oversight commission” means the commission established in section 9407 of this title.~~

~~(16)~~ “Unified health care budget” means the budget established in accordance with section 9406 of this title.

~~(17)~~(16) “State health plan” means the plan developed under section 9405 of this title.

Sec. 20. 18 V.S.A. § 9405 is amended to read:

§ 9405. STATE HEALTH PLAN; HEALTH RESOURCE ALLOCATION PLAN

\* \* \*

(b) On or before July 1, 2005, the commissioner, in consultation with the secretary of human services, shall submit to the governor a four-year health resource allocation plan. The plan shall identify Vermont needs in health care services, programs, and facilities; the resources available to meet those needs; and the priorities for addressing those needs on a statewide basis.

\* \* \*

(2) In the preparation of the plan, the commissioner shall assemble an advisory committee of no fewer than nine nor more than 13 members who shall reflect a broad distribution of diverse perspectives on the health care system, including health care professionals, payers, third-party payers, and consumer representatives, ~~and up to three members of the public oversight commission.~~ The advisory committee shall review drafts and provide recommendations to the commissioner during the development of the plan. Upon adoption of the plan, the advisory committee shall be dissolved.

(3) The commissioner, with the advisory committee, shall conduct at least five public hearings, in different regions of the state, on the plan as proposed and shall give interested persons an opportunity to submit their views orally and in writing. To the extent possible, the commissioner shall arrange for hearings to be broadcast on interactive television. Not less than 30 days

prior to any such hearing, the commissioner shall publish in the manner prescribed in 1 V.S.A. § 174 the time and place of the hearing and the place and period during which to direct written comments to the commissioner. In addition, the commissioner may create and maintain a website to allow members of the public to submit comments electronically and review comments submitted by others.

(4) The commissioner shall develop a mechanism for receiving ongoing public comment regarding the plan and for revising it every four years or as needed. ~~The public oversight commission shall recommend revisions to the plan at least every four years and at any other time it determines revisions are warranted.~~

\* \* \*

Sec. 21. 18 V.S.A. § 9405a is amended to read:

§ 9405a. PUBLIC PARTICIPATION AND STRATEGIC PLANNING

Each hospital shall have a protocol for meaningful public participation in its strategic planning process for identifying and addressing health care needs that the hospital provides or could provide in its service area. Needs identified through the process shall be integrated with the hospital's long-term planning ~~and shall be described as a component of its four year capital expenditure projections provided to the public oversight commission under subdivision 9407(b)(2) of this title.~~ The process shall be updated as necessary to continue to be consistent with such planning and capital expenditure projections, and identified needs shall be summarized in the hospital's community report.

Sec. 22. 18 V.S.A. § 9405b is amended to read:

§ 9405b. HOSPITAL COMMUNITY REPORTS

(a) The commissioner, in consultation with representatives from ~~the public oversight commission,~~ hospitals, other groups of health care professionals, and members of the public representing patient interests, shall adopt rules establishing a standard format for community reports, as well as the contents, which shall include:

\* \* \*

(c) The community reports shall be provided to the ~~public oversight commission and the~~ commissioner. The commissioner shall publish the reports on a public website and shall develop and include a format for comparisons of hospitals within the same categories of quality and financial indicators.

Sec. 23. 18 V.S.A. § 9433(c) is amended to read:

(c) The commissioner shall consult with hospitals, nursing homes and professional associations and societies, ~~the public oversight commission~~, the secretary of human services, and other interested parties in matters of policy affecting the administration of this subchapter.

Sec. 24. 18 V.S.A. § 9440 is amended to read:

§ 9440. PROCEDURES

\* \* \*

(c) The application process shall be as follows:

\* \* \*

(4) Within 90 days of receipt of an application, the commissioner shall notify the applicant that the application contains all necessary information required and is complete, or that the application review period is complete notwithstanding the absence of necessary information. The commissioner may extend the 90-day application review period for an additional 60 days, or for a period of time in excess of 150 days with the consent of the applicant. The time during which the applicant is responding to the commissioner's notice that additional information is required shall not be included within the maximum review period permitted under this subsection. ~~The public oversight commission may recommend, or the~~ commissioner may determine that the certificate of need application shall be denied if the applicant has failed to provide all necessary information required to review the application.

\* \* \*

(d) The review process shall be as follows:

(1) ~~The public oversight commission~~ commissioner shall review:

(A) The application materials provided by the applicant.

(B) ~~The assessment of the applicant's materials provided by the department.~~

(C) Any information, evidence, or arguments raised by interested parties or amicus curiae, and any other public input.

(2) ~~The public oversight commission~~ department shall hold a public hearing during the course of a review.

(3) ~~The public oversight commission shall make a written findings and a recommendation to the commissioner in favor of or against each application. A record shall be maintained of all information reviewed in connection with each application.~~

~~(4) A review shall be completed and the~~ The commissioner shall make a final decision within 120 days after the date of notification under subdivision (c)(4) of this section. Whenever it is not practicable to complete a review within 120 days, the commissioner may extend the review period up to an additional 30 days. Any review period may be extended with the written consent of the applicant and all other applicants in the case of a review cycle process.

~~(5)(4)~~ After reviewing each application ~~and after considering the recommendations of the public oversight commission,~~ the commissioner shall make a decision either to issue or to deny the application for a certificate of need. The decision shall be in the form of an approval in whole or in part, or an approval subject to such conditions as the commissioner may impose in furtherance of the purposes of this subchapter, or a denial. In granting a partial approval or a conditional approval the commissioner shall not mandate a new health care project not proposed by the applicant or mandate the deletion of any existing service. Any partial approval or conditional approval must be directly within the scope of the project proposed by the applicant and the criteria used in reviewing the application.

~~(6)(A)(5)~~ If the commissioner proposes to render a final decision denying an application in whole or in part, or approving a contested application, the commissioner shall serve the parties with notice of a proposed decision containing proposed findings of fact and conclusions of law, and shall provide the parties an opportunity to file exceptions and present briefs and oral argument to the commissioner. The commissioner may also permit the parties to present additional evidence.

~~(B) If the commissioner's proposed decision is contrary to the recommendation of the public oversight commission:~~

~~(i) the notice of proposed decision shall contain findings of fact and conclusions of law demonstrating that the commissioner fully considered all the findings and conclusions of the public oversight commission and explaining why his or her proposed decision is contrary to the recommendation of the public oversight commission and necessary to further the policies and purposes of this subchapter; and~~

~~(ii) the commissioner shall permit the parties to present additional evidence.~~

~~(7)(6)~~ Notice of the final decision shall be sent to the applicant, competing applicants, and interested parties. The final decision shall include written findings and conclusions stating the basis of the decision.

~~(8)~~(7) The commissioner shall establish rules governing the compilation of the record used by ~~the public oversight commission and~~ the commissioner in connection with decisions made on applications filed and certificates issued under this subchapter.

(e) The commissioner shall adopt rules governing procedures for the expeditious processing of applications for replacement, repair, rebuilding, or reequipping of any part of a health care facility or health maintenance organization destroyed or damaged as the result of fire, storm, flood, act of God, or civil disturbance, or any other circumstances beyond the control of the applicant where the commissioner finds that the circumstances require action in less time than normally required for review. If the nature of the emergency requires it, an application under this subsection may be reviewed by the commissioner only, without notice and opportunity for public hearing or intervention by any party.

(f) Any applicant, competing applicant, or interested party aggrieved by a final decision of the commissioner under this section may appeal the decision to the supreme court. ~~If the commissioner's decision is contrary to the recommendation of the public oversight commission, the standard of review on appeal shall require that the commissioner's decision be supported by a preponderance of the evidence in the record.~~

\* \* \*

Sec. 25. 18 V.S.A. § 9440a is amended to read:

§ 9440a. APPLICATIONS, INFORMATION, AND TESTIMONY; OATH REQUIRED

(a) Each application filed under this subchapter, any written information required or permitted to be submitted in connection with an application or with the monitoring of an order, decision, or certificate issued by the commissioner, and any testimony taken before the ~~public oversight commission, the~~ commissioner, or a hearing officer appointed by the commissioner shall be submitted or taken under oath. The form and manner of the submission shall be prescribed by the commissioner. The authority granted to the commissioner under this section is in addition to any other authority granted to the commissioner under law.

(b) Each application shall be filed by the applicant's chief executive officer under oath, as provided by subsection (a) of this section. The commissioner may direct that information submitted with the application be submitted under oath by persons with personal knowledge of such information.

(c) A person who knowingly makes a false statement under oath or who knowingly submits false information under oath to the commissioner ~~or the~~

~~public oversight commission~~ or a hearing officer appointed by the commissioner or who knowingly testifies falsely in any proceeding before the commissioner ~~or the public oversight commission~~ or a hearing officer appointed by the commissioner shall be guilty of perjury and punished as provided in 13 V.S.A. § 2901.

Sec. 25a. 18 V.S.A. § 9456(h) is amended to read:

(h)(1) If a hospital violates a provision of this section, the commissioner may maintain an action in the superior court of the county in which the hospital is located to enjoin, restrain or prevent such violation.

\* \* \*

(3)(A) The commissioner shall require the officers and directors of a hospital to file under oath, on a form and in a manner prescribed by the commissioner, any information designated by the commissioner and required pursuant to this subchapter. The authority granted to the commissioner under this subsection is in addition to any other authority granted to the commissioner under law.

(B) A person who knowingly makes a false statement under oath or who knowingly submits false information under oath to the commissioner ~~or to the public oversight commission~~ or to a hearing officer appointed by the commissioner or who knowingly testifies falsely in any proceeding before the commissioner ~~or the public oversight commission~~ or a hearing officer appointed by the commissioner shall be guilty of perjury and punished as provided in 13 V.S.A. § 2901.

\* \* \* Conforming Revisions \* \* \*

Sec. 26. 18 V.S.A. § 5 is amended to read:

#### § 5. DUTIES OF DEPARTMENT OF HEALTH

The department of health is ~~hereby designated as the sole state agency for the purposes of~~ shall:

(1) ~~Conducting~~ Conduct studies, ~~developing~~ develop state plans, and ~~administering~~ administer programs and state plans for hospital survey and construction, hospital operation and maintenance, medical care, and treatment of ~~alcoholics and alcoholic rehabilitation~~ substance abuse.

(2) ~~Providing~~ Provide methods of administration and such other action as may be necessary to comply with the requirements of federal acts and regulations as relate to studies, ~~developing~~ development of plans and ~~administering~~ administration of programs in the fields of health, public health, health education, hospital construction and maintenance, and medical care.



(3) ~~Appointing~~ Appoint advisory councils, with the approval of the governor.

(4) ~~Cooperating~~ Cooperate with necessary federal agencies in securing federal funds ~~now or which may hereafter~~ become available to the state for all prevention, public health, wellness, and medical programs.

(5) Seek accreditation through the Public Health Accreditation Board.

(6) Create a state health improvement plan and facilitate local health improvement plans in order to encourage the design of healthy communities and to promote policy initiatives that contribute to community, school, and workplace wellness, which may include providing assistance to employers for wellness program grants, encouraging employers to promote employee engagement in healthy behaviors, and encouraging the appropriate use of the health care system.

Sec. 27. 18 V.S.A. § 9410(a)(1) is amended to read:

(a)(1) The commissioner shall establish and maintain a unified health care data base to enable the commissioner and the Green Mountain Care board to carry out ~~the their~~ duties under this chapter, chapter 220 of this title, and Title 8, including:

(A) Determining the capacity and distribution of existing resources.

(B) Identifying health care needs and informing health care policy.

(C) Evaluating the effectiveness of intervention programs on improving patient outcomes.

(D) Comparing costs between various treatment settings and approaches.

(E) Providing information to consumers and purchasers of health care.

(F) Improving the quality and affordability of patient health care and health care coverage.

Sec. 28. Sec. 10 of No. 128 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

**Sec. 10. IMPLEMENTATION OF CERTAIN FEDERAL HEALTH CARE REFORM PROVISIONS**

(a) From the effective date of this act through July 1, ~~2011~~ 2014, the commissioner of health shall undertake such planning steps and other actions as are necessary to secure grants and other beneficial opportunities for Vermont provided by the Patient Protection and Affordable Care Act of 2010,

Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152.

(b) From the effective date of this act through July 1, ~~2011~~ 2014, the commissioner of Vermont health access shall undertake such planning steps as are necessary to ensure Vermont's participation in beneficial opportunities created by the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152.

Sec. 29. Sec. 31(d) of No. 128 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(d) Term of committee. The committee shall cease to exist on January 31, ~~2011~~ 2012.

Sec. 30. Sec. 14 of No. 128 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

#### Sec. 14. PAYMENT REFORM; PILOTS

\* \* \*

(4)~~(A)~~ No later than February 1, 2011, the director of payment reform shall provide a strategic plan for the pilot projects to the house committee on health care and the senate committee on health and welfare. The strategic plan shall provide:

~~(i)~~(A) A description of the proposed payment reform pilot projects, including a description of the possible organizational model or models for health care providers or professionals to coordinate patient care, a detailed design of the financial model or models, and an estimate of savings to the health care system from cost reductions due to reduced administration, from a reduction in health care inflation, or from other sources.

~~(ii)~~(B) An ongoing program evaluation and improvement protocol.

~~(iii)~~(C) An implementation time line for pilot projects, with the first project to become operational no later than January 1, 2012, and with two or more additional pilot projects to become operational no later than July 1, 2012.

~~(B) The director shall not implement the pilot projects until the strategic plan has been approved or modified by the general assembly.~~

#### Sec. 31. GREEN MOUNTAIN CARE BOARD NOMINATIONS; APPOINTMENTS

(a) Notwithstanding the provisions of 18 V.S.A. § 9390(b)(2), within 15 days following the enactment of this act, the governor, the speaker of the house

of representatives, and the president pro tempore of the senate shall appoint the members of the Green Mountain Care board nominating committee. The members shall serve until their replacements are appointed pursuant to 18 V.S.A. § 9390 between January 1, 2013 and February 1, 2013.

(b) No earlier than August 15, 2011, the governor may appoint the chair of the Green Mountain Care board from the names provided pursuant to the process set forth in 18 V.S.A. chapter 220, subchapter 2. The governor shall appoint the four additional members of the board no earlier than January 1, 2012, pursuant to the process described in 18 V.S.A. chapter 220, subchapter 2. In making the initial appointments to the board, the governor shall ensure that the skills and qualifications of the board members complement those of the other members of the board.

#### Sec. 32. REPEAL

(a) 33 V.S.A. § 1901c (Medical care advisory board) is repealed effective July 1, 2012.

(b) 18 V.S.A. § 9407 (public oversight commission) is repealed effective July 1, 2011.

#### Sec. 33. APPROPRIATIONS

(a) In fiscal year 2012, the sum of \$686,443.00 in general funds and \$315,481.00 in federal funds is appropriated to the Green Mountain Care board to carry out its functions.

(b) In fiscal year 2012, the sum of \$48,000.00 is appropriated from the general fund to the secretary of administration for the medical malpractice proposal pursuant to Sec. 2(e) of this act.

(c) In fiscal year 2012, the sum of \$138,000.00 is appropriated from the general fund to the agency of administration for salary and benefits for the director of health care reform.

#### Sec. 34. EFFECTIVE DATES

(a) Secs. 1 (intent), 1a (principles), 1b (agency of administration), and 2 (strategic plan); Sec. 3, 18 V.S.A. chapter 220, subchapter 2 (Green Mountain Care board nominating committee); Secs. 8 (integration plan), 9 (financing plans); 10 (HIT); 11 (health planning); 12 (regulatory process); 13 (workforce); 14 (cost estimates); 17 (discretionary clauses); 18 (single formulary); 25 (health care reform); 26 (department of health); 28 (ACA grants); 29 (primary care workforce committee); 30 (approval of pilot projects); and 31 (initial Green Mountain Care board nominating committee appointments) of this act and this section shall take effect on passage.

(b) Sec. 3, 18 V.S.A. chapter 220, subchapter 1 (Green Mountain Care board) and Secs. 3a (health care ombudsman), 3b (positions), 3c (payment reform), 3d and 3e (manufacturers of prescribed products), 5 (DVHA), 6 (Health care eligibility), 13a (prior authorizations), 19-25a and 32 (repeal of public oversight commission), and 33 (appropriations) shall take effect on July 1, 2011.

(c)(1) Secs. 4 (Vermont health benefit exchange; Green Mountain Care), 4a (household health insurance survey), and 4b (exchange implementation) shall take effect on July 1, 2011.

(2) The Vermont health benefit exchange shall begin enrolling individuals no later than November 1, 2013 and shall be fully operational no later than January 1, 2014.

(3) Green Mountain Care shall be implemented 90 days following the last to occur of:

(A) Enactment of a law establishing the financing for Green Mountain Care.

(B) Approval by the Green Mountain Care board of the initial Green Mountain Care benefit package pursuant to 18 V.S.A. § 9375.

(C) Enactment of the appropriations for the initial Green Mountain Care benefit package proposed by the Green Mountain Care board pursuant to 18 V.S.A. § 9375.

(D) Receipt of a waiver under Section 1332 of the Affordable Care Act pursuant to 33 V.S.A. § 1829(b).

(d) Sec. 7, 3 V.S.A. § 402 (Medicaid and exchange advisory board), shall take effect on July 1, 2012.

(e) Sec. 15 (rate review) shall take effect on January 1, 2012 and shall apply to all filings on and after January 1, 2012.

(f) Sec. 27 (VHCURES) shall take effect on October 1, 2011.

(g) Secs. 16 (health benefit information) and 16a (Medicaid program costs) shall take effect on January 1, 2012, and the reporting requirement shall apply to each calendar year, beginning with 2012.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Fox, for the Committee on Finance, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill as proposed by the Committee on Health and Welfare and that the bill as amended, be further amended as follows:

First: In Sec. 1a, Principles for Health Care Reform, by inserting a new subdivision to be numbered subdivision (11) to read as follows:

(11) The health care system should not shift costs between the payers of health services and should ensure that the amount paid to health care professionals is sufficient to enlist enough providers to ensure that health services are available to all Vermonters and are distributed equitably.

And by renumbering the remaining subdivisions to be numerically correct.

Second: In Sec. 3, 18 V.S.A. § 9371, by inserting a new subdivision to be numbered subdivision (11) to read as follows:

(11) The health care system should not shift costs between the payers of health services and should ensure that the amount paid to health care professionals is sufficient to enlist enough providers to ensure that health services are available to all Vermonters and are distributed equitably.

And by renumbering the remaining subdivisions to be numerically correct.

Third: In Sec. 3, 18 V.S.A. § 9374(c), by adding a new subdivision to be numbered subdivision (3) to read as follows:

(3) No board member shall, for a period of one year following the end of his or her term or terms, be an employee of any person subject to supervision or regulation by the board.

Fourth: In Sec. 3b(b)(1), following the words “transferred from” by striking out the following: “the division of health care administration in”

Fifth: In Sec. 4, 33 V.S.A. § 1806(b)(1), by striking out subparagraph (B) in its entirety and inserting in lieu thereof a new subparagraph (B) to read as follows:

(B) Notwithstanding subdivision (1)(A) of this subsection, a health insurer or a stand-alone dental insurer, including a nonprofit dental service corporation, may offer a plan that provides only limited dental benefits, either separately or in conjunction with a qualified health benefit plan, if it meets the requirements of Section 9832(c)(2)(A) of the Internal Revenue Code and provides pediatric dental benefits meeting the requirements of Section 1302(b)(1)(J) of the Affordable Care Act.

Sixth: In Sec. 4, 33 V.S.A. § 1806(c)(2), following the words “wellness standards”, by inserting the following: “, including a requirement for joint quality improvement activities with other plans.”

Seventh: In Sec. 4, 33 V.S.A. § 1822(a)(5), by striking out the words “demographic differences” and inserting in lieu thereof the following:

differences in demographics, percentage of the population with health coverage, and investments in health care system infrastructure

Eighth: In Sec. 4b,(a), following the words “commissioner of Vermont health access shall”, by striking out the word “contract” and inserting in lieu thereof the following: make a reasonable effort to maintain contracts and following the number “2014”, by inserting the following: if at least two health insurers are interested in participating and meet the requirements of 33 V.S.A. § 1806

Ninth: In Sec. 7, 33 V.S.A. § 402(b)(1), by adding a fourth sentence to read as follows: The commissioner may reappoint members to serve more than one term.

Tenth: In Sec. 7, 33 V.S.A. § 402(b)(3), by striking out the word “group” following “advisory” and inserting in lieu thereof the word committee

Eleventh: In Sec. 8(a), by striking out the word “committee” following the word “senate” and inserting in lieu thereof the word committees and by inserting the words and on finance following the words “health and welfare”

Twelfth: In Sec. 8, by striking out subdivision (a)(3) in its entirety and renumbering the remaining subdivisions to be numerically correct

Thirteenth: In Sec. 8, by adding a new subsection (c) to read as follows:

(c) The commissioner of Vermont health access, in consultation with the commissioner of banking, insurance, securities, and health care administration; the commissioner of taxes; and the commissioner of motor vehicles shall review the requirements for maintaining minimum essential coverage under Section 1501 of the Affordable Care Act, including the enforcement mechanisms provided in that act. No later than January 15, 2012, the commissioner of Vermont health access shall recommend to the house committee on health care and the senate committees on finance and on health and welfare any additional enforcement mechanisms necessary to ensure that most, if not all, Vermonters will obtain sufficient health benefit coverage.

Fourteenth: In Sec. 9(c), by inserting the following: ; on finance; following the words “health and welfare”

Fifteenth: In Sec. 12, following the first paragraph, by striking out the following: “§ 1831. HEALTH CARE WORKFORCE; STRATEGIC PLAN” and inserting in lieu thereof the following:

Sec. 12a. 18 V.S.A. chapter 222 is added to read:

CHAPTER 222. ACCESS TO HEALTH CARE PROFESSIONALS

§ 9491. HEALTH CARE WORKFORCE; STRATEGIC PLAN

Sixteenth: In Sec. 15, 8 V.S.A. § 4062, by adding a new subsection (d) to read as follows:

(d)(1) The following provisions of this section shall not apply to policies for specific disease, accident, injury, hospital indemnity, dental care, disability income, or other limited benefit coverage, but shall apply to long-term care policies:

(A) the requirement in subdivision (a)(1) for the Green Mountain Care board's approval for any rate increase;

(B) the review standards in subdivision (a)(2) of this section as to whether a policy or rate is affordable, promotes quality care, and promotes access to health care; and

(C) subsections (b) and (c) of this section.

(2) The exemptions from the provisions described in subdivisions (1)(A) through (C) of this subsection shall also apply to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.

Seventeenth: In Sec. 34, Effective Dates, in subsection (a), following the following: "12 (regulatory process);", by inserting the following: 12a (health care workforce strategic plan); and in subdivision (c)(3), by adding a subparagraph (E) to read as follows:

(E) The Green Mountain Care board's determinations pursuant to 33 V.S.A. § 1822(a).

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Miller, for the Committee on Appropriations, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill as proposed by the Committees on Health and Welfare and Finance and that the bill, as amended, be further amended as follows:

First: In Sec. 2(a)(8), by adding a third sentence to read as follows: In designing the proposal, the secretary or designee shall consider the findings and recommendations contained in the majority and minority reports of the medical malpractice study committee established by Sec. 292 of No. 122 of the Acts of the 2003 Adj. Sess. (2004).

Second: In Sec. 3, 18 V.S.A. § 9374(a)(1), by adding a third sentence to read as follows: The chair shall receive compensation equal to that of a superior judge and the compensation for the remaining members shall be two-thirds of the amount received by the chair.

Third: In Sec. 3, 18 V.S.A. § 9374(e)(1), by striking out the following: “including costs of travel, child care, personal assistance services, and any other service necessary for participation in the advisory group and approved by the board” and inserting in lieu thereof the following: provided that the total amount expended for such compensation shall not exceed \$5,000.00 per year

Fourth: In Sec. 7, 33 V.S.A. § 402(b), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3) Members whose participation is not supported through their employment or association shall receive per diem compensation pursuant to 32 V.S.A. § 1010 and reimbursement of travel expenses. In addition, members who are eligible for Medicaid or who are enrolled in a qualified health benefit plan in the Vermont health benefit exchange and whose income does not exceed 300 percent of the federal poverty level shall also receive reimbursement of expenses, including costs of child care, personal assistance services, and any other service necessary for participation in the advisory committee and approved by the commissioner.

Fifth: In Sec. 7, 33 V.S.A. § 402, by adding a new subsection to be lettered subsection (f) to read as follows:

(f) A majority of the members of the committee shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

Sixth: In Sec. 33, Appropriations, in subsection (a), by striking out the following: “\$686,443.00” and inserting in lieu thereof the following: \$703,693.00 and by striking out the following: “\$315,481.00” and inserting in lieu thereof the following: \$321,231.00, and in subsection (b), by striking out the following: “\$48,000.00” and inserting in lieu thereof the following: \$25,000.00

Seventh: By adding a new section to be numbered Sec. 33a to read as follows:

#### Sec. 33a. COMPENSATION

For fiscal year 2012, the salary for the chair of the Green Mountain Care board shall be \$116,688.00.

