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 severally adopted in concurrence:

By Representative Buxton,

H.C.R. 73.

House concurrent resolution congratulating Townsend Swayze on his receipt of a special award from the Government of Bangladesh.

By Representative Campion and others,

By Senators Hartwell and Sears,

H.C.R. 74.

House concurrent resolution congratulating the 2013 Mount Anthony Union High School Patriots' 25th consecutive state and seventh New England championship wrestling team.

By Representative Buxton,

H.C.R. 75.

House concurrent resolution congratulating the Vermont Law School 2013 National Environmental Law Moot Court Competition championship team.

By Representative Haas,

H.C.R. 76.

House concurrent resolution congratulating the 2013 Rochester High School Rockets Division IV boys' basketball championship team.

By Representatives Mrowicki and Deen,

By Senator White,

H.C.R. 77.

House concurrent resolution congratulating Westminster Cares, Inc. on its 25th anniversary.

By Representatives Van Wyck and Lanpher,

H.C.R. 78.

House concurrent resolution congratulating the 2013 Vergennes Union High School Division II championship boys' basketball team.

By Representatives Frank and Till,

H.C.R. 79.

House concurrent resolution congratulating the Underhill-Jericho Fire Department on its centennial anniversary.

By Representative Gage and others,

H.C.R. 80.

House concurrent resolution congratulating the 2013 Rutland High School Raiders Division I championship cheerleading team.

By Representative Taylor and others,

H.C.R. 81.

House concurrent resolution honoring the Vermont Women's History Project and its women in journalism panel's commemoration of Women's History Month.

By Representative Potter and others,

H.C.R. 82.

House concurrent resolution congratulating the Clarendon Fire Association, Inc. on its 50th anniversary.

By Representative Sweaney and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 83.

House concurrent resolution in memory of Jeannette Lynch.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, April 2, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 21.

TUESDAY, APRIL 2, 2013

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.

Pledge of Allegiance

Pages Celia Lawton and Keegan McKenna then led the members of the Senate in the pledge of allegiance.

Bill Referred to Committee on Finance

S. 38.

Senate 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 expanding eligibility for driving and identification privileges in Vermont.

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 Baruth and Benning,

J.R.S. 23. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 5, 2013, it be to meet again no later than Tuesday, April 9, 2013.

Bills Referred

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

H. 526.

An act relating to the establishment of lake shoreland protection standards.

To the Committee on Natural Resources and Energy.

H. 528.

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

To the Committee on Finance.

Bill Passed

S. 129.

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

An act relating to workers' compensation liens

Adjournment

On of Senator Mazza, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, April 3, 2013.

WEDNESDAY, APRIL 3, 2013

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. 36

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. 60. An act relating to providing state financial support for school meals for children of low-income households.

H. 329. An act relating to the Use Value Program.

H. 530. An act relating to making appropriations for the support of government.

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

Message from the Governor

Appointments Referred

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

Dailey, Thomas of Bennington - Member of the Transportation Board, - from March 25, 2013, to February 29, 2016.

To the Committee on Transportation.

Kittell, Vanessa of East Fairfield - Member of the Transportation Board, - from March 25, 2013, to February 29, 2016.

To the Committee on Transportation.

Marro, Nicola of Montpelier - Member of the Transportation Board, - from March 25, 2013, to February 29, 2016.

To the Committee on Transportation.

Tallon, Keith of Reading - Member of the Children and Family Council for Prevention Programs, - from March 25, 2013 to February 29, 2016.

To the Committee on Health and Welfare.

Johnson, Linda of Cabot - Member of the Children and Family Council for Prevention Programs, - from March 25, 2013, to February 29, 2016.

To the Committee on Health and Welfare.

Loner, Michael of Hinesburg - Member of the Children and Family Council for Prevention Programs, - from March 25, 2013, to February 29, 2016.

To the Committee on Health and Welfare.

Komline, Patti of Dorset - Member of the Community High School of Vermont Board, - from March 13, 2013, to February 29, 2016.

To the Committee on Education.

Joint Resolution Referred

J.R.S. 24.

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

By Senator Zuckerman,

J.R.S. 24. Joint resolution related to the conduct of collaborative hearings and the basing of the F-35A in Vermont.

Whereas, since 1946, the Vermont Air National Guard (VTANG) at the Burlington International Airport (BTV) has been an integral part of the Vermont National Guard family, and

Whereas, all Vermonters appreciate the dedication and sacrifice made by the many men and women who serve in or work for the VTANG, both those who are full-time and those who are part-time, and

Whereas, although Vermonters greatly appreciate the many contributions the VTANG has made to Vermont, the proposed basing of the F-35A fighter jets at BTV as a replacement for the currently based F-16C fighter jets raises significant noise issues that warrant the completion of a comprehensive collaborative hearing process prior to a final decision on F-35A basing at BTV, and

Whereas, the U.S. Air Force has prepared a draft Environmental Impact Statement (draft EIS) as part of the decision-making process for determining basing sites for the F-35A, and

Whereas, the implementation of the F-35A proposal at BTV would result in a peak noise level of 115 decibels, which is four times louder than the current F-16C peak noise level, and

Whereas, revised statistical estimates based on the 2010 U.S. Census increase the impacted population to 8,592 and the housing units to 4,200, and

Whereas, according to a December 19, 2012 *Burlington Free Press* article, slightly less than $39 million of federal funds was spent to purchase 136 residential properties in South Burlington that have been or are scheduled to be torn down because the noise level to which these properties are exposed exceeds the Federal Aviation Administration's recommended maximum level, and

Whereas, the draft EIS included a scoring system of factors at each of the proposed F-35A bases, and

Whereas, with respect to air and noise standards, the U.S. Air Force awarded BTV the maximum three points for the clear zone category, which indicates there is no development within a specific distance of BTV even though this is not an accurate fact, and

Whereas, similarly, the 65 decibel day-night average sound level contour zone score of three indicates there is no development within this zone, even though the draft EIS, using 2000 U.S. Census data, estimated that 6,675 persons reside in this zone, and

Whereas, the City of Burlington, the Burlington Airport Commission, the Congressional Delegation, the Governor of Vermont, and the U.S. Air Force have refused to respond adequately to the many questions raised by both the South Burlington City Council and concerned citizens, and

Whereas, the General Assembly's adoption of J.R.H.51 occurred on May 12, 2010, a full 22 months before the draft EIS was released in March 2012, and one of the clauses in J.R.H.51 encouraged collaboration among the Vermont Air National Guard, the City of South Burlington, and other affected municipalities to identify and address environmental, health, housing, and workforce concerns, and

Whereas, the collaborative process that the General Assembly requested in J.R.H.51 of 2010 has yet to occur, and

Whereas, according to U.S. Air Force Colonel Joe Beissner, Chief of the Combat Aircraft Division at Air Combat Command, two programs are now planned to extend the life of the F-16C, which the VTANG currently flies, beyond 2030 to fill any gaps resulting from problems with the F-35A's deployment, and

Whereas, one program, intended to extend the life of the plane from its current 8,000 flight hours to 10,000–12,000 flight hours, will be based on a full-scale durability test of the aircraft scheduled for fiscal 2015, and

Whereas, upgrades or changes to the plane, based on the test results, would follow, and

Whereas, the second multiple component upgrade, scheduled to begin in 2018 and end by 2022, is known as the combat avionics programmed extension suite, and includes a modern replacement of the plane's scanning radar and the installation of new display screens and a new electronic warfare suite, and

Whereas, furthermore, this is only the first round of F-35A basing decisions, and during a future round, considerably more data may be available regarding the impact of basing the F-35A in Vermont, and

Whereas, in a statement released on December 11, 2012, 16 members of the Vermont clergy recommended that "Vermont be removed from the first round of basing decisions so that we Vermonters can reach a consensus, based on clearing up so many of the questions that remain unanswered in the minds of many residents," *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly agrees with the learned clergy's advice and requests that Vermont be removed from consideration in this round of F-35A basing decisions, *and be it further*

Resolved: That in accordance with the General Assembly's adoption of J.R.H.51 of 2010, the General Assembly requests the U.S. Air Force, the Vermont Air National Guard, the City of South Burlington, the City of Winooski, the Town of Williston, and the City of Burlington to conduct collaborative hearings with concerned citizens on environmental, health, housing, and workforce issues related to the F-35A prior to the issuing of a final decision on basing at Burlington International Airport, *and be it further*

Resolved: That the General Assembly respectfully requests that the collaborative hearing process provide detailed responses to all concerns that affected residents may raise, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Air Force Secretary Michael B. Donley; to the U.S. Air Force Chief of Staff, General Mark A. Welsh III; to Vermont National Guard Adjutant and Inspector General Steven Cray; and to the Vermont Congressional Delegation.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Government Operations.

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 163.

By Senator Westman,

An act relating to changing provisions within the Vermont Common Interest Ownership Act related to owners of time-shares.

To the Committee on Judiciary.

S. 164.

By Senator Hartwell,

An act relating to limiting seller liability in products liability actions.

To the Committee on Judiciary.

Bills Referred

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

H. 60.

An act relating to providing state financial support for school meals for children of low-income households.

To the Committee on Education.

H. 329.

An act relating to the Use Value Program.

To the Committee on Agriculture.

H. 530.

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

To the Committee on Appropriations.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

Miller, Lawrence of Ripton - Secretary, Agency of Commerce and Community Development – March 1, 2013, to February 28, 2015.

Recchia, Christopher of Randolph - Commissioner, Department of Public Service – January 9, 2013, to February 28, 2013.

Recchia, Christopher of Randolph - Commissioner, Department of Public Service – March 1, 2013, to February 28, 2015.

Snyder, Michael of Stowe - Commissioner, Department of Forests, Parks and Recreation – March 1, 2013, to February 28, 2015.

Valerio, Matthew of Proctor - Defender General - March 1, 2013, to February 28, 2017.

Ross, Charles of Hinesburg - Secretary, Agency of Agriculture Food and Markets – March 1, 2013, to February 28, 2015.

Smith, Megan of Killington - Commissioner, Department of Tourism and Marketing – March 1, 2013, to February 28, 2015.

Mears, David of Montpelier - Commissioner, Department of Environmental Conservation – March 1, 2013, to February 28, 2015.

Committee Relieved of Further Consideration; Bill Committed

S. 160.

On motion of Senator Sears, the Committee on Judiciary was relieved of further consideration of Senate bill entitled:

An act relating to a study committee on the regulation and taxation of marijuana

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Sears, the bill was committed to the Committee on Government Operations.

Message from the House No. 37

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

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. 23. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, April 4, 2013.

THURSDAY, APRIL 4, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Rules Suspended; Bill Committed

S. 119.

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

An act relating to amending perpetual conservation easements.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy, and Committee on Finance, Senator Hartwell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Agriculture with the report of the Committee on Natural Resources and Energy and Committee on Finance *intact*,

Which was agreed to.

Bill Referred

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

H. 169.

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

To the Committee on Finance.

Proposal of Amendment; Third Reading Ordered

H. 131.

Senator Rodgers, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to harvesting guidelines and procurement standards.

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

First: In Sec. 4, 30 V.S.A. § 248(b)(11), by striking out subparagraphs (B) and (C) in their entirety and inserting in lieu thereof the following:

(B) incorporate commercially available and feasible designs to achieve ~~a reasonable design~~ an optimum system efficiency for the type and design of the proposed facility; and

(C) comply with harvesting ~~guidelines~~ procedures and procurement standards that ~~are consistent~~ ensure long-term forest health and sustainability. These procedures and standards at a minimum shall comply with the guidelines and standards developed ~~by the secretary of natural resources~~ pursuant to 10 V.S.A. § 2750 (harvesting guidelines and procurement standards) when adopted under that statute. The requirement to comply with harvesting guidelines and procurement standards under 10 V.S.A. § 2750 when adopted shall apply to any woody biomass facility approved under this section regardless of whether that approval is issued prior to the adoption of those guidelines and standards.

Second: By striking out Sec. 5 (period of guideline and standard development; application of Public Service Board criterion) in its entirety.

And by renumbering the remaining section 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, and 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 Lyons moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, in Sec. 4, 30 V.S.A. § 248(b)(11), in subparagraph (C), in the last sentence, after the word "section" by inserting the following: on or after April 15, 2013

Which was agreed to.

Thereupon, the proposals of amendment recommended by the Committee on Natural Resources and Energy, as amended, were agreed to and third reading of the bill was ordered.

Adjournment

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

FRIDAY, APRIL 5, 2013

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. 38

A message was received from the House of Representatives by Mr. William M. MaGill, its First 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. 474. An act relating to amending the membership and charge of the Government Accountability Committee.

H. 533. An act relating to capital construction and state bonding.

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

Message from the House No. 39

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. 531. An act relating to Building 617 in Essex.

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. 84. House concurrent resolution honoring Darby Bradley for his many exemplary contributions to land conservation in Vermont.

H.C.R. 85. House concurrent resolution congratulating the 2013 Winooski High School Spartans Division III championship girls' basketball team.

H.C.R. 86. House concurrent resolution in memory of Enosburgh Town, Village, and School Moderator and Selectboard member Lloyd Touchette.

H.C.R. 87. House concurrent resolution congratulating the 2012 Hartford High School Hurricanes Division I championship football team.

H.C.R. 88. House concurrent resolution congratulating the Hartford High School Hurricanes on winning the first Vermont interscholastic team and individual state bowling championships.

H.C.R. 89. House concurrent resolution honoring the memory of 1st Lieutenant Irwin Zaetz and Captain William Swanson of the World War II U.S. Army Air Corps Hot as Hell aircraft crew and the work of Clayton Kuhles in locating missing in action World War II American military aircraft.

H.C.R. 90. House concurrent resolution congratulating the 2013 Middlebury College Panthers NCAA men's slalom champions.

H.C.R. 91. House concurrent resolution congratulating the 2013 Williamstown High School Blue Devils Division III championship boys' basketball team.

H.C.R. 92. House concurrent resolution in memory of Daniello G. Balón.

H.C.R. 93. House concurrent resolution congratulating the 2013 U-32 Lake Division championship boys' ice hockey team.

H.C.R. 94. House concurrent resolution congratulating Elizabeth Haggerty on her designation as the 2013 Vermont Mother of the Year.

H.C.R. 95. House concurrent resolution commemorating the 50th anniversary of the Rutland Loyalty Day Parade.

H.C.R. 96. House concurrent resolution congratulating the 2013 BFA-St. Albans High School Comets Metro Division championship girls' ice hockey team.

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

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

S.C.R. 20. Senate concurrent resolution honoring University of Vermont Professor Frank Bryan for his extraordinary contributions to Vermont as a scholar and citizen proponent of Vermont democracy.

And has adopted the same in concurrence.

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.

Kyndal Ashworth of Randolph Center
Samuel Carpenter of Cabot
Emma Cosgrove of Waterbury
Ellis Landry of Calais
Celia Lawton of Waitsfield
Keegan McKenna of Warren
Abigail Mihaly of Montpelier
Madison Mooney of Milton
Kyle Rasmussen of Killington
Cheyenne Steventon of Barre City

Bills Referred

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

H. 474.

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

To the Committee on Government Operations.

H. 531.

An act relating to Building 617 in Essex.

To the Committee on Institutions.

H. 533.

An act relating to capital construction and state bonding.

To the Committee on Institutions.

Bill Passed in Concurrence with Proposals of Amendment

H. 131.

House bill entitled:

An act relating to harvesting guidelines and procurement standards.

Was taken up.

Thereupon, pending third reading of the bill, Senator Hartwell moved to amend the Senate proposal of amendment in Sec. 4, 30 V.S.A. § 248(b)(11), by striking out subparagraph (B) in its entirety and inserting in lieu thereof a new subparagraph (B) to read as follows:

(B) ~~incorporate commercially available and feasible designs to~~ achieve ~~a reasonable~~ an optimum design system efficiency for the type and design of the proposed facility, taking into account commercial availability, feasibility, and cost-effectiveness; and

Which was agreed to.

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

Third Reading Ordered

H. 51.

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

An act relating to payment of workers' compensation benefits by electronic payroll card.

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 Amended; Third Reading Ordered

S. 38.

Senator Kitchel, for the Committee on Transportation, to which was referred Senate bill entitled:

An act relating to expanding eligibility for driving and identification privileges in Vermont.

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

Sec. 1. 23 V.S.A. § 603 is amended to read:

§ 603. APPLICATION FOR AND ISSUANCE OF LICENSE

* * *

(d) ~~In addition to any other requirement of law or rule, a~~ Except as provided in subsection (e) of this section:

(1) A citizen of a foreign country shall produce his or her passport and visa, alien registration receipt card (green card), or other proof of legal presence for inspection and copying as a part of the application process for an operator license, junior operator license, or learner permit. ~~Notwithstanding any other law or rule to the contrary, an~~

(2) An operator license, junior operator license, or learner permit issued to a citizen of a foreign country shall expire coincidentally with his or her authorized duration of stay.

(e)(1) A citizen of a foreign country unable to establish legal presence in the United States who furnishes reliable proof of Vermont residence and of name, date of birth, and place of birth, and who satisfies all other requirements of this chapter for obtaining a license or permit, shall be eligible to obtain an operator's privilege card, a junior operator's privilege card, or a learner's privilege card.

(2) The Commissioner shall require applicants under this subsection to furnish a document or a combination of documents that reliably proves the applicant's name, date of birth, and place of birth. The Commissioner may prescribe the documents or combination of documents that meets these criteria. However, the Commissioner shall accept a combination of two or more of the following documents to establish the name, date of birth, and place of birth of an applicant:

(A) a valid foreign passport, with or without a U.S. Customs and Border Protection entry form or stamp;

(B) a valid consular identification document issued by the government of Mexico or of Guatemala or by any other government with comparable security standards and protocols, as determined by the Commissioner;

(C) a certified record of the applicant's birth, marriage, adoption, or divorce, including a translation if necessary.