And that the bill ought to pass in concurrence with such proposals of amendment.



Thereupon, the bill was read the second time by title only pursuant to Rule 43.

### **Recess**

On motion of Senator Campbell the Senate recessed until the fall of the gavel.

### **Called to Order**

At five o'clock and ten minutes the Senate was called to order by the President.

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

#### **H. 202.**

House bill entitled:

An act relating to a universal and unified health system.

Was taken up.

Thereupon, the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare?, was agreed to.

Thereupon, the question, Shall the Senate proposal of amendment be amended as recommended by the Committee on Finance?, at request of Senator Ayer, the question was divided.

Thereupon, the question, Shall the Senate proposal of amendment be amended as proposed by the Committee on Finance in the *fourth* through *seventeenth* proposals of amendment?, was agreed to.

Thereupon, the question, Shall the Senate proposal of amendment be amended as proposed by the Committee on Finance in the *first* through *third* proposals of amendment?, was disagreed to.

Thereupon the question, Shall the Senate proposal of amendment be amended as proposed by the Committee on Appropriations?, was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Brock, Galbraith and Illuzzi, moved that the Senate proposal of amendment be amended as follows:

First: In Sec. 3, 18 V.S.A. chapter 220, subchapter 1, in § 9374, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c)(1) No board member shall, during his or her term or terms on the board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to supervision or regulation by the board;

provided that for a health care practitioner, the employment restriction in this subdivision shall apply only to employment or other affiliation with a hospital or other health care facility, as defined in section 9432 of this title, and shall not be construed to limit generally the ability of the health care practitioner to practice his or her profession.

(2) No board member shall participate in creating or applying any law, rule, or policy or in making any other determination if the board member, individually or as a fiduciary, or the board member's spouse, parent, or child wherever residing or any other member of the board member's family residing in his or her household has an economic interest in the matter before the board or has any more than a de minimus interest that could be substantially affected by the proceeding.

(3) The prohibitions contained in subdivisions (1) and (2) of this subsection shall not be construed to prohibit a board member from, or require a board member to recuse himself or herself from board activities as a result of, any of the following:

(A) being an insurance policyholder or from receiving health services on the same terms as are available to the public generally;

(B) owning a stock, bond, or other security in an entity subject to supervision or regulation by the board that is purchased by or through a mutual fund, blind trust, or other mechanism where a person other than the board member chooses the stock, bond, or security; or

(C) receiving retirement benefits through a defined benefit plan from an entity subject to supervision or regulation by the board.

(4) No board member shall, during his or her term or terms on the board, solicit, engage in negotiations for, or otherwise discuss future employment or a future business relationship of any kind with any person subject to supervision or regulation by the board.

(5) No board member may appear before the board or any other state agency on behalf of a person subject to supervision or regulation by the board for a period of one year following his or her last day as a member of the Green Mountain Care board.

Second: In Sec. 3, 18 V.S.A. chapter 220, subchapter 2, in § 9392, by adding a subdivision (5) to read:

(5) impartiality and the ability to remain free from undue influence by a personal, business, or professional relationship with any person subject to supervision or regulation by the board.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Benning and Brock, moved that the Senate proposal of amendment be amended in Sec. 8, Integration Plan, in subdivision (a)(1), by adding a subdivision (6) to read:

(6) How to fully align the administration of Medicaid, Medicare, Dr. Dynasaur, the Catamount Health premium assistance program, the Vermont health access program, and other public or private health benefit programs in order to simplify the administrative aspects of health care delivery. In his or her recommendations, the secretary or designee shall estimate the cost-savings associated with such administrative simplification and identify any federal waivers or other agreements needed to accomplish the purposes of this subdivision (6).

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Benning and Brock, moved that the Senate proposal of amendment be amended as follows:

#### Sec. 31a. HEALTH PROGRAM APPLICATIONS

(a) The secretary of human services shall adopt rules pursuant to chapter 25 of Title 3 to require hospitals and other health care facilities licensed in this state to ask individuals without health care coverage who request or receive services at the facility to fill out a provided application for the state's health programs, including Medicaid, Dr. Dynasaur, the Vermont health access plan, and Catamount Health. The rules shall permit an individual to refuse to complete the application and shall not impose a penalty for such refusal, but shall require facilities to request at each visit that the individual complete the application.

(b) For purposes of this section, "health care facility" means any institution, whether public or private, proprietary or nonprofit, which offers diagnosis, treatment, or inpatient or ambulatory care to two or more unrelated persons, and the buildings in which those services are offered. The term shall not apply to any facility operated by a religious group relying solely on spiritual means or prayer to achieve healing.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senators Benning and Brock?, Senator Benning requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Galbraith, Ashe, Benning, Brock, Doyle, Flory, Giard, Illuzzi, Starr and Westman moved that the Senate proposal of amendment be amended in Sec. 9, Financing Plans, by adding a new subsection (e) to read as follows:

(e) The secretary of administration or designee shall allow an individual to be exempt from participation in the financing mechanisms for Green Mountain Care if the individual:

(1) receives health coverage through TRICARE;

(2) proves eligibility and enrollment if applicable for coverage through the Veterans' Administration or TRICARE; and

(3) affirmatively chooses neither to participate in the financing for Green Mountain Care nor to be eligible to receive benefits under Green Mountain Care.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Galbraith, moved that the Senate proposal of amendment be amended as follows:

First: In Sec. 9, Financing Plans, by adding a new subsection (e) to read as follows:

(e) The secretary of administration or designee shall allow an individual to be exempt from participation in the financing mechanisms for Green Mountain Care if the individual:

(1) receives health coverage through the Federal Employees Health Benefits Program;

(2) proves eligibility and enrollment if applicable for coverage through the Federal Employees Health Benefits Program; and

(3) affirmatively chooses neither to participate in the financing for Green Mountain Care nor to be eligible to receive benefits under Green Mountain Care.

Second: In Sec. 9, Financing Plans, by adding a new subsection (e) to read as follows:

(e) The secretary of administration or designee shall allow an individual to be exempt from participation in the financing mechanisms for Green Mountain Care if the individual:

(1) receives health coverage as a retirement benefit;

(2) proves eligibility for and enrollment in the coverage received as a retirement benefit; and

(3) affirmatively chooses neither to participate in the financing for Green Mountain Care nor to be eligible to receive benefits under Green Mountain Care.

Third: In Sec. 9, Financing Plans, by adding a new subsection (e) to read as follows:

(e) The secretary of administration or designee shall allow an individual to be exempt from participation in the financing mechanisms for Green Mountain Care if the individual:

(1)(A) is a foreign national, including a dual national, who receives health coverage from the government of a foreign nation; or

(B) is a Vermont resident living outside the United States who receives health coverage from a program sponsored by the U.S. government, from the government of a foreign nation, from an international organization, from a foreign employer, or from another foreign source;

(2) proves eligibility and enrollment if applicable for coverage through one or more of the programs described in subdivisions (1)(A) and (B) of this subsection; and

(3) affirmatively chooses neither to participate in the financing for Green Mountain Care nor to be eligible to receive benefits under Green Mountain Care.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Galbraith?, Senator Galbraith requested and was granted leave to withdraw the proposal of amendment.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 21, Nays 8.

Senator Brock having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Campbell, Carris, Cummings, Fox, Galbraith, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, Mazza, Miller, Mullin, Nitka, Pollina, Sears, White.

**Those Senators who voted in the negative were:** Benning, Brock, Doyle, Flory, Illuzzi, Snelling, Starr, Westman.

**The Senator absent and not voting was:** McCormack.

**Joint Resolution Committed****J.R.S. 28.**

Joint Senate resolution entitled:

Joint resolution congratulating the Republic of China on its centennial anniversary and supporting its being granted observer or participation status in certain travel and tourism organizations.

Having been placed on the Calendar for action, was taken up.

Thereupon, pending the question, Shall the joint resolution be adopted on the part of the Senate? On motion of Senator Ayer, the joint resolution was committed to the Committee on Government Operations.

**Joint Resolution Placed on Calendar****J.R.S. 30.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Ayer,

**J.R.S. 30.** Joint resolution offering congratulations on the centennial anniversary of the Republic of China and supporting Taiwan's being granted observer or participation status in certain travel and tourism organizations.

*Whereas*, the United States, especially the state of Vermont, and Taiwan share an historically close relationship marked by strong bilateral trade, educational and cultural exchange, scientific and technological interests, and tourism, and

*Whereas*, the United States and Taiwan engage in robust bilateral trade; the United States ranks as Taiwan's third largest trading partner; and Taiwan is the ninth largest trading partner of the United States, and

*Whereas*, in 2010, bilateral trade reached \$62 billion with exports to Taiwan totaling \$26 billion, and Vermont exports a significant amount to Taiwan annually, including machinery, computer and electronic products, and chemicals, and

*Whereas*, Vermont and Taiwan—the first full-fledged democracy in Chinese history—share the common values of freedom, democracy, human rights, and rule of law, and

*Whereas*, since 1999, the Vermont–Taiwan sister relationship has resulted in significant political, economic, educational, and cultural exchanges, and

*Whereas*, Taiwanese President Ma Ying-jeou has worked tirelessly to uphold democratic principles in Taiwan, ensure the prosperity of the Taiwanese people, promote Taiwan’s international standing as a responsible member of the international community, increase participation in international organizations, dispatch humanitarian missions abroad, and further improve relations between the United States and Taiwan, and

*Whereas*, a large volume of travel and tourism exists between the United States and Taiwan, with the number of outbound air departures in 2009 from Taiwan to the United States totaling 477,500, and United States’ arrivals in Taiwan totaling in excess of 369,000, and

*Whereas*, it remains in the mutual interest of Vermont and Taiwan that Taiwan be allowed to observe the meetings and activities of international organizations, in particular the International Civil Aviation Organization, so as to ensure the safety of the traveling public, and

*Whereas*, Taiwan is a key transport hub in the Asia-Pacific region, and the Taipei Flight Information Region under Taiwan’s jurisdiction covers an area of 176 square nautical miles with 1.35 million controlled flights passing through annually, and

*Whereas*, Taiwan’s participation in the United States Visa Waiver Program (VWP), enabling Taiwanese to travel to the United States for tourism or business purposes for stays of 90 days or less without being required to obtain a visa, would increase tourism and business between Taiwan and the United States, particularly Vermont, and

*Whereas*, Taiwan presents a low immigration risk for the United States, being a full-fledged democracy characterized by stability and social order, and Taiwanese present few, if any, criminal or public security issues in the United States, and illegal immigration or visa overstays remain few, with rejection rates of United States’ visas at only 2.2 percent, well below the VWP three-percent requirement, and

*Whereas*, Taiwan, in the spirit of reciprocity, has extended visa waivers to United States’ citizens since 1993, and 100 nations currently grant Taiwanese visa waivers, among them the members of the European Union, Japan, New Zealand, Singapore, Canada, and the United States territory of Guam, and

*Whereas*, Vermont and Taiwan look forward to an even stronger friendship over the next century, *now therefore be it*

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

That the General Assembly offers its congratulations on the centennial anniversary of the founding of the Republic of China, *and be it further*

***Resolved:*** That the General Assembly supports Taiwan's participation as an observer in the meetings and activities of the International Civil Aviation Organization and participation in the United States Visa Waiver Program, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to President Ma Ying-jeou of Taiwan, President Barack Obama, Director-General Anne Hung of the Taipei Economic and Cultural Office in Boston, the Vermont Congressional Delegation, and Governor Peter Shumlin.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

**Committee of Conference Appointed**

**H. 443.**

An act relating to the state's transportation program.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Mazza  
Senator Kitchel  
Senator Westman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**Committee of Conference Appointed**

**H. 446.**

An act relating to capital construction and state bonding.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Hartwell  
Senator Mazza  
Senator Benning

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.



---

**Adjournment**

On motion of Senator Campbell, the Senate adjourned until nine o'clock in the morning.

---

**TUESDAY, APRIL 26, 2011**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Mark Pitton of Montpelier.

**Joint Resolution Adopted on the Part of the Senate****J.R.S. 30.**

Joint Senate resolution entitled:

Joint resolution offering congratulations on the centennial anniversary of the Republic of China and supporting Taiwan's being granted observer or participation status in certain travel and tourism organizations.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

**Proposals of Amendment; Consideration Interrupted by Recess****H. 202.**

House bill entitled:

An act relating to a universal and unified health system.

Was taken up.

Thereupon, pending third reading of the bill, Senator Galbraith moved to amend the Senate proposal of amendment as follows:

First: In Sec. 4, 33 V.S.A. chapter 18, in § 1802, by adding a new subdivision to be numbered subdivision (9) to read as follows:

(9) "Vermont Health" means the Vermont Health Insurance Corporation established in 8 V.S.A. chapter 118.

Second: In Sec. 4, 33 V.S.A. chapter 18, in § 1803(b)(1)(A), by inserting the words and plans offered by Vermont Health following the words "the Affordable Care Act"

Third: By inserting a new section to be numbered Sec. 4c to read as follows:

Sec. 4c. 8 V.S.A. chapter 118 is added to read:

CHAPTER 118. VERMONT HEALTH INSURANCE CORPORATION

§ 4401. VERMONT HEALTH INSURANCE CORPORATION

Vermont Health is established as a private, nonprofit corporation owned by the people of Vermont for the purpose of providing qualified health benefit plans to Vermont residents.

§ 4402. PURPOSE

Vermont Health shall have as its primary goal ensuring that all Vermont residents have access to health care, including treatment by qualified physicians, necessary surgery and surgical procedures, hospitalization, and prescribed medicines. All qualified Vermont residents shall have the right to participate in a qualified health benefit plan offered by Vermont Health, and no person shall be denied the right to participate because of illness, preexisting condition, or age. Vermont Health shall guarantee issuance of a qualified health plan to all qualified Vermont residents and their dependents.

§ 4403. DEFINITIONS

As used in this chapter:

(1) “Affordable Care Act” means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and as further amended.

(2) “Commissioner” means the commissioner of banking, insurance, securities, and health care administration.

(3) “Health benefit plan” means a policy, contract, certificate, or agreement offered or issued by a health insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health services. This term does not include coverage only for accident or disability income insurance, liability insurance, coverage issued as a supplement to liability insurance, workers’ compensation or similar insurance, automobile medical payment insurance, credit-only insurance, coverage for on-site medical clinics, or other similar insurance coverage where benefits for health services are secondary or incidental to other insurance benefits as provided under the Affordable Care Act. The term also does not include stand-alone dental or vision benefits; long-term care insurance; specific disease or other limited benefit coverage; Medicare supplemental health benefits; Medicare Advantage plans; or other similar benefits excluded under the Affordable Care Act.

(4) “Health care professional” means an individual, partnership, corporation, facility, or institution licensed or certified or otherwise authorized by law to provide professional health services.

(5) “Health service” means any medically necessary treatment or procedure to maintain an individual’s physical or mental health or to diagnose or treat an individual’s physical or mental health condition, including services ordered by a health care professional and medically necessary services to assist in activities of daily living.

(6) “Qualified health benefit plan” means a health benefit plan which meets the requirements set forth in 33 V.S.A. § 1806 and Section 1301 of the Affordable Care Act.

(7) “Qualified Vermont resident” means an individual, including a minor, who is a Vermont resident and at the time of enrollment:

(A) is not incarcerated or is only incarcerated awaiting disposition of charges; and

(B) is or is reasonably expected to be during the time of enrollment a citizen or national of the United States or an immigrant lawfully present in the United States as defined by federal law.

(8) “Vermont Health Insurance Corporation” or “Vermont Health” means a private, nonprofit health insurance corporation owned by the people of Vermont and providing qualified health benefit plans to Vermont residents.

(9) “Vermont resident” means an individual domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent.

#### § 4404. OWNERSHIP AND GOVERNANCE OF VERMONT HEALTH

(a) Vermont Health shall issue shares, all of which shall be owned by the people of Vermont and held in trust for them by the general assembly.

(b) The governor shall appoint, with the consent of the senate, a five-member board of Vermont Health, one of whom shall be designated by the governor as the chair. The board shall prepare the bylaws, regulations, and policies of Vermont Health. The general assembly, acting on behalf of the shareholders, shall approve by joint resolution the bylaws, regulations, and major policies of Vermont Health.

(c) The board shall appoint all officers of Vermont Health who shall be state employees and exempt from the state classified system. The board shall determine compensation for the officers and employees of Vermont Health,

provided that no officer or employee shall receive more in compensation than the highest paid state employee.

§ 4405. CERTIFICATE OF AUTHORITY

Notwithstanding the provisions of chapters 101 and 107 of this title, upon petition of the secretary of administration, the commissioner shall issue to Vermont Health a certificate of authority to operate as a health insurance corporation for purposes of providing qualified health benefit plans to Vermont residents.

§ 4406. APPROVAL OF PREMIUMS AND FORMS

Notwithstanding the provisions of section 4062 of this title, the commissioner shall approve all forms and premium rates for Vermont Health that he or she determines to be in the best interests of the people of the state of Vermont.

§ 4407. VERMONT HEALTH QUALIFIED BENEFIT PLANS

Vermont Health shall offer only qualified health benefit plans that meet the requirements of the Affordable Care Act, 33 V.S.A. chapter 18, subchapter 1, and applicable state laws. In the event that the Affordable Care Act is repealed or held invalid, Vermont Health shall continue to offer health benefit plans that provide essential benefits packages that meet or exceed the elements described in Section 1302(a) of the Affordable Care Act and that provide for all necessary medical care, including treatment by qualified health care professionals, hospital care, and prescription drugs. Plans offered by Vermont Health shall pay for all necessary medical expenses without annual or lifetime limits.

§ 4408. CHOICE OF PROVIDER

To the extent Vermont Health provides coverage for any particular type of health service or for any particular medical condition, it shall cover those health services and conditions when provided by any type of health care professional acting within the scope of practice authorized by law. Vermont Health may establish a term or condition that places a greater financial burden on an individual for access to treatment by the type of health care professional only if it is related to the efficacy or cost-effectiveness of the type of service.

§ 4409. REQUIRED CONTRACT PROVISIONS

Qualified health benefit plan contracts entered into by Vermont Health shall be in writing, one copy of which shall be furnished to the insured. The contract shall contain at least the following provisions:

(1) A statement of the amount payable to Vermont Health by the subscriber and the manner in which such amount is payable;

(2) A statement of the nature of the services to be furnished and the period during which they will be furnished and, if there are any services to be excepted, a detailed statement of such exceptions;

(3) A statement of the terms and conditions upon which the contract may be canceled or otherwise terminated at the option of either party;

(4) A statement that the contract includes the endorsements thereon and attached papers, if any, and contains the entire contract for services;

(5) A statement that no representation by the insured in his or her application shall void the contract or be used in any legal proceeding thereunder unless such application or an exact copy thereof is included in or attached to such contract and that no agent or representative of such corporation other than an officer or officers designated therein is authorized to change the contract or waive any of its provisions;

(6) A statement that if the insured defaults in making any payment under the contract, the subsequent acceptance of a payment by the corporation or by any of its duly authorized agents shall reinstate the contract;

(7) A statement of the period of grace which will be allowed the insured for making any payment due under the contract, to be not less than ten days;

(8) A statement that the insured shall be entitled to engage the services of a health care professional whom he or she chooses to perform services covered by the contract, provided that such health care professional is licensed or certified or otherwise authorized by law to provide professional health services in this state and agrees to be governed by the bylaws of the corporation with respect to payment of fees for his or her services.

Fourth: By adding a new section to be numbered Sec. 4d to read as follows:  
Sec. 4d. 32 V.S.A. § 8556 is amended to read:

§ 8556. ~~EXEMPTION~~ EXEMPTIONS

(a) For the purposes of this subchapter, a continuing care retirement community certified under chapter 151 of Title 8 shall not be deemed to be an insurance company or other entity subject to the tax imposed by this subchapter.

(b) The Vermont Health Insurance Corporation established in chapter 118 of Title 8 shall be exempt from the tax imposed by this subchapter.

Fifth: By adding a new section to be numbered Sec. 4e to read as follows:

Sec. 4e. COST-EFFECTIVENESS EVALUATION

The secretary of administration or designee shall evaluate the cost-effectiveness of permitting a nonprofit insurance carrier licensed to do business in this state to provide some or all of the benefits and administration of the qualified health benefit plans offered by the Vermont Health Insurance Corporation in conjunction with, or in lieu of, involvement by state government. No later than February 15, 2012, the secretary or designee shall report to the house committee on health care and the senate committees on health and welfare and on finance on the advisability and cost-effectiveness of involving an insurance carrier in Vermont Health and shall propose the statutory modifications necessary to accomplish any such involvement.

Sixth: In Sec. 34, Effective Dates, in subsection (a), by inserting Sec. 4e (cost-effectiveness study); preceding the words “Secs. 8 (integration plan);” and by adding a subsection (h) to read:

(h) Secs. 4c (Vermont Health) and 4d (tax exemptions) shall take effect 180 days following a determination by the secretary of administration that Green Mountain Care will not become operational by July 1, 2017.

Which was disagreed to.

Thereupon, pending third reading of the bill, Senators Illuzzi, Brock and Miller move to amend the Senate proposal of amendment in Sec. 2, Strategic Plan; Universal and Unified Health System, by striking out subdivision (a)(4) in its entirety and inserting in lieu thereof the following:

(4) No later than January 1, 2014, the commissioner of banking, insurance, securities, and health care administration may require qualified health benefit plans to be sold to individuals and small groups through the Vermont health benefit exchange, provided that the commissioner shall also allow qualified and nonqualified plans that comply with the provisions of the Affordable Care Act to be sold to individuals and small groups outside the exchange. The commissioner may require large group insurance products to be aligned with the administrative requirements and essential benefits required in the exchange.

Which was disagreed to on a roll call, Yeas 11, Nays 19.

Senator Illuzzi having demanded the yeas and nays, they were taken and are as follows:

---

**Roll Call**

**Those Senators who voted in the affirmative were:** Benning, Brock, Doyle, Flory, Illuzzi, Kitchel, Mazza, Miller, Mullin, Starr, Westman.

**Those Senators who voted in the negative were:** Ashe, Ayer, Baruth, Campbell, Carris, Cummings, Fox, Galbraith, Giard, Hartwell, Kittell, Lyons, MacDonald, McCormack, Nitka, Pollina, Sears, Snelling, White.

Thereupon, pending third reading of the bill, Senators Brock and Illuzzi moved to amend the Senate proposal of amendment as follows:

First: In Sec. 2, Strategic Plan; Unified and Universal Health System, in subdivision (a)(2)(A), following “individuals and” by striking out the word “small” and following the word “employer” by adding the following: with 50 or fewer employees

Second: In Sec. 2, Strategic Plan; Unified and Universal Health System, in subdivision (a)(3), by striking out the following: “As provided in Sec. 4 of this act, no” and inserting in lieu thereof the following: No later than November 1, 2015, the Vermont health benefit exchange established in 33 V.S.A. chapter 18, subchapter 1 shall begin enrolling employers with 100 or fewer employees for coverage beginning January 1, 2016. No

Third: In Sec. 4, 33 V.S.A. chapter 18, subchapter 1, in § 1802, by striking out subdivision (5) in its entirety and inserting in lieu thereof the following:

(5) “Qualified employer” means:

(A) an entity which employed an average of not more than 50 employees during the preceding calendar year and which:

(i) has its principal place of business in this state and elects to provide coverage for its eligible employees through the Vermont health benefit exchange, regardless of where an employee resides; or

(ii) elects to provide coverage through the Vermont health benefit exchange for all of its eligible employees who are principally employed in this state.

(B) After January 1, 2016, the term “qualified employer” shall include an employer which meets the requirements in subdivision (A) of this subdivision (5) and which had an average of not more than 100 employees during the preceding calendar year. After January 1, 2017, the term shall include all employers which meet the requirements, regardless of size.

Fourth: In Sec. 4, 33 V.S.A. chapter 18, subchapter 1, by striking out § 1804 in its entirety and inserting in lieu thereof the following:

§ 1804. QUALIFIED EMPLOYERS

(a) A qualified employer shall be an employer who, on at least 50 percent of its working days during the preceding calendar quarter, employed at least one and no more than 50 employees, and the term “qualified employer” includes self-employed persons. Calculation of the number of employees of a qualified employer shall not include a part-time employee who works less than 30 hours per week.

(b) An employer with 50 or fewer employees that offers a qualified health benefit plan to its employees through the Vermont health benefit exchange may continue to participate in the exchange even if the employer’s size grows beyond 50 employees as long as the employer continuously makes qualified health benefit plans in the Vermont health benefit exchange available to its employees.

Which was disagreed to on a roll call, Yeas 10, Nays 20.

Senator Illuzzi having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Benning, Brock, Doyle, Flory, Illuzzi, Mazza, Miller, Mullin, Starr, Westman.