(3) The Commissioner shall require applicants under this subsection to furnish a document or a combination of documents that reliably proves the applicant's Vermont residence. The Commissioner may prescribe the

documents or combination of documents that meets these criteria. However, the Commissioner shall accept the following combinations of documents as proof of Vermont residence:

(A)(i) two pieces of mail received by the applicant within the prior 30 days with the applicant's current name and residential Vermont address; and

(ii) at least one of the documents specified in subdivision (B) of this subdivision (3); or

(B) two of the following which show name and residential Vermont address:

(i) a vehicle title or registration;

(ii) a document issued by a financial institution, such as a bank statement;

(iii) a document issued by an insurance company or agent, such as an insurance card, binder, or bill;

(iv) a document issued by an educational institution, such as a transcript, report card, or enrollment confirmation;

(v) federal tax documents, such as W-2 or 1099 forms;

(vi) state tax documents, such as an IN-111; and

(vii) medical health records, receipts, or bills.

(f) Persons able to establish lawful presence in the United States but who otherwise fail to comply with the requirements of the REAL ID Act of 2005, Pub. L. No. 109-13, §§ 201–202, shall be eligible for an operator's privilege card, a junior operator's privilege card, or a learner's privilege card, provided the applicant furnishes reliable proof of Vermont residence and of name, date of birth, and place of birth, and satisfies all other requirements of this chapter for obtaining a license or permit. The Commissioner shall require applicants under this subsection to furnish a document or a combination of documents that reliably proves the applicant's Vermont residence and his or her name, date of birth, and place of birth.

(g) The Commissioner may adopt policies or rules related to the issuance of privilege cards under this section that balance accessibility with mechanisms to prevent fraud. The Commissioner shall consider adopting the appointment system procedures used in other states to prevent and deter fraud with regard to proof of residency.

(h) A privilege card issued under this section shall:

(1) on its face bear the phrase "privilege card" and text indicating that it is not valid for federal identification or official purposes; and

(2) expire at midnight on the eve of the second birthday of the applicant following the date of issuance.

(i) Every applicant for or holder of a privilege card under this section shall be subject to all of the provisions of this title that apply to applicants and holders of operator's licenses, junior operator's licenses, and learner permits, except where the context clearly requires otherwise.

Sec. 2. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

(a) Any Vermont resident may make application to the ~~commissioner~~ Commissioner and be issued an identification card which is attested by the ~~commissioner~~ Commissioner as to true name, correct age, and any other identifying data as the ~~commissioner~~ Commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian, or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the ~~commissioner~~ Commissioner may require, consistent with subsection (l) of this section. The ~~commissioner~~ Commissioner shall require payment of a fee of $20.00 at the time application for an identification card is made.

(b) ~~Every~~ Except as provided in subsection (l) of this section, every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a $20.00 fee. At least 30 days before an identification card will expire, the ~~commissioner~~ Commissioner shall mail first class to the cardholder an application to renew the identification card.

* * *

(l)(1) The Commissioner shall issue identification cards to Vermont residents who are not U.S. citizens but are able to establish lawful presence in the United States if an applicant follows the procedures and furnishes documents as required under subsection 603(d) of this title and any policies or rules adopted thereunder, and otherwise satisfies the requirements of this section. The identification cards shall expire consistent with subsection 603(d) of this title.

(2) The Commissioner shall issue non-REAL ID compliant identification cards to Vermont residents unable to establish lawful presence in the United States if an applicant follows the procedures and furnishes

documents as required under subsection 603(e) of this title and any policies or rules adopted thereunder, and otherwise satisfies the requirements of this section.

(3) The Commissioner shall issue non-REAL ID compliant identification cards to Vermont residents able to establish lawful presence in the United States but who otherwise fail to comply with the requirements of the REAL ID Act of 2005, Pub. L. No. 109-13, §§ 201–202, if the applicant follows the procedures and furnishes documents as required under subsection 603(f) of this title and any policies or rules adopted thereunder, and otherwise satisfies the requirements of this section.

(4) A non-REAL ID compliant identification card issued under subdivision (2) or (3) of this subsection shall:

(A) bear on its face text indicating that it is not valid for federal identification or official purposes; and

(B) expire at midnight on the eve of the second birthday of the applicant following the date of issuance.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2014.

And that when so amended the bill ought to pass.

Senator MacDonald, for the Committee on Finance, 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, and the recommendation of amendment was agreed to, and third reading of the bill was ordered on a roll call Yeas 27, Nays 2.

Senator McAllister 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, Benning, Bray, Campbell, *Collins, Cummings, Doyle, Fox, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Flory, McAllister.

The Senator absent and not voting was: Ayer.

*Senator Collins explained his vote as follows:

"When I arrived here in January I had serious reservations about the original proposal on this issue of a driver's license for residents who are unable to prove legal presence. I voted for this legislation, because I respect the members of our Senate Transportation Committee and know that this issue was a very complicated and controversial one, which they attempted to address in a fair and responsible manner. Their thoroughness convinced me to vote yes on S.38. I also hold in high regard the Committee process that brings legislation forward for our consideration and action. I was surprised to learn of the numerous organizations that support granting this privilege and can only hope that the implementation of their recommendations and our actions will not create unintended consequences. The messages that I received from constituents indicate that there are very strong feelings on both sides of this issue and there will be citizens who will be greatly disappointed by my vote in support of an issue that can best be resolved at the federal level."

Senate Concurrent Resolution

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, was adopted on the part of the Senate:

By All Members of the Senate,

By Representative Macaig and others,

S.C.R. 20.

Senate concurrent resolution honoring University of Vermont Professor Frank Bryan for his extraordinary contributions to Vermont as a scholar and citizen proponent of Vermont democracy.

House Concurrent Resolution

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 severally adopted in concurrence:

By Representative Ancel and others,

By Senators Hartwell, Cummings, Doyle and Pollina,

H.C.R. 84.

House concurrent resolution honoring Darby Bradley for his many exemplary contributions to land conservation in Vermont.

By Representatives Bissonnette and Cross,

H.C.R. 85.

House concurrent resolution congratulating the 2013 Winooski High School Spartans Division III championship girls' basketball team.

By Representative Keenan and others,

H.C.R. 86.

House concurrent resolution in memory of Enosburgh Town, Village, and School Moderator and Selectboard member Lloyd Touchette.

By Representative Christie and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 87.

House concurrent resolution congratulating the 2012 Hartford High School Hurricanes Division I championship football team.

By Representative Christie and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 88.

House concurrent resolution congratulating the Hartford High School Hurricanes on winning the first Vermont interscholastic team and individual state bowling championships.

By Representative Head and others,

H.C.R. 89.

House concurrent resolution honoring the memory of 1st Lieutenant Irwin Zaetz and Captain William Swanson of the World War II U.S. Army Air Corps Hot as Hell aircraft crew and the work of Clayton Kuhles in locating missing in action World War II American military aircraft.

By Representative Jewett and others,

H.C.R. 90.

House concurrent resolution congratulating the 2013 Middlebury College Panthers NCAA men's slalom champions.

By Representatives Winters and Davis,

H.C.R. 91.

House concurrent resolution congratulating the 2013 Williamstown High School Blue Devils Division III championship boys' basketball team.

By Representative Lenes and others,

H.C.R. 92.

House concurrent resolution in memory of Daniello G. Balón.

By Representative Klein and others,

By Senators Cummings, Doyle and Pollina,

H.C.R. 93.

House concurrent resolution congratulating the 2013 U-32 Lake Division championship boys' ice hockey team.

By Representatives Partridge and Trieber,

H.C.R. 94.

House concurrent resolution congratulating Elizabeth Haggerty on her designation as the 2013 Vermont Mother of the Year.

By Representative Russell,

H.C.R. 95.

House concurrent resolution commemorating the 50th anniversary of the Rutland Loyalty Day Parade.

By Representative Keenan and others,

H.C.R. 96.

House concurrent resolution congratulating the 2013 BFA-St. Albans High School Comets Metro Division championship girls' ice hockey team.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, April 9, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 23.

TUESDAY, APRIL 9, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Paul Habersang of Montpelier.

Pledge of Allegiance

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

Bill Referred to Committee on Finance

H. 71.

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 tobacco products.

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 Baruth and Benning,

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 12, 2013, it be to meet again no later than Tuesday, April 16, 2013.

Committee Bill Referred

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

S. 165.

By the Committee on Economic Development, Housing and General Affairs,

An act relating to collective bargaining for deputy state's attorneys.

To the Committee on Rules.

Bill Introduced

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

S. 166.

By Senators Galbraith and White,

An act relating to wind generation in the Town of Windham.

To the Committee on Finance.

Bill Passed

S. 38.

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

An act relating to expanding eligibility for driving and identification privileges in Vermont.

Bill Passed in Concurrence

H. 51.

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

An act relating to payment of workers' compensation benefits by electronic payroll card.

Proposal of Amendment; Third Reading Ordered

H. 431.

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

An act relating to mediation in foreclosure actions.

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. 12 V.S.A. chapter 163, subchapter 9 is amended to read:

Subchapter 9. Mediation in Foreclosure Actions

§ 4631. MEDIATION PROGRAM ESTABLISHED

(a) This subchapter establishes a program to assure the availability of mediation and application of ~~the federal Home Affordable Modification Program ("HAMP")~~ government loss mitigation program requirements in actions for foreclosure of a mortgage on any dwelling house of four units or less that is occupied by the owner as a principal residence.

(b) The requirements of this subchapter shall apply ~~only~~ to all foreclosure actions ~~involving loans that are subject to the federal HAMP guidelines~~ on dwelling houses of four units or less that are occupied by the owner as a principal residence unless:

(1) the loan involved is not subject to any government loss mitigation program requirements;

(2) prior to commencing the foreclosure action, the mortgagee or a representative of the mortgagee met with or made reasonable efforts to meet with the mortgagor in person in Vermont to discuss any applicable loss mitigation options; and

(3) the plaintiff in the foreclosure action certifies in a separate document filed with its complaint that the requirements of subdivisions (1) and (2) of this subsection have been satisfied and describes its efforts to meet with the mortgagor in person to discuss applicable loss mitigation efforts.

(c) To be qualified to act as a mediator under this subchapter, an individual shall be licensed to practice law in the ~~state~~ State and shall be periodically required to ~~have taken a~~ take specialized, continuing legal education training ~~course~~ courses on foreclosure prevention or loss mitigation approved by the Vermont Bar Association.

(d) This subchapter shall not apply to a commercial loan.

(e) As used in this subchapter:

(1) "Commercial loan" means any loan described in 9 V.S.A. § 46(1), (2), or (3).

(2) "Government loss mitigation program" means:

(A) the federal Home Affordable Modification Program ("HAMP");

(B) any loss mitigation program for loans owned or guaranteed by government-sponsored entities such as the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), the U.S. Federal Housing Administration, or the U.S. Department of Veterans Affairs;

(C) any loss mitigation program for loans guaranteed by the U.S. Department of Agriculture-Rural Development that are not owned by an instrumentality of the United States or the State of Vermont; or

(D) a settlement agreement with a government entity, or any state or federal law or regulation, regarding the notification, consideration, or offer of loss mitigation options.

§ 4632. OPPORTUNITY TO MEDIATE

(a) In an action for foreclosure ~~of a mortgage on any dwelling house of four units or less that is occupied by the owner as a principal residence~~ subject to this subchapter, whenever the mortgagor ~~enters an appearance in the case or~~ requests mediation prior to four months after judgment is entered and before the end of the redemption period specified in the decree, the court shall refer the case to mediation pursuant to this subchapter, except that the court may:

(1) for good cause, shorten the four-month period or thereafter decline to order mediation; or

(2) decline to order mediation if the mortgagor requests mediation after judgment has been entered and the court determines that the mortgagor is attempting to delay the case, or the court may for good cause decline to order mediation if the mortgagor requests mediation after judgment has been entered.

(b) Unless the mortgagee ~~agrees~~ and mortgagor agree otherwise or the court so orders for good cause shown, all mediation shall be completed prior to the expiration of the redemption period specified in the decree and within 120 days of the mediator's appointment. The redemption period shall not be stayed on account of pending mediation.

(c) In an action for foreclosure of a mortgage ~~on any dwelling house of four units or less that is occupied by the owner as a principal residence~~ subject to this subchapter, the mortgagee shall serve upon the mortgagor two copies of the notice described in subsection (d) of this section with the summons and complaint. The ~~supreme court~~ Supreme Court may by rule consolidate this notice with other foreclosure-related notices as long as the consolidation is consistent with the content and format of the notice under this subsection.

(d) The notice required by subsection (c) of this section shall:

(1) be on a form approved by the court administrator;

(2) advise the homeowner of the homeowner's rights in foreclosure proceedings under this subchapter;

(3) state the importance of participating in mediation even if the homeowner is currently communicating with the mortgagee or servicer;

(4) provide contact information for legal services; and

(5) incorporate a form that can be used by the homeowner to request mediation from the court.

(e) ~~The court may, on motion of a party, find that the requirements of this subchapter have been met and that the parties are not required to participate in mediation under this subchapter if the mortgagee files a motion and establishes to the satisfaction of the court that it has complied with the applicable requirements of HAMP and supports its motion with sworn affidavits that:~~

~~(1) include the calculations and inputs required by HAMP and employed by the mortgagee; and~~

~~(2) demonstrate that the mortgagee or servicer met with the mortgagor in person or via videoconferencing or made reasonable efforts to meet with the mortgagor in person.~~

The Vermont Bar Association (VBA) shall have the authority to establish a fair and neutral mediator-selection process. If the mortgagee and mortgagor are unable to select a mediator through the selection process established by the VBA, the court shall appoint a qualified mediator for the case.

§ 4633. MEDIATION

(a) During all mediations under this subchapter:

(1) The parties shall address the available foreclosure prevention tools and, if disputed, the amount due on the note for the principal, interest, and costs or fees.

~~(1)~~(2) ~~the~~ The mortgagee shall use and consider available foreclosure prevention tools, including reinstatement, loan modification, forbearance, and short sale, and the ~~calculations, assumptions, and forms established by the HAMP guidelines, including all HAMP related~~ applicable government loss mitigation program requirements and any related "net present value" calculations used in considering a loan modification conducted under this subchapter~~;~~.

~~(2)~~(3) ~~the~~ The mortgagee shall produce for the mortgagor and mediator ~~documentation of its consideration of the options available in this subdivision and subdivision (1) of this subsection, including the data used in and the outcome of any HAMP related "net present value" calculation; and~~:

(A) if a modification or other agreement is not offered, an explanation why the mortgagor was not offered a modification or other agreement; and

(B) for any applicable government loss mitigation program, the criteria for the program and the inputs and calculations used in determining the homeowner's eligibility for a modification or other program.

~~(3)~~(4) ~~where~~ Where the mortgagee claims that a pooling and servicing or other similar agreement prohibits modification, the mortgagee shall produce a copy of the agreement. All agreement documents shall be confidential and shall not be included in the mediator's report.

(b)(1) In all mediations under this subchapter, the mortgagor shall make a good faith effort to provide to the mediator ~~20 days prior to the first mediation, or~~ within a time determined by the ~~mediator to be appropriate in order to allow for verification of the information provided by the mortgagee~~ court or mediator, information on his or her household income, and any other information required by ~~HAMP unless already provided~~ any applicable government loss mitigation program.

(2) Within 45 days of appointment, the mediator shall hold a premediation telephone conference to help the mortgagee and mortgagor complete any necessary document exchange and address other premediation issues. At the premediation telephone conference, the mediator shall at a minimum document and maintain records of the progress the mortgagee and mortgagor are making on financial document production, any review of information that occurs during the conference, any request for additional information, the anticipated time frame for submission of any additional information and the lender's review of the information, the scheduling of the mediation session, and which of the persons identified in subdivision (d)(1) of this section will be present in person at the mediation or that the parties and the mediator have agreed pursuant to subsection (e) of this section that personal presence at the mediation is not required.

(3) During the mediation, the mediator shall document and maintain records of:

(A) agreements about information submitted to the mediator;

(B) whether a modification or other foreclosure alternative is available and, if so, the terms of the modification;

(C) if a modification or other foreclosure alternative is not available, the reasons for the unavailability; and

(D) the steps necessary to finalize the mediation.

(c) The parties to a mediation under this subchapter shall cooperate in good faith under the direction of the mediator to produce the information required by subsections (a) and (b) of this section in a timely manner so as to permit the mediation process to function effectively.

(d)(1) The following persons shall participate in person or by telephone in any mediation under this subchapter:

(A) the mortgagee, or any other person, including the mortgagee's servicing agent, who meets the qualifications required by subdivision (2) of this subsection;

(B) counsel for the mortgagee; and

(C) the mortgagor, and counsel for the mortgagor, if represented.

(2) The mortgagee or mortgagee's servicing agent, if present, shall have:

(A) authority to agree to a proposed settlement, loan modification, or dismissal of the foreclosure action;

(B) real time access during the mediation to the mortgagor's account information and to the records relating to consideration of the options available

in subdivisions ~~(a)(1) and (2)~~ (a)(2) and (a)(3) of this section, including the data and factors considered in evaluating each such foreclosure prevention tool; and

(C) the ability and authority to perform ~~necessary HAMP-related~~ government loss mitigation program-related "net present value" calculations and to consider other options available in subdivisions ~~(a)(1) and (2)~~ (a)(2) and (a)(3) of this section during the mediation.

(e) The mediator may permit a party identified in subdivision (d)(1) of this section to participate in mediation by telephone or videoconferencing. The mortgagee and mortgagor shall each have at least one of the persons identified in subdivision (d)(1) of this section present in person at the mediation unless all parties and the mediator agree otherwise in writing.

(f) The mediator may include in the mediation process under this subchapter any other person the mediator determines would assist in the mediation.

(g) Unless the ~~parties~~ mortgagee and mortgagor agree otherwise, all mediations under this subchapter shall take place in the county in which the foreclosure action is brought pursuant to subsection ~~4523(a)~~ 4932(a) of this title.