**Those Senators who voted in the negative were:** Ashe, Ayer, Baruth, Campbell, Carris, Cummings, Fox, Galbraith, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, McCormack, Nitka, Pollina, Sears, Snelling, White.

Thereupon, pending third reading of the bill, Senator Snelling, moved that the Senate proposal of amendment be amended in Sec. 2(a), by striking out subdivision (4) in its entirety and by renumbering the remaining subdivisions to be numerically correct.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Miller moved to amend the Senate proposal of amendment as follows:

First: In the introductory language in subsection (a), following the word “shall”, by inserting the following present a factual report and

Second: In subdivision (a)(1)(B), by adding a subdivision (iii) to read:

(iii) The advantages and disadvantages for the state, for employers, for employees and for individuals of allowing qualified health benefit plans to be sold to individuals and small groups in the Vermont health benefit exchange while also allowing qualified and nonqualified plans that



comply with the provisions of the Affordable Care Act to be sold to individuals and small groups outside the exchange.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Brock moved to amend the Senate proposal of amendment in Sec. 4, 33 V.S.A. chapter 18, subchapter 2, in § 1824, in subsection (a), in subdivisions (2) and (3), by adding a subdivision (D) in both subdivisions to read:

(D) Nothing in this section shall be construed to limit or restrict prosecutions under any applicable provision of law.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Brock and Sears move to amend the Senate proposal of amendment in Sec. 4, 33 V.S.A. chapter 18, subchapter 2, in § 1823, in subdivision (12), by striking out the second sentence in its entirety and inserting in lieu thereof the following: An individual shall not be considered to be a Vermont resident if he or she is 18 years of age or older and is:

(A) claimed as a dependent on the tax return of a resident of another state; or

(B) not lawfully present in the United States.

Which was agreed to on a roll call, Yeas 22, Nays 8.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Benning, Brock, Campbell, Carris, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Lyons, Mazza, Miller, Mullin, Nitka, Sears, Snelling, Starr.

**Those Senators who voted in the negative were:** Baruth, Cummings, Kittell, MacDonald, McCormack, Pollina, Westman, White.

Thereupon, pending third reading of the bill, Senator Brock moved to amend the Senate proposal of amendment as follows:

First: In Sec. 3, 18 V.S.A. chapter 220, subchapter 1, in § 9375 (b)(6), following the words “rates for”, by inserting the following: hospitals and other health care facilities, and for other, and following the word “professionals”, by inserting the following in Green Mountain Care,

Second: In Sec. 3, 18 V.S.A. chapter 220, subchapter 1, in § 9376 (b)(1), following the first instance of the word “professionals”, by adding the following: participating in Green Mountain Care; following the word “persons”, by adding the following: for products and services provided to individuals enrolled in Green Mountain Care; before the second sentence, by adding a new sentence to read as follows: In addition, the board may set rates for hospitals and other health care facilities prior to the implementation of Green Mountain Care.; and by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) Nothing in this subsection shall be construed to allow the board to set rates for health care professionals other than hospitals and other health care facilities prior to the implementation of Green Mountain Care or to set rates for health care practitioners who choose not to participate in Green Mountain Care.

Which was disagreed to.

Thereupon, pending third reading of the bill, Senator Brock moved to amend the Senate proposal of amendment in Sec. 9, Financing Plans, in subsection (a), by striking out the following: “January 15, 2013” and inserting in lieu thereof the following: September 15, 2012

Which was disagreed to on a roll call, Yeas 8, Nays 22.

Senator Brock having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Benning, Brock, Doyle, Flory, Illuzzi, Starr, Westman.

**Those Senators who voted in the negative were:** Ayer, Baruth, Campbell, Carris, Cummings, Fox, Galbraith, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, White.

Thereupon, pending third reading of the bill, Senator Benning moved to amend the Senate proposal of amendment as follows:

First: In Sec. 1a, Principles for Health Care Reform, in subdivision (7), by adding at the end of the subdivision, the following: However, it is not the intent of the general assembly to abandon Vermont’s cherished history as a champion of individual liberty. The state must not at any time enact a law or adopt a rule that would require individual rights to become subservient to the need to contain health care costs.

Second: In Sec. 3, 18 V.S.A. chapter 220, subchapter 1, in § 9371(7), by adding at the end of the subdivision, the following: However, it is not the intent of the general assembly to abandon Vermont's cherished history as a champion of individual liberty. The state must not at any time enact a law or adopt a rule that would require individual rights to become subservient to the need to contain health care costs.

Third: In Sec. 4, 33 V.S.A. chapter 18, subchapter 2, in § 1821, by designating the existing language as subsection (a) and by adding a subsection (b) to read as follows:

(b) Nothing in this section shall be construed to require individual rights to become subservient to the need to contain health care costs.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senator Benning?, Senator Benning requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the bill was read the third time.

Thereupon, pending the question, Shall the bill pass in concurrence with proposal of amendment?, Senator Campbell moved that the Senate recess until two o'clock in the afternoon.

### **Called to Order**

At two o'clock in the afternoon the Senate was called to order by the President.

### **Message from the House No. 54**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 290.** An act relating to adult protective services.

**H. 455.** An act relating to the enhanced 911 emergency response system.

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

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

**S. 49.** An act relating to commercial motor vehicle operation on the interstate system.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

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

**H. 88.** An act relating to uniform child custody jurisdiction and enforcement.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

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

**H. 138.** An act relating to executive branch fees.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

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

**H. 26.** An act relating to limiting the application of fertilizer containing phosphorus or nitrogen to nonagricultural turf.

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

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

Rep. McCullough of Williston  
Rep. Leriche of Hardwick  
Rep. Lewis of Derby

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

**H. 275.** An act relating to the recently deployed veteran tax credit.

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

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

Rep. Weston of Burlington  
Rep. Kitzmiller of Montpelier  
Rep. Marcotte of Coventry

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

**H. 436.** An act relating to tax changes, including income taxes, property taxes, economic development credits, health care-related tax provisions, and miscellaneous tax provisions.

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

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

Rep. Ancel of Calais  
Rep. Branagan of Georgia  
Rep. Sharpe of Bristol

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

**H. 441.** An act relating to making appropriations for the support of government.

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

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

Rep. Heath of Westford  
Rep. Johnson of South Hero  
Rep. Acinapura

### **Message from the Governor**

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-second day of April, 2011 he approved and signed a bill originating in the Senate of the following title:

**S. 31.** An act relating to the Agreement Among the States to Elect the President by National Popular Vote.

### **Bill Passed in Concurrence with Proposal of Amendment**

#### **H. 202.**

House bill entitled:

An act relating to a universal and unified health system.

Was taken up.

Thereupon, the pending question, Shall the bill pass in concurrence with proposal of amendment?, was agreed to on a roll call Yeas 21, Nays 9.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Campbell, Carris, Cummings, Fox, Galbraith, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, McCormack, Miller, Mullin, Nitka, Pollina, Sears, White.

**Those Senators who voted in the negative were:** Benning, Brock, Doyle, Flory, Illuzzi, Mazza, \*Snelling, Starr, Westman.

\*Senator Snelling explained her vote as follows:

“I am voting “no” today but it’s not because I don’t believe in unified health care. I do. We must build a quality system that’s accessible, affordable, everyone is covered and everyone pays in. That’s the obligation of good government, responsible business and informed citizens.

“Is that what H. 202 will do? I don’t know. There are too many unanswered questions. I hope that the next phase of research and discovery will be inclusive and collaborative of all perspectives.

“I have great respect for the Senate Health and Welfare Committee and their work and also for the very informed lawyers and analysts who wrote this legislation.

“However, I remain unconvinced that we need to move this fast in this direction at this time.

“There’s a fundamental issue that I keep thinking about.

“How can we know what the savings are before we understand the costs?

“It’s clear that we must control health care costs and I sincerely hope that this legislation will do that.

“I realize my vote won’t stop this bill nor is that my intention. I would like to support the concepts of H. 202 without endorsing a plan that can’t be verified right now.

“I will look forward to voting “yes” next year.

“Thank you.”

### **Bill Passed in Concurrence with Proposal of Amendment**

#### **H. 38.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to ensuring educational continuity for children of military families.

Thereupon, the pending question, Shall the bill pass in concurrence with proposal of amendment?, was decided in the affirmative.

**Bill Passed in Concurrence with Proposal of Amendment**

**H. 91.**

House bill entitled:

An act relating to the management of fish and wildlife.

Was taken up.

Thereupon, pending third reading of the bill, Senator Starr moved to amend the Senate proposal of amendment as follows:

First: In Sec. 5(c)(2)(B), by striking out the following: “a three-year period” and inserting in lieu thereof the following: an eight-year period

Second: In Sec. 5(c)(2)(B)(i)(II), by striking out the following: “three years” and inserting in lieu thereof the following: eight years and by striking out the following: “third year” and inserting in lieu thereof the following: eighth year

Third: In Sec. 5(c)(2)(B)(i)(III) by striking out the following: “three-year period” and inserting in lieu thereof the following: eight-year period

Which was disagreed to.

Thereupon, the bill was read the third time.

Thereupon, the question, Shall the bill pass in concurrence with proposal of amendment?, was decided in the affirmative.

**Bill Passed in Concurrence**

**H. 442.**

House bill of the following title was read the third time and passed in concurrence:

An act relating to amending the charter of the city of Rutland.

**House Proposal of Amendment Concurred In with Amendment**

**S. 2.**

House proposal of amendment to Senate bill entitled:

An act relating to sexual exploitation of a minor and the sex offender registry.

Was taken up.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this subchapter:

\* \* \*

(10) "Sex offender" means:

\* \* \*

(B) A person who is convicted of any of the following offenses against a victim who is a minor, except that, for purposes of this subdivision, conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old:

\* \* \*

(ix) sexual exploitation of a minor as defined in 13 V.S.A. § ~~3258(b)~~ 3258.

\* \* \*

Sec. 2. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon their release from confinement:

(1) Sex offenders who have been convicted of:

\* \* \*

(I) ~~Sexual~~ A felony violation of sexual exploitation of a minor (13 V.S.A. § ~~3258(b)~~ 3258(c)).

\* \* \*

(b) The department shall electronically post the following information on sex offenders designated in subsection (a) of this section:

\* \* \*



~~(6) except as provided in subsection (1) of this section, the offender's address or, if the offender does not have a fixed address, other information about where the offender habitually lives, if: the date and nature of the offender's conviction;~~

\* \* \*

Sec. 3. 16 V.S.A. § 255 is amended to read:

§ 255. PUBLIC AND INDEPENDENT SCHOOL EMPLOYEES;  
CONTRACTORS

(a) Superintendents, headmasters of recognized or approved ~~Vermont~~ independent schools, and their contractors shall request criminal record information for the following:

(1) The person a superintendent or headmaster is prepared to recommend for any full-time, part-time or temporary employment.

(2) Any person directly under contract to an independent school or school district who may have unsupervised contact with school children.

(3) Any employee of a contractor under contract to an independent school or school district who is in a position that may result in unsupervised contact with school children.

(4) Any student working toward a degree in teaching who is a student teacher in a school within the superintendent's or headmaster's jurisdiction.

(b) After signing a user agreement, a superintendent or a headmaster shall make a request directly to the Vermont criminal information center. A contractor shall make a request through a superintendent or headmaster.

(c) A request made under subsection (b) of this section shall be accompanied by a set of the person's fingerprints and a fee established by the Vermont criminal information center which shall reflect the cost of obtaining the record from the FBI. The fee shall be paid in accordance with adopted school board policy.

\* \* \*

(h) A superintendent or headmaster shall request and obtain information from the child protection registry maintained by the department for children and families and from the vulnerable adult abuse, neglect, and exploitation registry maintained by the department of disabilities, aging, and independent living (collectively, the "registries") for any person for whom a criminal record check is required under subsection (a) of this section. The department for children and families and the department of disabilities, aging, and independent living shall adopt rules governing the process for obtaining

information from the registries and for disseminating and maintaining records of that information under this subsection.

(i) A person convicted of a sex offense that requires registration pursuant to chapter 167, subchapter 3 of Title 13 shall not be eligible for employment under this section.

(j) The board of trustees of a recognized or approved independent school shall request a criminal record check and a check of the registries pursuant to the provisions of this section prior to offering employment to a headmaster.

Sec. 4. 4 V.S.A. § 952 is amended to read:

§ 952. RULES OF COURT ADMINISTRATOR

(a) The court administrator, subject to the approval of the supreme court, shall make rules regarding the qualifications, lists, and selection of all jurors and prepare questionnaires for prospective jurors. Each superior court clerk shall, in conformity with the rules, prepare a list of jurors from residents of its unit. The rules shall be designed to assure that the list of jurors prepared by the ~~jury commission~~ superior court clerk shall be representative of the citizens of its unit in terms of age, sex, occupation, economic status, and geographical distribution.

(b) Rules adopted under this section shall be consistent with the provisions of this chapter.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with an amendment as follows:

By adding a new section to be numbered Sec. 5 to read as follows:

Sec 5. 20 V.S.A. § 2056b is amended to read:

§ 2056b. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO PERSONS CONDUCTING RESEARCH

(a) The Vermont criminal information center may provide Vermont criminal history records as defined in section 2056a of this title to bona fide persons conducting research related to the administration of criminal justice, subject to conditions approved by the commissioner of public safety to assure the confidentiality of the information and the privacy of individuals to whom the information relates. Bulk criminal history data requested by descriptors other than the name and date of birth of the subject may only be provided in a format that excludes the subject's name and any unique numbers that may

reference the identity of the subject, except that court docket numbers and the state identification number may be provided. Researchers ~~must~~ shall sign a user agreement which specifies data security requirements and restrictions on use of identifying information.

(b) No person shall confirm the existence or nonexistence of criminal history record information to any person other than the subject and properly designated employees of an organization who have a documented need to know the contents of the record.

(c) A person who violates the provisions of this section with respect to unauthorized disclosure of confidential criminal history record information obtained from the center under the authority of this section shall be fined not more than \$5,000.00. Each unauthorized disclosure shall constitute a separate civil violation.

And by renumbering the remaining section to be numerically correct.

Which was agreed to.

### **Committees of Conference Appointed**

#### **H. 26.**

An act relating to limiting the application of fertilizer containing phosphorus or nitrogen to nonagricultural turf.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Lyons  
Senator MacDonald  
Senator Brock

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

#### **H. 441.**

An act relating to making appropriations for the support of government.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Kitchel  
Senator Sears  
Senator Snelling

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**H. 436.**

An act relating to tax changes, including income taxes, property taxes, economic development credits, health care-related tax provisions, and miscellaneous tax provisions.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Cummings  
Senator MacDonald  
Senator Ashe

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**Rules Suspended; Bills Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**S. 2, H. 38, H. 91, H. 202, H. 442.**

**Rules Suspended; Joint Resolution Messaged**

On motion of Senator Campbell, the rules were suspended, and the following joint Senate resolution was ordered messaged to the House forthwith:

**J.R.S. 30.**

**Message from the House No. 55**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**J.R.S. 30.** Joint resolution offering congratulations on the centennial anniversary of the Republic of China and supporting Taiwan's being granted observer or participation status in certain travel and tourism organizations.

And has adopted the same in concurrence.

The Governor has informed the House that on the April 22, 2011, he approved and signed bills originating in the House of the following titles:

**H. 85.** An act relating to recognition of the Nulhegan Band of the Coosuk Abenaki Nation as a Native American Indian tribe.

**H. 86.** An act relating to recognition of the Elnu Abenaki tribe as a Native American Indian tribe.

The Governor has informed the House that on the April 26, 2011, he approved and signed a bill originating in the House of the following title:

**H. 172.** An act relating to repealing the sale or lease of the John F. Boylan airport.

### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, April 27, 2011.

---

### **WEDNESDAY, APRIL 27, 2011**

The Senate was called to order by the President.

### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

### **Committee Relieved of Further Consideration; Bills Committed**

#### **H. 24.**

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the maintenance and conveyance of Maidstone Lake Road,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Campbell, the bill was committed to the Committee on Institutions.

#### **H. 185.**

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to regulating fees and charges for propane gas,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Campbell, the bill was committed to the Committee on Finance.

**H. 198.**

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to a transportation policy to accommodate all users,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Campbell, the bill was committed to the Committee on Transportation.

**H. 294.**

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to approving amendments to the charter of the city of Montpelier,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Campbell, the bill was committed to the Committee on Government Operations.

**H. 369.**

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to health professionals regulated by the board of medical practice,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Campbell, the bill was committed to the Committee on Government Operations.

**H. 438.**

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the department of banking, insurance, securities, and health care administration,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Campbell, the bill was committed to the Committee on Finance.

**H. 448.**

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to contributions to the state and municipal employees' retirement systems,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Campbell, the bill was committed to the Committee on Government Operations.

**H. 452.**

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to establishing the boundary line between the towns of Shelburne and St. George,

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Campbell, the bill was committed to the Committee on Government Operations.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 290.**

An act relating to adult protective services.

To the Committee on Rules.

**H. 455.**

An act relating to the enhanced 911 emergency response system.

To the Committee on Rules.

**Consideration Resumed; Proposal of Amendment; Third Reading  
Ordered; Rules Suspended; Bill Passed; Bill Messaged**

**H. 426**

Consideration was resumed on House bill entitled:

An act relating to extending the state's reporting concerning transportation of children in state custody and transportation of individuals in the custody of the commissioner of mental health.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Fox moved that the Senate propose to the House to amend the bill in Sec. 1, in subsection (c) of Sec. 3 of No. 180 of the Acts of the 2005

Adjourned Session (2006) by striking out the date: “January 15, 2009” and inserting in lieu thereof the date: January 15, 2012

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

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

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until nine o’clock in the morning.

---

### **THURSDAY, APRIL 28, 2011**

The Senate was called to order by the President.

### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

### **Message from the House No. 56**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 451.** An act relating to amending the charter of the town of Shelburne.

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

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

**S. 36.** An act relating to the surplus lines insurance multi-state compliance compact.

**S. 90.** An act relating to respectful language in state statutes in referring to people with disabilities.



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

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

**J.R.S. 31.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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

**H. 430.** An act relating to providing mentoring support for new principals and technical center directors.

And has severally concurred therein.

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

**S. 2.** An act relating to sexual exploitation of a minor and the sex offender registry.

And has concurred therein.

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

**H. 38.** An act relating to ensuring educational continuity for children of military families.

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

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Peltz of Woodbury

Rep. Lewis of Berlin

Rep. Campion of Bennington

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

**H. 91.** An act relating to the management of fish and wildlife.

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

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Webb of Shelburne  
Rep. Deen of Westminster  
Rep. Krebs of South Hero

**Message from the House No. 57**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 454.** An act relating to the administration and issuance of vital records.  
In the passage of which the concurrence of the Senate is requested.

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

**S. 91.** An act relating to motor vehicle operation and entertainment pictures.

And has passed the same in concurrence.

The House has adopted joint resolution of the following title:

**J.R.H. 19.** Joint resolution supporting the administration's efforts to examine and provide recommendations for improving and increasing the effectiveness of Vermont's state and municipal environmental protection process.

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

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

**H. 66.** An act relating to the illegal taking of trophy big game animals.  
And has severally concurred therein.

**Joint Resolution Referred**

**J.R.H. 19.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution supporting the administration's efforts to examine and provide recommendations for improving and increasing the effectiveness of Vermont's state and municipal environmental protection process.

Whereas, our physical environment is the sum of everything around us, our beautiful mountains and valleys, our streams and lakes, the air we breathe and the winter's snow and summer's green grass, and

Whereas, to date, Vermont has managed to preserve many of the best aspects of the state's environment, but this protective process could be administered more effectively and with greater transparency, and

Whereas, since 1970, Vermont's system of state and municipal environmental and land use regulation has grown and changed, resulting in overlapping laws and programs under the administrative jurisdiction of multiple state offices that do not always share the same regulatory objectives or coordinate in an optimal fashion, and

Whereas, the state of Vermont and local municipalities should be encouraging appropriate development at specific locations, and

Whereas, for example, attempts to effectively enforce water quality standards in Lake Champlain, promote a settlement pattern of compact urban and village centers surrounded by a rural, working landscape, and reduce greenhouse gas emissions have not resulted in achieving compliance with statutory goals and not infrequently have resulted in contentious disputes and litigation, and

Whereas, project developers and citizens concerned about projects often voice complaints expressing confusion about the specific permits required for a given project and objecting that the regulatory process can be expensive, daunting, and time-consuming and that it needs to be predictable, and

Whereas, Vermont must ensure that its permitting process appropriately utilizes the benefits of new technology to improve efficiency while simultaneously achieving protection of the natural environment, and

Whereas, Governor Shumlin has directed the chair of the natural resources board to review Vermont's environmental and land use permitting system and to provide recommendations for improving the system and increasing its effectiveness, and

Whereas, the secretary of natural resources has agreed to coordinate with and assist the chair of the natural resources board in these efforts, and both will also seek legislative input, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly supports the administration's efforts to examine and provide recommendations for improving and increasing the effectiveness of Vermont's environmental protection process, and be it further

Resolved: That the General Assembly requests that the chair of the natural resources board, in coordination with the secretary of natural resources and other state and municipal permitting officials, invite public input through public meetings, the use of the Internet, and other forms of outreach, and be it further

Resolved: That the General Assembly requests that the chair of the natural resources board, in coordination with the secretary of natural resources, regularly meet and consult with the chairs of the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources during this review process, and be it further

Resolved: That the General Assembly requests that the chair of the natural resources board in coordination with the secretary of natural resources develop recommendations intended to maintain standards assuring the environmental quality so important to Vermonters while making Vermont's land use and environmental permit process more efficient, more effective, more user-friendly, more open, more predictable, better coordinated, and quicker for applicants and citizens, and be it further

Resolved: That the General Assembly requests the chair of the natural resources board to report to the chairs of the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources by January 15, 2012 with recommendations to meet the intent of this resolution, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the chair of the natural resources board and the secretary of natural resources.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Natural Resources and Energy.

### **Bills Referred**

House bills of the following titles were severally read the first time and referred:

#### **H. 451.**

An act relating to amending the charter of the town of Shelburne.

To the Committee on Rules.

---

**H. 454.**

An act relating to the administration and issuance of vital records.

To the Committee on Rules.

**Message from the Governor  
Appointments Referred**

A message was received from the Governor, by Alexandra MacLean, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Wengroff, Ariel of Burlington – Member of the Board of Libraries, - from April 8, 2011, to February 28, 2013.

To the Committee on Education.

Grassi, Richard of White River Junction - Member of the Vermont Parole Board, - from March 1, 2011, to February 28, 2014.

To the Committee on Institutions.

George, Dean C. of Middlebury - Chair of the Vermont Parole Board, - from March 1, 2011, to February 28, 2014.

To the Committee on Institutions.

Lawrence, Kevin of Newbury - Member of the Fish and Wildlife Board, - from April 8, 2011, to February 28, 2013.

To the Committee on Natural Resources and Energy.

Jagielski, Thomas A. of Grand Isle - Member of the Occupational Safety and Health Review Board, - from March 1, 2011, to February 28, 2017.

To the Committee on Economic Development, Housing and General Affairs.

Tippett, Holly of Middlebury - Member of the Community High School of Vermont Board, - from April 21, 2011, to February 28, 2014.

To the Committee on Education.

Cross, George C. of Winooski - Member of the Community High School of Vermont Board, - from April 21, 2011, to February 28, 2014.

To the Committee on Education.

**Recess**

On motion of Senator Campbell the Senate recessed until two o'clock in the afternoon.

**Called to Order**

At two o'clock and fifteen minutes the Senate was called to order by the President.

**Message from the House No. 58**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**S. 94.** An act relating to miscellaneous amendments to the motor vehicle laws.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

**Message from the House No. 59**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**H. 202.** An act relating to a universal and unified health system.

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

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

Rep. Larson of Burlington

Rep. Fisher of Lincoln

Rep. Copeland-Hanzas of Bradford

**Bill Referred to Committee on Finance****H. 369.**

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to health professionals regulated by the board of medical practice.

**Bill Passed in Concurrence with Proposal of Amendment; Rules  
Suspended; Bill Messaged**

**H. 411.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to the application of Act 250 to agricultural fairs.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

**House Proposal of Amendment Concurred In**

**S. 49.**

House proposal of amendment to Senate bill entitled:

An act relating to commercial motor vehicle operation on the interstate system.

Was taken up.

The House proposes to the Senate to amend the bill in Sec. 2. 23 V.S.A. § 1392, by striking out subdivision (16) and inserting in lieu thereof a new subdivision (16) to read as follows:

(16) Notwithstanding ~~any other provision of law~~ the axle load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a five or more axle truck tractor, semi-trailer combination, or truck trailer combination, when the load consists solely of unprocessed milk products as defined in subdivision 4(55) of this title, may be registered for and operated with a maximum gross weight of 90,000 pounds on state highways without permit, and upon posted state and town highways and on those highways designated as the national system of interstate and defense highways when the vehicle has been issued a permit in compliance with the provisions of section 1400 of this title; however:

(A) Vehicles ~~registered~~ operated pursuant to this subdivision (16) shall be subject to the same axle spacing restrictions as are applied to five or more axle vehicles registered to 80,000 pounds as set forth in subdivision (4) of this section;

(B) ~~The following shall also apply to vehicles registered pursuant to this subdivision (16):~~

~~(i) no single axle load shall be in excess of 22,400 pounds except that a 10 percent tolerance shall be allowed on each single axle;~~

~~(ii) no tandem axle load shall be in excess of 36,000 pounds except that a 10 percent tolerance shall be allowed on each tandem axle;~~

~~(iii) no single axle of a tandem axle unit shall support more than 60 percent of the total rate supported by the tandem axle unit;~~

~~(iv) no tri axle group, as defined in subdivision (6)(D) of this section, shall support a gross weight in excess of that allowed in subdivision (4) of this section and no tolerance shall be allowed on any tri axle group;~~

~~(v) no single axle of a tri axle group shall support more than 40 percent of the total weight supported by the tri axle group;~~

~~(vi) the maximum load on any axle of the vehicle shall not exceed more than 600 pounds per inch of tire width computed in conformity with the manufacturer's designated width;~~

~~(vii) no tolerance shall be allowed on the gross weight of any vehicle registered under the provisions of this subdivision, nor shall the axle tolerance permitted in subdivisions (i) and (ii) of this subdivision apply when the vehicle is being operated upon posted state or town highways pursuant to the provisions of section 1400 of this title. On those highways designated as the national system of interstate and defense highways, the provisions of subsection 1391(c) of this title shall apply unless other axle load limits, tolerances, or both are authorized under federal law.~~

(C) The fee for the annual permit as provided in this subdivision shall be \$7.00 when the fee has been paid to register the vehicle for 90,000 pounds or \$285.00 when the vehicle is registered for 80,000 pounds.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

**House Proposals of Amendment to Senate Proposal of Amendment  
Concurred In**

**H. 88.**

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to uniform child custody jurisdiction and enforcement.

Were taken up.

The House concurs in the Senate proposal of amendment with further proposal of amendment as follows:



First: In Sec. 1, 15 V.S.A. § 1061, by striking out subdivision (17) in its entirety.

Second: In Sec. 1, 15 V.S.A. § 1079, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) As used in this section, the term “party” shall not include the child in a proceeding under chapter 51 or 53 of Title 33.

Third: In Sec. 1, 15 V.S.A. § 1080, by adding a new subsection to be subsection (e) to read as follows:

(e) As used in this section, the term “with or without the child” means that the court may order that the child be represented by an attorney or guardian ad litem.

Fourth: By adding four new sections to be numbered Secs. 4, 5, 6, and 7 to read as follows:

Sec. 4. 33 V.S.A. § 5307(e)(6) is amended to read:

(6) Additional information as required by the Uniform Child Custody Jurisdiction and Enforcement Act pursuant to ~~45 V.S.A. § 1037~~ chapter 20 of Title 15 and the Indian Child Welfare Act pursuant to 25 U.S.C. § 1901 et seq.

Sec. 5. 15A V.S.A. § 3-101(b) is amended to read:

(b) A court of this state may not exercise jurisdiction over a proceeding for adoption of a minor if at the time the petition for adoption is filed a proceeding concerning the custody or adoption of the minor is pending in a court of another state exercising jurisdiction substantially in conformity with the Uniform Child Custody Jurisdiction and Enforcement Act or this title, unless the proceeding is stayed by the court of the other state.

Sec. 6. 15A V.S.A. § 3-101(c)(1)(A) is amended to read:

(A) does not have continuing jurisdiction to modify the decree or order under jurisdictional prerequisites substantially in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act or has declined to assume jurisdiction to modify the decree or order; or

Sec. 7. 15A V.S.A. § 3-101(d)(5) is amended to read:

(5) any requirement of the Uniform Child Custody Jurisdiction and Enforcement Act is satisfied so as to vest the courts of the state with jurisdiction over the child.

And by renumbering the remaining sections to be numerically correct.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposal of amendment?, was decided in the affirmative.

**House Proposal of Amendment to Senate Proposal of Amendment  
Concurred In**

**H. 138.**

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to executive branch fees.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment by striking out Sec. 11a in its entirety and inserting in lieu thereof a new section to be numbered Sec. 11a to read as follows:

Sec. 11a. 10 V.S.A. § 4255 is amended to read:

**§ 4255. LICENSE FEES**

(a) Vermont residents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	\$22.00
(2) Hunting license	\$22.00
(3) Combination hunting and fishing license	\$35.00
(4) Big game licenses (all require a hunting license)	
(A) archery license	\$20.00
(B) muzzle loader license	\$20.00
(C) turkey license	\$20.00
(D) second muzzle loader license	\$17.00
(E) second archery license	\$17.00
(F) moose license	\$100.00
(G) <u>second bear tag</u>	<u>\$5.00</u>

\* \* \*

(b) Nonresidents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

---

(1) Fishing license	\$45.00
(2) One-day fishing license	\$20.00
(3) [Deleted.]	
(4) Hunting license	\$100.00
(5) Combination hunting and fishing license	\$130.00
(6) Big game licenses (all require a hunting license)	
(A) archery license	\$35.00
(B) muzzle loader license	\$40.00
(C) turkey license	\$35.00
(D) second muzzle loader license	\$25.00
(E) second archery license	\$25.00
(F) moose license	\$350.00
(G) <u>second bear tag</u>	<u>\$15.00</u>

\* \* \*

(I) If the board determines that it is in the interest of bear management, it may authorize the department to issue a second bear tag for the taking of bear in addition to that allowed by a hunting license issued under this chapter.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

#### **Rules Suspended; Bill Delivered**

On motion of Senator Campbell, the rules were suspended, and the following bill were ordered delivered to the Governor forthwith:

**S. 49.**

#### **Rules Suspended; Bills Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**H. 88, H. 138.**

#### **Rules Suspended; Proposals of Amendment; Consideration Postponed**

**H. 438.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to the department of banking, insurance, securities, and health care administration.

Was taken up for immediate consideration.

Senator Cummings, for the Committee on Finance, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be numbered Sec. 14a to read as follows:

Sec. 14a. REPEAL

8 V.S.A. § 4089f(e) (decisions relating to mental health shall be reviewed under 8 V.S.A. § 4089a) is repealed.

Second: In Sec. 17, 8 V.S.A. § 9456(e) (hospital budget reviews; waiver), in the second sentence, by striking out the following: “The rule shall permit the commissioner to waive” and inserting in lieu thereof the following: “The ~~rule~~ shall permit the commissioner to may waive”

Third: By adding a new section to be numbered Sec. 19a to read as follows:

Sec. 19a. MEDICAL LOSS RATIOS; EMPLOYER DEFINITIONS

For purposes of medical loss ratio calculations only, pursuant to Section 10101(f) of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), the term “small employer” means an employer with 50 or fewer employees and the term “large employer” means an employer with 51 or more employees.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, on motion of Senator Campbell consideration of the bill was postponed until the next legislative day.

### **Committees of Conference Appointed**

#### **H. 38.**

An act relating to ensuring educational continuity for children of military families.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Mullin  
Senator Starr  
Senator Lyons

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**H. 91.**

An act relating to the management of fish and wildlife.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Lyons  
Senator McCormack  
Senator Benning

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**H. 275.**

An act relating to the recently deployed veteran tax credit.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator MacDonald  
Senator McCormack  
Senator Westman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**H. 202.**

An act relating to a universal and unified health system.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Ayer  
Senator Mullin  
Senator Fox

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**Adjournment**

On motion of Senator Campbell, the Senate adjourned until nine o'clock in the morning.

---

**FRIDAY, APRIL 29, 2011**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Message from the House No. 60**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**S. 53.** An act relating to the number of prekindergarten children included within a school district's average daily membership.

**S. 58.** An act relating to jurisdiction of a crime committed when the defendant was under the age of 16.

And has passed the same in concurrence.

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

**S. 73.** An act relating to raising the penalties for eluding a police officer.

**S. 105.** An act relating to miscellaneous agricultural subjects.

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

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

**H. 426.** An act relating to extending the state's reporting concerning transportation of children in state custody and transportation of individuals in the custody of the commissioner of mental health.

And has severally concurred therein.

The Governor has informed the House that on the April 28, 2011, he approved and signed bills originating in the House of the following titles:

**H. 52.** An act relating to the definition of poultry products.

**H. 240.** An act relating to continuing to provide for the receivership of long-term care facilities.

**H. 442.** An act relating to amending the charter of the city of Rutland.

### **Bills Referred to Committee on Appropriations**

House bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, were severally referred to the Committee on Appropriations:

#### **H. 73.**

An act relating to establishing a government transparency office to enforce the public records act.

#### **H. 448.**

An act relating to contributions to the state and municipal employees' retirement systems.

### **Proposals of Amendment; Third Reading Ordered**

#### **H. 201.**

Senator Miller, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to hospice and palliative care.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out the Sec. 3 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 3 to read as follows:

#### **Sec. 3. REQUEST FOR A WAIVER**

By no later than July 1, 2012, the department of Vermont health access shall request and apply for a demonstration project or waiver from the Centers for Medicare and Medicaid Services to allow for the state to obtain federal Medicaid matching funds to provide for an "enhanced hospice access" benefit, whereby the definition of "terminal illness" is expanded from six months' life expectancy to 12 months' and participants may access hospice without being required to first discontinue curative therapy. Also, by no later than July 1, 2012, the department shall request and apply for a Medicare demonstration

project or waiver from the Centers for Medicare and Medicaid Services to provide funding for the same enhanced hospice access benefit.

Second: In Sec. 4, subsection (c), by striking out the following: “Assembly of Home Health Agencies, Inc.” and inserting in lieu thereof the following: Vermont Assembly of Home Health and Hospice Agencies

Third: By striking out Sec. 7 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 7 to read as follows:

Sec. 7. 26 V.S.A. § 1400 is amended to read:

§ 1400. RENEWAL OF LICENSE; CONTINUING MEDICAL EDUCATION

(a) Every person licensed to practice medicine ~~and surgery~~ by the board shall apply biennially for the renewal of his or her license. ~~One~~ At least one month prior to the date on which renewal is required, the board shall send to each licensee a license renewal application form and notice of the date on which the existing license will expire. On or before the renewal date, the licensee shall file an application for license renewal and pay the required fee. The board shall register the applicant and issue the renewal license. Within one month following the date renewal is required, the board shall pay the license renewal fees into the medical practice board special fund ~~and shall file a list of licensees with the department of health.~~

(b) A licensee applying for renewal of an active license to practice medicine shall have completed continuing medical education which shall meet minimum criteria as established by rule, by the board, by August 31, 2012 and which shall be in effect for the renewal of licenses to practice medicine expiring after August 31, 2014. The board shall require a minimum of ten hours of continuing medical education by rule. The training provided by the continuing medical education shall be designed to ensure that the licensee has updated his or her knowledge and skills in his or her own specialties and also has kept abreast of advances in other fields for which patient referrals may be appropriate. The board shall require evidence of current professional competence in recognizing the need for timely appropriate consultations and referrals to ensure fully informed patient choice of treatment options, including treatments such as those offered by hospice, palliative care, and pain management services.

(c) A licensee applying for renewal of an active license to practice medicine shall have practiced medicine within the last three years as defined in section 1311 of this title or have complied with the requirements for updating knowledge and skills as defined by board rules.



(d) A licensee shall demonstrate that the requirements for licensure are met.

(e) A licensee shall promptly provide the board with new or changed information pertinent to the information in his or her license and license renewal applications at the time he or she becomes aware of the new or changed information.

~~(b)(f)~~ (f) A person who practices medicine and surgery and who fails to renew his or her license in accordance with the provisions of this section shall be deemed an illegal practitioner and shall forfeit the right to so practice or to hold himself or herself out as a person licensed to practice medicine and surgery in the state until reinstated by the board, but nevertheless a person who was licensed to practice medicine and surgery at the time of his induction, call on reserve commission or enlistment into the armed forces of the United States, shall be entitled to practice medicine and surgery during the time of his service with the armed forces of the United States and for 60 days after separation from such service physician while on extended active duty in the uniformed services of the United States or as a member of the national guard, state guard, or reserve component who is licensed as a physician at the time of an activation or deployment shall receive an extension of licensure up to 90 days following the physician's return from activation or deployment, provided the physician notifies the board of his or her activation or deployment prior to the expiration of the current license and certifies that the circumstances of the activation or deployment impede good faith efforts to make timely application for renewal of the license.

~~(e)(g)~~ (g) Any person who allows a license to lapse by failing to renew the same in accordance with the provisions of this section may be reinstated by the board by payment of the renewal fee and the late renewal penalty, and if applicable, by completion of the continuing medical education requirement as established in subsection (b) of this section and any other requirements for licensure as required by this section and board rule.

Fourth: In Sec. 8, after the following “set forth in 26 V.S.A.” by striking out the following: “§ 1400(b)(1) and (2), in the field of field of palliative care, hospice, end-of-life care, and management of chronic pain” and inserting in lieu thereof the following: § 1400(b)

Fifth: In Sec. 10, 18 V.S.A. § 9708, by striking out subsection (f) in its entirety. And by relettering the remaining subsections in Sec. 10 to be alphabetically correct.

Sixth: In Sec. 10, 18 V.S.A. § 9708, by striking out relettered subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read as follows:

~~(b)~~(g) A clinician who issues a DNR order ~~may~~ shall authorize issuance of a DNR identification to the ~~principal~~ patient. Uniform minimum requirements for DNR identification shall be determined by rule by the department of health no later than March 1, 2012.

Seventh: In Sec. 10, 18 V.S.A. § 9708, by inserting a new subsection to be lettered subsection (i) to read as follows:

(i) A DNR/COLST order executed prior to July 1, 2011 shall be a valid order if the document complies with the statutory requirements in effect at the time the document was executed or with the provisions of this chapter.

And by relettering the remaining subsections in Sec. 10 to be alphabetically correct.

Eighth: By inserting a new section to be numbered Sec. 11 to read as follows:

\* \* \* STUDY ON DNR/COLST ORDER INFORMED CONSENT \* \* \*

#### SEC. 11. STUDY ON DNR/COLST ORDER INFORMED CONSENT

(a) The DNR/COLST order informed consent committee is created and shall be convened by the commissioner of health to study criteria to be used for rules concerning individuals who are giving informed consent for a DNR/COLST order issued pursuant to 18 V.S.A. § 9708(b), but who are not the patient, the patient's agent, or the patient's guardian.

(b) The committee shall consist of the following members or their designees:

(1) The commissioners of health; Vermont health access; and disabilities, aging, and independent living;

(2) one representative each from the Vermont Medical Society, the Vermont Ethics Network, the Vermont Association of Hospitals and Health Systems, Vermont Program for Quality in Health Care, the Hospice and Palliative Care Council of Vermont, the Vermont Center for Independent Living, Vermont Area Agencies on Aging, Vermont Assembly of Home Health and Hospice Agencies, and the Vermont Health Care Association;

(3) the long term care ombudsman; and

(4) the state health care ombudsman.

(c) The committee shall make recommendations on the criteria to be used for rules concerning individuals who are giving informed consent for a DNR/COLST order to be issued pursuant to 18 V.S.A. § 9708(b), but who are not the patient, the patient's agent, or the patient's guardian. The committee's recommendations shall include:

(1) which individual or individuals who are not the patient, the patient's agent, or the patient's guardian, but who shall be a family member of the patient or a person with a known close relationship to the patient, are permitted to give informed consent for a DNR/COLST order;

(2) how decisions regarding who is the appropriate person to be giving informed consent for a DNR/COLST order are to be made, which shall include at a minimum the protection of a patient's own wishes in the same manner as set forth in 18 V.S.A. § 9711; and

(3) the use of a hospital's internal ethics protocols when there is a disagreement over who is the appropriate person to give informed consent for a DNR/COLST order.

(d) The committee shall report by December 1, 2011 to the Vermont health access oversight committee, the chair of the house committee on human services, and the chair of the senate committee on health and welfare on its findings and recommendations.

And by renumbering all remaining sections to be numerically correct.

Ninth: In renumbered Sec. 12, 18 V.S.A. § 9709, subsection (c), by striking out subdivision (5) in its entirety and inserting in lieu thereof a new subdivisions (5) and (6) to read as follows:

(5) Upon transfer or discharge from the to another facility, a copy of any advance directive, DNR order, and clinician order for life-sustaining treatment is or COLST order shall be transmitted with the principal or, if or patient. If the transfer is to a health care facility or residential care facility, is any advance directive, DNR order, or COLST order shall be promptly transmitted to the subsequent facility, unless the sending facility has confirmed that the receiving facility has a copy of any the advance directive, DNR order, or clinician order for life-sustaining treatment COLST order.

(6) For a patient for whom DNR/COLST orders are documented in a facility-specific manner, any DNR/COLST orders to be continued upon discharge, during transport, or in another setting shall be documented on the Vermont DNR/COLST form issued pursuant to 18 V.S.A. § 9708(b) or on the form as prescribed by the patient's state of residence.

Tenth: By inserting a new section to be numbered Sec. 13 to read as follows:

Sec. 13. 18 V.S.A. § 9713 is amended to read:

§ 9713. IMMUNITY

(a) No individual acting as an agent or guardian shall be subjected to criminal or civil liability for making a decision in good faith pursuant to the terms of an advance directive, or DNA order, or COLST order and the provisions of this chapter.

(b)(1) No health care provider, health care facility, residential care facility, or any other person acting for or under such person's control shall, if the provider or facility has complied with the provisions of this chapter, be subject to civil or criminal liability for:

(A) providing or withholding ~~health care~~ treatment or services in good faith pursuant to the direction of a principal or patient, the provisions of an advance directive, a DNA order, a COLST order, a DNR identification ~~of the principal~~, the consent of a principal or patient with capacity or of the principal's or patient's agent or guardian, or a decision or objection of a principal or patient; or

(B) relying in good faith on a suspended or revoked advance directive, suspended or revoked DNR order, or suspended or revoked COLST order, unless the provider or facility knew or should have known of the suspension or revocation.

(2) No funeral director, crematory operator, cemetery official, procurement organization, or any other person acting for or under such person's control, shall, if the director, operator, official, or organization has complied with the provisions of this chapter, be subject to civil or criminal liability for providing or withholding its services in good faith pursuant to the provisions of an advance directive, whether or not the advance directive has been suspended or revoked.

(3) Nothing in this subsection shall be construed to establish immunity for the failure to follow standards of professional conduct and to exercise due care in the provision of services.

(c) No employee shall be subjected to an adverse employment decision or evaluation for:

(1) providing or withholding ~~health care~~ treatment or services in good faith pursuant to the direction of a principal or patient, the provisions of an advance directive, a DNR order, a COLST order, a DNR identification ~~of the principal~~, the consent of the ~~principal's~~ principal or patient with capacity or principals or patient's agent or guardian, a decision or objection of a principal or patient, or the provisions of this chapter. This subdivision shall not be

construed to establish a defense for the failure to follow standards of professional conduct and to exercise due care in the provision of services;

(2) relying on an amended, suspended, or revoked advance directive, unless the employee knew or should have known of the amendment, suspension or revocation; or

(3) providing notice to the employer of a moral or other conflict pursuant to subdivision 9707(b)(3) of this title, so long as the employee has provided ongoing health care until a new employee or provider has been found to provide the services.

And by renumbering all remaining sections to be numerically correct.

Eleventh: In renumbered Sec. 15, after the following: “This act shall take effect on passage” by inserting the following: , except for Sec. 7, 26 V.S.A. § 1400(c), which shall take effect 60 days after the adoption of the maintenance of licensure rule for physicians

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Miller, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health and Welfare.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Health and Welfare?, was decided in the affirmative.

Thereupon, pending third reading of the bill, Senator Miller, on behalf of the Committee on Health and Welfare, moved that the Senate propose to the House to amend the bill by striking out Sec. 3 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 3 to read as follows:

### Sec. 3. REQUEST FOR A WAIVER

By no later than July 1, 2012, the agency of human services shall include as a part of its application request for a demonstration project from the Centers for Medicare and Medicaid Services to integrate care for dual eligible individuals the additional proposal of allowing the state to provide for an “enhanced hospice access” benefit, whereby the definition of “terminal illness” is expanded from six months’ life expectancy to that of 12 months and participants may access hospice without being required to first discontinue

curative therapy. Also, by no later than July 1, 2013, the agency of human services shall submit a Global Commitment Medicaid waiver amendment to provide funding for the same enhanced hospice access benefit.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

### **Recess**

On motion of Senator Campbell the Senate recessed until one o'clock and thirty minutes.

### **Called to Order**

At two o'clock in the afternoon the Senate was called to order by the President.

### **Rules Suspended; Bill Committed**

#### **H. 56.**

House bill entitled:

An act relating to the Vermont Energy Act of 2011.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committee on Natural Resources and Energy and Finance *intact*,

Which was agreed to.

### **Proposals of Amendment; Consideration Postponed**

#### **H. 420.**

Senator Ayer, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to the office of professional regulation.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 5 to read as follows:

Sec. 5. 26 V.S.A. chapter 28 is amended to read:

## CHAPTER 28. NURSING

### Subchapter 1. Registered and Licensed Practical Nursing

\* \* \*

#### § 1572. DEFINITIONS

As used in this chapter:

\* \* \*

(4) “Advanced practice registered nurse” or “APRN” means a licensed registered nurse authorized to practice in this state who, because of specialized education and experience, is endorsed to perform acts of medical diagnosis and to prescribe medical, therapeutic, or corrective measures under administrative rules adopted by the board.

(5) “License” means a current authorization permitting the practice of nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse.

#### § 1573. VERMONT STATE BOARD OF NURSING

(a) There is hereby created a Vermont state board of nursing consisting of ~~five~~ six registered nurses, including at least ~~one endorsed~~ two licensed as an advanced practice registered ~~nurse~~ nurses, two practical nurses, one nursing assistant, and two public members. Board members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004.

\* \* \*

#### § 1573a. APRN SUBCOMMITTEE

The board shall appoint a subcommittee to study and report to the board on matters relating to advanced practice registered nurse practice. The subcommittee shall be composed of at least five members. The majority shall be advanced practice registered nurses who are licensed and in good standing in this state. At least one member shall be a member of the public, and at least one member shall be a physician designated by the board of medical practice. Members of the subcommittee shall be entitled to compensation at the rate provided in 32 V.S.A. § 1010.

\* \* \*

#### § 1582. REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

(a) The board may deny an application for registration, licensure, or relicensure; revoke or suspend any license to practice nursing issued by it; or

discipline or in other ways condition the practice of a registrant or licensee upon due notice and opportunity for hearing in compliance with the provisions of ~~chapter 25 of Title 3, 3 V.S.A. chapter 25~~ if the person engages in the following conduct or the conduct set forth in ~~section 129a of Title 3 V.S.A. § 129a:~~

(1) Has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing;

\* \* \*

(6) Has a mental, emotional, or physical disability, the nature of which interferes with ability to practice nursing competently; ~~or~~

(7) Engages in conduct of a character likely to deceive, defraud, or harm the public;

(8) Has willfully omitted to file or record or has willfully impeded or obstructed a filing or recording or has induced another person to omit to file or record medical reports required by law;

(9) Has knowingly aided or abetted a health care provider who is not legally practicing within the state in the provision of health care services;

(10) Has permitted his or her name or license to be used by a person, group, or corporation when not actually in charge of or responsible for the treatment given;

(11) Has failed to comply with the patient bill of rights provisions of 18 V.S.A. § 1852; or

(12) Has committed any sexual misconduct that exploits the provider-patient relationship, including sexual contact with a patient, surrogates, or key third parties.

(b) Procedure. The board shall establish a discipline process based on this chapter and the Administrative Procedure Act.

(c) Appeals. ~~(4)~~ Any person or institution aggrieved by any action of the board under this section or section 1581 of this title may appeal as provided in ~~section 130a of Title 3 V.S.A. § 130a.~~

(d) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the board about incompetent, unprofessional, or unlawful conduct of a nurse.

\* \* \*



---

§ 1584. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

\* \* \*

(7) Employ unlicensed persons to practice registered ~~or~~ nursing, practical nursing, or as a nursing assistant.

\* \* \*

Subchapter 3. Advanced Practice Registered Nurses

§ 1611. ADVANCED PRACTICE REGISTERED NURSE LICENSURE

To be eligible for an APRN license, an applicant shall:

(1) have a degree or certificate from a Vermont graduate nursing program approved by the board or a graduate program approved by a state or a national accrediting agency that includes a curriculum substantially equivalent to programs approved by the board. The educational program shall meet the educational standards set by the national accrediting board and the national certifying board. Programs shall include a supervised clinical component in the role and population focus of the applicant's certification. The program shall prepare nurses to practice advanced nursing in a role as a nurse practitioner, certified nurse midwife, certified nurse anesthetist, or clinical nurse specialist in psychiatric or mental health nursing and shall include, at a minimum, graduate level courses in:

(A) advanced pharmacotherapeutics;

(B) advanced patient assessment; and

(C) advanced pathophysiology;

(2) hold a degree or certificate from an accredited graduate-level educational program preparing the applicant for one of the four recognized APRN roles described in subdivision (1) of this section and have educational preparation consistent with the applicant's certification, role, population focus, and specialty practice; and

(3) hold current advanced nursing certification in a role and population focus granted by a national certifying organization recognized by the board.