§ 4634. MEDIATION REPORT

(a) Within seven days of the conclusion of any mediation under this subchapter, the mediator shall report in writing the results of the process to the court and both parties, and shall provide a copy of the report to the Office of the Attorney General for data collection purposes. The report submitted to the Attorney General's office shall include, in addition to the information identified in subsection (b) of this section, all applicable government loss mitigation program criteria, inputs, and calculations performed prior to or during the mediation and all information related to the requirements in subsection 4633(a) of this title. The report submitted to the Attorney General's office shall be confidential, and shall be exempt from public copying and inspection under 1 V.S.A. § 317, provided that any public report by the Attorney General may include information in aggregate form.

(b) The report required by subsection (a) of this section shall not disclose the mediator's assessment of any aspect of the case or substantive matters discussed during the mediation, except as is required to report the information required by this section. The report shall contain all of the following items:

(1) The date on which the mediation was held, including the starting and finishing times.

(2) The names and addresses of all persons attending, showing their role in the mediation and specifically identifying the representative of each party who had decision-making authority.

(3) A summary of any substitute arrangement made regarding attendance at the mediation.

(4) ~~All HAMP-related "net present value" calculations and other foreclosure avoidance tool calculations performed prior to or during the mediation and all information related to the requirements in subsection 4633(a) of this title.~~ [Repealed.]

(5) The results of the mediation, stating whether full or partial settlement was reached and appending any agreement of the parties.

(6)(A) A statement as to whether any person required under subsection ~~(d) of section~~ 4633(d) of this title to participate in the mediation failed to:

(i) attend the mediation;

(ii) make a good faith effort to mediate; or

(iii) supply documentation, information, or data as required by subsections 4633(a)–(c) of this title.

(B) If a statement is made under subdivision (6)(A) of this subsection (b), it shall be accompanied by a brief description of the applicable reason for the statement.

§ 4635. COMPLIANCE WITH OBLIGATIONS

(a) Upon receipt of a mediator's report required by subsection 4634(a) of this title, the court shall determine whether the mortgagee or servicer has complied with all of its obligations under subsection 4633(a) of this title, and, at a minimum, with any ~~modification obligations under HAMP~~ applicable government loss mitigation program requirements. The court may make such a determination without a hearing unless the court, in its discretion, determines that a hearing is necessary.

(b) If the mediator's report includes a statement under subdivision ~~4635(b)(6)~~ 4634(b)(6) of this title, or if the court makes a determination of noncompliance with the ~~obligations~~ requirements under subsection 4635(a) of this title, the court may impose appropriate sanctions against the noncomplying party, including:

(1) tolling of interest, fees, and costs;

(2) reasonable attorney's fees;

(3) monetary sanctions;

(4) dismissal without prejudice; and

(5) prohibiting the mortgagee from selling or taking possession of the property that is the subject of the action with or without opportunity to cure as the court deems appropriate.

(c) No mediator shall be required to testify in an action subject to this subchapter.

§ 4636. ~~EFFECT OF MEDIATION PROGRAM ON FORECLOSURE ACTIONS FILED PRIOR TO EFFECTIVE DATE~~

~~The court shall, on request of a party prior to judgment or on request of a party and showing of good cause after judgment, require mediation in any foreclosure action on a mortgage on any dwelling house of four units or less that is occupied by the owner as a principal residence that was commenced prior to the effective date of this subchapter but only up to 30 days prior to the end of the redemption period.~~ [Repealed.]

§ 4637. NO WAIVER OF RIGHTS; COSTS OF MEDIATION

(a) The parties' rights in a foreclosure action are not waived by their participation in mediation under this subchapter.

(b) The mortgagee shall pay the required costs for any mediation under this subchapter except that the mortgagor shall be responsible for mortgagor's own costs, including the cost of mortgagor's attorney, if any, and travel costs.

(c) If the foreclosure action results in a sale with a surplus, the mortgagee may recover the full cost of mediation to the extent of the surplus. Otherwise, the mortgagee may not shift to the mortgagor the costs of the mortgagee's or the servicing agent's attorney's fees or travel costs related to mediation but may shift up to one-half of the costs of the mediator.

Sec. 2. REPEAL

2010 Acts and Resolves No. 132, Sec. 13 (repeal of Vermont mortgage foreclosure mediation program on date federal HAMP program is repealed) is repealed.

Sec. 3. EFFECTIVE DATE

This act shall take effect on December 1, 2013 and shall apply to any mortgage foreclosure proceeding instituted after that date.

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.

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, April 10, 2013.

WEDNESDAY, APRIL 10, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Taihaku of East Calais.

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. 50. An act relating to the sale, transfer, or importation of pets.

H. 101. An act relating to hunting, fishing, and trapping.

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

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

Message from the Governor

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

Mr. President:

I am directed by the Governor to inform the Senate that on the third day of April, 2013 he approved and signed a bill originating in the Senate of the following title:

S. 2. An act relating to sentence calculations.

Bills Referred

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

H. 50.

An act relating to the sale, transfer, or importation of pets.

To the Committee on Rules.

H. 101.

An act relating to hunting, fishing, and trapping.

To the Committee on Rules.

H. 297.

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

To the Committee on Rules.

Bill Passed in Concurrence with Proposal of Amendment

H. 431.

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

An act relating to mediation in foreclosure actions.

Bill Amended; Third Reading Ordered

S. 86.

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

An act relating to miscellaneous changes to election laws.

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

* * * Offenses Against the Purity of Elections * * *

Sec. 1. 17 V.S.A. chapter 35 is amended to read:

Subchapter 1. Penalties Upon Officers

§ 1931. PRESIDING OFFICER RECEIVING ILLEGAL VOTE

A presiding officer in a ~~town, village, or school district meeting or in a~~ local, primary, or general election who knowingly receives and counts a vote from a person not a qualified voter or knowingly receives from a voter, at any one balloting for the same office, more than one vote~~,~~ shall be fined not more

than $100.00 if the offense is committed in a ~~town, village, or school district meeting,~~ local election and not more than $500.00 if in a primary or general election.

§ 1932. COUNTING AND TURNING BALLOT BOXES BEFORE PROPER TIME

A presiding officer at a primary or general election~~,~~ who allows the ballots for representative to the ~~general assembly~~ General Assembly, state senator, or state, county, or congressional officers to be counted or the ballot box containing the same to be turned before the hour set by the ~~legislative branch~~ Legislative Branch for closing the polls shall be fined not more than ~~$100.00~~ $200.00 nor less than $20.00.

§ 1933. NONPERFORMANCE OF DUTY BY PUBLIC OFFICER

~~A~~ Except as otherwise provided by this title, a public officer upon whom a duty is imposed by the provisions of this title~~,~~ who ~~wilfully~~ willfully neglects to perform such duty or who ~~wilfully~~ willfully performs it in such a way as to hinder the object of the provisions of this title~~,~~ shall be fined not more than $500.00~~; but the provisions of this section shall not apply to a public officer upon whom a duty is imposed by the provisions of chapter 9, section 571 of chapter 11, and chapter 13 of this title, the nonperformance of which is an offense under either of such chapters~~.

Subchapter 2. Penalties Upon Voters

§ 1971. CASTING MORE THAN ONE BALLOT

A legal voter who knowingly casts more than one ballot at any one time of balloting for the same office shall be fined not more than $1,000.00~~,~~ if the offense is committed at a primary or general election~~,~~ and not more than $100.00~~,~~ if committed ~~in town meeting~~ at a local election.

§ 1972. SHOWING BALLOT; INTERFERENCE WITH VOTER

(a) A voter who, except in cases of assistance as provided in this title, allows his or her ballot to be seen by another person with an apparent intention of letting it be known how he or she is about to vote or makes a false statement to the presiding officer at an election as to his or her inability to mark his or her ballot or places a distinguishing mark on his or her ballot~~,~~ or a person who interferes with a voter when inside the guard rail or who, within the building in which the voting is proceeding, endeavors to induce a voter to vote for a particular candidate, shall be fined $1,000.00.

(b) It shall be the duty of the election officers to see that the offender is duly prosecuted for a violation of this section.

§ 1973. VOTING IN MORE THAN ONE PLACE

A person who, on the same day, votes in more than one town, district, or ward for the same office shall be fined not more than $1,000.00.

§ 1974. VOTER OMITTED FROM LIST, VOTING IN ANOTHER ~~TOWN~~ POLITICAL SUBDIVISION

A person who is a resident and entitled to vote in a ~~town~~ political subdivision in which a checklist of voters has been made previous to an election, whose name, through his or her neglect, is not entered thereon, who votes in another ~~town~~ political subdivision at such election~~,~~ shall be fined not more than $200.00.

Subchapter 3. Miscellaneous

§ 2011. PERJURY BEFORE BOARD MAKING CHECKLIST

A person who knowingly swears falsely to a fact or matter which may be the subject of inquiry by the board of civil authority or town clerk in revising the checklist as provided in this title shall be guilty of perjury and imprisoned not more than 15 years ~~and~~ or fined not more than $1,000.00, or both.

§ 2012. PROCURING CHANGE IN LIST WRONGFULLY

A person who, directly or indirectly, procures or causes to be procured or aids in procuring the name of a person to be inserted on a checklist of voters, knowing such person not to be a voter in the ~~town~~ political subdivision for which such list is made or, directly or indirectly, procures or causes to be procured or aids in procuring the name of a person to be erased from such list, knowing him or her to be a legal voter in such ~~town~~ political subdivision, shall be fined not more than ~~$100.00~~ $200.00.

§ 2013. FALSE ANSWER AS TO RIGHT TO VOTE

A person who knowingly gives a false answer or information to the presiding officer at a local, primary, or general election or to the authority present to decide upon the qualifications of voters, touching a person's right to vote at such election, shall be fined not more than ~~$100.00~~ $200.00.

§ 2014. UNQUALIFIED PERSON VOTING

A person, knowing that he or she is not a qualified voter, who votes at a ~~town, village, or school district meeting or a~~ local, primary, or general election for an officer to be elected at ~~such meeting or~~ that election shall be fined not more than ~~$100.00~~ $200.00.

§ 2015. FRAUDULENT VOTING

A person who personates another, living or dead, and gives or offers to give a vote in the name of ~~such~~ that other person or gives or offers to give a vote under a fictitious name at a ~~town, village, or school district meeting or a~~ local, primary, or general election~~,~~ for an officer to be elected at ~~such meeting or~~ that election~~,~~ shall be imprisoned not more than one year or fined not more than ~~$100.00~~ $200.00, or both.

§ 2016. AIDING UNQUALIFIED VOTER TO VOTE

A person who ~~wilfully~~ willfully aids or abets a person who is not a duly qualified voter in voting or attempting to vote at a local, primary, or general election shall be fined not more than ~~$100.00~~ $200.00.

§ 2017. UNDUE INFLUENCE

A person who attempts by bribery, threats, or any undue influence to dictate, control, or alter the vote of a freeman or freewoman about to be given at a local, primary, or general election shall be fined not more than $200.00.

§ 2018. USING INTOXICATING LIQUOR TO INFLUENCE VOTES

A person who, directly or indirectly, gives intoxicating liquor to a freeman or freewoman with intent to influence his or her vote at ~~an~~ a local, primary, or general election ~~specified in section 2017 of this title~~ or as a reward for voting as previously directed~~,~~ shall be fined not more than $200.00.

§ 2019. DESTROYING LISTS; HINDERING VOTING

A person who, prior to ~~an~~ a local, primary, or general election, willfully defaces or destroys any list of candidates posted in accordance with law or, during ~~an~~ that election, willfully defaces, tears down, removes, or destroys any card posted for the instruction of voters or, during ~~an~~ that election, willfully removes or destroys any of the supplies or conveniences furnished to enable a voter to prepare his or her ballot or willfully hinders the voting of others~~,~~ shall be fined ~~$50.00~~ $200.00.

§ 2020. ~~OFFENSES APPLYING TO PRIMARY ELECTIONS~~

~~The provisions of sections 1972-1974 and 2011-2019 of this title shall apply to primary elections held under the provisions of chapter 9 of this title and the word "officer" or "officers," when used in any of such sections to designate a person or persons to be voted for at an election, shall include a candidate or candidates for nomination by primary election.~~ [Repealed.]

§ 2021. DESTROYING ~~CERTIFICATES OF NOMINATION~~ PRIMARY ELECTION DOCUMENTS; ALTERATION OR DELAY OF BALLOTS

A person who falsely makes or willfully defaces or destroys a primary petition, certificate of nomination, or nomination paper or any part thereof, or any letter of assent or of withdrawal, or who files a primary petition, ~~a~~ certificate of nomination, nomination paper, letter of assent, or letter of withdrawal~~,~~ knowing the same or any part thereof to be falsely made, or who suppresses a primary petition, certificate of nomination, nomination paper, letter of assent, or letter of withdrawal or any part thereof~~,~~ which has been filed, or forges or falsely makes the official ~~indorsement~~ endorsement upon a ballot to be used at a primary or at an election or willfully destroys or defaces such a ballot or willfully delays the delivery of such ballots~~,~~ shall be fined ~~$100.00~~ $200.00.

* * * Definitions * * *

Sec. 2. 17 V.S.A. § 2103 is amended to read:

§ 2103. DEFINITIONS

As used in this title, unless the context or a specific definition requires a different reading:

* * *

(4) "Australian ballot system" means the technique of having the polls open for voting on specified and warned matters during a warned, extended period which may be during or after a municipal meeting, or both. An "Australian ballot" means a uniformly printed ballot, typically confined to the secret vote election of specified offices as previously warned to be voted upon by the Australian ballot system. The term "Australian ballot" includes any ~~voting machines~~ ballots counted by a vote tabulator approved for use in any election ~~so~~ conducted in the ~~state~~ State.

* * *

(24) "Political subdivision" means any county, municipality (including cities, towns, and villages), representative district, senatorial district, school district, fire district, water, sewer or utility district, ward, and any consolidation of the foregoing entities authorized under the laws of this ~~state~~ State.

* * *

(35) "Town clerk" means a town officer elected pursuant to ~~24 V.S.A. § 712(2)~~ section 2646 of this title or otherwise elected or appointed by law and performing those duties prescribed by 24 V.S.A. chapter 35.

* * *

(41) "Voter registration agency" or "agency" means all state offices that provide public assistance, all state offices that provide state-funded programs primarily engaged in providing services to persons with disabilities, any federal and nongovernmental offices that have agreed to be designated by the ~~secretary~~ Secretary as a voter registration agency, and any state or local agency designated by the ~~secretary~~ Secretary as a voter registration agency. State and local agencies designated by the ~~secretary~~ Secretary may include~~:~~ the ~~departments of taxes and unemployment compensation,~~ Departments of Taxes and of Labor and offices that provide services to persons with disabilities other than those that provide state-funded programs primarily engaged in providing services to persons with disabilities.

* * *

(43) "Vote tabulator" means a machine that registers and counts paper ballots and includes optical scan tabulators.

* * * Revisions of Checklists and Voter Registration * * *

Sec. 3. 17 V.S.A. chapter 43, subchapter 2 is amended to read:

Subchapter 2. Registration of Voters

§ 2141. POSTING OF CHECKLIST

(a) At least 30 days before any local, primary, or general election the town clerk shall cause copies of the most recent checklist of the persons qualified to vote to be posted in two or more public places in the ~~town~~ political subdivision in addition to being posted at the town clerk's office; however, in a town having a population of less than 5,000 qualified voters, only one checklist in addition to the one posted in the town clerk's office need be posted.

(b) Upon the checklist shall be stated against the name of each voter, if possible, the street and number of each voter's residence~~,~~ and otherwise the mailing address of each voter's residence. ~~The town clerk shall make available a copy of the list, together with lists of corrections and additions when made, to the chair of each political party in the town, upon request, free of charge.~~ Additions or amendments to the checklist may be attached to the checklist by means of a separate list. ~~Copies of the list shall be made available to other persons at cost, and~~

(c) The town clerk shall make available a copy of the list, together with lists of corrections and additions when made:

(1) to the chair of each political party in the political subdivision, upon request, free of charge;

(2) to officers with whom primary petitions are filed under section 2357 of this title, free of charge; and

(3) to any other person, upon request, at cost.

§ 2142. REVISION OF CHECKLIST

(a) The town clerk shall call such meetings of the board of civil authority as may be necessary before an election or at other times for revision of the checklist. At least one meeting shall take place after the deadline for filing applications and before the day of an election, unless no applications have been filed which could take effect before that election.

(b) Notice of a meeting, along with a copy of the most recent checklist and a separate list of names which have been challenged and may be removed, shall be posted in two or more public places within each voting district and ~~lodged~~ in the town clerk's office.

(c) A quorum of the board of civil authority shall be as provided in subdivision 2103(5) of this title, and written notice shall be provided to each member as established in 24 V.S.A. § 801.

§ 2143. POLITICAL REPRESENTATION ON BOARD OF CIVIL AUTHORITY

(a) If the board of civil authority of any political subdivision does not contain at least three members of each major political party~~,~~ and the party committee or at least three voters request increased representation for an underrepresented major political party~~,~~ by filing a written request with the clerk of the political subdivision, the legislative body shall appoint from a list of names submitted to it by the underrepresented party a sufficient number of voters to the board of civil authority to bring the underrepresented major party's membership on the board to three. A person's name shall not be submitted unless he or she consents to serve if appointed.

(b) The persons so appointed shall have the same duties and authority with respect to elections as have other members of the board~~; they~~, but those persons shall have no authority with respect to functions of the board of civil authority which are not related to elections.

* * *

§ 2144b. ADDITIONS TO CHECKLIST BY TOWN CLERK

(a) A town clerk shall review all applications to the voter checklist and shall approve those applications that meet the requirements of this chapter ~~and section 2103 of this title~~. Once approved, application information shall be added to the statewide voter checklist on an expedited basis. If an applicant

has failed upon the date of the election to provide any information required upon the application form pursuant to section 2145 of this title, the town clerk shall notify the applicant that the form was incomplete and the applicant may provide the information on or before the date of the election.