§ 1612. PRACTICE GUIDELINES

(a) APRN licensees shall submit for review individual practice guidelines and receive board approval of the practice guidelines. Practice guidelines shall reflect current standards of advanced nursing practice specific to the APRN's role, population focus, and specialty.

(b) Licensees shall submit for review individual practice guidelines and receive board approval of the practice guidelines:

(1) prior to initial employment;

(2) upon application for renewal of an APRN's registered nurse license;  
and

(3) prior to a change in the APRN's employment or clinical role, population focus, or specialty.

#### § 1613. TRANSITION TO PRACTICE

(a) Graduates with fewer than 24 months and 2,400 hours of licensed active advanced nursing practice in an initial role and population focus or fewer than 12 months and 1,600 hours for any additional role and population focus shall have a formal agreement with a collaborating provider as required by board rule. APRNs shall have and maintain signed and dated copies of all required collaborative provider agreements as part of the practice guidelines. An APRN required to practice with a collaborative provider agreement may not engage in solo practice, except with regard to a role and population focus in which the APRN has met the requirements of this subsection.

(b) An APRN who satisfies the requirements to engage in solo practice pursuant to subsection (a) of this section shall notify the board that these requirements have been met.

#### § 1614. APRN RENEWAL

An APRN license renewal application shall include:

(1) documentation of completion of the APRN practice requirement;

(2) a current certification by a national APRN specialty certifying organization;

(3) current practice guidelines; and

(4) a current collaborative provider agreement if required for transition to practice.

#### § 1615. REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

(a) The board may deny an application for licensure or renewal or may revoke, suspend, or otherwise discipline an advanced practice registered nurse upon due notice and opportunity for hearing in compliance with the provisions of 3 V.S.A. chapter 25 if the person engages in the conduct set forth in 3 V.S.A. § 129a or section 1582 of this title or any of the following:

(1) abandonment of a patient in violation of the duty to maintain a provider–patient relationship within the reasonable expectations of continuing care or referral.

(2) solicitation of professional patronage by agents or persons or profiting from the acts of those representing themselves to be agents of the licensed APRN.

(3) division of fees or agreeing to split or divide the fees received for professional services for any person for bringing or referring a patient.

(4) practice beyond those acts and situations that are within the practice guidelines approved by the board for an APRN and within the limits of the knowledge and experience of the APRN, and, for an APRN who is practicing under a collaborative agreement, practice beyond those acts and situations that are within both the usual scope of the collaborating provider’s practice and the terms of the collaborative agreement.

(5) for an APRN who acts as the collaborating provider for an APRN who is practicing under a collaboration agreement, allowing the mentored APRN to perform a medical act which is outside the usual scope of the mentor’s own practice or which the mentored APRN is not qualified to perform by training or experience or which is not consistent with the requirements of this chapter and the rules of the board.

(6) providing, prescribing, dispensing, or furnishing medical services or prescription medication or prescription-only devices to a person in response to any communication transmitted or received by computer or other electronic means when the licensee fails to take the following actions to establish and maintain a proper provider–patient relationship:

(A) a reasonable effort to verify that the person requesting medication is in fact the patient and is in fact who the person claims to be;

(B) establishment of documented diagnosis through the use of accepted medical practices; and

(C) maintenance of a current medical record.

(7) prescribing, selling, administering, distributing, ordering, or dispensing any drug legally classified as a controlled substance for his or her own use or for an immediate family member.

(8) signing a blank or undated prescription form.

(b)(1) For the purposes of subdivision (a)(6) of this section, an electronic, online, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient.

(2) The following would not be in violation of subdivision (a)(6) of this section:

(A) initial admission orders for newly hospitalized patients;

(B) prescribing for a patient of another provider for whom the prescriber has taken call;

(C) prescribing for a patient examined by a licensed APRN, physician assistant, or other practitioner authorized by law and supported by the APRN;

(D) continuing medication on a short-term basis for a new patient prior to the patient's first appointment; or

(E) emergency situations where the life or health of the patient is in imminent danger.

Second: By striking out Sec. 6 in its entirety.

Third: In Sec. 12, in 26 V.S.A. § 3322, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The licensed appraiser shall include within the body of the appraisal report the amount of the appraiser's fee for appraisal services.

Fourth: By striking out Sec. 15 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 15 to read as follows:

#### **Sec. 15. STAKEHOLDER WORKGROUP**

Not later than July 1, 2011, the Vermont board of nursing shall convene a workgroup consisting of representatives from nursing homes, hospice agencies, the agency of human services, and nursing assistant educators to make recommendations to the board on the standards for administration of medication by medication nursing assistants as well as standards for education and competency of medication nursing assistants. The board shall submit a report to the general assembly on the status of efforts to establish these standards not later than January 15, 2012.

And by renumbering the sections to be numerically correct.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendations of amendment were collectively agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator White moved to amend the Senate proposal of amendment by striking

out Sec. 15 (effective date) in its entirety and inserting three new sections to be numbered Secs. 15, 16 and 17 to read as follows:

Sec. 15. 17 V.S.A. § 2121 is amended to read:

§ 2121. ELIGIBILITY OF VOTERS

(a) Any person may register to vote in the town of his or her residence in any election held in a political subdivision of this state in which he or she resides who, on election day:

- (1) is a citizen of the United States;
- (2) is a resident of the state of Vermont;
- (3) has taken the voter's oath; and
- (4) is 18 years of age or more

~~may register to vote in the town of his residence in any election held in a political subdivision of this state in which he resides.~~

(b) Any person meeting the requirements of subdivisions (a)(1)–(3) of this section who will be 18 years of age on or before the date of a general election may register and vote in the primary election immediately preceding that general election.

Sec. 16. 17 V.S.A. § 2702 is amended to read:

§ 2702. NOMINATING PETITION

The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party if petitions signed by at least one thousand voters in accordance with sections 2353, 2354, and 2358 of this title are filed with the secretary of state, together with the written consent of the person to the printing of the person's name on the ballot. Petitions shall be filed not later than 5:00 p.m. on the ~~third~~ first Monday after the first Tuesday of January preceding the primary election. The petition shall be in a form prescribed by the secretary of state. A person's name shall not be listed as a candidate on the primary ballot of more than one party in the same election. Each petition shall be accompanied by a filing fee of \$2,000.00 to be paid to the secretary of state and deposited by the secretary of state into the general fund. However, if the petition of a candidate is accompanied by the affidavit of the candidate, which shall be available for public inspection, that the candidate and the candidate's campaign committee are without sufficient funds to pay the filing fee, the secretary of state shall waive all but \$300.00 of the payment of the filing fee by that candidate.

## Sec. 17. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator White?, Senator Campbell moved that consideration of the bill be postponed.

**Rules Suspended; Bills on Notice Calendar for Immediate Consideration**

On motion of Senator Mazza, the rules were suspended, and the following bills, appearing on the Calendar for notice, were ordered to be brought up for immediate consideration:

**H. 294, H. 452, H. 6, H. 153.**

**Third Readings Ordered****H. 294.**

Senator Pollina, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approving amendments to the charter of the city of Montpelier.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**H. 452.**

Senator Pollina, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to establishing the boundary line between the towns of Shelburne and St. George.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**Proposal of Amendment; Third Reading Ordered****H. 6.**

Senator Nitka, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to powers and immunities of the liquor control investigators.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 561(a) is amended to read:

(a) The director of the enforcement division of the department of liquor control and investigators employed by the liquor control board or by the department of liquor control shall be law enforcement officers and shall have the same powers and immunities as those conferred on the state police by ~~section 1914 of Title 20, as necessary to carry out liquor control enforcement duties under this title or while performing liquor control enforcement duties at a licensed premise or event catered by a licensee or in the immediate vicinity of a licensed premise or an event catered by a licensee~~ 20 V.S.A. § 1914.

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

(11) “Enforcement officers” shall include sheriffs, deputy sheriffs, constables, police officers, state’s attorneys, capitol police officers, motor vehicle inspectors, liquor investigators, state game wardens, and state police, and for enforcement of offenses relating to parking of motor vehicles, meter checkers, and other duly authorized employees of a municipality employed to assist in the enforcement of parking regulations. “Enforcement officers” shall also include duly authorized employees of the department of motor vehicles for the purpose of issuing complaints related to their administrative duties, for enforcement of nonmoving traffic violations enumerated in subdivisions 2302(a)(1), (2), (3) and (4) of this title, pursuant to 4 V.S.A. § 1105.

Sec. 3. 7 V.S.A. § 561(a) is amended to read:

(a) The director of the enforcement division of the department of liquor control and investigators employed by the liquor control board or by the department of liquor control shall be law enforcement officers and shall have the same powers and immunities as those conferred on the state police by 20 V.S.A. § 1914, as necessary to carry out liquor control enforcement duties under this title or while performing liquor control enforcement duties at a licensed premise or event catered by a licensee or in the immediate vicinity of a licensed premise or an event catered by a licensee.

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

(11) “Enforcement officers” shall include sheriffs, deputy sheriffs, constables, police officers, state’s attorneys, capitol police officers, motor vehicle inspectors, liquor investigators, state game wardens, and state police, and for enforcement of offenses relating to parking of motor vehicles, meter checkers, and other duly authorized employees of a municipality employed to assist in the enforcement of parking regulations. “Enforcement officers” shall

also include duly authorized employees of the department of motor vehicles for the purpose of issuing complaints related to their administrative duties, for enforcement of nonmoving traffic violations enumerated in subdivisions 2302(a)(1), (2), (3) and (4) of this title, pursuant to 4 V.S.A. § 1105.

**Sec. 5. EFFECTIVE DATES**

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

(b) Secs. 3 and 4 of this act shall take effect on July 1, 2013.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

**Rules Suspended; Bill Committed**

**H. 287.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to job creation and economic development.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Economic Development, Housing and General Affairs and Finance, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committees on Economic Development, Housing and General Affairs and Finance *intact*,

Which was agreed to.

**Recess**

On motion of Senator Campbell the Senate recessed until the fall of the gavel.

**Called to Order**

The Senate was called to order by the President.

**Rules Suspended; Bills Passed**

**H. 294.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and House bill entitled:



An act relating to approving amendments to the charter of the city of Montpelier.

Was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

**H. 452.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to establishing the boundary line between the towns of Shelburne and St. George.

Was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

**Rules Suspended; Proposal of Amendment; Third Reading Ordered;  
Rules Suspended; Bill Passed in Concurrence with Proposal of  
Amendment**

**H. 287.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to job creation and economic development.

Was taken up for immediate consideration.

Senator Ashe, for the Committee on Economic Development, Housing and General Affairs, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Incentive Grants; VEGI \* \* \*

**Sec. 1. VEGI STUDY**

On or before January 15, 2012, the secretary of commerce and community development shall conduct a comprehensive study of the Vermont employment growth incentive program and shall submit a report to the house committees on commerce and economic development and on ways and means, and to the senate committees on finance and on economic development, housing and general affairs. The study shall address the overall effectiveness of the program; the appropriate term and use of the "look back" provision and the wage threshold; the appropriate use of company-specific and industry background growth rates; the administrative burden the program imposes on both employers and on government; a comparison to similar programs in other

states; and such other issues as the secretary deems necessary to evaluate changes to or elimination of the program.

Sec. 2. Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006) is amended to read:

(c) Beginning April 1, 2009, the economic incentive review board is authorized to grant payroll-based growth incentives pursuant to the Vermont employment growth incentive program established by Sec. 9 of this act. Unless extended by act of the General Assembly, as of ~~January~~ July 1, 2012, no new Vermont employment growth incentive (VEGI) awards under 32 V.S.A. § 5930b may be made. Any VEGI awards granted prior to ~~January~~ July 1, 2012 may remain in effect until used.

Sec. 3. 32 V.S.A. § 5930a(c)(1) is amended to read:

(1) The enterprise should create new, full-time jobs to be filled by individuals who are Vermont residents. The new jobs shall not include jobs or employees transferred from an existing business in the state, or replacements for vacant or terminated positions in the applicant's business. The new jobs include those that exceed the applicant's average annual employment level in Vermont during the two preceding ~~fiscal~~ years, unless the council determines that the enterprise will establish a significantly different, new line of business and create new jobs in the new line of business that were not part of the enterprise prior to filing its application for incentives with the council. The enterprise should provide opportunities that increase income, reduce unemployment, and reduce facility vacancy rates. Preference should be given to projects that enhance economic activity in areas of the state with the highest levels of unemployment and the lowest levels of economic activity.

Sec. 4. [RESERVED]

Sec. 5. 32 V.S.A. § 5930b(e) is amended to read:

(e) Reporting. By May 1, 2008 and by May 1 each year thereafter, the council and the department of taxes shall file a joint report on the employment growth incentives authorized by this section with the chairs of the house committee on ways and means, the house committee on commerce and economic development, the senate committee on finance, the senate committee on economic development, housing and general affairs, the house and senate committees on appropriations, and the joint fiscal committee of the general assembly and provide notice of the report to the members of those committees. The joint report shall contain the total authorized award amount of incentives granted during the preceding year, amounts actually earned and paid from inception of the program to the date of the report, including the date and amount of the award, the expected calendar year or years in which the award

will be exercised, whether the award is currently available, the date the award will expire, and the amount and date of all incentives exercised. The joint report shall also include information on recipient performance in the year in which the incentives were applied, including the number of applications for the incentive, the number of approved applicants who complied with all their requirements for the incentive, the aggregate number of new jobs created, the aggregate payroll of those jobs and the identity of businesses whose applications were approved. The council and department shall use measures to protect proprietary financial information, such as reporting information in an aggregate form. Data and information in the joint report made available to the public shall be presented in a searchable format.

Sec. 6. [RESERVED]

Sec. 7. LONG-TERM UNEMPLOYED HIRING INCENTIVE

(a) In this section:

(1) “New full-time employment” means employment by a qualified employer in a permanent position at least 35 hours each week in the year for which an incentive is claimed at a compensation of not less than the average wage for the corresponding economic sector in the county of the state as determined by the Vermont department of labor.

(2) “Qualified employer” means a person doing business in Vermont that is registered with the Vermont secretary of state, is current with all payments and filings required by the Vermont departments of taxes and of labor, and has a valid workers’ compensation policy.

(3) “Qualified long-term unemployed Vermonter” means a legal resident of Vermont who collected unemployment insurance benefits in the state of Vermont for five months or more or whose collection of unemployment insurance benefits has expired within 30 days of the date of new employment with a qualified employer and who was hired through a referral from the Vermont department of labor.

(b) A qualified employer who hires a qualified long-term unemployed Vermonter on or before December 31, 2012 shall be eligible to receive a hiring incentive one year after the employee’s date of hire in the amount of \$500.00 per employee. Incentive awards shall be made in the order in which they are claimed, as determined by the commissioner in his or her discretion, not to exceed \$5,000.00 per recipient per year, and not to exceed a total program cap of \$25,000.00.

(c) The commissioner of labor shall administer payment of incentives consistent with this section and shall develop:

(1) an application form for qualified employers; and

(2) a process for verifying compliance with the eligibility requirements of the program.

(d) The commissioner may, in his or her discretion, modify any requirement of and use the funds appropriated for this section in any other manner that furthers the goal of reducing the number of long-term unemployed Vermonters.

\* \* \* Labor; Workforce Training \* \* \*

Sec. 8. 10 V.S.A. § 541(d) is amended to read:

(d) The governor shall appoint one of the business or employer members to chair the council for a term of two years. A member shall not serve as chair in consecutive terms.

Sec. 8a. DEPT. OF LABOR; WORKFORCE DEVELOPMENT DIRECTOR;  
REPEAL

10 V.S.A. 541(h) (executive director of workforce development council) is repealed.

Sec. 9. FINDINGS: VERMONT TRAINING PROGRAM

The general assembly finds:

(1) The Vermont training program provides funds for the training of employees in new and existing businesses in the sectors of manufacturing, information technology, health care, telecommunications, and environmental engineering. The state offers three training initiatives: new employment, upgrade, and crossover training for incumbent workers. These individually designed training programs may include on-the-job, classroom, skill upgrade, or other specialized training which is mutually agreed upon between the state and employer.

(2) A report conducted by the legislative joint fiscal office pursuant to Sec. 14a. of No. 78 of the 2009 Adj. Sess. (2010) found that businesses that are served by the Vermont training program (VTP) see it as a valuable state program in support of small business and the workforce in Vermont.

(3)(A) In an analysis of a 2008 Economic Impact Study of the VTP, legislative economist Tom Kavet concluded that the 2008 study presented a much better picture of the VTP's return on investment than really can be demonstrated, due to its assumption that the "but for" condition applies to all the jobs for which VTP-subsidized training was made available; that is, these jobs would not have been created or retained nor would incremental wage gains have been achieved absent the VTP support.

(B) Kavet further found that, although job training programs can be important subsidies to businesses, without them many businesses would simply pay for the training themselves and accept this as a cost of doing business, and further that most companies in Vermont shoulder these costs without state subsidization.

(C) Finally, Kavet concluded that, although VTP is a good program that lowers the cost of doing business in Vermont by subsidizing job training that would probably be otherwise borne by the business or the individual, as with most state expenditures, the program is unlikely to be net fiscally positive.

(4) Currently, as is the case with many programs that receive state funding and are included in the unified economic development budget, the VTP is not collecting and reporting sufficient data, nor are sufficient performance measures and benchmarks in place, to measure effectively the program's performance.

Sec. 10. 10 V.S.A. § 531 is amended to read:

§ 531. ~~EMPLOYMENT TRAINING~~ VERMONT TRAINING PROGRAM

(a) The secretary of commerce and community development may issue performance-based grants to any employer, consortium of employers, or ~~contract with~~ providers of training, either individuals or organizations, as necessary, to conduct training under the following circumstances:

(1) when issuing grants to an employer or consortium of employers, the employer promises as a condition of the grant to increase employment or provide training to enhance employment stability at an existing or expanded eligible facility within the state where eligible facility is defined as in subdivision 212(6) of this title relating to Vermont economic development authority, or the employer or consortium of employers promises to open an eligible facility within the state which will employ persons, provided that for the purposes of this section, eligible facility may be broadly interpreted to include employers in sectors other than manufacturing including the fields of information technology, telecommunications, health care, agriculture, and environmental technologies; and

\* \* \*

(b) Eligibility for grant. The secretary of commerce and community development shall ~~find in the grant or contract that:~~

~~(1) the employer's new or expanded facility will enhance employment opportunities for Vermont residents;~~

~~(2) the existing labor force within the state will probably be unable to provide the employer with sufficient numbers of employees with suitable training and experience; and~~

~~(3) the employer provides its employees with at least three of the following:~~

~~(A) health care benefits with 50 percent or more of the premium paid by the employer;~~

~~(B) dental assistance;~~

~~(C) paid vacation and holidays;~~

~~(D) child care;~~

~~(E) other extraordinary employee benefits; and~~

~~(F) retirement benefits~~

by rule or emergency rule develop eligibility criteria for grants issued pursuant to this section.

(c) The employer promises as a condition of the grant to:

(1) employ new persons at a wage which, at the completion of the training program, is two times the prevailing state or federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 30 percent of the gross program wage, or for existing employees, to increase the wage to two times the prevailing state and federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 20 percent of the gross program wage, upon completion of training; provided, however, that in areas defined by the secretary of commerce and community development in which the secretary finds that the rate of unemployment is ~~50~~ 30 percent greater than the average for the state, the wage rate under this subsection may be set by the secretary at a rate no less than one and one-half times the federal or state minimum wage, whichever is greater;

\* \* \*

(4) submit a customer satisfaction report to the secretary of commerce and community development, on a form prepared by the secretary for that purpose, no more than 30 days from the last day of the training program.

(d) In issuing a grant or entering a contract for the conduct of order to avoid duplication of programs or services and to provide the greatest return on investment from training provided under this section, the secretary of commerce and community development shall:

(1) first consult with: the commissioner of education regarding vocational-technical education; the commissioner of labor regarding apprenticeship programs, on the job training programs, and recruiting services provided through Vermont Job Service and available federal training funds; the commissioner for children and families regarding welfare to work priorities; and the University of Vermont and the Vermont state colleges whether the grantee has accessed, or is eligible to access, other workforce development and training resources offered by public or private workforce development partners;

(2) disburse grant funds only for training hours that have been successfully completed by employees; provided that a grant for on-the-job training shall either provide not more than 50 percent of wages for each employee in training, or not more than 50 percent of trainer expense, but not both, and further provided that training shall be performed in accordance with a training plan that defines the subject of the training, the number of training hours, and how the effectiveness of the training will be evaluated; and

(3) use funds under this section only to supplement training efforts of employers and not to replace or supplant training efforts of employers.

(e) The secretary of commerce and community development shall administer all training programs under this section, may select and use providers of training as appropriate, and shall adopt rules and may accept services, money or property donated for the purposes of this section. The secretary shall promote awareness of, and shall give priority to, training that enhances critical skills, productivity, innovation, quality, or competitiveness, such as training in Innovation Engineering, "Lean" systems, and ISO certification for expansion into new markets.

\* \* \*

(h) The secretary may designate the commissioner of economic, housing and community development to carry out his or her powers and duties under this chapter.

~~(i)(1) Program Outcomes. The joint fiscal office shall prepare a training program performance report based on the following information submitted to it by the Vermont training program, which is to be collected from each participating employer and then aggregated:~~

~~(A) The number of full time employees six months prior to the training and six months after its completion.~~

~~(B) For all existing employees, the median hourly wages prior to and after the training.~~

~~(C) The number of “new hires,” “upgrades,” and “crossovers” deemed eligible for the waivers authorized by statute and the median wages paid to employees in each category upon completion.~~

~~(D) A list and description of the benefits required under subdivision (c)(3) of this section for all affected employees, including the number of employees that receive each type of benefit.~~

~~(E) The number of employers allowed to pay reduced wages in high unemployment areas of the state, along with the number of affected workers and their median wage.~~

~~(2) Upon request by the secretary of commerce and community development, participating employers shall provide the information necessary to conduct the performance report required by this subsection. The secretary, in turn, shall provide such information to the joint fiscal office in a manner agreed upon by the secretary and the joint fiscal office. The secretary and the joint fiscal office shall take measures to ensure that company-specific data and information remain confidential and are not publicly disclosed except in aggregate form. The secretary shall submit to the joint fiscal office any program outcomes, measurement standards, or other evaluative approaches in use by the training program.~~

~~(3) The joint fiscal office shall review the information collected pursuant to subdivisions (1) and (2) of this subsection and prepare a training program performance report with recommendations relative to the program. The joint fiscal office shall submit its first training program performance report on or before January 15, 2011, to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development. A second performance report shall be submitted on or before January 15, 2016. In addition to the information evaluated pursuant to subdivision (1) of this subsection, the second report shall include recommendations as to the following:~~

~~(A) whether the outcomes achieved by the program are sufficient to warrant its continued existence.~~

~~(B) whether training program outcomes can be improved by legislative or administrative changes.~~

~~(C) whether continued program performance reports are warranted and, if so, at what frequency and at what level of review.~~

~~(4) The joint fiscal office may contract with a consultant to conduct the performance reports required by this subsection. Costs incurred in preparing each report shall be reimbursed from the training program fund up to \$15,000.00.~~



Program Outcomes.

(1) On or before September 1, 2011, the agency of commerce and community development, in coordination with the department of labor and in periodic consultation with the joint fiscal office, shall develop, to the extent appropriate, a common set of benchmarks and performance measures for the training program established in this section and the workforce education and training fund established in section 543 of this title, and shall collect employee-specific data on training outcomes regarding the performance measures.

(2) On or before January 15, 2013, the joint fiscal office shall prepare a performance report using the benchmarks and performance measures created pursuant to subdivision (1) of this subsection. The joint fiscal office shall submit its report to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

(3) The secretary shall use information gathered pursuant to this subsection and the survey results and customer satisfaction reports submitted pursuant to subdivision (c)(4) of this section to evaluate the program and make necessary changes that fall within the secretary's authority or, if beyond the scope of the secretary's authority, to recommend necessary changes to the appropriate committees of the general assembly.

\* \* \*

(k) Annually on or before January 15, the secretary shall submit a report to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs summarizing all active and completed contracts and grants, the types of training activities provided, the number of employees served and, the average wage by employer, and addressing any waivers granted.

Sec. 11. 10 V.S.A. § 544 is added to read:

§ 544. VERMONT CAREER INTERNSHIP PROGRAM

(a)(1) The department of labor, in consultation with the department of education, shall develop and implement a statewide Vermont Career Internship Program for Vermonters who are in high school or in college and for those who are recent graduates of 24 months or less.

(2) The department of labor shall coordinate and provide funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional

technical centers, the Community High School of Vermont, colleges, and recent graduates of 24 months or less.

(3) Funding awarded through the Vermont Career Internship Program may be used to administer an internship program and to provide participants with a stipend during the internship, based on need. Funds may be made only to programs or projects that do all the following:

(A) do not replace or supplant existing positions;

(B) create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate secondary and postsecondary students and recent graduates through work-based learning opportunities with Vermont employers that are likely to lead to real employment;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools; and

(F) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) For the purposes of this section, “internship” means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The department of labor, in collaboration with the agency of agriculture, food and markets, the department of education and state-funded postsecondary educational institutions, the workforce development council, and other state agencies and departments that have workforce development and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont career internship program;

(2) collect data and establish program goals and quantifiable performance measures for internship programs funded through the Vermont career internship program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the state in the internship program to expand internship opportunities with state government and with entities awarded state contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the state.

Sec. 12. IMPLEMENTATION OF THE VERMONT CAREER INTERNSHIP PROGRAM; WORKERS' COMPENSATION

(a)(1) Program costs in fiscal year 2012 for the Vermont career internship program created in 10 V.S.A. § 544 shall be funded through an appropriation from the next generation initiative fund established in 16 V.S.A. § 2887.

(2) Funding in subsequent years shall be recommended by the department of labor, in collaboration with the agency of agriculture, food and markets, the department of education and state-funded post-secondary educational institutions, the workforce development council, and other state agencies and departments that have workforce development and training monies.

(b) The state may provide workers' compensation coverage to participants in the Vermont career internship program authorized in 10 V.S.A. § 544. The state shall be considered a single entity solely for purposes of purchasing a single workers' compensation insurance policy providing coverage for interns. This subsection is intended to permit the state to provide workers' compensation coverage, and the state shall not be considered the employer of the participants for any other purposes. The cost of coverage may be deducted from grants provided for the internship program.

Sec. 13. 10 V.S.A. § 543(f) is amended to read:

(f) Awards. Based on guidelines set by the council, the commissioners of labor and of education shall jointly make awards to the following:

\* \* \*

~~(2) Vermont Career Internship Program. Public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, and colleges. For the purposes of this section, "internship" means a learning experience working with an employer where the intern may, but does not necessarily receive academic credit, financial remuneration, a stipend, or any combination of these. Awards under this subdivision may be used to fund the cost of administering an internship program and to provide students with a stipend during the internship, based on need. Awards may be made only to programs or projects that do all the following:~~

- ~~(A) do not replace or supplant existing positions;~~
- ~~(B) create real workplace expectations and consequences;~~
- ~~(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;~~
- ~~(D) are designed to motivate and educate secondary and postsecondary students through work-based learning opportunities with Vermont employers that are likely to lead to real employment;~~
- ~~(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools;~~
- ~~(F) involve Vermont employers or interns who are Vermont residents; and~~
- ~~(G) offer students a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont. Funding for eligible internship programs and activities under the Vermont career internship program established in section 544 of this section.~~

#### Sec. 14. REPEAL

10 V.S.A. § 542 (regional workforce development) is repealed.

#### Sec. 14a. WORKFORCE DEVELOPMENT PERFORMANCE GRANTS

- (a) The commissioner of labor, in consultation with the secretary of commerce and community development, is authorized to issue up to \$75,000.00 in performance grants to one or more persons to perform workforce development activities in a region.
- (b) Each grant shall specify the scope of the workforce development activities to be performed, the geographic region to be served, and shall include outcomes and measures to evaluate the grantee's performance.
- (c) The secretary and the commissioner shall jointly develop a grant process and eligibility criteria, as well as an outreach process for notifying potential participants of the grant program.

\* \* \* Entrepreneurship; Creative Economy \* \* \*

Sec. 15. 3 V.S.A. § 2471c is added read:

§ 2471c. OFFICE OF CREATIVE ECONOMY; VERMONT FILM COMMISSION

(a) The office of creative economy is created within the agency of commerce and community development in order to build upon the years of work and energy around creative economy initiatives in Vermont, including the work of the Vermont film commission. The office shall provide business, networking, and technical support to establish, grow, and attract enterprises involved with the creative economy, primarily focused on but not limited to such areas as film, new and emerging media, software development, and innovative commercial goods. The office shall work in collaboration with Vermont's private and public sectors, including educational institutions, to raise the profile and economic productivity of these activities.

(b) The office shall be administered by a director appointed by the secretary pursuant to section 2454 of this title and shall be supervised by the commissioner of the department of economic, housing and community development.

Sec. 16. REPEAL; ASSIGNMENT OF DUTIES; VERMONT FILM CORPORATION

(a) 10 V.S.A. chapter 26 (Vermont film corporation; Vermont film production incentive program) is repealed.

(b) The duties of the Vermont film corporation shall be transferred to the agency of commerce and community development.

Sec. 17. 3 V.S.A. § 2471d is added read:

§ 2471d. VERMONT FILM AND NEW MEDIA ADVISORY BOARD

The secretary of commerce and community development shall appoint a film advisory board to make recommendations to the secretary on promoting Vermont as a location for commercial film and television production and facilitating the participation of local individuals and companies in such productions. The primary function of the advisory board is to recommend to the secretary strategies to link Vermonters employed in the film and new media, video, or other creative arts, to economic opportunities in their trades in Vermont.

Sec. 18. 11A V.S.A. § 8.20 is amended to read:

§ 8.20. MEETINGS

(a) The board of directors may hold regular or special meetings, as defined in subdivision 1.40(26) of this title, in or outside this state.

(b) The board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously or sequentially communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 19. 11B V.S.A. § 8.20 is amended to read:

§ 8.20. REGULAR AND SPECIAL MEETINGS

(a) If the time and place of a directors' meeting is fixed by the bylaws or the board, the meeting is a regular meeting. All other meetings are special meetings.

(b) A board of directors may hold regular or special meetings in or out of this state.

(c) Unless the articles of incorporation or bylaws provide otherwise, a board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously or sequentially communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

\* \* \* Finance; Access to Capital \* \* \*

Sec. 20. 8 V.S.A. § 12603 is amended to read:

§ 12603. MERCHANT BANKS

\* \* \*

(f) The minimum amount of initial capital for a merchant bank is ~~\$10,000,000.00~~ \$1,000,000.00, all of which at least \$5,000,000.00 shall be common stock or equity interest in the merchant bank. ~~The balance may be composed of qualifying subordinated or similar debt.~~ A merchant bank may use qualified subordinated debt or senior debt as part of its capital structure above \$1,000,000.00, provided that the amount of subordinated debt or senior debt used as capital above \$1,000,000.00 is not greater than the amount of common

stock or equity interest used as capital above \$1,000,000.00. The commissioner, in his or her discretion, may increase the minimum capital required for a merchant bank.

\* \* \*

(m) Any acquisition or change in control of ~~five~~ ten percent or more of the common stock or equity interests in a merchant bank shall be subject to the prior approval by the commissioner. The acquiring person shall file an application with the commissioner for approval. The application shall be subject to the provisions of subchapter 7 of chapter 201 of this title.

(n) The commissioner ~~may~~ shall examine the merchant bank and any person who controls it to the extent necessary to determine the soundness and viability of the merchant bank in the same manner as required by subchapter 5 of chapter 201 of this title.

(o) A merchant bank shall include on all its advertising a prominent disclosure that deposits are not accepted by a merchant bank.

(p) For purposes of this section, "control" means that a person:

(1) directly, indirectly, or acting through another person owns, controls, or has power to vote ten percent or more of any class of equity interest of the merchant bank;

(2) controls in any manner the election of a majority of the directors of the merchant bank; or

(3) directly or indirectly exercises a controlling influence over the management or policies of the merchant bank.

Sec. 21. 10 V.S.A. chapter 3 is added to read:

### CHAPTER 3. EB-5 INVESTMENT

#### § 21. EB-5 ENTERPRISE FUND

(a) An EB-5 enterprise fund is created for the operation of the state of Vermont EB-5 visa regional development center. The fund shall consist of revenues derived from fees charged by the agency of commerce and community development pursuant to subsection (c) of this section, any interest earned by the fund, and all sums which are from time to time appropriated for the support of the regional development center and its operations.

(b)(1) The receipt and expenditure of moneys from the enterprise fund shall be under the supervision of the secretary of commerce and community development.

(2) The secretary shall maintain accurate and complete records of all receipts and expenditures by and from the fund, and shall make an annual report on the condition of the fund to the secretary of administration, the house committees on commerce and on ways and means, and the senate committees on finance and on economic development, housing and general affairs.

(3) Expenditures from the fund shall be used only to administer the EB-5 program. At the end of each fiscal year, the secretary of administration shall transfer from the EB-5 enterprise fund to the general fund any amount that the secretary of administration determines, in his or her discretion, exceeds the funds necessary to administer the program.

(c) Notwithstanding 32 V.S.A. chapter 7, subchapter 6 (establishment of executive and judicial branch fees), the secretary of commerce and community development is authorized to impose an administrative fee for services provided by the agency to investors in administering the state of Vermont EB-5 visa regional development center.

#### Sec. 22. EB-5 ENTERPRISE FUND FEE REPORT

On or before January 15, 2012, the secretary of commerce and community development shall submit a memorandum to the house committee on ways and means and the senate committee on finance concerning the performance of the EB-5 enterprise fund, including the number of projects and investors served, the amount of the fees imposed and collected, and recommendations concerning the EB-5 enterprise fund and the appropriate fee structure for the program.

\* \* \* Housing and Development \* \* \*

#### Sec. 23. FINDINGS: VERMONT NEIGHBORHOODS

The general assembly finds:

(1) The Vermont neighborhoods program offers benefits to municipalities and developers with projects that promote affordable, high-density, smart growth principles in areas of the town most suitable for targeted growth and infill development.

(2) Among the benefits afforded by the program, projects within designated Vermont neighborhoods can be designed to reduce the scope and cost of Act 250 jurisdiction, can reduce environmental permitting costs, and in some cases can eliminate land gains tax.

(3) The process for achieving a Vermont neighborhoods designation has proven to be either too costly or administratively burdensome for most towns in Vermont, and as a result, very few designations have been made since the creation of the designation.



(4) By providing landowners the ability to apply for Vermont neighborhood designation directly and in compliance with procedures designed to ensure public notice and participation, developers, municipalities, and Vermonters will likely benefit from expansion of the Vermont neighborhoods program and the types of smart growth development it promotes.

Sec. 23a. 24 V.S.A. § 2793d is amended to read:

§ 2793d. DESIGNATION OF VERMONT NEIGHBORHOODS

(a) ~~A~~ The Vermont downtown development board may designate a Vermont neighborhood in a municipality that has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title, has adopted zoning bylaws and subdivision regulations in accordance with section 4442 of this title, and has a designated downtown district, a designated village center, a designated new town center, or a designated growth center served by municipal sewer infrastructure or a community or alternative wastewater system approved by the agency of natural resources, ~~is authorized to apply for designation of a Vermont neighborhood. An application for designation may be made by a municipality or by a landowner who meets the criteria under subsection (f) of this section. A municipal decision to apply for designation shall be made by the municipal legislative body after at least one duly warned public hearing~~ An application by a municipality or a landowner shall be made after at least one duly warned public hearing by the legislative body. If the application is submitted by a landowner, the public hearing shall be a joint public hearing with representation from the municipal legislative body and the appropriate municipal panel, and shall be held concurrently with the local permitting process. Designation pursuant to this subsection is possible in two different situations:

(1) Per se approval. If a municipality or landowner submits an application in compliance with this subsection for a designated Vermont neighborhood that would have boundaries that are entirely within the boundaries of a designated downtown district, designated village center, designated new town center, or designated growth center, the downtown board shall issue the designation.

(2) Designation by downtown board in towns without growth centers. If an application is submitted in compliance with this subsection by a municipality or a landowner in a municipality that does not have a designated growth center and proposes to create a Vermont neighborhood that has boundaries that include land that is not within its designated downtown, village center, or new town center, the downtown board shall consider the application. This application may be for approval of one or more Vermont neighborhoods

that are outside but contiguous to a designated downtown district, village center, or new town center. The application for designation shall include a map of the boundaries of the proposed Vermont neighborhood, including the property outside but contiguous to a designated downtown district, village center, or new town center and verification that the municipality or landowner has notified the regional planning commission and the regional development corporation of its application for this designation.

\* \* \*

(f) Alternative designation in towns without density or design standards. If a municipality has not adopted either the minimum density requirements or design standards, or both, set out in subdivision (c)(5) of this section in its zoning bylaw, a landowner within a proposed Vermont neighborhood may apply to the downtown board for designation of a Vermont neighborhood that meets the standards set out in subdivision (c)(5) of this section by submitting:

(1) a copy of the plans and necessary municipal permits obtained for a project; and

(2) a letter of support for the project issued to the landowner from the municipality within 30 days of the effective date of a final municipal permit.

#### Sec. 24. FINDINGS: SMALL CONDOMINIUM EXCEPTION TO UCIOA

##### The general assembly finds:

(1) There are two kinds of common interest communities in Vermont: planned communities and condominiums, the practical difference being that a planned community is a subdivision of land, and a condominium is a subdivision of a building.

(2) Under current law, a small planned community of 24 or fewer units is exempt from all but three sections of Title 27A, but only if a declarant does not reserve any development rights.

(3) Certain projects require a reservation of development rights because they are developed in phases, and later phases are often not completely designed when a developer begins construction, particularly in cases that blend affordable rentals with subsidized home ownership units, or in projects that include rental housing mixed with commercial space.

(4) By including an exception for small condominium projects, developers of affordable housing and mixed use projects have the statutory authority necessary to utilize most effectively monies available through programs such as the new markets tax credit program, the low income housing tax credit, the community development institutions fund, and diverse private

and nonprofit capital streams to maximize funding opportunities for these projects.

Sec. 25. 27A V.S.A. § 1-209 is amended to read:

§ 1-209. SMALL CONDOMINIUMS; EXCEPTION; ACCESS TO MIXED FUNDING SOURCES

~~A condominium that will contain no more than 12 units and is not subject to any development rights, unless the declaration provides that the entire act is applicable, shall not be subject to subsection~~ Subsection 2-101(b), subdivisions 2-109(b)(2) and (11), subsection 2-109(g), section 2-115, and Article 4 of this title shall not apply to a condominium if the declaration:

(1) creates fewer than ten units; and

(2) restricts ownership of a unit to entities that are controlled by, affiliated with, or managed by the declarant.

Sec. 26. REPEAL

Sec. 12 of No. 155 of the Acts of the 2009 Adj. Sess. (2010) (repeal of 27A V.S.A. § 1-209, effective January 1, 2012) is repealed.

Sec. 27. [RESERVED]

Sec. 28. [RESERVED]

\* \* \* Economic Development Planning \* \* \*

Sec. 29. 3 V.S.A. § 2293 is amended to read:

§ 2293. DEVELOPMENT CABINET

(a) Legislative purpose. The general assembly deems it prudent to establish a permanent and formal mechanism to assure collaboration and consultation among state agencies and departments, in order to support and encourage Vermont's economic development, while at the same time conserving and promoting Vermont's traditional settlement patterns, its working and rural landscape, its strong communities, and its healthy environment, all in a manner set forth in this section.

(b) Development cabinet. A development cabinet is created, to consist of the secretaries of the agencies of administration, of natural resources, of commerce and community affairs, and of transportation, and the secretary of the agency of agriculture, food and markets. The governor or the governor's designee shall chair the development cabinet. The development cabinet shall advise the governor on how best to implement the purposes of this section, and shall recommend changes as appropriate to improve implementation of those purposes. The development cabinet may establish interagency work groups to

support its mission, drawing membership from any agency or department of state government.

(c) All state agencies that have programs or take actions affecting land use, including those identified under 3 V.S.A. chapter 67, shall, through or in conjunction with the members of the development cabinet:

(1) Support conservation of working lands and open spaces.

(2) Strengthen agricultural and forest product economies, and encourage the diversification of these industries.

(3) Develop and implement plans to educate the public by encouraging discussion at the local level about the impacts of poorly designed growth, and support local efforts to enhance and encourage development and economic growth in the state's existing towns and villages.

(4) Administer tax credits, loans, and grants for water, sewer, housing, schools, transportation, and other community or industrial infrastructure, in a manner consistent with the purposes of this section.

(5) To the extent possible, endeavor to make the expenditure of state appropriations consistent with the purposes of this section.

(6) Encourage development in, and work to revitalize, land and buildings in existing village and urban centers, including "brownfields," housing stock, and vacant or underutilized development zones. Each agency is to set meaningful and quantifiable benchmarks.

(7) Encourage communities to approve settlement patterns based on maintaining the state's compact villages, open spaces, working landscapes, and rural countryside.

(8) Encourage relatively intensive residential development close to resources such as schools, shops, and community centers and make infrastructure investments to support this pattern.

(9) Support recreational opportunities that build on Vermont's outstanding natural resources, and encourage public access for activities such as boating, hiking, fishing, skiing, hunting, and snowmobiling. Support and work collaboratively to make possible sound development and well-planned growth in existing recreational infrastructure.

(10) Provide means and opportunity for downtown housing for mixed social and income groups in each community.

(11) ~~Report annually to the governor and the legislature, through the chair of the development cabinet and the secretary of administration, on the effectiveness and impact of this section on the state's economic growth and~~

~~land use development and the activities of the council of regional commissions.~~

(12) Encourage timely and efficient processing of permit applications affecting land use, including 10 V.S.A. chapter 151 and the subdivision regulations adopted under 18 V.S.A. § 1218, in order to encourage the development of affordable housing and small business expansion, while protecting Vermont's natural resources.

(13) Participate in creating a long-term economic development plan, including making available the members of any agency or department of state government as necessary and appropriate to support the mission of an interagency work group established under subsection (b) of this section.

(d)(1) Pursuant to the recommendations of the oversight panel on economic development created in Section G6 of No. 146 of the Acts of the 2009 Adj. Sess. (2010), the development cabinet shall create an interagency work group as provided in subsection (b) of this section with the secretary of commerce and community development serving as its chair.

(2) The mission of the work group shall be to develop a long-term economic development plan for the state, which shall identify goals and recommend actions to be taken over ten years, and which shall be consistent with the four goals of economic development identified in 10 V.S.A. § 3 and the outcomes for economic development identified in Sec. 8 of No. 68 of the Acts of the 2009 Adj. Sess. (2010).

(e)(1) On or before January 15, 2014, and every two years thereafter, the development cabinet or its workgroup shall complete a long-term economic development plan as required under subsection (d) of this section and recommend it to the governor.

(2) Commencing with the plan due on or before January 15, 2016, the development cabinet or its workgroup may elect only to prepare and recommend to the governor an update of the long-term economic development plan.

(3) Administrative support for the economic development planning efforts of the development cabinet or its workgroup shall be provided by the agency of commerce and community development.

~~(d)~~(f) Limitations. This cabinet is strictly an information gathering and coordinating cabinet and confers no additional enforcement powers.

Sec. 30. [RESERVED]

Sec. 31. [RESERVED]

Sec. 32. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include but need not be limited to the following:

\* \* \*

(10) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

\* \* \*

Sec. 33. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

\* \* \*

(11) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

\* \* \*

\* \* \* Agriculture; Vermont Sustainable Jobs Fund \* \* \*

Sec. 34. SLAUGHTERHOUSE AND MEAT PROCESSING FACILITY CAPACITY

The agency of agriculture, food and markets is authorized to issue one or more competitive matching grants to increase slaughterhouse and meat processing facility capacity throughout the state. Funds made available in a fiscal year for this section shall be used exclusively for direct grants and shall not be used for administration of the program.

Sec. 35. FINDINGS: VERMONT SUSTAINABLE JOBS FUND (VSJF)

The general assembly finds:

(1) In order to access funds available from the community development financial institutions fund, the nonprofit corporation Vermont sustainable jobs

must demonstrate that it is sufficiently independent from control of government.

(2) The general assembly has made a substantial investment in recent years to enable the work of VSJF in enhancing the agricultural sector and resources within the state, and finds it important to maintain a presence on the board while allowing VSJF to access additional sources of funding.

(3) Therefore, the purpose and intent of Secs. 35a through 38 of this act is to authorize a change in the composition of the VSJF board to allow it to access necessary funds, while also preserving the state's connection to the governance of the board.

Sec. 35a. 10 V.S.A. § 328 is amended to read:

§ 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

\* \* \*

(c)(1) Notwithstanding the provisions of subdivision 216(14) of this title, the authority may contribute not more than \$1,000,000.00 to the capital of the corporation formed under this section, and the board of directors of the corporation formed under this section shall consist of ~~three members of the authority designated by the authority, the secretary of commerce and community development, and seven members who are not officials or employees of a governmental agency appointed by the governor, with the advice and consent of the senate, for terms of five years, except that the governor shall stagger initial appointments so that the terms of no more than two members expire during a calendar year:~~

(A) the secretary of commerce and community development or his or her designee;

(B) the secretary of agriculture, food and markets or his or her designee;

(C) a director appointed by the governor; and

(D) eight independent directors, no more than two of whom shall be state government employees or officials, and who shall be selected as vacancies occur by vote of the existing directors from a list of names offered by a nominating committee of the board created for that purpose.

(2)(A) Each independent director shall serve a term of three years or until his or her earlier resignation.

(B) A director may be reappointed, but no independent director and no director appointed by the governor shall serve for more than three terms.

(C) The director appointed by the governor shall serve at the pleasure of the governor and may be removed at any time with or without cause.

(3) A director of the board who is or is appointed by a state government official or employee shall not be eligible to hold the position of chair, vice chair, secretary, or treasurer of the board.

\* \* \*

Sec. 36. VERMONT SUSTAINABLE JOBS FUND BOARD OF DIRECTORS; TRANSITION

Notwithstanding any other provision of law to the contrary, and notwithstanding any provision of the articles of incorporation or the bylaws of the corporation:

(1) The chair, vice chair, and secretary of the Vermont sustainable jobs fund board of directors as of January 1, 2011 shall constitute an initial nominating committee charged with appointing eight independent directors who shall take office on July 1, 2011.

(2) The initial nominating committee shall appoint each independent director to serve a term of one, two, or three years. Independent director terms shall be staggered so that the terms of no more than three members expire during a calendar year.

(3) The terms of the directors in office on the date of passage of this act shall expire on July 1, 2011.

Sec. 37. REPEAL

Secs. G18 and G19 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) are repealed.

Sec. 38. Sec. G28 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. G28. EFFECTIVE DATES

Secs. G1 through G28 of this act (economic development) shall take effect upon passage, ~~except that Secs. G18 and G19 (Vermont sustainable jobs~~

~~(A) Secs. G18 and G19 (Vermont sustainable job fund program) shall take effect upon the cessation of state funding to the program from the general fund.~~



Sec. 39. 6 V.S.A. § 20 is amended to read:

§ 20. VERMONT LARGE ANIMAL VETERINARIAN EDUCATIONAL  
LOAN REPAYMENT FUND

(a) There is created a special fund to be known as the Vermont large animal veterinarian educational loan repayment fund that shall be used for the purpose of ensuring a stable and adequate supply of large animal veterinarians ~~throughout in regions of the state as determined by the secretary.~~ The fund shall be established and held separate and apart from any other funds or monies of the state and shall be used and administered exclusively for the purpose of this section. The money in the fund shall be invested in the same manner as permitted for investment of funds belonging to the state or held in the treasury.

\* \* \*

Sec. 40. 6 V.S.A. chapter 207 is amended to read:

~~CHAPTER 207. STATE AGENCIES AND STATE FUNDED~~  
~~INSTITUTIONS TO PURCHASE PROMOTION AND MARKETING OF~~  
~~VERMONT FOODS AND PRODUCTS~~

\* \* \*

§ 4602. GOOD AGRICULTURAL PRACTICES GRANT PROGRAM

(a) A good agricultural practices grant program (GAP) is established in the agency of agriculture, food and markets for the purpose of providing matching grant funds to agricultural producers whose markets require them to obtain or maintain GAP certification.

(b) The secretary may award matching grants for capital upgrades that will support Vermont agricultural producers in obtaining GAP certification. The amount of matching funds required by an applicant for a GAP certification grant shall be determined by the secretary.

(c) An applicant may receive no more than 10 percent of the total funds appropriated for the program in a fiscal year.

Sec. 41. 6 V.S.A. § 3319 is added to read:

§ 3319. SKILLED MEAT CUTTER TRAINING

The secretary shall issue a request for proposals to develop a curriculum and provide classroom and on-the-job training for the occupation of skilled meat cutter.

Sec. 42. 6 V.S.A. § 4724 is added to read:

§ 4724. LOCAL FOODS COORDINATOR

(a) The position of local food coordinator is established in the agency of agriculture, food and markets for the purpose of assisting Vermont producers to increase their access to commercial markets and institutions, including schools, state and municipal governments, and hospitals.