* * *

§ 2145. APPLICATION FORMS

* * *

(c) A board of civil authority or town clerk may not require a person to complete any form other than that approved under subsection (a) of this section or section 2145a of this title; nor may the board of civil authority or the town clerk require all applicants or any particular class or group of applicants to appear personally before a meeting of the board or routinely or as a matter of policy require applicants to submit additional information to verify or otherwise support the information contained in the application form.

(d) When the board of civil authority acts on an application to add a name to the checklist, it or, upon request of the board, the town clerk shall notify the applicant by returning one copy of the completed application to the applicant and shall send one copy of the completed application to the town in which the applicant was last registered to vote, whether within or without the ~~state~~ State of Vermont, before adding the applicant's name and mailing address to the checklist. The original application shall be filed in the office of the town clerk.

* * *

§ 2145a. REGISTRATIONS AT THE DEPARTMENT OF MOTOR VEHICLES

* * *

(d) The ~~department of motor vehicles~~ Department of Motor Vehicles shall transmit voter registration applications received under this section to the ~~secretary of state~~ Secretary of State not later than ~~10~~ five days after the date the application was accepted by the ~~department~~ Department. In the case of a voter registration application accepted within five days before the checklist is closed under section 2144 of this title for a primary or general election, the application shall be transmitted to the ~~secretary of state~~ Secretary of State not later than ~~five~~ two days after the date of acceptance.

* * *

§ 2145c. SUBMISSION OF VOTER REGISTRATION FORMS BY OTHER PERSONS OR ORGANIZATIONS

Any person or any organization other than a voter registration agency that accepts a completed voter registration form on behalf of an applicant shall submit that form to the town clerk of the town of that applicant not later than seven days after the date of acceptance. In the case of an application accepted within five days before the checklist is closed under section 2144 of this title for a primary or general election, the application shall be transmitted to the town clerk of the town of the applicant not later than five days after the date of acceptance.

§ 2146. ACTION OF BOARD OF CIVIL AUTHORITY OR TOWN CLERK IN REVISING CHECKLIST

(a) At a meeting to revise the checklist, the board of civil authority shall determine whether any person who has applied to be registered to vote meets the requirements of section 2121 of this title. On demand of a majority of the board present, applicants may be examined under oath concerning the facts stated in the application. The board may make such investigation as it deems proper to verify any statement made under oath by an applicant.

(b) As soon as possible, after receipt of an application, the board or, upon request of the board, the town clerk shall inform an applicant of its action as provided in subsection (d) of section 2145 of this ~~title~~ chapter. If the board rejects an applicant, it shall also notify him or her forthwith, in person or by first class mail directed to the address given in the application, of its reasons. The notice shall be in substantially the following form:

REJECTION OF APPLICATION FOR ADDITION TO CHECKLIST

The Board of Civil Authority of ……....., (Town/City)

having met on ....., 20 ..... to consider applications for addition to the checklist, ~~have~~ has found probable cause, as stated below, to reject the

application of .....
(Name)

Cause for rejection:

(a) AGE:

(b) CITIZENSHIP:

(c) VOTER'S OATH:

(d) RESIDENCE:

The Board of Civil Authority will meet on the ..... day of ....., 20 ....., at ..... o'clock at the following location: ..... to reconsider your application and give you an opportunity to appear before the Board. You may present any information or witnesses you wish at that time, or you may appeal directly to any superior or district judge in this county or district.

.....
Town Clerk or Chairman of Board
of Civil Authority

(c) If the notice required under subsection (b) of this section is returned undelivered, the board of civil authority shall proceed to remove the person's name from the checklist in the manner set forth in section 2150 of this title.

§ 2147. ALTERATION OF CHECKLIST

(a) Pursuant to section 2150 of this title, the board of civil authority or, upon request of the board, the town clerk shall add to the checklist posted in the town clerk's office the names of the voters added and the names omitted by mistake~~,~~ and shall strike the names of persons not entitled to vote. The list so corrected shall not be altered except by:

(1) adding the names of persons as directed by any superior or district judge on appeal;

(2) adding the names of persons who are legal voters at the election but whose names are further discovered to be omitted from the completed checklist solely through inadvertence or error;

(3) adding the names of persons who present a copy of a valid application for addition to the checklist of that town that was submitted before the deadline for applications and who otherwise are qualified to be added to the checklist;

(4) adding, at the polling place, the names of persons who sign a sworn affidavit prepared by the ~~secretary of state~~ Secretary of State that they completed and submitted a valid application for addition to the checklist of that town before the deadline for applications and who otherwise are qualified to be added to the checklist;

(5) subdividing the checklist as provided in section 2501 of this title, including the transfer of names of voters who have moved within a town in which they are already registered from one voting district within that town to another; or

(6) adding the names of persons who submitted an incomplete application before the deadline for application~~,~~ and who provide that information on or before election day.

(b) Any correction or transfer may be accomplished at any time until the closing of the polls on election day. Each voter has primary responsibility to ascertain that his or her name is properly added to and retained on the checklist.

* * *

§ 2150. REMOVING NAMES FROM CHECKLIST

(a) When a voter from one ~~town~~ political subdivision becomes a resident of another ~~town~~ political subdivision and is placed on the checklist there, the town clerk shall send one copy of the voter registration application form or other official notice to the clerk of the ~~town~~ political subdivision where the voter was formerly a resident, and that clerk shall strike the voter's name from the checklist of that ~~town~~ political subdivision. Likewise, when a town clerk receives a copy of the death certificate of a voter, public notice of the death of a voter, or official notice from the ~~department of motor vehicles~~ Department of Motor Vehicles that a voter has authorized his or her address to be changed for voting purposes, the clerk shall strike the voter's name from the checklist. A town clerk shall also strike from the checklist the name of any voter who files a written request that his or her name be stricken.

(b) The board of civil authority at any time may consider the eligibility of persons on the checklist whom the board believes may be deceased, may have moved from the municipality, or may be registered in another place and may remove names of persons no longer qualified to vote. However, the board shall not remove any name from the checklist except in accordance with the procedures in subsection (d) of this section, and any systematic program for removing names from the checklist shall be completed at least 90 days before an election.

(c) In addition to any actions it takes under subsections (a) and (b) of this section, by September 15 of each odd-numbered year the board of civil authority shall review the most recent checklist name by name and consider, for each person whose name appears on the checklist, whether that person is still qualified to vote. In every case where the board of civil authority or the town clerk is unable to determine under subdivisions (d)(1) and (2) of this section that a person is still qualified to vote, the board of civil authority or, upon request of the board, the town clerk shall send a written notice to the person and take appropriate action as provided in subdivisions (d)(3) through (5) of this section. The intent is that when this process is completed there will

have been some confirmation or indication of continued eligibility for each person whose name remains on the updated checklist.

(d) Except as provided in subsection (a) of this section, a board of civil authority shall only remove a name from the checklist in accordance with the following procedure:

(1) If the board of civil authority is satisfied that a voter whose eligibility is being considered is still qualified to vote in the municipality, the voter's name shall remain on the checklist, and no further action shall be taken.

(2) If the board of civil authority does not immediately know that the voter is still qualified to vote in the municipality, the board shall attempt to determine with certainty what the true status of the voter's eligibility is. The board of civil authority may consider and rely upon official and unofficial public records and documents, including ~~but not limited to,~~ telephone directories, city directories, newspapers, death certificates, obituary (or other public notice of death), tax records, and any checklist or checklists showing persons who voted in any election within the last four years. The board of civil authority may also designate one or more persons to attempt to contact the voter personally. Any voter whom the board of civil authority finds through such inquiry to be eligible to remain on the checklist shall be retained without further action being taken. The name of any voter proven to be deceased shall be removed from the checklist.

(3) If after conducting its inquiry the board of civil authority or town clerk is unable to locate a voter whose name is on the checklist, or if the inquiry reveals facts indicating that the voter may no longer be eligible to vote in the municipality, the board of civil authority or, upon request of the board, the town clerk shall send a written notice to the voter. The notice shall be sent by first class mail to the most recent known address of the voter asking the voter to verify his or her current eligibility to vote in the municipality. The notice shall be sent with the required United States Postal Service language for requesting change of address information. Enclosed with the notice shall be a postage paid pre-addressed return form on which the voter may reply swearing or affirming the voter's current place of residence as the municipality in question or alternatively consenting to the removal of the voter's name. The notice required by this subsection shall also include the following:

(A) A statement informing the voter that if the voter has not changed his or her residence, or if the voter has changed his or her residence but the change was within the area covered by the checklist, the voter should return the form to the town clerk's office on or before the date upon which the checklist is closed under section 2144 of this title. The statement shall also inform the voter that if he or she fails to return the form as provided in this

subdivision, written affirmation of the voter's address shall be required before the voter is permitted to vote.

(B) Information concerning how the voter can register to vote in another state or another municipality within this ~~state~~ State.

(4) If the voter confirms in writing that the voter has changed his or her residence to a place outside the area covered by the checklist, the board of civil authority shall remove the voter's name from the checklist.

(5) In the case of voters who failed to respond to the notice sent pursuant to subdivision (3) of this subsection, the board of civil authority shall remove the voter's name from the checklist on the day after the second general election following the date of such notice, if the voter has not voted or appeared to vote in an election since the notice was sent or has not otherwise demonstrated his or her eligibility to remain on the checklist.

* * *

* * * Party Organization * * *

Sec. 4. 17 V.S.A. § 2321 is amended to read:

§ 2321. REPRESENTATIVE DISTRICT COMMITTEE

The "representative district committee" of a party shall consist of those members of the town committee residing in a representative district~~, as finally established by the legislative apportionment board~~. A representative district committee may encompass less than an entire town or may extend across town lines. Such a committee shall elect its own officers when called upon to meet, but it need not meet unless required to perform some function under this title. Any three members may call the first meeting by giving at least five days written notice to all other members; thereafter, the committee shall meet at the call of the chair.

* * * Nominations * * *

Sec. 5. 17 V.S.A. § 2351 is amended to read:

§ 2351. PRIMARY ELECTION

A primary election shall be held on the ~~fourth~~ first Tuesday in August in each even-numbered year for the nomination of candidates of major political parties for all offices to be voted for at the succeeding general election, except candidates for ~~president~~ President and ~~vice president~~ Vice President of the United States, their electors, and justices of the peace.

Sec. 6. 17 V.S.A. § 2356 is amended to read:

§ 2356. TIME FOR FILING PETITIONS AND STATEMENTS OF NOMINATION

(a) Primary petitions for major party candidates and statements of nomination ~~from~~ for minor party candidates ~~and independent candidates~~ shall be filed no sooner than the ~~second Monday in May~~ fourth Monday in April and not later than 5:00 p.m. on the ~~second Thursday after the first Monday in June~~ third Thursday after the first Monday in May preceding the primary election prescribed by section 2351 of this title~~,~~ and not later than 5:00 p.m. of the 62nd day prior to the day of a special primary election.

(b) Statements of nomination for independent candidates shall be filed no sooner than the fourth Monday in April and not later than three days after the date of the primary election as set forth in section 2351 of this chapter.

(c) A petition or statement of nomination shall apply only to the election cycle in which the petition or statement of nomination is filed.

Sec. 7. 17 V.S.A. § 2358 is amended to read:

§ 2358. EXAMINING PETITIONS, SUPPLEMENTARY PETITIONS

(a) The officer with whom primary petitions are filed shall examine them and ascertain whether they contain a sufficient number of legible signatures. The officer shall not attempt to ascertain whether there are a sufficient number of signatures of actual voters, however, unless the officer has reason to believe that the petitions are defective in this respect.

(b) If found not to conform, he or she shall state in writing on a particular petition why it cannot be accepted, and within 72 hours from receipt he or she shall return it to the candidate in whose behalf it was filed. In such case, supplementary petitions may be filed not later than ~~10~~ five days after the date for filing petitions. However, supplementary petitions shall not be accepted if petitions with signatures of different persons totaling at least the required number were not received by the filing deadline.

(c) A signature shall not count for the purpose of meeting the requirements of section 2355 of this title if the officer with whom primary petitions are filed:

(1) cannot identify the name of the person who signed; or

(2) if necessary, determines that the person is not on the checklist of the town which the person indicates as his or her town of residence.

(d) An officer with whom primary petitions may be filed may obtain from the appropriate town clerks certified copies of current checklists as needed to verify the adequacy of primary petitions~~; town~~. Town clerks who are asked by

a filing officer to furnish certified copies of checklists for this purpose shall furnish the copies promptly and without charge.

Sec. 8. 17 V.S.A. § 2368 is amended to read:

§ 2368. CANVASSING COMMITTEE MEETINGS

After the primary election is conducted~~,~~:

(1) the canvassing committee for state and national offices and statewide public questions shall meet at 10 a.m. ~~one week~~ on the second Tuesday after the day of the election~~. The~~;

(2) the canvassing committee for county offices and countywide public questions and state senator shall meet at 10 a.m. on the third day following the election~~. The~~; and

(3) the canvassing committees for local offices and local public questions, including state representative, shall meet at 10 a.m on the day after the election, except that in the case of canvassing committees for state representative in multi-town representative districts, the committees shall meet at 10 a.m. on the third day after the election.

Sec. 9. 17 V.S.A. § 2370 is amended to read:

§ 2370. WRITE-IN CANDIDATES

A write-in candidate shall not qualify as a primary winner unless he or she receives at least one-half the number of votes as the number of signatures required for his or her office on a primary petition, except that if a write-in candidate receives more votes than a candidate whose name is printed on the ballot, he or she may qualify as a primary winner. The write-in candidate who qualifies as a primary winner under this section must still be determined a winner under section 2369 of this title before he or she becomes the party's candidate in the general election.

Sec. 10. 17 V.S.A. § 2413 is amended to read:

§ 2413. NOMINATION OF JUSTICES OF THE PEACE

(a)(1) The party members in each town, on or before ~~the first Tuesday of August in each even numbered year~~ each primary election, upon the call of the town committee, may meet in caucus and nominate candidates for justice of the peace.

(2) The committee shall give notice of the caucus ~~as provided in subsection (d) of this section and the chairman~~ by posting notice at the office of the town clerk and two other public places in the town at least five days prior to the caucus. In addition, for towns with over 3,000 voters, the committee shall post this notice at least one day prior to the caucus in a

newspaper of general circulation within the town and on the municipality's website, if the municipality actively updates its website on a regular basis.

(3) The chair and secretary of the committee shall file the statements required in section 2385 of this title not later than 5:00 p.m. on the third day following the primary election.

(b) If it does not hold a caucus as provided in subsection (a) of this section, the town committee shall meet and nominate candidates for justices of the peace as provided in sections 2381 through 2385 of this title. At least three days prior to this meeting, the town committee shall provide notice of the meeting by e-mailing or mailing committee members and by posting notice of the meeting in the office of the town clerk and in two other public places in the town.

(c) In any town in which a political party has not formally organized, any three members of the party who are voters in the town may call a caucus to nominate candidates for justice of the peace by giving notice as required in subsection ~~(d)~~ (b) of this section. Upon meeting, the caucus shall first elect a ~~chairman~~ chair and a secretary. Thereafter the caucus shall nominate its candidates for justice of the peace, and cause its ~~chairman~~ chair and secretary to file the statements required in section 2385 of this title not later than 5:00 p.m. on the third day following the primary election.

(d) ~~When a caucus is held to nominate candidates for justice of the peace, the town committee or other persons calling the caucus shall post the notice of caucus in at least three public places in the town, not less than seven days before the date of the caucus; in towns having a population of more than 1,000, they shall also publish the notice of caucus in a newspaper having general circulation in the town, not less than three days before the date of the caucus.~~ [Repealed.]

* * * Standardized Ballots and Vote Tabulators * * *

Sec. 11. 17 V.S.A. § 2362 is amended to read:

§ 2362. PRIMARY BALLOTS

(a) The ballots shall be prepared and furnished to the towns by the ~~secretary of state~~ Secretary of State and shall contain the names of all candidates for nomination at the primary. Ballots shall be printed on index stock and configured to be readable by vote tabulators. A separate ballot for each major political party ~~in the same format as is used for optical scan tabulator ballots~~ shall be printed in substantially the following form:

OFFICIAL VERMONT PRIMARY ELECTION BALLOT

VOTE ON ONE PARTY BALLOT ONLY AND PLACE IN BALLOT BOX OR VOTE TABULATOR

ALL OTHER PARTY BALLOTS MUST BE PLACED IN UNVOTED BALLOT BOX

_____

[MAJOR POLITICAL PARTY NAME]

_____

Instructions to voters: To vote for a candidate whose name is printed on the ballot, mark a cross (X) or fill in the oval at the right of that person's name ~~and party designation~~. To vote for a candidate whose name is not printed on the ballot, write the person's name on the blank line in the appropriate block. When there are two or more persons to be elected to one office, you may vote for any number of candidates up to and including the maximum number.

(b) Following the names of candidates printed on the ballot after the name of each office to be filled~~,~~ shall be as many blank lines for write-in candidates as there are persons to be elected to that office. If no primary petition is filed for an office or for a candidate belonging to a party, the ballot shall contain the name of the office and blank lines for write-in candidates.

Sec. 12. 17 V.S.A. § 2363 is amended to read:

§ 2363. SEPARATE PARTY BALLOTS

(a) The names of all candidates of a party shall be printed upon one ballot. Each section shall bear in print larger than any other print on the ballot the words VOTE IN ONE PARTY ONLY OR YOUR BALLOT WILL BE VOID in a prominent place on the ballot. The voter shall vote for the candidates of one party only. A person voting at the primary shall not be required to indicate his party choice to any election official.

(b) ~~All voting machines used in primary elections shall be so equipped that the voter can cast his or her vote for candidates within one party only, and without disclosing the party for whose candidates he or she is casting his or her vote.~~ [Repealed.]

Sec. 13. 17 V.S.A. § 2471 is amended to read:

§ 2471. GENERAL ELECTION BALLOT

(a)(1) A consolidated ballot shall be used at a general election, which shall list the several candidates for the offices to be voted upon. ~~The offices of president and vice-president of the United States, United States senator, United~~

~~States representative, governor, lieutenant governor, state treasurer, secretary of state, auditor of accounts, attorney general, state senator, representative to the general assembly, judge of probate , assistant judge, state's attorney, sheriff, and high bailiff shall be listed in that order.~~ The offices of President and Vice President of the United States, U.S. Senator, U.S. Representative, Governor, Lieutenant Governor, State Treasurer, Secretary of State, Auditor of Accounts, Attorney General, State Senator, Representative to the General Assembly, Judge of Probate, Assistant Judge, State's Attorney, Sheriff, and High Bailiff shall be listed in that order. Any statewide public question shall also be listed on the ballot, before the listing of all offices to be filled.

(2) The ballot shall be prepared at state expense under the direction of the ~~secretary of state~~ Secretary of State. The color of the ballot shall be determined by the ~~secretary of state~~ Secretary of State. The printing shall be black. Ballots shall be printed on index stock and configured to be readable by vote tabulators. The font shall be at least 10 points for candidate names unless a name exceeds 24 characters, in which case the candidate may change his or her consent form name to 24 characters or less, or the font may be reduced as needed to fit the candidate name space.

* * *

Sec. 14. 17 V.S.A. § 2472 is amended to read:

§ 2472. CONTENTS

* * *

(b)(1) Each office to be voted upon shall be separately indicated and preceded by the word "For", as: "For United States Senator." Beneath the office to be voted upon shall appear the instructions: "Vote for not more than (the number of candidates to be elected)."

(2) The names of the candidates for each office shall be listed in alphabetical order by surname followed by the candidate's town of residence, and the party or parties by which the candidate has been nominated, or in the case of independent candidates who have not chosen some other name or identification, by the word "Independent."

(3) To the right of the party designation shall be an oval in which the voter may indicate his or her choice by making a cross (X) or filling in the oval if tabulators are being used.

(4) ~~No~~ A candidate's name shall not appear on the ballot more than once for any one office.

* * *

(d) ~~The ballot shall be printed in the same format as required for optical scan tabulators. The font shall be at least 10 points for candidate names unless a name exceeds 24 characters, in which case the candidate may change his or her consent form name to 24 characters or less, or the font may be reduced as needed to fit the candidate name space.~~ [Repealed.]

(e) When an article is to be voted on and the legislative body determines that the article is too long or unwieldy to show in full on the ballot, it shall be sufficient for the ballot to show the article by the number and title for that article as they were listed in the warning for the election. However, the complete article shall be posted in a conspicuous place within each voting booth.

Sec. 15. 17 V.S.A. § 2474 is amended to read:

§ 2474. CHOICE OF PARTY

(a)(1) A person nominated by any means for the same office by more than one political party may elect, not later than the ~~second~~ first Friday following the primary election ~~may elect~~, the party or parties in which the nominee will be a candidate. The nominee shall notify in writing the ~~secretary of state~~ Secretary of State or town clerk, as the case may be, of such choice, and only the party or parties which the nominee so elects shall be printed next to the nominee's name on the ballot.

(2) If the nominee does not notify the Secretary of State or the town clerk of his or her choice of party, the Secretary of State shall print on the ballot those parties next to the nominee's name by listing major parties first in a manner to be determined by the Secretary of State.

(b) A candidate for state or congressional office who is the nominee of two or more political parties shall file with the ~~secretary of state~~ Secretary of State, not later than the ~~second~~ first Friday following the primary election, a statement designating for which party the votes cast for him or her shall be counted for the purposes of determining whether his or her designated party shall be a major political party. The party so designated shall be the first party to be printed immediately after the candidate's name on the ballot. If a candidate does not file the statement before the second Friday following the primary, the ~~secretary of state~~ Secretary of State shall designate by lot the party to be printed immediately after the candidate's name.

Sec. 16. 17 V.S.A. § 2478 is amended to read:

§ 2478. NUMBER OF PAPER BALLOTS TO BE PRINTED AND FURNISHED

* * *

(e) ~~No voting shall occur in any general election which does not use printed ballots.~~ [Repealed.]

Sec. 17. 17 V.S.A. § 2481 is added to read:

§ 2481. PRINTED BALLOTS REQUIRED

Except in the case of voice votes from the floor or voting at a floor meeting by paper ballot at a local election, no voting shall occur in any local, primary, or general election which does not use printed ballots.

Sec. 18. 17 V.S.A. chapter 51, subchapter 3 is amended to read:

Subchapter 3. ~~Voting Machines~~ Vote Tabulators

§ 2491. POLITICAL ~~SUBDIVISION MAY USE VOTING MACHINES~~ SUBDIVISIONS; VOTE TABULATORS

(a) A town may vote at any annual or special meeting to employ ~~electronic devices ("voting machines")~~ vote tabulators for the registering and counting of votes in subsequent elections. ~~Voting machines may be used in combination with the paper ballots described in the preceding subchapter, so that each voter may choose whether to use a paper ballot or a voting machine to cast his or her vote, if the town so votes.~~

(b)(1) The Office of the Secretary of State shall pay the following costs associated with this section by using federal Help America Vote Act funds, as available:

(A) full purchase and warranty cost of vote tabulators, ballot boxes, and two memory cards for each town;

(B) annual maintenance costs of vote tabulators for each town; and

(C) the first $500.00 of the first pair of a vote tabulator's memory cards' configuration costs for each primary and general election.

(2) A town shall pay the remainder of any cost not covered by subdivision (1) of this subsection.

* * *

§ 2493. RULES FOR USE OF ~~VOTING MACHINES~~ VOTE TABULATORS

(a) The ~~secretary of state~~ Secretary of State shall adopt rules governing the use and the selection of any ~~voting machine~~ vote tabulator in the ~~state~~ State. These rules shall include requirements that:

(1) All municipalities that have voted to use a ~~voting machine~~ vote tabulator shall use a uniform voting machine approved by the ~~secretary of state~~ Secretary of State.

(2)(A) The ~~secretary of state~~ Secretary of State shall provide for the security of ~~voting machines~~ vote tabulators at all times. ~~Voting machines~~ Vote tabulators, not including the ballot box portion, shall be locked in a vault or a secure location at all times when not in use. The ~~secretary of state may~~ Secretary of State shall conduct a random postelection audit of any polling place election results for a primary or general election within 30 days of the election.

(B) If the ~~secretary~~ Secretary determines that a random audit shall be conducted of the election results in a town or city, the town clerk shall direct two members of the board of civil authority to transport the ballot bags to the office of the ~~secretary of state~~ Secretary not later than 10:00 a.m. on the morning when the ~~secretary~~ Secretary has scheduled the audit. The ~~secretary~~ Secretary shall open the ballot bags and conduct the audit in the same manner as ballots are counted under sections 2581 through 2588 of this ~~title~~ chapter. The ~~secretary of state~~ Secretary shall publicly announce the results of the audit as well as the results from the original return of the vote. If the ~~secretary~~ Secretary finds that the audit indicates that there was possible fraud in the count or return of votes, ~~the secretary~~ he or she shall refer the results to the ~~attorney general~~ Attorney General for possible prosecution.

(3) All ~~voting machines~~ vote tabulators shall be set to reject a ballot that contains an overvote and provide the voter the opportunity to correct the overvote, have the ballot declared spoiled, and obtain another ballot. If an early voter absentee ballot contains an overvote, the elections official shall override the ~~voting machine~~ vote tabulator and count all races except any race that contains an overvote.

(4) All ~~voting machines~~ vote tabulators shall be set not to reject undervotes.

(5) Establish a process for municipalities using ~~voting machines~~ vote tabulators, whereby markings on ballots that are unreadable by a machine may be transferred by a pair of election officials, who are not members of the same political party, to ballots that are readable by the machine.

(b) Each ~~voting machine~~ vote tabulator shall be tested using official ballots that are marked clearly as "test ballots" at least 10 days prior to an election.

(c) The same vote tabulator used in any local, primary, or general election shall not be used in a recount of that election.

(d) A vote tabulator shall be a stand-alone device that shall not be connected to any other device or connections such as wireless connections, cable connections, cellular telephones, or telephone lines.

(e) A municipality only may use a vote tabulator as provided in this title which registers and counts votes cast on paper ballots and which otherwise meets the requirements of this title. A municipality shall not use any type of voting machine on which a voter casts his or her vote.

§ 2494. CONSTRUCTION WITH OTHER LAWS

(a) Except as this subchapter affects the method of registering votes and ascertaining the result, the laws of this ~~state~~ State pertaining to elections shall be applicable. The laws pertaining to early or absentee voters shall in no way be affected by this subchapter, and votes cast by early or absentee voters shall be counted with votes ~~registered~~ counted on ~~voting machines~~ vote tabulators.

(b) In towns using ~~voting machines~~ vote tabulators, the board of civil authority may vote to open polling places at 5:00 a.m., provided that at least three elections officials are present, two of whom are from different parties. If all early voter absentee ballots have not been deposited into the ~~voting machines~~ vote tabulators before the closing of the polls at 7:00 p.m., the elections officials shall continue to deposit ballots using the same procedure as provided in subsection 2561(b) of this title, treating each ballot as a voter waiting to cast his or her ballot at the close of the polls

§ 2495. ~~FORM OF BALLOT~~

~~(a) In any town which uses voting machines at its elections, it shall be unnecessary for a question submitted to the voters to be shown in full upon the voting machine or the ballot. It shall be sufficient if the article in the warning for the meeting or election at which the question is submitted is referred to by number and title. However, the complete warning shall be posted in a conspicuous place within the voting booth.~~

~~(b) Notwithstanding section 2472 of this title, ballots to be counted by means of electronic or electromechanical devices may be of such size or composition as is suitable for the type of device used.~~ [Repealed.]

§ 2499. ~~MISCELLANEOUS REQUIREMENTS FOR VOTING MACHINES~~ TRANSFER OF PAPER BALLOTS FROM VOTE TABULATORS

The presiding officer, with the assistance of at least two election officials, may transfer voted ballots from the box attached to the ~~voting machine~~ vote tabulator to another secure ballot box or secured ballot bag whenever necessary during election day in order to allow the ~~machine~~ vote tabulator to continue to function properly.

Sec. 19. SECRETARY OF STATE; REPORT ON PROCESSES FOR USING VOTE TABULATORS IN RECOUNTS AND FOR CONDUCTING AUDITS

(a) The Secretary of State by January 15, 2014 shall report to the Senate and House Committees on Government Operations on:

(1) his or her proposed process for using vote tabulators in recounts and for the certification of vote tabulators. The Secretary shall consider whether and under what circumstances a town may be permitted to conduct a recount by counting ballots by hand in lieu of using vote tabulators; and

(2) his or her proposed process for conducting audits of elections. The Secretary shall specifically consider the use of risk-limiting audits.

(b) In considering the processes set forth in subdivisions (a)(1) and (2) of this section, the Secretary shall consult with stakeholders interested in those processes.

Sec. 20. 17 V.S.A. § 2535 is amended to read:

§ 2535. FORM OF EARLY VOTER ABSENTEE BALLOTS AND ENVELOPES; FEDERAL OR MILITARY REQUIREMENTS

* * *

(b) If necessary, special ballots may be prepared ~~of such different weight of paper, or overall size and shape as shall be prescribed by the secretary of state,~~ to conform with minimum ~~postal, military, naval, air force or other~~ federal or military regulations and orders covering the transportation of such ballots, provided that the text is identical in substance, except as to type size, with that appearing on the official ballots.

Sec. 21. 17 V.S.A. § 2567 is amended to read:

§ 2567. ~~REGISTERING VOTES ON VOTING MACHINES~~ VOTING SYSTEMS FOR VOTERS WITH DISABILITIES

(a) ~~If a voter is to register his or her vote upon a voting machine, he or she shall proceed, immediately upon being admitted within the guardrail, to a voting machine not occupied by another voter. The voter shall then register his or her vote according to the instructions provided to voters with the machine. Upon leaving the voting machine, he or she shall proceed directly to the exit of the guardrail.~~ [Repealed.]

(b) All polling places~~, regardless of whether the municipality has voted to use a voting machine pursuant to section 2492 of this title,~~ shall possess at least one voting system approved by the ~~secretary of state~~ Secretary of State equipped for individuals with disabilities, including accessibility for the blind and visually impaired, to vote independently and privately.

Sec. 22. 17 V.S.A. § 2573 is amended to read:

§ 2573. NO COUNTING BEFORE POLLS CLOSE

In towns ~~using paper ballots~~ that do not use vote tabulators, the ballot boxes shall not be opened nor the ballots counted before the closing of the polls. In towns using ~~voting machines~~ vote tabulators, the machine counts shall not be viewed or printed before the closing of the polls.

Sec. 23. 17 V.S.A. § 2583 is amended to read:

§ 2583. OFFICIAL CHECKLIST TO BE TALLIED

* * *

(b) ~~If in the case of voting machines an exit checklist is not used, as provided by section 2496 of this title, read-out sheets and other machine materials which are used to provide equivalent security shall be sealed and stored with the ballots and tally sheets.~~ [Repealed.]

Sec. 24. 17 V.S.A. § 2701 is amended to read:

§ 2701. PRESIDENTIAL PRIMARY; TIME OF HOLDING

In presidential election years, a presidential primary for each major political party shall be held in all municipalities on the first Tuesday in March. The ~~secretary of state~~ Secretary of State shall prepare and distribute for use at the primary an official ballot for each party for which one or more candidates qualify for the placing of their names on the ballot under section 2702 of this title. Ballots shall be printed on index stock and configured to be readable by vote tabulators.

* * * Polling Places * * *

Sec. 25. 17 V.S.A. § 2502 is amended to read:

§ 2502. LOCATION OF POLLING PLACES

(a) Each polling place shall be located in a public place within the town.

(b) The board of civil authority shall take such measures as are necessary to assure that elderly and handicapped voters may conveniently and secretly cast their votes. Measures which may be taken shall include~~, but are not limited to~~: location of polling places on the ground floor of a building; providing ramps, elevators, or other facilities for access to the polling place; providing a stencil overlay for ballots; providing a separate polling place with direct communication to the main polling place; and permitting election officials to carry a ballot to a handicapped or elderly person in order to permit that person to mark the ballot while in a motor vehicle adjacent to the polling place. For purposes of this subsection, the board of civil authority shall have full

jurisdiction on the day of an election over the premises at which a polling place is located.

(c)(1) Thirty days prior to a local, primary, or general election, the town clerk shall submit to the Secretary of State a list of polling places within the municipality that will be used in that election. The list shall include the name of the polling location, its physical address, and the time the polling place will open.

(2) A municipality may only change the location of a polling place less than 30 days prior to an election in cases of emergency. If a municipality changes the location of a polling place less than 30 days prior to the election, the town clerk shall notify the Secretary of State within 24 hours of the change and provide the new polling place information. The Secretary of State shall inform the state chairs of Vermont's major political parties of any changes made to polling places that he or she is aware of made less than 30 days prior to an election.

(3) The Secretary of State shall provide on his or her official website a list of polling places that will be used in any primary or general election within the State.

* * * Early or Absentee Voters * * *

Sec. 26. 17 V.S.A. § 2532 is amended to read:

§ 2532. APPLICATIONS; FORM

(a)(1) An early or absentee voter, or an authorized family member or health care provider acting in the voter's behalf, may apply for an early voter absentee ballot by telephone, in person, or in writing. "Family member" here means a person's spouse, children, brothers, sisters, parents, spouse's parents, grandparents, and spouse's grandparents. Any other authorized person may apply in writing or in person.

(2) The application shall be in substantially the following form:

REQUEST FOR EARLY VOTER ABSENTEE BALLOT

Name of early or absentee voter: _____

Current address: _____

Residence (if different): _____

Date: _____

If applicant is other than early or absentee voter:

Name of applicant: _____

Address of applicant: _____

Relationship to early or absentee voter: _____

Organization, if applicable: _____

Date: _____ Signature of applicant: _____

~~(2)~~(3) If the application is made by telephone or in writing, the information supplied must be in substantial conformance with the information requested on this form.

* * *

(g)(1) Any person who applies for an early voter absentee ballot without authorization from the early or absentee voter shall be fined not more than $100.00 per violation for the first three violations; not more than $500.00 per violation for the fourth through ninth violations; and not more than $1,000.00 per violation for the tenth and subsequent violations.

(2) The Attorney General or a state's attorney, whenever he or she has reason to believe any person to be or to have been in violation of this provision, may conduct a civil investigation in accordance with the procedures set forth in section 2806 of this title.

Sec. 27. 17 V.S.A. § 2534 is amended to read:

§ 2534. LIST OF EARLY OR ABSENTEE VOTERS

(a) The Secretary of State shall maintain on his or her official state website a statewide list of early or absentee voters for each primary election, presidential primary election, and general election. The list shall contain the state voter identification, name, registration address, address the ballot was mailed to, and legislative district of each voter.

(b) Upon receipt of the valid applications the town clerk shall ~~make a list of the early or absentee voters. The list shall include each voter's name and address. A copy of the list shall be available upon request at the town clerk's office and, on election day, in each polling place in the town~~ update the Secretary of State's statewide list of early or absentee voters by a method approved by the Secretary of State.

Sec. 28. 17 V.S.A. § 2546 is amended to read:

§ 2546. DEPOSIT OF EARLY VOTER ABSENTEE BALLOTS IN BALLOT BOX

(a)(1)(A) No sooner than 30 days before the opening of polls on election day, the town clerk of a municipality with at least 300 registered voters on its checklist may direct two election officials working together to open the outside envelope in order to sort early voter absentee ballots by ward and district, may data enter the return of the ballots by the voter, may determine that the certificate has been signed, and may place the inside envelopes in various secure containers to be transported to the polling places on election day.