(b) The duties of the local foods coordinator shall include:

(1) working with institutions, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

(2) coordinating funding and providing support to the farm-to-school and farm-to-institutions programs within the agency of agriculture, food and markets, and coordinating with interested parties to create matchmaking opportunities that increase participation in those programs;

(3) working with the department of buildings and general services to encourage the enrollment of state employees in a local community supported agriculture (CSA) organization;

(4) developing a database of producers and potential purchasers and enhancing the agency's website to improve and support local foods coordination through the use of information technology; and

(5) providing technical support to local communities with their food security efforts.

(c) For purposes of this section, and notwithstanding 29 V.S.A. § 5, the commissioner of buildings and general services and the agency of agriculture, food and markets may authorize the advertisement or solicitation on state property of one or more local CSA organizations, subject to reasonable restrictions collaboratively adopted by the commissioner and the secretary on the time, manner, and location of such advertisements or solicitations, in order to encourage and enable state employees to enroll in a CSA.

(d) The local foods coordinator shall administer a local foods grant program, the purpose of which shall be to provide grants to allow Vermont producers to increase their access to commercial and institutional markets.

Sec. 43. FARM-TO-PLATE INVESTMENT PROGRAM IMPLEMENTATION

(a)(1) The agency of agriculture, food and markets shall coordinate with the Vermont sustainable jobs fund program established under 10 V.S.A. § 328,

stakeholders, and other interested parties, including the agriculture development board, to implement actions necessary to fulfill the goals of the farm-to-plate investment program as established under 10 V.S.A. § 330.

(2) The actions shall be guided by, but not limited to, the strategies outlined in the farm-to-plate strategic plan.

(3) The agency shall develop and maintain a report of the actions undertaken to achieve the goals of the farm-to-plate investment program and the farm-to-plate strategic plan.

(b) The secretary of agriculture, food and markets may contract with a third party to assist the agency with implementation of the program, to track those activities over time, and to develop a report on the progress of the program.

\* \* \* Exemption from Sales and Use Tax \* \* \*

Sec. 44. 32 V.S.A. § 9743 is amended to read:

§ 9743. ORGANIZATIONS NOT COVERED

Any sale, service, or admission to a place of entertainment charged by or to any of the following or any use by any of the following are not subject to the sales and use taxes imposed under this chapter:

\* \* \*

(5) Organizations which qualify for exempt status under the provisions of 26 U.S.C. § 501(c)(4)-(13) and (19), and political organizations as defined in 26 U.S.C. § 527(e), as the same may be amended or redesignated, other than organizations which qualify for exempt status under the provisions of 26 U.S.C. § 501(c)(4) whose bylaws provide for the contribution of their net income to organizations which qualify for exempt status under the provisions of 26 U.S.C. § 501(c)(3), shall not be exempt from taxation of the sale or use of tangible personal property as defined in section 9701 of this title, but shall be exempt from the sales and use tax upon entertainment charges as defined in section 9701, in the case of not more than four special events (not including usual or continuing activities of the organization) held in any calendar year, and which, in the aggregate, are not held on more than four days in such year, and which are open to the general public. In case the organization holds more than four such special events a year, or such events are held on more than four days in a year, the organization may elect the events or the days to which the exemption provided by this subsection shall apply, by giving prior notice to the commissioner. This subdivision shall not apply to agricultural organizations governed by subdivision (3) of this section.

\* \* \*

(7) An exemption under ~~subdivisions~~ subdivision (3) ~~and (5)~~ of this section shall not be available for entertainment charges for admission to a live performance by an organization whose gross sales of entertainment charges by or on behalf of an organization for admission to live performances in the prior calendar year exceeded \$50,000.00.

\* \* \* Consumer Protection; Local Florists \* \* \*

Sec. 45. 9 V.S.A. § 2465b is added to read:

§ 2465b. MISREPRESENTATION OF A FLORAL BUSINESS AS LOCAL

(a) In connection with the sale of floral products, it shall be an unlawful and deceptive act and practice in commerce in violation of section 2453 of this title for a floral business to misrepresent in an advertisement, on the Internet, on a website, or in a listing of the floral business in a telephone directory or other directory assistance database the geographic location of the floral business as "local," "locally owned," or physically located within Vermont.

(b) A floral business is considered to misrepresent its geographic location that it is "local," "locally owned," or located within Vermont in violation of subsection (a) of this section if the floral business is not physically located in Vermont and:

(1) the advertisement, Internet, web site, or directory listing would lead a reasonable consumer to conclude that the floral business is physically located in Vermont; or

(2) the advertisement, Internet, web site, or directory listing uses the name of a floral business that is physically located in Vermont, with geographic terms that would lead a reasonable consumer to understand the advertised floral business to be physically located in Vermont.

(c) A retail floral business physically located in Vermont shall be deemed a consumer for the purposes of enforcing this section under § 2461(b) of this chapter.

\* \* \* Study of Vermont Building Codes \* \* \*

Sec. 46. STUDY; VERMONT BUILDING CODES

(a) Findings.

(1) The state of Vermont has two codes that are used to regulate construction in public buildings: one is the International Code Council (ICC) who publishes the International Building Code (IBC) which is adopted by the State, the other is National Fire Protection Association (NFPA), who publishes the (Life Safety Code and Uniform Fire Code) adopted by the State. In most cases, the life safety codes do not regulate the actual construction of buildings,

but rather, are designed to protect life safety and property. Other states may use only the International Code Council codes; however, these codes have greater than 300 references to the NFPA codes; in addition, these states also modified the code for particular local or state issues. Some states have no building codes at all.

(2) Construction is regulated under the Division of Fire Safety and by municipal code officials. Application of these codes should be consistent throughout the state. This would help to reduce confusion with contactors, design professional, and the enforcement staff located in regional offices and municipalities. It would also reduce time during the design process and improve efficiency. The issues are further complicated when determining the appropriate application of one or more codes to both new buildings and to existing buildings, it is realized that the IBC code is not appropriate to use for existing building which may present differing concerns from the perspective of both construction, and design professionals, however, those working in the field of existing building renovation understand that the use of the NFPA codes are applied by public safety.

(3) Notwithstanding these competing perspectives, Vermont's blend of codes remains difficult for most professionals from all perspectives to interpret and apply. It is appropriate for design professionals to meet with division staff during preconstruction of complex design, this is a free service which is encouraged. A better understanding of the codes through education and cooperation would substantially reduce public resources.

(4) The general assembly therefore has determined that it should create an interim committee to consider whether the process may be simplified to improve clarity and reduce regulatory costs without reducing life safety for occupants and for first responders in the case of emergency.

(b) Creation of committee. There is created a building code study committee to evaluate the present use of multiple building and life safety codes, to assess the costs and benefits of each, to recommend to the general assembly whether one or more codes should used going forward, and to what types of buildings or classes of buildings they should be applied.

(c) Creation of committee. There is created a building code study committee to evaluate the present use of multiple building and life safety codes, to assess the costs and benefits of each, to recommend to the general assembly whether one or more codes should used going forward, and to what types of buildings or classes of buildings they should be applied.

(d) Membership. The building code study committee shall be composed of the following:

(1) one member appointed by the division of fire safety within the department of public safety who shall serve as chair of the committee;

(2) one member appointed by the AIA-VT who shall be a licensed architect;

(3) one member appointed by the Structural Engineers Association of Vermont who shall be a structural engineer;

(4) two members appointed by the Vermont Coalition of Fire and Rescue Services, one of whom shall be a professional firefighter, and one of whom shall be an emergency medical technician;

(5) one member appointed by the Associated General Contractors of Vermont who is a general contractor;

(6) one member appointed by the governor who shall be a representative of a nonprofit developer; and

(7) two members appointed by the Vermont League of Cities and Towns, one from a city and one from a town, and each of whom represent the interests of municipalities that administer building code programs.

(8) one member appointed by the secretary of commerce and community development who shall have expertise in historic preservation.

(e) Report. On or before January 15, 2011, the committee shall report its findings and any recommendations for legislative action to the house committees on commerce and economic development and on general, housing and military affairs, and to the senate committee on economic development, housing and general affairs.

(f) The committee may meet no more than six times, shall serve without compensation, and shall cease to exist on January 31, 2011.

Sec. 47. 32 V.S.A. § 3756(i) is amended to read:

(i)(1) ~~The~~ In the event that the department of forests, parks and recreation has not received a management activity report or has received an adverse inspection report, the director shall notify the owner under this section and remove from use value appraisal ~~an entire parcel of managed forest land and~~ notify the owner in accordance with the procedure in subsection (b) of this section when the department of forests, parks and recreation has not received a management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case the director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan;

(A) land which is authorized for timber harvesting under a forest management plan for parcels under 5,000 acres; or

(B) three times that portion of land which is authorized for timber harvesting under the violated stand-specific harvest prescription amendment to the landowner's ten-year concept forest management plan approved by the department of forests, parks and recreation. For the purpose of this subdivision, "stand-specific harvest prescription amendment" refers to a harvest permitted under a use value appraisal large landowner alternative forest management plan as specified in Appendix R of the use value appraisal manual promulgated by the agency of natural resources.

(2) In the event that the department of forests, parks and recreation has not received a management activity report or has received an adverse inspection report on the same parcel for a second time, the director shall notify the owner under this section and remove from the use value program one-half of the entire parcel of managed forest land remaining in the program.

(3) In the event that the department of forests, parks and recreation has not received a management activity report or has received an adverse inspection report on the same parcel for a third time, the director shall notify the owner under this section and remove from the use value program the entire parcel of managed forest land remaining in the program.

(4) If the owner's violation under any provision of this subsection consists solely of the failure to make prescribed planned cutting, the director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

\* \* \* Break-open Tickets; Exemption for Agents \* \* \*

Sec. 48. 32 V.S.A. § 10203 is amended to read:

§ 10203. DISTRIBUTION; RETAIL PURCHASE AND SALE

\* \* \*

(e) Only nonprofit organizations or their registered agents may sell break-open tickets at retail.

\* \* \*

\* \* \* Website for Affiliates of Online Retailers Collecting  
Sales Tax \* \* \*

Sec. 49. [RESERVED]

Sec. 50. ACCD; WEBSITE FOR AFFILIATES OF ONLINE BUSINESSES

The agency of commerce and community development shall create a website, or a new section of its website, the purpose of which shall be to provide matchmaking opportunities for Vermont companies to affiliate with online retailers that collect and remit sales tax on purchases made online.

\* \* \* TIFs \* \* \*

Sec. 51. 24 V.S.A. § 1891 is amended to read:

§ 1891. DEFINITIONS

When used in this subchapter:

\* \* \*

(6) “Related costs” means expenses, exclusive of the actual cost of constructing and financing improvements that are directly related to creation of the tax increment financing district and reimbursement of sums previously advanced by the municipality for those purposes, and attaining the purposes and goals for which the tax increment financing district was created, as approved by the Vermont economic progress council. Related costs may include municipal expenses related to administering the district to the extent they are paid from the tax increment realized in municipal and not education fund taxes.

(7) “Financing” means ~~the following types of~~ debt incurred or used by a municipality to pay for improvements in a tax increment financing district:

~~(A) Bonds.~~

~~(B) Housing and Urban Development Section 108 financing instruments.~~

~~(C) Interfund loans within a municipality.~~

~~(D) State of Vermont revolving loan funds.~~

~~(E) United States Department of Agriculture loans.~~

Sec. 52. 24 V.S.A. § 1894 is amended to read:

§ 1894. POWER AND LIFE DURATION OF DISTRICT

(a) Incurring indebtedness.

(1) A municipality may incur indebtedness against revenues of the tax increment financing district at any time during a period of up to 20 years following the creation of the district, if approved as required under 32 V.S.A. § 5404a(h). The creation of the district shall occur at 12:01 a.m. on the April 1 of the year so voted that follows the vote by the legislative body of the



municipality. Any indebtedness incurred during this 20-year period may be retired over any period authorized by the legislative body of the municipality under section 1898 of this title.

(2) If no indebtedness is incurred within the first ~~five~~ ten years after creation of the district, no indebtedness may be incurred unless the municipality obtains re-approval from the Vermont economic progress council under 32 V.S.A. § 5404a(h).

(3) The district shall continue until the date and hour the indebtedness is retired.

(b) Use of the education property tax increment. For any debt incurred within the first ~~five~~ ten years after creation of the district, or ~~within the first five years after re-approval~~ reapproval by the Vermont economic progress council, but for no other debt, the education tax increment may be retained for up to 20 years beginning with the initial date of the ~~first debt incurred within the first five years~~ creation of the district or on April 1 of the year in which debt is first incurred. If the municipality chooses to begin the 20-year retention period in the year debt is first incurred, the assessed valuation of all taxable real property within the district, as certified under section 1895 of this title, shall be recertified as of April 1 of the year in which the first debt is incurred. The municipality shall submit a tax increment financing plan amendment to the council, including the recertified assessed valuation.

\* \* \*

Sec. 53. 24 V.S.A. § 1897(a) is amended to read:

(a)(1) The legislative body may pledge and appropriate in equal proportion any part or all of the state and municipal tax increments received from properties contained within the tax increment financing district for the financing for improvements and for related costs in the same proportion by which the infrastructure or related costs directly serve the district at the time of approval of the project financing by the council, and in the case of infrastructure essential to the development of the district that does not reasonably lend itself to a proportionality formula, the council shall apply a rough proportionality and rational nexus test; provided, that if any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(f), no more than 75 percent of the state property tax increment and no less than an equal percent of the municipal tax increment may be used to service this debt.

(2) Bonds shall only be issued if the legal voters of the municipality, by a majority vote of all voters present and voting on the question at a special or annual municipal meeting duly warned for the purpose, give authority to the legislative body to pledge the credit of the municipality for these purposes.

(3) Notwithstanding any provision of any municipal charter, the legal voters of a municipality, ~~by a single vote,~~ shall authorize the legislative body to pledge the credit of the municipality up to a specified maximum dollar amount for ~~all~~ debt obligations to be financed with state property tax increment pursuant to approval by the Vermont economic progress council and subject to the provisions of this section and 32 V.S.A. § 5404a.

(4) Authorization for debt may be granted all in one vote or in separate votes for each debt obligation.

(5) Background information to be made available to voters shall include the project description, a development financing plan, a pro forma projection of expected costs, and a development schedule that includes a list, a cost estimate, and a schedule for public improvements, and projected private development to occur as a result of the improvements.

Sec. 54. 24 V.S.A. § 1902 is added to read:

§ 1902. TAX INCREMENT FINANCING DISTRICTS; CAP

Notwithstanding any other provision of law, the Vermont economic progress council shall not approve the use of education tax increment financing for more than ten tax increment financing districts and shall not approve more than one newly created tax increment financing district in any municipality within the period of ten state fiscal years beginning July 1, 2009. For purposes of this section a reapproval of a tax increment financing shall not be counted against the cap of ten tax increment financing districts.

Sec. 55. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

\* \* \*

(h) Criteria for approval. To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont economic progress council shall do all the following:

\* \* \*

(5) TIF District Criteria. Determine, the extent possible at the time of the application, that the TIF district plan and TIF financing plan, as presented to the municipality for a public hearing, approved by a vote of the municipal legislative body, and filed with the council, meet the definitions, requirements, and conditions of subchapter 5 of chapter 135 of Title 32.

(i) The Vermont economic progress council and the department of taxes shall make an annual report to the senate committee on economic

development, housing and general affairs, the senate committee on finance, the house committee on commerce and the house committee on ways and means of the general assembly on or before ~~January 15~~ April 30. The report shall include, in regard to each existing tax increment financing district, the year of approval, the scope of the planned improvements and development, the ~~equalized education grand list value of the district prior to the TIF approval,~~ the original taxable ~~property~~ value, the annual and aggregated municipal and education property tax increment generated, the actual improvements and developments that have occurred, and ~~the annual amount of tax increments utilized any material or substantive amendments to previously approved TIF districts.~~

(j) The municipality shall provide the council with all information related to the proposed financing necessary to assure its consistency with the plan approved pursuant to all other provisions of subsection (h) of this section. The council shall assure the viability and reasonableness of any proposed financing other than bonding and least-cost financing.

(k) The Vermont economic incentive review board may require a third-party financial and technical analysis as part of the application of a municipality applying for approval of a tax increment financing district pursuant to this section. The applicant municipality shall pay a fee to cover the actual cost of the analysis to be deposited in a special fund which shall be managed pursuant to subchapter 5 of chapter 7 of this title and be available to the board to pay the actual cost of the analysis.

(l) The state auditor of accounts shall review and audit ~~all~~ each active tax increment financing districts ~~every~~ within the first three years of its approval. Subsequent audits shall occur as necessary in the discretion of the auditor.

(m) Authority to adopt procedures. The economic progress council shall have the authority to adopt procedures to provide:

(1) An efficient process for accepting and deciding TIF district applications.

(2) For an approval process utilizing a master TIF district plan determination with partial determinations and consideration and approval of subsequent phases implementing the TIF district.

(3) For annual reporting by municipalities in accordance with 24 V.S.A. § 1901.

(4) For reapproval if no debt is incurred ten years after creation of the TIF district, in accordance with 24 V.S.A. § 1894(a)(2), which may include, at the discretion of the council, enforcement or waiver of the requirement to readdress all criteria for approval under subsection (h) of this section.

(5) A process for municipalities to file, and the council to consider, amendments that represent substantial changes to approved TIF plans and TIF financing plans, and which may require approval by the municipal legislative body.

Sec. 56. REPEAL

(a) 24 V.S.A. § 1896(b) (tax increments) is repealed.

(b) Sec. 2i of No. 184 of the Acts of the 2005 Adj. Sess. (2006) (tax increment financing districts; cap), as amended by Sec. 67 of No. 190 of the 2007 Adj. Sess. (2008), is repealed.

Sec. 57–59. [RESERVED]

\* \* \* First and Second Class Liquor Licenses; Food Service \* \* \*

Sec. 60. 7 V.S.A. § 222 is amended to read:

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

\* \* \*

(4)(A) A holder of a first class license may contract with another person to prepare and dispense food on the license holder's premises. ~~The first class license holder may have no more than 75 events each year under this subdivision. At least five days prior to each event under this subdivision, the first class license holder shall provide to the department of liquor control written notification that includes the name and address of the license holder, the date and time of the event and the name and address of the person who will provide the food.~~

(B) The first class license holder shall provide to the department written notification five business days prior to start of the contract the following information:

(i) the name and address of the license holder;

(ii) a signed copy of the contract;

(iii) the name and address of the person contracted to provide the food;

(iv) a copy of the person's license from the department of health for the facility in which food is served; and

(v) the person's rooms and meals tax certificate from the department of taxes.

(C) The holder of the first class license shall notify the department within five business days of the termination of the contract to prepare and dispense food. It is the responsibility of the first class licensee to control all conduct on the premises at all times, including the area in which the food is prepared and stored.

\* \* \* Sales and Use Tax; Auctioneers \* \* \*

Sec. 61. 32 V.S.A. § 9741(48) is added to read:

(48) Sales of tangible personal property, including any buyer's premium charged by the auctioneer, that are conducted by a licensed auctioneer on the premises of an owner of some of the property, and so long as no property owned by the auctioneer is sold.

Secs. 62–63. [RESERVED]

Sec. 64. STUDY; PRIVATE ACTIVITY BONDS

(a) Findings.

(1) Due to changes in federal law governing underwriting and servicing student loans, the Vermont student assistance corporation has experienced a substantial decrease in its ability to generate revenue and is currently downsizing its operation.

(2) As a result, the general assembly finds that VSAC's private activity bond allocation, which in recent years has exceeded \$100 million, may be available for use as an economic development tool, and that the secretary of administration should review the process of allocation and the potential uses to which the state's allocation should be dedicated.

(b) On or before November 1, 2011, the secretary of administration shall review and report his or her findings to the house committee on commerce and economic development and to the senate committee on economic development, housing and general affairs concerning:

(1) the state's current process for allocation private activity bond capacity, including whether the process should be modified to increase participation by the public and interested parties; and

(2) a cost-benefit analysis of one or more projects that may be suitable for private activity bond funding.

\* \* \* Southeast Vermont Economic Development Strategy \* \* \*

Sec. 65. SOUTHEAST VERMONT ECONOMIC DEVELOPMENT STRATEGY

The general assembly finds:

(1) In light of the scheduled closure of the Vermont Yankee nuclear facility in March 2012, Windham County will experience dramatic regional economic dislocation and will require additional support beyond background economic development programs.

(2) Windham County is currently undertaking an economic development planning process, the Southeast Vermont Economic Development Strategy (SeVEDS), the purpose of which is to prepare for the economic shift that will occur upon closure of Vermont Yankee. The process is now funded by Fairpoint Communications, but that funding will expire prior to completion of the process.

(3) The general assembly therefore finds it appropriate to provide funding to support the completion of the SeVEDS and to support workforce development and other activities that will assist Windham County in addressing the adverse economic consequences of the closure of Vermont Yankee, with particular emphasis on supporting Vermont Yankee employees and their families in securing new employment in Windham County.

\* \* \* Next Generation Initiative Fund; Appropriations, Transfers, and  
Funding \* \* \*

Sec. 66. Sec. B.1100(a)(1)(A)–(B) of H.441 of 2011 (Sec. B.1100 of No. \_\_ of the Acts of 2011) are amended to read:

(A) Workforce Education Training Fund (WETF). The sum of \$1,301,000 is transferred to the Vermont workforce education and training fund created in 10 V.S.A. § 543, and subsequently appropriated to the department of labor for workforce development. Up to seven percent of the funds may be used for administration of the program. Of this amount, \$350,000 shall be allocated for the Vermont ~~student~~ career internship program ~~for purposes described in 10 V.S.A. § 543 created in 10 V.S.A. § 544.~~

(B) Adult Technical Education Programs. The amount of \$360,000 is appropriated to the department of labor working with the workforce development council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide adult technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults. ~~Centers receiving funding shall provide to the department the Social Security number of each individual who has completed a training program within 30 days of the completion of the program. The department shall include the Adult Education Program in the table required by Sec. 6(b) of No. 46 of the Acts of 2007 as added by Sec. 8 of No. 54 of the Acts of 2009. Notwithstanding any other provision of law to the contrary, the funds appropriated pursuant to this subdivision (B) shall be~~

evenly divided among the regional technical centers and the comprehensive high schools.

Sec. 67. Sec. B.1100(a)(2)(B) of H. 441 of 2011 (Sec. B.1100 of No. \_\_ of the Acts of 2011) is amended to read:

(B) Large animal veterinarians' loan forgiveness: \$30,000 is appropriated to the agency of agriculture, food and markets for a loan forgiveness program for large animal veterinarians ~~patterned after the health care loan forgiveness program to meet demonstrated regional needs as defined by the secretary of agriculture, food and markets pursuant to 6 V.S.A. § 20.~~

Sec. 68. Sec. B.1100(a)(4) of H.441 of 2011 (Sec. B.1100 of No. \_\_ of the Acts of 2011) is amended to read:

~~(4) Science Technology Engineering and Math (STEM) Incentive: The sum of \$57,500 is appropriated to the agency of commerce and community development for an incentive payment for a recent college graduate (graduated within the last 18 months), with an associate's degree or higher, who takes a STEM job in Vermont. The incentive is \$1,500 per year if the graduate remains in Vermont for five or more years and shall be consistent with H.287 of 2011. The sum of \$50,000.000 is appropriated to the agency of commerce and community development for the Southeast Vermont economic development strategy pursuant to Sec. 65 of H. 287.~~

Sec. 69. Sec. B.1100.1(a) of H. 441 of 2011 (Sec. B.1100.1 of No. \_\_ of the Acts of 2011) is amended to read:

Sec. B.1100.1 WORKFORCE DEVELOPMENT COUNCIL RECOMMENDATION FOR FISCAL YEAR 2013 NEXT GENERATION FUND DISTRIBUTION

(a) ~~The commissioners of labor and of education, in consultation with executive committee of the workforce development council, created in 10 V.S.A. § 541, in collaboration with the agency of commerce and community development, and the agency of human services, and the departments of labor and of education,~~ shall make recommendations to the governor no later than November 1, 2011, on how \$4,793,000 from the next generation fund should be allocated or appropriated in fiscal year 2013 to provide maximum benefit to workforce development, participation in postsecondary education by underrepresented groups, and support for promising economic sectors in Vermont.

\* \* \* State Contracting; Net Costs of Contracting \* \* \*

Sec. 70. FINDINGS: NET COSTS OF GOVERNMENT CONTRACTING

The general assembly finds:

(1) The state of Vermont is a significant purchaser of goods and services. As a result, the purchasing policies of the state of Vermont both influence the practices of vendors and have a fiscal impact on the state.

(2) Although multiple factors are considered in the procurement process, Vermont often selects the lowest bids for goods and services contracts and does not consistently account for the true economic costs of procurement from out-of-state providers relative to local and socially responsible providers.

(3) This policy fails to account for the fact that procurement decisions based on a bid price alone do not necessarily account for the total fiscal impact to the state of the bid award. Among the fiscal impacts to the state inherent in bid proposals are: the amount of wages paid to Vermont resident employees, the local spending effect of earned wages and profits in the Vermont economy by Vermont residents, revenue effects of purchasing of goods and services from other Vermont businesses in support of the primary vendor's submitting the bid, the possible reduction of Vermont unemployment, and the possible reduction in public assistance programs that result from earned wages.