(B) No sooner than 48 hours before the opening of polls on election day, a town clerk in all other municipalities may direct two election officials working together to open the outside envelope and remove the certificate envelope in order to determine that an early voter absentee ballot certificate has been properly signed by the early voter, and that the name of the early voter appears on the checklist.

(2) The election officials shall check the name of the early voter off the entrance checklist and place the sealed envelope into a secure container marked "checked in early voter absentee ballots" to be transported to the polling place on election day.

(3) Upon opening of the polls on election day, ballots from this container shall be opened by election officials, who are not members of the same political party, and deposited either into the ballot box or into the ~~voting machine~~ vote tabulator.

(b) The town clerk or presiding officer shall deliver the unopened early voter absentee ballots to the election officials at the place where the entrance checklist is located.

(1) If the ballots are in a container marked "checked in early voter absentee ballots," two election officials from different political parties shall open the envelopes and deposit the ballots into the ballot box or into the ~~voting machine~~ vote tabulator.

(2) If the ballots have not been previously checked off the entrance checklist and if an election official determines that the certificate on the envelope is signed by the early voter, the name of the early voter appears on the checklist, and the early voter is not a first-time voter in the municipality who registered by mail, the election official shall mark the checklist, open the envelope, and deposit the ballot in the proper ballot box or ~~voting machine~~ vote tabulator.

(3) If the early voter is a first-time voter who registered by mail, the election official shall determine whether the identification required under subdivision 2563(1) of this title has been submitted by the voter. Upon ascertaining that the proper identification has been submitted by the voter, the election official shall mark the checklist, open the envelope, and deposit the ballot in the proper ballot box or ~~voting machine~~ vote tabulator. If the proper identification has not been submitted, the ballot shall be treated as a provisional ballot, as provided in subchapter 6A of this chapter.

(c) All early voter absentee ballots shall be commingled with the ballots of voters who have voted in person.

* * * Count and Return of Votes * * *

Sec. 29. 17 V.S.A. § 2588 is amended to read:

§ 2588. FILING RETURNS

(a) In towns that count all ballots by hand, as the count of votes for each office or public question is completed, the presiding officer and at least one other election official shall collect the tally sheets, enter the totals shown on the tally sheets upon the summary sheets, add and enter the sum of the figures, and sign the summary sheets. As each summary sheet is completed, the presiding officer shall publicly announce the results.

(b) In towns that use vote ~~tabulating machines~~ tabulators, after the close of the polls and after all remaining absentee or transfer ballots have been fed into the ~~machine~~ vote tabulator, the presiding officer shall insert the ender card and the tabulator will print a tape of unofficial results. The presiding officer shall print at least two additional copies of the tabulator tape. The unofficial results from the tape may be publicly announced, and one copy of the printed tape may be posted in the polling place upon a placard that clearly states: "Unofficial incomplete results."

(c)(1) The town clerk shall immediately report the unofficial vote counts of all candidates whose names appeared on the ballot to the Secretary of State by electronically submitting the vote counts on the Secretary's online elections reporting system or, if unable to submit electronically, by submitting those vote counts to the Secretary of State by telephone, facsimile, or email.

(2) The Secretary shall ensure that any vote counts submitted by telephone, facsimile, or email are entered into his or her online elections reporting system as soon as practicable after he or she receives them.

(3) The Secretary's online elections reporting system shall cause the unofficial vote counts to be posted immediately on the Secretary's official website as soon as those vote counts are submitted.

(d) The presiding officer and one other election official then shall proceed either to complete the return at once, or to store the summary sheets in a safe and secure place until their retrieval for completion of the return. In any event, no later than 24 hours after the polls close, the presiding officer and at least one other election official shall transfer the totals from the summary sheets to the proper spaces on the return, and both shall sign the return. The town clerk shall store the summary sheets safely so that the public cannot reasonably have access to them for a period of 90 days without the town clerk's consent. The original of the return shall be delivered to the town clerk. In a manner prescribed by the ~~secretary of state~~ Secretary of State and within 48 hours of the close of the polls, the town clerk shall deliver to the ~~secretary of state~~ Secretary of State, the senatorial district clerk, the county clerk, and the representative district clerk one certified copy each of the return. The town clerk shall also make a copy available to the public upon request.

Sec. 30. 17 V.S.A. § 2593 is amended to read:

§ 2593. PARTICIPATION TO BE ENTERED ON STATEWIDE CHECKLIST BY TOWN CLERK

Not later than 60 days after ~~the~~ a primary election, presidential primary, or general election, the town clerk shall indicate on the town or municipal checklist of the statewide checklist each voter's participation, participation method, and political party of ballot taken, if applicable, in the primary election, presidential primary, or general election by a method approved by the ~~secretary of state~~ Secretary of State.

* * * Recounts * * *

Sec. 31. 17 V.S.A. chapter 51, subchapter 9 is amended to read:

Subchapter 9. Recounts and Contest of Elections

§ 2601. RECOUNTS

(a) In an election for statewide office, county office, or state senator, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is less than two percent of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

(b) In an election for all other offices, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is less than five percent of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

§ 2602. PROCEDURE FOR RECOUNTS

* * *

(c) The superior court shall set an early date for the recount, notifying all candidates at least five days in advance. The court shall order the town clerk or clerks having custody of the ballots to be recounted ~~to appoint two election officials who are not members of the same political party who shall~~ or their designees to transport them to the county clerks of their respective counties before the day set for the recount. County clerks shall store all ballots, still in their sealed containers, in their vaults until the day of the recount. The court shall appoint a sufficient number of impartial voters as a committee to recount the votes.

* * *

(i) The ~~secretary of state~~ Secretary of State shall bear the costs of recounts covered under this chapter.

* * *

§ 2602b. ASSIGNMENT OF DUTIES

(a) The county clerk shall supervise the recount and may appoint a sufficient number of impartial assistants to perform appropriate tasks which have not been assigned to recount committee members. The county clerk shall recruit town clerks to serve as impartial assistants to the county clerk for operating the vote tabulators. The county clerk shall store all ballots, still in their sealed containers, in his or her vault until the day of the recount.

* * *

§ 2602c. PREPARATION FOR RECOUNT

(a) Before the recount begins, the county clerk shall explain the recount procedures which are to be followed and shall answer questions relating to such procedures. The county clerk shall use volunteer town clerks to operate and instruct on the use of vote tabulators.

(b) ~~The~~ Each recount ~~teams established~~ team shall recount the contents of one container before ~~another container is opened~~ opening another container at its table, shall recount the contents of all the containers relating to one polling place before moving to those of another polling place, and shall complete the recount for one town before moving to material relating to another town.

* * *

§ 2602f. ~~FIRST TALLY~~ RECOUNT BY VOTE TABULATOR

(a) ~~The caller shall call the name of the person voted for and/or blank ballots, and/or spoiled ballots. The tally person and the double-check person or persons each shall make a suitable mark for that candidate and/or blank ballots, and/or spoiled ballots~~ Machine-readable ballots from each pile shall be fed through a vote tabulator by one team until all machine-readable ballots from the container have been entered. For ballots unable to be read by a vote tabulator, such as damaged or plain paper ballots, a second team shall collect these ballots from the pile and transfer the voter's choices on those ballots to blank ballots provided by the Secretary of State. After all of the machine-readable ballots have been fed through the machine, the first team shall feed through the machine any transfer ballots created by the second team. The recount teams shall switch roles for each subsequent container of ballots of a polling place that are to be fed through the vote tabulator, if there is more than one container per polling place. This process shall be used until all ballots from a polling place have been tabulated by a vote tabulator.

(b) After all ballots from a polling place have been tabulated by a vote tabulator, a recount team shall print the tabulator tape containing the unofficial results and document those results on a tally sheet. Another recount team shall then open the tabulator's ballot box and remove all ballots. The ballots shall then be divided among the recount teams to be examined to find write-in names and markings of voter intent that were not machine readable as outlined in the Secretary of State's vote tabulator guide and most recent elections procedures manual. A caller, tally person, and double-check person shall be used to examine the ballots removed from the ballot box. If the caller and the observer or observers do not agree on how a ballot should be counted, the entire team shall review the ballot and if all members agree, it shall be counted that way.

(c) If one person does not agree, that ballot shall be set aside as a questioned ballot and a copy shall be made, which copy shall be clearly marked on its face identifying it as a copy. ~~Such~~ Any copies shall be placed on the top of the other ballots and shall remain together with the other ballots. Each original ballot deemed questionable shall be attached to a note which identifies it by town, county, polling place, and bag seal number. The originals of these questionable ballots shall be clipped to the summary sheet for that polling place and returned to the court for a final decision.

(d) After the court has rendered a final decision on a given questionable ballot, it shall be returned to the county clerk who shall keep it in a sealed container for a period of two years.

(e) Write-in votes for preprinted candidates shall be counted as votes for that candidate.

(f) If the tally persons do not agree on the number of votes for a candidate on ballots not able to be read by the vote tabulator, the ballots shall be retallied until they do agree. Then the team shall notify the clerk that it has completed ~~the first~~ its recount.

* * *

§ 2602k. AFTER THE RECOUNT

* * *

(b) After the recount, the county clerk shall seal the ballots and other materials back in the containers and store them in the county clerk's vault until returned to the towns. The county clerk shall return all ballots to the respective town clerks after issuance of the court's judgment, together with a copy of the judgment. The ~~state police~~ respective town clerks or their designees shall transport the ballots to the towns from which they came.

* * *

Sec. 32. REPEAL

17 V.S.A. §§ 2492 (legislative branch to obtain voting machines); 2602g (second tally); and 2602l (recounts using voting machines) are repealed.

* * * Local Elections * * *

Sec. 33. 17 V.S.A. § 2640 is amended to read:

§ 2640. ANNUAL MEETINGS

(a) A meeting of the legal voters of each town shall be held annually on the first Tuesday of March for the election of officers and the transaction of other business, and it may be adjourned to another date. When a ~~town~~ municipality fails to hold an annual meeting, a warning for a subsequent meeting shall be issued immediately, and at that meeting all the officers required by law may be elected and its business transacted.

* * *

Sec. 34 17 V.S.A. § 2646 is amended to read:

§ 2646. TOWN OFFICERS; QUALIFICATION; ELECTION

At the annual meeting, a town shall choose from among its ~~legally qualified~~ registered voters the following town officers, who shall serve until the next annual meeting and until successors are chosen, unless otherwise provided by law:

* * *

Sec. 35. 17 V.S.A. § 2660 is amended to read:

§ 2660. CONDUCT OF ELECTION

(a) When voting is at a floor meeting by paper ballot, the polls shall be kept open a reasonable time and reasonable notice shall be given before they close.

(b) When election is by ballot, a majority of all votes cast for any office shall be required for an election, unless otherwise provided by law; provided that when there is but one nominee for an office, unless objection is made, the legal voters may vote to instruct the town clerk to cast one ballot for such nominee and upon such ballot being cast he or she shall be declared elected.

* * *

Sec. 36. 17 V.S.A. § 2661 is amended to read:

§ 2661. RECONSIDERATION OR RESCISSION OF VOTE

(a) A warned article voted on at an annual or special meeting of a municipality shall not be submitted to the voters for reconsideration or rescission at the same meeting after the assembly has begun consideration of another article. If the voters have begun consideration of another article, the original article may only be submitted to the voters at a subsequent annual or special meeting duly warned for the purpose and called by the legislative body on its own motion or pursuant to a petition requesting such reconsideration or rescission signed and submitted in accordance with subsection (b) of this section. A vote taken at an annual or special meeting shall remain in effect unless rescinded or amended.

* * *

(f) A municipality shall not reconsider a vote to elect a local officer.

Sec. 37. 17 V.S.A. § 2681 is amended to read:

§ 2681. NOMINATIONS~~,~~; PETITIONS; CONSENTS

(a)(1) Nominations of the municipal officers shall be by petition. The petition shall be filed with the municipal clerk, together with the endorsement, if any, of any party or parties in accordance with the provisions of this title, no later than 5:00 p.m. on the sixth Monday preceding the day of the election, which shall be the filing deadline.

(2) The candidate shall also file a written consent to the printing of the candidate's name on the ballot, no later than 5:00 p.m. on the Wednesday after the filing deadline.

(3) A petition shall contain the name of only one candidate, and the candidate's name shall appear on the petition as it does on the voter checklist. A voter shall not sign more than one petition for the same office, unless more than one nomination is to be made, in which case the voter may sign as many petitions as there are nominations to be made for the same office.

(b) A petition shall contain at least 30 valid signatures of voters of the municipality or one percent of the legal voters of the municipality, whichever is less. The candidate, prior to circulating his or her petitions, shall print on them his or her name as it appears on the voter checklist and shall indicate clearly on them which office he or she is seeking. If there are different lengths of term available for an office the candidate must indicate clearly the length of term as well.

* * *

Sec. 38. 17 V.S.A. § 2681a is amended to read:

§ 2681a. LOCAL ELECTION BALLOTS

* * *

(b)(1) On the local election ballot, the candidate's name shall appear as provided in his or her consent form.

(2) The board of civil authority may vote to list a street address for each candidate, or the town of residence of each candidate, or no residence at all for each candidate.

* * *

Sec. 39. 17 V.S.A. § 2682 is amended to read:

§ 2682. PROCESS OF VOTING; APPOINTMENTS

(a) Election expenses shall be assumed by the municipality.

(b) Returns shall be filed with the town clerk.

(c) In a municipal election controlled by this subchapter, the person receiving the greatest number of votes for an office shall be declared elected to that office~~;~~ and a certificate of election need not be issued. ~~However, in order to be elected a write-in candidate must receive 30 votes or the votes of one percent of the registered voters in the municipality, whichever is less.~~

(d) In the event no person files a petition for an office which is to be filled at the annual or special meeting of a municipality, and if no person is otherwise elected to fill the office, a majority of the legislative body of the municipality may appoint a voter of the municipality to fill the office until the next annual meeting.

(e) ~~If there is a tie vote for any office, the legislative body, or in its stead, the municipal clerk, shall within seven days warn a runoff election to be held not less than 15 days nor more than 22 days after the warning. The only candidates in the runoff election shall be those who were tied in the original election. However, if one of the candidates that are tied withdraws his or her candidacy within five days after the election, the town clerk shall certify the other tied candidate as the winner, and there shall be no runoff election.~~ [Repealed.]

(f) When the same number of persons are nominated for any town office as there are positions to be filled, the presiding officer may declare the whole slate of candidates elected without making individual tallies, provided each person on the slate has more votes than the largest number of write-in votes for any one write-in candidate.

Sec. 40. 17 V.S.A. § 2682a is added to read:

§ 2682a. WRITE-IN CANDIDATES

Notwithstanding the provisions of section 2682 of this subchapter, in order to be elected, a write-in candidate must receive 30 votes or the votes of one percent of the registered voters in the municipality, whichever is less.

Sec. 41. 17 V.S.A. § 2682b is added to read:

§ 2682b. TIE VOTES FOR LOCAL OFFICE

If there is a tie vote for any office, the legislative body or, in its stead, the municipal clerk shall within seven days warn a runoff election to be held not less than 15 days nor more than 22 days after the warning. The only candidates in the runoff election shall be those who were tied in the original election. However, if one of the candidates that are tied withdraws his or her candidacy within five days after the election, the town clerk shall certify the other tied candidate as the winner, and there shall be no runoff election.

Sec. 42. 17 V.S.A. § 2685 is amended to read:

§ 2685. INSPECTION OF BALLOTS

At the time and place specified by the clerk, the board of civil authority shall break the seal, open the ballot container, and recount the votes, unless the candidate who petitions for a recount requests that the recount be conducted by ~~optical scanner~~ vote tabulator. The petitioner, the opposing candidates, and their designated representatives may inspect the ballots and observe the recount under the guidance of the board. The board shall certify the result to the clerk, who shall declare the result. After the recount the board shall seal the ballots and other materials back in the containers and the town clerk shall safely store them as provided in section 2590 of this title.

Sec. 43. 17 V.S.A. § 2688 is amended to read:

§ 2688. RECOUNT ON QUESTION SUBMITTED

(a) A registered voter or, in the case of a union school district, at least one registered voter from each member of the union district may demand a recount of ballots on any question submitted to the vote of ~~a town~~ the municipality using the Australian ballot system, if the margin by which the question passed or failed is less than five percent of the total votes cast on the question.

(b) The request shall be filed with the municipal clerk within 10 days after the vote. The procedure shall be the same as in the case of recount of the votes cast for a candidate at an election.

(c) The petitioner and his or her designated representative and a voter representing the other side of the question voted upon and his or her designated representative may inspect the vote and observe the recount under the guidance of the board of civil authority.

* * * Presidential Elections * * *

Sec. 44. 17 V.S.A. § 2716 is amended to read:

§ 2716. NOTIFICATION TO SECRETARY OF STATE

Not later than 5:00 p.m. on the ~~47th~~ 60th day before the day of the general election, the ~~chairman~~ chair of the state committee of each major political party shall certify in writing to the ~~secretary of state~~ Secretary of State the names of the presidential and vice presidential nominees selected at the party's national convention.

* * * Warning Requirements in Newspapers * * *

Sec. 45. 17 V.S.A. § 1840 is amended to read:

§ 1840. INTERIM PUBLICATION

Within 90 days following adjournment without day of any session of the ~~general assembly~~ General Assembly in which articles of amendment to the ~~constitution~~ Constitution have been proposed by the ~~senate~~ Senate and concurred in by the ~~house~~ House, the ~~secretary of state~~ Secretary of State shall prepare copies of the proposal or proposals of amendment and forward them, with a summary of proposed changes, for publication to the principal daily newspapers published in the ~~state~~ State, as determined by the ~~secretary of state; and the~~ Secretary of State. The proposal or proposals shall be so published once each week for three successive weeks in each of the papers at the expense of the ~~state~~ State and on the websites of the General Assembly and the Office of the Secretary of State.

Sec. 46. 17 V.S.A. § 1844 is amended to read:

§ 1844. PUBLICATION IN NEWSPAPERS AND ON STATE WEBSITES; BALLOTS

(a) The ~~secretary of state~~ Secretary of State shall between September 25 and October 1 in any year in which a vote on ratification of an article of amendment is taken, prepare copies of the proposal of amendment and forward them, with a summary of proposed changes, for publication to the principal daily newspapers published in the ~~state~~ State, as determined by the ~~secretary of state; and the~~ Secretary of State. The proposal shall be so published once each week for three successive weeks in each of the papers at the expense of the ~~state~~ State and on the websites of the General Assembly and the Office of the Secretary of State. ~~He or she~~

(b) The Secretary of State shall cause ballots to be prepared for a vote by the freemen and freewomen upon the proposal of amendment.

Sec. 47. 17 V.S.A. § 2302 is amended to read:

§ 2302. STATE ~~CHAIRMAN~~ CHAIR TO CALL CAUCUS

The ~~chairman~~ chair of the state committee of a party shall set a date for members of the party to meet in caucus in their respective towns, which date shall be between September 10 and September 30, inclusive, in each odd numbered year. At least 14 days before the date set for the caucuses, the state ~~chairman~~ chair shall mail a notice of the date and purpose of the caucuses to each town clerk and to each town ~~chairman~~ chair of the party, and shall cause the notice to be published in at least two newspapers having general circulation within the ~~state~~ State and in at least one electronic news media website that specializes in news of the State.

Sec. 48. 17 V.S.A. § 2303 is amended to read:

§ 2303. TOWN ~~CHAIRMAN~~ CHAIR TO GIVE NOTICE

(a) The town ~~chairman~~ chair or, if unavailable~~,~~ or if the records of the ~~secretary of state~~ Secretary of State show there is no ~~chairman~~ chair, any three voters of the town~~,~~ shall arrange to hold a caucus on the day designated by the state ~~chairman~~ chair, in some public place within the town, and shall set the hour of the caucus.

(b) At least five days before the day of the caucus, the ~~chairman~~ town chair shall post a notice of the date, purpose, time, and place of the caucus in the town clerk's office and in at least one other public place in town. In towns of 1,000 or more population, he or she shall also publish the notice in a newspaper having general circulation in the town.

(c) If three voters arrange to call the caucus, the voters shall designate one of their number to perform the duties prescribed above for the town ~~chairman~~ chair.

Sec. 49. 17 V.S.A. § 2309 is amended to read:

§ 2309. FIRST MEETING OF COUNTY COMMITTEE

(a) The ~~chairman~~ chair of the state committee shall set a date, not more than 30 days after the date of the party's caucuses, for the first meeting of each county committee. The state ~~chairman~~ chair shall notify the ~~chairmen~~ chairs of the county committees of the date of the meeting and shall publish notice in at least two newspapers with general circulation within the ~~state~~ State and in at least one electronic news media website that specializes in news of the State. The ~~chairman~~ chair of the county committee shall set the hour and place of the meeting and shall notify all delegates-elect by mail not less than 10 days prior to the meeting.

(b) At the time and place set for the meeting, the delegates shall proceed to elect their officers and perfect an organization for the ensuing two years. All officers and other members of the county committee and all delegates to the state committee shall be voters of the county.

Sec. 50. 17 V.S.A. § 2641 is amended to read:

§ 2641. WARNING AND NOTICE REQUIRED; PUBLICATION OF WARNINGS

(a) The legislative body of a municipality shall warn a meeting by posting a warning and notice in at least two public places in the town, and in or near the town clerk's office, not less than 30 nor more than 40 days before the meeting. If a town has more than one polling place and the polling places are not all in the same building, the warning and notice shall be posted in at least two public places within each voting district and in or near the town clerk's office.

(b) In addition, the warning shall be published in a newspaper of general circulation in the municipality at least five days before the meeting, unless the warning is published in the town report, or otherwise distributed in written form to all town or city postal patrons at least 10 days before the meeting. The legislative body annually shall designate the paper in which such a warning may be published. The warning shall also be posted on the municipality's website, if the municipality actively updates its website on a regular basis.

(c) No such warning shall be required for municipal informational meetings at which no voting is to take place.

* * * Lobbyists * * *

Sec. 51. 2 V.S.A. § 264 is amended to read:

§ 264. REPORTS OF EXPENDITURES, COMPENSATION, AND GIFTS; EMPLOYERS; LOBBYISTS

* * *

(b) An employer shall disclose for the period of the report the following information:

(1) A total of all lobbying expenditures made by the employer in each of the following categories:

(A) advertising, including television, radio, print, and electronic media;

(B) expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity; and

(C) ~~contractual agreements in excess of $100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the employer and:~~

~~(i) a legislator or administrator;~~

~~(ii) a legislator's or administrator's spouse or civil union partner; or~~

~~(iii) a legislator's or administrator's dependent household member;~~

~~(D)~~ the total amount of any other lobbying expenditures.

(2) The total amount of compensation paid to lobbyists or lobbying firms for lobbying. The employer shall report the name and address of each lobbyist or lobbying firm to which the employer pays compensation. It shall be sufficient to include a prorated amount based on the value of the time devoted to lobbying where compensation is to be included for a lobbyist or lobbying firm whose activities under this chapter are incidental to regular employment or other responsibilities to the employer.

(3) An itemized list of every gift the value of which is greater than $15.00, made by or on behalf of the employer to or at the request of one or more legislators or administrative officials or a member of a legislator's or administrative official's immediate family. With respect to each gift, the

employer shall report the date the gift was made, the nature of the gift, the value of the gift, the identity of any legislators or administrative officials who requested the gift, and the identity of any recipients of the gift. Monetary gifts, other than political contributions, shall be prohibited.

(4) Contractual agreements in excess of $100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the employer and:

(A) a legislator or administrator;

(B) a legislator's or administrator's spouse; or

(C) a legislator's or administrator's dependent household member.

(c) A lobbyist shall disclose for the period of the report the following information:

(1) A total of all lobbying expenditures made by the lobbyist in each of the following categories:

(A) advertising, including television, radio, print, and electronic media;

(B) expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity; and

(C) ~~contractual agreements in excess of $100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbyist and:~~

~~(i) a legislator or administrator;~~

~~(ii) a legislator's or administrator's spouse or civil union partner; or~~

~~(iii) a legislator's or administrator's dependent household member;~~

~~(D)~~ the total amount of any other lobbying expenditures.

(2) The total amount of compensation paid to a lobbyist, who is not employed by, subcontracted by, or affiliated with a lobbying firm, for lobbying, including the name and address of each registered employer who engaged the services of the lobbyist reporting. It shall be sufficient to include a prorated amount based on the value of the time devoted to lobbying where compensation is to be included for a lobbyist whose activities under this

chapter are incidental to other responsibilities to the employer. A lobbyist who is employed by, subcontracted by, or affiliated with a lobbying firm shall not report individual compensation. The total compensation paid to the lobbying firm shall be reported pursuant to section 264b of this title.

(3) An itemized list of every gift, the value of which is greater than $15.00, made by or on behalf of a lobbyist to or at the request of one or more legislators or administrative officials or a member of the legislator's or administrative official's immediate family. With respect to each gift, the lobbyist shall report the date the gift was made, the nature of the gift, the value of the gift, the identity of any legislators or administrative officials who requested the gift, and the identity of any recipients of the gift. Monetary gifts, other than political contributions, shall be prohibited.

(4) Contractual agreements in excess of $100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbyist and:

(A) a legislator or administrator;

(B) a legislator's or administrator's spouse; or

(C) a legislator's or administrator's dependent household member.

* * *

Sec. 52. 2 V.S.A. § 264b is amended to read:

§ 264b. LOBBYING FIRM LISTINGS; REPORTS OF EXPENDITURES, COMPENSATION, AND GIFTS; LOBBYING FIRMS

* * *

(b) Every lobbying firm shall file a disclosure report on the same day as lobbyist disclosure reports are due under subsection 264(a) of this title which shall include:

(1) A total of all lobbying expenditures made by the lobbying firm in each of the following categories:

(A) advertising, including television, radio, print, and electronic media;

(B) expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity; and

(C) ~~contractual agreements in excess of $100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbying firm and:~~

~~(i) a legislator or administrator;~~

~~(ii) a legislator's or administrator's spouse or civil union partner; or~~

~~(iii) a legislator's or administrator's dependent household member;~~

~~(D)~~ the total amount of any other lobbying expenditures.

(2) The total amount of compensation paid to a lobbying firm for lobbying with the name and address of each registered employer who engaged the services of the lobbying firm reporting. It shall be sufficient to include a prorated amount based on the value of the time devoted to lobbying where compensation is to be included for a lobbying firm whose activities under this chapter are incidental to other responsibilities to the employer.

(3) An itemized list of every gift the value of which is greater than $15.00, made by or on behalf of the lobbying firm to or at the request of one or more legislators or administrative officials or a member of a legislator's or administrative official's immediate family. With respect to each gift, the lobbying firm shall report the date the gift was made, the nature of the gift, the value of the gift, the identity of any legislators or administrative officials who requested the gift, and the identity of any recipients of the gift. Monetary gifts, other than political contributions, shall be prohibited.

(4) Contractual agreements in excess of $100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbying firm and:

(A) a legislator or administrator;

(B) a legislator's or administrator's spouse or civil union partner; or

(C) a legislator's or administrator's dependent household member.

* * * Correction of Cross-References and Other Technical Corrections * * *

Sec. 53. 17 V.S.A. § 1881a is amended to read:

§ 1881a. SENATORIAL DISTRICTS; NOMINATIONS AND ELECTION

* * *

(c) Petitions for nominating candidates for ~~senator~~ Senator in the ~~general assembly~~ General Assembly by primary ~~under chapter 9 of this title~~ or by

certificates of nomination of candidates for that office by convention, caucus, committee, or voters under chapter ~~11~~ 49 of this title may be filed in the office of any county clerk in a senatorial district. On the day after the last day for filing those petitions or certificates for that office, the other county clerk shall notify the senatorial district clerk of the facts concerning those petitions or certificates. The senatorial district clerk shall be responsible for determining the names of candidates and other facts required by law to appear on the ballot for the office of senator, and for obtaining and distributing the ballots to the other clerks in the district. In senatorial districts, the ballots for senator in the ~~general assembly~~ General Assembly shall be separate from those for other county officers.

* * *

Sec. 54. 17 V.S.A. § 2369 is amended to read:

§ 2369. DETERMINING WINNER; TIE VOTES

(a) ~~Persons~~ A person who ~~receive~~ receives a plurality of all the votes cast by a party in a primary shall be ~~candidates~~ a candidate of that party for the office designated on the ballot.

(b) If two or more candidates of the same party are tied for the same office, the choice among those tied shall be determined upon five days' notice and not later than 10 days following the primary election by the committee of that party, which shall meet to nominate a candidate from among the tied candidates. The committee that nominates a candidate shall be as follows:

(1) ~~Upon five days notice and not later than 10 days following the primary election,~~ the state committee of a party~~,~~ for a state or congressional office;

(2) the senatorial district committee for state senate;

(3) the county committee for county office; or

(4) the representative district committee for a representative to the ~~general assembly shall meet to nominate a candidate from among the tied candidates~~ General Assembly.

~~(2)~~(c) The committee chair shall certify the candidate nomination for the general election to the ~~secretary of state~~ Secretary of State within 48 hours of the nomination.

Sec. 55. 17 V.S.A. § 2565 is amended to read:

§ 2565. DELIVERY OF BALLOTS

As each voter passes through the entrance of the guardrail, an election official or officials shall hand him or her one of each kind of ballot. ~~He or they~~

The election officials shall also answer any questions a voter may ask concerning the process of voting. The presiding officer shall keep the election officials in charge of furnishing ballots to voters supplied with a sufficient number of blank ballots, keeping the remainder of the blank ballots safely secured until needed.

* * * Gender Neutrality * * *

Sec. 56. STATUTORY REVISION; GENDER NEUTRALITY; "CHAIR," "SELECTBOARD MEMBER," ETC.

The Office of Legislative Council, in its statutory revision capacity, is directed to make amendments to the Vermont Statutes Annotated to change the terms "chairman" to "chair"; "vice chairman" to "vice chair"; and "selectman" to "selectboard member" and to make similar changes for the purpose of gender neutrality, so long as those changes have no other effect on the meaning of the statutes in which the changes are made. These changes may also be made when new legislation is proposed or when there is a republication of the Vermont Statutes Annotated.

* * * Use of "Town" vs. "Municipality" or "Political Subdivision" * * *

Sec. 57. TOWN VS. MUNICIPALITY OR POLITICAL SUBDIVISION

The Office of Legislative Council is directed to search the statutes within Title 17 of the Vermont Statutes Annotated for the use of the word "town" and, in consultation with the Office of the Secretary of State, prepare by November 15, 2013 a draft bill that would replace the word "town" with the word "municipality" or with the term "political subdivision" where the context of a statute is meant to include or should apply to a political subdivision of the State other than a town, as that term is defined in 17 V.S.A. § 2103.

* * * Effective Dates * * *

Sec. 58. EFFECTIVE DATES

This act shall take effect on July 1, 2013, except:

(1) this section and Secs. 56 (statutory revision; gender neutrality; "chair," "selectboard member," etc.) and 57 (town vs. municipality or political subdivision), shall take effect on passage; and

(2) Secs. 27 (amending 17 V.S.A. § 2534) and 30 (amending 17 V.S.A. § 2593) shall take effect on January 15, 2015.

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.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, Senator Snelling moved to strike out Secs. 5, 6 and 8 in their entirety, which was agreed to on a roll call, Yeas 29, 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, Bray, Campbell, Collins, Cummings, Doyle, Flory, Fox, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: McAllister.

Thereupon, the question Shall the bill be amended as recommended by the Committee on Government Operations, as amended, was agreed to.

Thereupon, third reading of the bill was ordered.

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 House bills of the following titles:

H. 395. An act relating to the establishment of the Vermont Clean Energy Loan Fund.

H. 514. An act relating to the tax liability of certain agricultural workers and employers.

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

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 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.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, April 11, 2013.

THURSDAY, APRIL 11, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Michael Caldwell of East Corinth.

Bill Called Up

S. 82.

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

An act relating to campaign finance law.

Bill Referred to Committee on Appropriations

S. 160.

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 a study committee on the regulation and taxation of marijuana.

Bill Referred to Committee on Finance

H. 377.

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 neighborhood planning and development for municipalities with designated centers.

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. 531.

An act relating to Building 617 in Essex.

Bill Introduced

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

S. 167.

By Senators Rodgers, Benning, Kitchel and Starr,

An act relating to a tax exemption for land that provides public access to a state body of water.

To the Committee on Finance.

Bills Referred

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

H. 395.

An act relating to the establishment of the Vermont Clean Energy Loan Fund.

To the Committee on Rules.

H. 514.

An act relating to the tax liability of certain agricultural workers and employers.

To the Committee on Rules.

Proposal of Amendment; Substitute Proposal of Amendment; Third Reading Ordered

H. 511.

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

An act relating to "zappers" and automated sales suppression devices.

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. 13 V.S.A. § 2032 is added to read:

§ 2032. SALES SUPPRESSION DEVICES

(a) As used in this section:

(1) "Automated sales suppression device," also known as a "zapper," means a software program, carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies transaction data, transaction reports, or any other electronic records of electronic cash registers and other point-of-sale systems.

(2) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in any manner.

(3) "Phantom-ware" means a hidden programming option, whether preinstalled or installed at a later time, embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that:

(A) can be used to create a virtual second till; or

(B) may eliminate or manipulate transaction records.

(4) "Transaction data" includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(5) "Transaction reports" means a report documenting, but not limited to, the sales, taxes collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

(b)(1) A person shall not knowingly sell, purchase, install, or transfer or possess an automated sales suppression device or phantom-ware.

(2) A person who violates subdivision (1) of this subsection shall, except as provided in subdivision (3) of this subsection, be imprisoned for not less than one year and not more than five years and fined not more than $100,000.00, or both.

(3) A person who has not previously violated this section who uses an automated sales suppression device or phantom-ware with the intent to evade a tax liability shall, if the amount of tax evaded is not more than $500.00, be assessed a civil penalty of not more than $1000.00. A person who violates this subdivision shall not be convicted of violating subdivision (1) of this subsection.

(c) A person who violates subsection (b) of this section shall be liable to the State for:

(1) all taxes, interest, and penalties due as the result of the person's use of an automated sales suppression device or phantom-ware; and

(2) all profits associated with the person's sale of an automated sales suppression device or phantom-ware.

(d) An automated sales suppression device or phantom-ware and any device containing such device or software shall be deemed contraband and shall be subject to seizure by the Commissioner of Taxes or by a law enforcement officer when directed to do so by the Commissioner of Taxes.

Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

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

* * *

(24) Violations of 13 V.S.A. § 2032(b)(3) relating to using an automated sales suppression device or phantom-ware with the intent to evade a tax liability of not more than $500.00.

Sec. 3. SAFE HARBOR

(a) A person shall not be subject to prosecution under section 2032 of Title 13 if by October 1, 2013 the person:

(1) notifies the Department of Taxes of the person's possession of an automated sales suppression device;

(2) provides any information requested by the Department of Taxes, including but not limited to transaction records, software specifications, encryption keys, passwords and other data; and

(3) corrects any underreported sales tax records and fully pays the Department any amounts previously owed.

(b) This section shall not be construed to limit the person's civil or criminal liability under section 9814a of Title 32 (submitting fraudulent sales tax return) or any other provision of law.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to automated sales suppression devices, also known as 'zappers'.