(4) In recognition of the total fiscal impacts of state procurement practices, new procurement policies are required to ensure that the state of Vermont makes sound financial decisions that reflect the whole cost of contracts.

#### Sec. 71. ECONOMETRIC MODELING

(a) The secretary of administration shall develop an econometric model to allow state agencies and departments to evaluate the net costs and economic impacts of government contracts. The secretary shall report back to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development by January 15, 2012.

(b) The model shall:

(1) consider the net fiscal impact to the state of all significant elements of bids, including but not limited to the level of local employment, wages and benefits, source of goods, and domicile of bidder;

(2) be designed to be easily updated from year to year;

(3) be designed such that state employees administering bid processes can easily utilize the model in an expedient fashion.

(c) Upon development of the model, two previously conducted state bidding processes shall be tested by the model to demonstrate its effectiveness. The results of this test shall be included in the report to the respective committees.



(d) Once the econometric model is complete, the secretary may allow state agencies and departments to utilize the econometric model prior to January 15, 2012.

Sec. 72. 29 V.S.A. § 909 is added to read:

§ 909. STATE PURCHASE OF FOOD AND AGRICULTURAL PRODUCTS

(a) When procuring food and agricultural products for the state, its agencies, departments, instrumentalities, and institutions, the commissioner of buildings and general services shall consider the interests of the state relating to the proximity of the supplier and the costs of transportation, and relating to the economy of the state and the need to maintain and create jobs in the state.

(b) When making purchases pursuant to this section, the secretary of administration, the commissioner of buildings and general services, and any state-funded institutions shall, other considerations being equal and considering the results of any econometric analysis conducted, purchase products grown or produced in Vermont when available.

Sec. 73. REPEAL

6 V.S.A. § 4601 (purchase of Vermont agricultural products) is repealed.

Sec. 74–99. [RESERVED]

\* \* \* Appropriations and Allocations \* \* \*

Sec. 100. APPROPRIATIONS AND ALLOCATIONS

(a) Appropriations. In fiscal year 2012:

(1) The amount of \$25,000.00 is appropriated from the general fund to the department of labor for the long-term unemployed hiring incentive in Sec. 7 of this act.

(2) The amount of \$500,000.00 is appropriated from the general fund to the agency of agriculture, food and markets as follows:

(A) \$100,000.00 for the good agricultural practices grant program in Sec. 40 of this act.

(B) \$25,000.00 for the skilled meat cutter apprenticeship program in Sec. 41 of this act.

(C) \$125,000.00 for the local foods coordinator and the local foods grant program in Sec. 42 of this act, not more than \$75,000.00 of which funds shall be used for the total annual compensation of the coordinator, and not less than \$50,000.00 of which funds shall be used for the performance of the local foods coordinator's duties under this act and for competitive matching grants

from the agency to Vermont producers, unless in the secretary's discretion it shall be necessary to increase the amount of total compensation of the local foods coordinator in order to retain a highly qualified candidate for the position.

(D) \$100,000.00 for implementation of the farm-to-plate investment program in Sec. 43 of this act.

(E) \$75,000.00 for competitive matching grants for the farm-to-school program established in 6 V.S.A. § 4721.

(F) \$50,000.00 for competitive matching grants to increase slaughterhouse and meat processing facility capacity in Sec. 34 of this act.

(G) \$25,000.00 for travel funds for agency personnel to participate in the legislative process for the federal farm bill.

(3) The amount of \$40,000.00 is appropriated from the general fund to the secretary of administration for the work of the executive economist, and to reimburse the joint fiscal office for the work of the legislative economist, to develop an econometric model for the evaluation of net costs of government contracts pursuant to Sec. 71 of this act.

(b) Allocations and reductions. In fiscal year 2012, as provided in H.441 (2011)(No. of the Acts of 2011):

(1) From the next generation initiative fund:

(A) The amount of \$350,000.00 shall be allocated to the department of labor for the Vermont career internship program in Secs. 11–13 of this act.

(B) The amount of \$30,000.00 shall be allocated to the Vermont large animal veterinarian educational loan repayment fund in Sec. 39 of this act.

(C) The amount of \$57,500.00 shall be allocated to the agency of commerce and community development to fund the completion of the Southeast Vermont Economic Development Strategy, workforce development, and other activities pursuant to Sec. 65 of this act.

(2) Of the funds appropriated to the agency of commerce and community development the amount of \$100,000.00 shall be allocated for the office of creative economy in Secs. 15–16 of this act.

(3) Of the funds appropriated to the department of labor:

(A) \$75,000.00 shall be allocated to fund performance grants for regional workforce development activities pursuant to Sec. 14a of this act; and

(B) \$23,895.00 shall be allocated to the department of labor for the Vermont career internship program in Secs. 11–13 of this act.

(4) Reductions. The funds appropriated from the general fund to the department of labor shall be reduced by \$40,000.00.

#### Sec. 101. REPORTING

On or before January 15, 2012, the agency of commerce and community development shall coordinate with each agency, department, or outside entity charged with oversight or implementation of a program or policy change in this act and submit in its annual report to the house committees on commerce and economic development and on agriculture, and to the senate committees on economic development, housing and general affairs and on agriculture:

(1) a performance analysis of each program or policy change following passage of this act;

(2) an analysis of the number of private sector jobs created as a result of each program or policy in this act that has a direct financial impact to the state;

(3) an analysis of each program or policy in this act and the proportion of opportunities distributed to each gender; and

(4) recommendations for future actions in light of performance relative to the intended outcomes for each program or policy change.

#### Sec. 102. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 8a (executive director of workforce development council), 55 and 56 (tax increment financing), and 66–69 (next generation appropriations and transfers) shall take effect July 1, 2011.

(2) Sec. 47 (current use violation penalties) shall take effect upon passage and shall apply retroactively to December 1, 2007.

(3) Secs. 51, 52, 53, and 54 (tax increment financing districts) shall take effect upon passage and shall apply retroactively to July 1, 2008.

(4) Sec. 61 (sales tax exemption for on-site auctions) shall take effect upon passage and shall apply retroactively to sales that occurred after January 1, 2007 to the extent tax on such sales was not collected.

(5) Notwithstanding any other provision of law to the contrary, no program funds shall be expended or allocated prior to July 1, 2011.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Ashe, for the Committee on Finance, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out in their entirety Secs. 20 (merchant banks), 44 (certain nonprofit exemptions from sales and use tax), 47 (penalty for current use violation), 48 (retail sale of break-open tickets), 61 (sales and use tax exemption for certain sales by auctioneers), and 66–69 (amendments to H.441 [2012 budget bill]).

Second: In Sec. 24 (small condo exception to uniform common interest ownership act), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) There are two kinds of common interest communities governed by the Vermont Common Interest Ownership Act: planned communities and condominiums, either of which may be used for the subdivision of land or for the subdivision of a building.

Third: In Sec. 51 (tax increment finance district definitions), in subdivision (7), following the word “debt” by adding the following: that meets or exceeds any quality or safety standards for borrowing adopted by the municipality, and that is

Fourth: In Sec. 55 (tax increment financing), in 32 V.S.A. § 5404a(h)(5), by striking out the following: “chapter 135 of Title 32” and inserting in lieu thereof the following: chapter 53 of Title 24 and by striking out subsection (l) in its entirety and inserting in lieu thereof a new subsection (l) to read as follows:

(l) The state auditor of accounts shall review and audit all active tax increment financing districts every three years.

Fifth: In Sec. 64 (private activity bond study), in subsection (b), following the word “administration” by adding the following: , in collaboration with the office of the treasurer, and in subdivision (b)(1), following the word “allocation” by adding the word of

Sixth: By striking out Sec. 71 (econometric modeling) in its entirety and inserting in lieu thereof a new section to be numbered Sec. 71 to read as follows:

Sec. 71. STUDY; NET COST OF GOVERNMENT CONTRACTING; ECONOMETRIC MODELING

(a) The secretary of administration shall conduct a study on the net economic costs and benefits of government contracting and how the state may most effectively increase purchasing of in-state products and services.

(b) As a component of the study, the secretary shall investigate the development of an econometric model, based on or similar to the REMI model currently used by the executive and legislative economists, to allow state agencies and departments to evaluate the net costs and economic impacts of government contracts for goods and services. The secretary may, in his or her discretion, contract for the development of an econometric model that would:

(1) consider the net fiscal impact to the state of all significant elements of bids, including the level of local employment, wages and benefits, source of goods, and domicile of bidder;

(2) be designed to be easily updated from year to year; and

(3) be designed such that state employees administering bid processes can easily utilize the model in an expedient fashion.

(c) On or before January 15, 2012, the secretary shall submit a report of his or her findings to the senate committees on finance, on economic development, housing and general affairs, and on government operations, and to the house committees on commerce and economic development and on government operations.

Seventh: By adding a new section to be numbered section Sec. 76 to read as follows:

Sec. 76. 7 V.S.A. § 2 is amended to read:

## § 2. DEFINITIONS

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

\* \* \*

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

Eighth: By adding a new section to be numbered Sec. 77 to read as follows:

Sec. 77. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES; DISPOSITION OF FEES

(a) The following fees shall be paid:

\* \* \*

(22) For an art gallery or bookstore permit, \$15.00.

\* \* \*

Ninth: By striking out Sec. 100 in its entirety and adding a new section to be numbered Sec. 100 to read as follows:

Sec. 100. APPROPRIATIONS AND ALLOCATIONS

(a) The following funds are appropriated in Sec. B 1104 of H.441 of 2011 in fiscal year 2012:

(1) \$25,000.00 to the department of labor for the long-term unemployed hiring incentive in Sec. 7 of this act.

(2) \$475,000.00 to the agency of agriculture, food and markets as follows:

(A) \$100,000.00 for the good agricultural practices grant program in Sec. 40 of this act.

(B) \$25,000.00 for the skilled meat cutter apprenticeship program in Sec. 41 of this act.

(C) \$125,000.00 for the local foods coordinator and the local foods grant program in Sec. 42 of this act, not more than \$75,000.00 of which funds shall be used for the total annual compensation of the coordinator, and not less than \$50,000.00 of which funds shall be used for the performance of the local foods coordinator's duties under this act and for competitive matching grants from the agency to Vermont producers, unless in the secretary's discretion it shall be necessary to increase the amount of total compensation of the local foods coordinator in order to retain a highly qualified candidate for the position.

(D) \$100,000.00 for implementation of the farm-to-plate investment program in Sec. 43 of this act.

(E) \$75,000.00 for competitive matching grants for the farm-to-school program established in 6 V.S.A. § 4721.

(F) \$50,000.00 for competitive matching grants to increase slaughterhouse and meat processing facility capacity as authorized in Sec. 34 of this act.

(3) \$25,000.00 to the agency of commerce and community development for a matching grant to the Vermont employee ownership center.

(b) The following Next Generation funds are appropriated in Sec. B 1100 of H.441 of 2011 in fiscal year 2012:

(1) \$350,000.00 to the department of labor for the Vermont career internship program developed in Secs. 11–13 of this act.

(2) \$30,000.00 to the agency of agriculture, food and markets for the Vermont large animal veterinarian educational loan repayment fund created in Sec. 39 of this act.

(3) \$25,000.00 to the agency of commerce and community development to fund the completion of the southeast Vermont economic development strategy, workforce development, and other activities pursuant to Sec. 65 of this act.

(c) Of the funds appropriated to the agency of commerce and community development in H.441 of 2011, \$100,000.00 shall be allocated for the office of creative economy created in Secs. 15–16 of this act.

(d) Of the funds appropriated to the department of labor in H.441 of 2011:

(1) \$75,000.00 shall be allocated to fund performance grants for regional workforce development activities pursuant to Sec. 14a of this act.

(2) \$23,895.00 shall be allocated to the department of labor for the Vermont career internship program developed in Secs. 11–13 of this act.

(3) Up to \$40,000.00 shall be allocated for transfer to the secretary of administration for the work of the executive economist, and to reimburse the joint fiscal office for the work of the legislative economist, to conduct a study on government contracting, and to develop an econometric model for the evaluation of net costs of government contracts pursuant to Sec. 71 of this act.

Tenth: In Sec. 102 (Effective dates), in subdivision (1), by inserting a comma after the following: “55”, and by striking out the following: “, and 66–69 (next generation appropriations and transfers)”, and by striking out subdivisions (2) and (4) in their entirety, and by renumbering the remaining subdivisions to be numerically correct.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committees on Economic Development, Housing and General Affairs and Finance.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, the pending question, Shall the proposal of amendment of the Committee on Economic Development, Housing and General Affairs be amended as recommended by the Committee on Finance?, Senator Pollina moved that the question be divided.

Which was agreed to.

Thereupon, the *first* through *fifth* and *seventh* through *tenth* proposals of amendment of the Committee on Finance were severally agreed to.

Thereupon, the question, Shall the proposal of amendment of the Committee on Economic Development, Housing and General Affairs be amended as recommended by the Committee on Finance in the *sixth* proposal of amendment?, was agreed to.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, was agreed to.

Thereupon, pending third reading of the bill, Senator Galbraith moved to amend the Senate proposal of amendment by adding a new section to be numbered Sec. 85 to read as follows:

Sec. 85. 9 V.S.A. § 2466 is amended to read:

§ 2466. GOODS AND SERVICES APPEARING ON TELEPHONE BILL

(a) ~~No~~ Except as provided in subsection (f) of this section, a seller shall not bill a consumer for goods or services that will appear as a charge on the person's local telephone bill without the consumer's express authorization bill for telephone service provided by any local exchange carrier.

(b) ~~No later than the tenth business day after a seller has entered into a contract or other agreement with a consumer to sell or lease or otherwise provide for consideration goods or services that will appear as a charge on the consumer's local telephone bill, the seller shall send, or cause to be sent, to the consumer, by first class mail, postage prepaid, a notice of the contract or agreement.~~

(c) ~~The notice shall clearly and conspicuously disclose:~~

(1) ~~The nature of the goods or services to be provided;~~

(2) ~~The cost of the goods or services;~~

(3) ~~Information on how the consumer may cancel the contract or agreement;~~



~~(4) The consumer assistance address and telephone number specified by the attorney general;~~

~~(5) That the charges for the goods or services may appear on the consumer's local telephone bill; and~~

~~(6) Such other information as the attorney general may prescribe by rule.~~

~~(d) The notice shall be a separate document sent for the sole purpose of providing to the consumer the information required by subsection (c) of this section. The notice shall not be combined with any sweepstakes offer or other inducement to purchase goods or services.~~

~~(e) The sending of the notice required by this section is not a defense to a claim that a consumer did not consent to enter into the contract or agreement.~~

~~(f) No person shall arrange on behalf of a seller of goods or services, directly or through an intermediary, with a local exchange carrier, to bill a consumer for goods or services unless the seller complies with this section. This prohibition applies, but is not limited, to persons who aggregate consumer billings for a seller and to persons who serve as a clearinghouse for aggregated billings.~~

~~(g)(c)~~ Failure to comply with this section is an unfair and deceptive act and practice in commerce under this chapter.

~~(h)(d)~~ The attorney general may make rules and regulations to carry out the purposes of this section.

~~(i)(e)~~ Nothing in this section limits the liability of any person under existing statutory or common law.

~~(j)(f)(1)~~ This section shall apply to billing aggregators described in 30 V.S.A. § 231a, but shall ~~does not apply to; sellers regulated by~~

(A) billing for goods or services marketed or sold by persons subject to the jurisdiction of the Vermont public service board under Title 30, other than section 231a of Title 30 30 V.S.A. § 203;

(B) billing for direct dial or dial around services initiated from the consumer's telephone; or

(C) operator-assisted telephone calls, collect calls, or telephone services provided to facilitate communication to or from correctional center inmates.

(2) Nothing in this section affects any rule issued by the Vermont public service board.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Baruth moved to amend the Senate proposal of amendment in Sec. 100(a)(2)(C), following the word “producers” by striking out the following: “, unless in the secretary’s discretion it shall be necessary to increase the amount of total compensation of the local foods coordinator in order to retain a highly qualified candidate for the position”

Which was disagreed to on a division of the Senate, Yeas 8, Nays 14.

Thereupon, pending third reading of the bill, Senator Kittell moved to amend the Senate proposal of amendment as follows:

First: By adding a new section to be numbered Sec. 77 to read as follows:

Sec. 77. 32 V.S.A. § 3756(i) is amended to read:

(i) ~~The~~ When the department of forests, parks and recreation has not received a management activity report as required by section 3755 of this chapter or has received an adverse inspection report, the director shall notify the owner and remove from use value appraisal ~~an entire parcel of managed forest land and notify the owner in accordance with the procedure in subsection (b) of this section when the department of forests, parks and recreation has not received a management activity report or has received an adverse inspection report~~ all contiguous enrolled forest land of the owner in the municipality in which the activity resulting in the adverse inspection report occurred, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

Second: By adding a new section to be numbered Sec. 78 to read as follows:

Sec. 78. 32 V.S.A. § 3755(d) is amended to read:

(d) After ~~a parcel of managed forest land~~ forestland has been removed from use value appraisal due to an adverse inspection report pursuant to subsection 3756(i) of this title, a new application for use value appraisal will not be considered for a period of five years, and then shall be approved by the department of forests, parks and recreation only if a compliance report has been filed with the new application certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

Third: By striking out Sec. 102 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 102 to read as follows:

## Sec. 102. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 1 (Vermont business partner incentive), Sec. 8A (executive director of workforce development council), Secs. 55 and 56 (tax increment financing), and Secs. 66-69 (next generation appropriations and transfers) shall take effect July 1, 2011.

~~(3)~~ (2) Secs. 51, 52, 53, and 54 (tax increment financing districts) shall take effect upon passage and shall apply retroactively to July 1, 2008.

~~(4)~~ (3) Sec. 61 (sales tax exemption for on-site auctions) shall take effect upon passage and shall apply retroactively to sales that occurred after January 1, 2007 to the extent tax on such sales was not collected.

~~(5)~~ (4) Notwithstanding any other provision of law to the contrary, no program funds shall be expended or allocated prior to July 1, 2011.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Kittell? Senator Lyons raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Kittell was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by Senator Kittell was *not germane* to the bill as it did not satisfy the criteria of Mason's Rule 402 regarding germaneness in that it was not naturally related to and did not follow in a logical sequence the subject matter of the original proposal.

The President thereupon declared that the proposal of amendment offered by Senator Kittell could *not* be considered by the Senate.

Thereupon, pending third reading of the bill, Senator Kittell moved that Sec. 402 of Mason's be suspended for the purpose of allowing a non-germane amendment.

Which was agreed to.

Thereupon, the question, Shall the Senate propose to the House to amend the Senate proposal of amendment as recommended by Senator Kittell, was disagreed to on a division of the Senate, Yeas 7, Nays 17.

Thereupon, pending third reading of the bill, Senators Ashe and Brock moved to amend the Senate proposal of amendment as follows:

First: By adding a new section to be numbered Sec 55a. to read as follows:

Sec. 55a. TREATMENT OF TIF DISTRICTS FOR ACCOUNTING PURPOSES

The town of Milton may elect to treat the Husky and Catamount tax increment financing districts as a single district for purposes of the accounting and reporting requirements established under 32 V.S.A. § 5404a, 24 V.S.A. § 1901, and any rule adopted by the Vermont economic progress council governing tax increment financing districts, and such an election shall be conclusive for purposes of any state audit pursuant to 32 V.S.A. § 5404a(l).

Second: In Sec. 102 (effective dates), in subdivision (2), following the parenthetical, by inserting the following: and Sec. 55a (accounting of Milton TIFs)

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

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

**Message from the House No. 61**

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**S. 30.** An act relating to assault of a health care worker.

**S. 37.** An act relating to expungement of a nonviolent misdemeanor criminal history record.

**S. 101.** An act relating to child support enforcement.

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

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

**H. 411.** An act relating to the application of Act 250 to agricultural fairs.

And has severally concurred therein.

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 160.** House concurrent resolution in memory of Blair Hamilton.

**H.C.R. 161.** House concurrent resolution congratulating Andre Messier of Lake Region Union High School on being named the 2012 Vermont MetLife/NASSP High School Principal of the Year.

**H.C.R. 162.** House concurrent resolution in memory of former Representative Willis Lansing Curtis.

**H.C.R. 163.** House concurrent resolution congratulating the Global Campuses Foundation on its tenth anniversary.

**H.C.R. 164.** House concurrent resolution designating October 15, 2011, as the sixth annual Vermont Pumpkin Carving Day.

**H.C.R. 165.** House concurrent resolution commemorating the 250th anniversary of the establishment of the town of Pawlet.

**H.C.R. 166.** House concurrent resolution congratulating McNeil & Reedy of Rutland City on the haberdashery's 55th anniversary.

**H.C.R. 167.** House concurrent resolution congratulating the South Royalton High School Global Impact Apprentice Water Quality Team.

**H.C.R. 168.** House concurrent resolution in memory of Dr. Arthur Faris.

**H.C.R. 169.** House concurrent resolution congratulating the town of Dorset on its 250th anniversary.

**H.C.R. 170.** House concurrent resolution congratulating the Reverend Donald J. Ravey on the 50th anniversary of his ordination as a Roman Catholic priest.

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

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

**S.C.R. 16.** Senate concurrent resolution honoring Dr. Cyrus Jordan and Helen Riehle for their exemplary contributions to the improvement of high quality health care in Vermont.

**S.C.R. 17.** Senate concurrent resolution congratulating David Keenan on being named the Northeast Kingdom Chamber of Commerce 2011 Citizen of the Year.

And has adopted the same in concurrence.

**Rules Suspended; Bill Passed****H. 6.**

On motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to powers and immunities of the liquor control investigators.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

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

**Rules Suspended; Bills Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**H. 6, H. 287, H. 294, H. 452.**

**Senate Concurrent Resolutions**

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were by rule adopted on the part of the Senate:

By Senators Illuzzi, Ashe, Doyle, Galbraith and Campbell,

**S.C.R. 14.**

Senate concurrent resolution honoring John O’Kane for his career accomplishments at IBM and for his outstanding community service.

By Senator Ashe,

By Representative Peltz,

**S.C.R. 15.**

Senate concurrent resolution commemorating the 25th anniversary of the Chernobyl nuclear disaster with thoughts of the current nuclear crisis in Japan.

By All Members of the Senate,

**S.C.R. 16.**

Senate concurrent resolution honoring Dr. Cyrus Jordan and Helen Riehle for their exemplary contributions to the improvement of high quality health care in Vermont.

---

By Senators Kitchel and Benning,

By Representative Lawrence and others,

**S.C.R. 17.**

Senate concurrent resolution congratulating David Keenan on being named the Northeast Kingdom Chamber of Commerce 2011 Citizen of the Year.

**House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were by rule adopted in concurrence:

By Senators Ashe, Ayer, Baruth, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman and White,

By Representative Klein and others,

**H.C.R. 160.**

House concurrent resolution in memory of Blair Hamilton.

By Senators Illuzzi and Starr,

By Representative Young and others,

**H.C.R. 161.**

House concurrent resolution congratulating Andre Messier of Lake Region Union High School on being named the 2012 Vermont MetLife/NASSP High School Principal of the Year.

By Senators Campbell, McCormack and Nitka,

By Representative Clarkson,

**H.C.R. 162.**

House concurrent resolution in memory of former Representative Willis Lansing Curtis.

By Representative French and others,

**H.C.R. 163.**

House concurrent resolution congratulating the Global Campuses Foundation on its tenth anniversary.

By Representative Wilson and others,

**H.C.R. 164.**

House concurrent resolution designating October 15, 2011, as the sixth annual Vermont Pumpkin Carving Day.

By Representative Malcolm,

**H.C.R. 165.**

House concurrent resolution commemorating the 250th anniversary of the establishment of the town of Pawlet.

By Senators Flory, Carris and Mullin,

By Representative Fagan and others,

**H.C.R. 166.**

House concurrent resolution congratulating McNeil & Reedy of Rutland City on the haberdashery's 55th anniversary.

By Representative Buxton,

**H.C.R. 167.**

House concurrent resolution congratulating the South Royalton High School Global Impact Apprentice Water Quality Team.

By Senators Hartwell and Sears,

By Representative Miller,

**H.C.R. 168.**

House concurrent resolution in memory of Dr. Arthur Faris.

By Senators Hartwell and Sears,

By Representative Komline,

**H.C.R. 169.**

House concurrent resolution congratulating the town of Dorset on its 250th anniversary.

By Senator Lyons,

By Representatives Macaig and McCullough,

**H.C.R. 170.**

House concurrent resolution congratulating the Reverend Donald J. Ravey on the 50th anniversary of his ordination as a Roman Catholic priest.

**Adjournment**

On motion of Senator Campbell, the Senate adjourned, to reconvene on Monday, May 2, 2011, at one o'clock in the afternoon pursuant to J.R.S. 31.