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

Senator Sears moved to substitute a proposal of amendment for the proposal of amendment of the Committee on Judiciary as follows:

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. 13 V.S.A. § 2032 is added to read:

§ 2032. SALES SUPPRESSION DEVICES

(a) As used in this section:

(1) "Automated sales suppression device," also known as a "zapper," means a software program, carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies transaction data, transaction reports, or any other electronic records of electronic cash registers and other point-of-sale systems.

(2) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in any manner.

(3) "Phantom-ware" means a hidden programming option, whether preinstalled or installed at a later time, embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that:

(A) can be used to create a virtual second till; or

(B) may eliminate or manipulate transaction records.

(4) "Transaction data" includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(5) "Transaction reports" means a report documenting, but not limited to, the sales, taxes collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

(b)(1) A person shall not knowingly sell, purchase, install, or transfer or possess an automated sales suppression device or phantom-ware.

(2) A person who violates subdivision (1) of this subsection shall be imprisoned for not less than one year and not more than five years and fined not more than $100,000.00, or both.

(c) A person who violates subdivision (b)(1) of this section shall be liable to the State for:

(1) all taxes, interest, and penalties due as the result of the person's use of an automated sales suppression device or phantom-ware; and

(2) all profits associated with the person's sale of an automated sales suppression device or phantom-ware.

(d) An automated sales suppression device or phantom-ware and any device containing such device or software shall be deemed contraband and shall be subject to seizure by the Commissioner of Taxes or by a law enforcement officer when directed to do so by the Commissioner of Taxes.

Sec. 2. SAFE HARBOR

(a) A person shall not be subject to prosecution under 13 V.S.A. 2032 if, by October 1, 2013, the person:

(1) notifies the Department of Taxes of the person's possession of an automated sales suppression device;

(2) provides any information requested by the Department of Taxes, including transaction records, software specifications, encryption keys, passwords, and other data; and

(3) corrects any underreported sales tax records and fully pays the Department any amounts previously owed.

(b) This section shall not be construed to limit the person's civil or criminal liability under 32 V.S.A. § 9814a (submitting fraudulent sales tax return) or any other provision of law.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to automated sales suppression devices, also known as 'zappers'.

Which was agreed to.

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

Bill Amended; Bill Passed

S. 86.

Senate bill entitled:

An act relating to miscellaneous changes to election laws.

Was taken up.

Thereupon, pending third reading of the bill, Senators Ayer, French, McAllister, Pollina, and White moved to amend the bill as follows:

First: In Sec. 1, in 17 V.S.A. § 1932, by striking out the following: state senator,

Second: In Sec. 3, in 17 V.S.A. § 2145a, in subsection (d), in the second sentence after the following: "the date of acceptance" by inserting the following: or before the close of the checklist, whichever is sooner

Third: In Sec. 3, by inserting 17 V.S.A. § 2145b to read as follows:

§ 2145b. VOTER REGISTRATION AGENCIES

(a) Each voter registration agency shall:

* * *

(3) Accept completed voter registration applications and transmit completed applications to the ~~secretary of state~~ Secretary of State not later than 10 days after the date of acceptance. In the case of an application accepted within five days before the checklist is closed under section 2144 of this title for a primary or general election, the application shall be transmitted to the ~~secretary of state~~ Secretary of State not later than five days after the date of acceptance or before the close of the checklist, whichever is sooner.

* * *

Fourth: In Sec. 3, in 17 V.S.A. § 2145c, in the second sentence after the following: "the date of acceptance" by inserting the following: or before the close of the checklist, whichever is sooner

Fifth: By adding a new section to be numbered Sec. 6 to read as follows:

Sec. 6. 17 V.S.A. § 2356 is amended to read:

§ 2356. TIME FOR FILING PETITIONS AND STATEMENTS OF NOMINATION

(a) Primary petitions for major party candidates and statements of nomination ~~from~~ for minor party candidates ~~and independent candidates~~ shall be filed no sooner than the second Monday in May and not later than 5:00 p.m. on the second Thursday after the first Monday in June preceding the primary election prescribed by section 2351 of this ~~title~~ chapter, and not later than 5:00 p.m. of the 62nd day prior to the day of a special primary election.

(b) Statements of nomination for independent candidates shall be filed no sooner than the second Monday in May and not later than three days after the date of the primary election prescribed by section 2351 of this chapter.

(c) A petition or statement of nomination shall apply only to the election cycle in which the petition or statement of nomination is filed.

Sixth: By striking out Sec. 7 (amending 17 V.S.A. § 2358) in its entirety and inserting in lieu thereof the following: [Deleted.]

Seventh: In Sec. 44 (amending 17 V.S.A. § 2716), by striking out the following: "60th" and inserting in lieu thereof the following: 55th

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Galbraith moved to amend the bill in Sec. 26, 17 V.S.A. § 2532, by striking out subdivision (g)(1) in its entirety and inserting in lieu thereof the following:

(g)(1) Any person who applies for an early voter absentee ballot knowing it is without authorization from the early or absentee voter shall be fined not more than $100.00 for the first three violations; not more than $2,000.00 for the fourth through 15th violations; and not more than $10,000.00 for the 15th and subsequent violations.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Galbraith?, Senator Galbraith, requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending third reading of the bill, Senator Galbraith moved to amend the bill in Sec. 26, 17 V.S.A. § 2532, by striking out subdivision (g)(1) in its entirety and inserting in lieu thereof the following:

(g)(1) Any person who applies for an early voter absentee ballot knowing it is without authorization from the early or absentee voter shall be fined not more than $100.00 per violation for the first three violations; not more than $500.00 per violation for the fourth through ninth violations; and not more than $1,000.00 per violation for the tenth and subsequent violations.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Zuckerman moved to amend the bill by striking out Sec. 19 (Secretary of State; report on processes for using vote tabulators in recounts and for conducting audits) in its entirety and inserting in lieu thereof the following:

Sec. 19. SECRETARY OF STATE; REPORT ON PROCESSES FOR USING VOTE TABULATORS IN RECOUNTS; FOR CONDUCTING AUDITS; AND FOR VOTING BY MAIL

(a) The Secretary of State by January 15, 2014 shall report to the Senate and House Committees on Government Operations on:

(1) his or her proposed process for using vote tabulators in recounts and for the certification of vote tabulators. The Secretary shall consider whether and under what circumstances a town may be permitted to conduct a recount by counting ballots by hand in lieu of using vote tabulators;

(2) his or her proposed process for conducting audits of elections. The Secretary shall specifically consider the use of risk-limiting audits; and

(3) statistics regarding increased voter participation in other jurisdictions which use voting by mail and the feasibility and cost of implementing voting by mail in this State.

(b) In considering the processes set forth in subdivisions (a)(1) and (2) of this section, the Secretary shall consult with stakeholders interested in those processes.

Which was agreed to.

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

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. 262. An act relating to establishing a program for the collection and recycling of paint.

H. 527. An act relating to approval of the adoption and the codification of the charter of the Town of Northfield.

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

Adjournment

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

FRIDAY, APRIL 12, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Mara Dowdall of Montpelier.

Bills Referred

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

H. 262.

An act relating to establishing a program for the collection and recycling of paint.

To the Committee on Rules.

H. 527.

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

To the Committee on Rules.

Committee Relieved of Further Consideration; Bills Committed

H. 50.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the sale, transfer, or importation of pets,

and the bill was committed to the Committee on Agriculture.

H. 101.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to hunting, fishing, and trapping,

and the bill was committed to the Committee on Natural Resources and Energy.

H. 262.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of Senate bill entitled:

An act relating to establishing a program for the collection and recycling of paint,

and the bill was committed to the Committee on Natural Resources and Energy.

H. 514.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the tax liability of certain agricultural workers and employers,

and the bill was committed to the Committee on Finance.

H. 527.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

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

and the bill was committed to the Committee on Government Operations.

Committee Relieved of Further Consideration

S. 165.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to collective bargaining for deputy state's attorneys,

Thereupon, under the rule, the bill was ordered placed on the Calendar for notice the next legislative day.

Rules Suspended; Bill Committed

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

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

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Transportation, Senator Mazza 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 Transportation *intact*,

Which was agreed to.

Bill Amended; Third Reading Ordered

S. 82.

Senate bill entitled:

An act relating to campaign finance law.

Having been called up, was taken up.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, Senator White, on behalf of the Committee on Government Operations, moved to substitute an amendment for the recommendation of amendment of the Committee on Government Operations, as amended, by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Unduly large campaign contributions reduce public confidence in the electoral process and increase the risk and the appearance that candidates and elected officials may be beholden to contributors and not act in the best interests of all Vermont citizens.

(2) When a person is able to make unduly large contributions to a candidate, there is a risk of voters losing confidence in our system of representative government because voters may believe that a candidate will be more likely to represent the views of persons who make those contributions and less likely to represent views of their constituents and Vermont citizens in general. This loss of confidence may lead to increased voter cynicism and a lack of participation in the electoral process among both candidates and voters.

(3) Lower limits encourage candidates to interact and communicate with a greater number of voters in order to receive contributions to help fund a campaign, rather than to rely on a small number of large contributions. This interaction between candidates and the electorate helps build a greater confidence in our representative government and is likely to make candidates more responsive to voters.

(4) Different limits on contributions to candidates based on the office they seek are necessary in order for these candidates to run effective campaigns. Moreover, since it generally costs less to run an effective campaign for lower ticket races, a uniform limit on contributions for all offices could enable contributors to exert undue influence over those lower ticket races.

(5) Exempting certain activities of political parties from the definition of what constitutes a contribution is important so as to not overly burden collective political activity. These activities, such as using the assistance of volunteers, preparing party candidate listings, and hosting certain campaign events, are part of a party's traditional role in assisting candidates to run for office. Moreover, these exemptions help protect the right to associate in a political party.

(6) In order to provide the electorate with information regarding who seeks to influence their votes through campaign advertising; to make campaign financing more transparent; to aid voters in evaluating those seeking office; to deter actual corruption and avoid its appearance by exposing contributions and expenditures to the light of publicity; and to gather data necessary to detect violations of contributions limits, it is imperative that Vermont increase the frequency of campaign finance reports and include more information in electioneering communications.

(7) Increasing identification information in electioneering communications, such as requiring the names of top contributors to the political committee or political party that paid for the communication, will enable the electorate to immediately evaluate the speaker's message and will bolster the sufficiently important interest in permitting Vermonters to learn the sources of significant influence in our State's elections.

(8) The General Assembly is aware of reports of potential corruption in other states and in federal politics. It is important to enact legislation that will prevent corruption here and maintain the electorate's confidence in the integrity of Vermont's government.

(9) This act is necessary in order to implement more fully the provisions of Article 8 of Chapter I of the Constitution of the State of Vermont, which declares "That all elections ought to be free and without corruption, and that all

voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution."

(10) J.R.S. 11, adopted in 2012, declared the General Assembly's support for a U.S. constitutional amendment "that provides that money is not speech and corporations are not persons under the U.S. Constitution."

(11) The General Assembly, in its findings in J.R.S. 11 in support of a constitutional amendment, noted that "in 1907, Congress enacted the Tillman Act prohibiting corporate financial contributions to federal election campaigns for public office."

(12) The Tillman Act remains the law of the land and has reduced the corrupting influence of corporations and other special interests in congressional and presidential elections.

(13) The General Assembly reaffirms its support for J.R.S. 11, for the proposition that money is not speech, and for the Tillman Act.

Sec. 2. REPEAL

17 V.S.A. chapter 59 (campaign finance) is repealed.

Sec. 3. 17 V.S.A. chapter 61 is added to read:

CHAPTER 61. CAMPAIGN FINANCE

Subchapter 1. General Provisions

§ 2901. DEFINITIONS

As used in this chapter:

(1) "Candidate" means an individual who has taken affirmative action to become a candidate for state, county, local, or legislative office in a primary, special, general, or local election. An affirmative action shall include one or more of the following:

(A) accepting contributions or making expenditures totaling $500.00 or more;

(B) filing the requisite petition for nomination under this title or being nominated by primary or caucus; or

(C) announcing that the individual seeks an elected position as a state, county, or local officer or a position as representative or senator in the General Assembly.

(2) "Candidate's committee" means the candidate's campaign staff, whether paid or unpaid.

(3) "Clearly identified," with respect to a candidate, means:

(A) the name of the candidate appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(4) "Contribution" means a payment, distribution, advance, deposit, loan, or gift of money or anything of value, paid or promised to be paid for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates in any election. For purposes of this chapter, "contribution" shall not include any of the following:

(A) a personal loan of money to a candidate from a lending institution made in the ordinary course of business;

(B) services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political party;

(C) unreimbursed travel expenses paid for by an individual for himself or herself who volunteers personal services to a candidate;

(D) unreimbursed campaign-related travel expenses paid for by the candidate or the candidate's spouse;

(E) the use by a candidate or volunteer of his or her own personal property, including offices, telephones, computers, and similar equipment;

(F) the use of a political party's offices, telephones, computers, and similar equipment;

(G) the payment by a political party of the costs of preparation, display, or mailing or other distribution of a party candidate listing;

(H) documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this title, lists of registered voters, and voter identification information created, obtained, or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party or to another political party;

(I) compensation paid by a political party to its employees whose job responsibilities are not for the specific and exclusive benefit of a single candidate in any election;

(J) compensation paid by a political party to its employees or consultants for the purpose of providing assistance to another political party;

(K) campaign training sessions provided to three or more candidates;

(L) costs paid for by a political party in connection with a campaign event at which three or more candidates are present; or

(M) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention or depict a clearly identified candidate.

(5) "Election" means the procedure whereby the voters of this State or any of its political subdivisions select a person to be a candidate for public office or to fill a public office or to act on public questions including voting on constitutional amendments. Each primary, general, special, or local election shall constitute a separate election.

(6) "Electioneering communication" means any communication that refers to a clearly identified candidate for office and that promotes or supports a candidate for that office or attacks or opposes a candidate for that office, regardless of whether the communication expressly advocates a vote for or against a candidate, including communications published in any newspaper or periodical or broadcast on radio or television or over the Internet or any public address system; placed on any billboards, outdoor facilities, buttons, or printed material attached to motor vehicles, window displays, posters, cards, pamphlets, leaflets, flyers, or other circulars; or contained in any direct mailing, robotic phone calls, or mass e-mails.

(7) "Expenditure" means a payment, disbursement, distribution, advance, deposit, loan, or gift of money or anything of value, paid or promised to be paid, for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates. For the purposes of this chapter, "expenditure" shall not include any of the following:

(A) a personal loan of money to a candidate from a lending institution made in the ordinary course of business;

(B) services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political party;

(C) unreimbursed travel expenses paid for by an individual for himself or herself who volunteers personal services to a candidate; or

(D) unreimbursed campaign-related travel expenses paid for by the candidate or the candidate's spouse.

(8) "Full name" means an individual's full first name, middle name or initial, if any, and full legal last name, making the identity of the person who made the contribution apparent by unambiguous reference.

(9) "Independent expenditure-only political committee" means a political committee that conducts its activities entirely independent of candidates; does not give contributions to candidates, political committees, or political parties; does not make related expenditures; and is not closely related to a political party or to a political committee that makes contributions to candidates or makes related expenditures.

(10) "Mass media activity" means a television commercial, radio commercial, mass mailing, mass electronic or digital communication, literature drop, newspaper or periodical advertisement, robotic phone call, or telephone bank, which includes the name or likeness of a clearly identified candidate for office.

(11) "Party candidate listing" means any communication by a political party that:

(A) lists the names of at least three candidates for election to public office;

(B) is distributed through public advertising such as broadcast stations, cable television, newspapers, and similar media or through direct mail, telephone, electronic mail, a publicly accessible site on the Internet, or personal delivery;

(C) treats all candidates in the communication in a substantially similar manner; and

(D) is limited to:

(i) the identification of each candidate, with which pictures may be used;

(ii) the offices sought;

(iii) the offices currently held by the candidates;

(iv) the party affiliation of the candidates and a brief statement about the party or the candidates' positions, philosophy, goals, accomplishments, or biographies;

(v) encouragement to vote for the candidates identified; and

(vi) information about voting, such as voting hours and locations.

(12) "Political committee" or "political action committee" means any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, which accepts contributions of $1,000.00 or more and makes expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of supporting or opposing one or more candidates, influencing an

election, or advocating a position on a public question in any election, and includes an independent expenditure-only political committee.

(13) "Political party" means a political party organized under chapter 45 of this title and any committee established, financed, maintained, or controlled by the party, including any subsidiary, branch, or local unit thereof, and shall be considered a single, unified political party. The national affiliate of the political party shall be considered a separate political party.

(14) "Public question" means an issue that is before the voters for a binding decision.

(15) "Separate segregated fund" means a bank account held separately from the general treasury of a corporation or labor union and which contains only contributions made by natural persons within the contribution limits of this chapter for those persons.

(16) "Single source" means an individual, partnership, corporation, association, labor organization, or any other organization or group of persons which is not a political committee or political party.

(17) "Telephone bank" means more than 500 telephone calls of an identical or substantially similar nature that are made to the general public within any 30-day period.

(18) "Two-year general election cycle" means the 24-month period that begins 38 days after a general election.

§ 2902. EXCEPTIONS

The definitions of "contribution," "expenditure," and "electioneering communication" shall not apply to:

(1) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication that has not been paid for or such facilities are not owned or controlled by any political party, committee, or candidate; or

(2) any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and if all candidates in the race have an equal opportunity to promote their candidacies through the station.

§ 2903. PENALTIES

(a) A person who knowingly and intentionally violates a provision of subchapter 2, 3, or 4 of this chapter shall be fined not more than $1,000.00 or imprisoned not more than six months or both.

(b) A person who violates any provision of this chapter shall be subject to a civil penalty of up to $10,000.00 for each violation and shall refund the unspent balance of Vermont campaign finance grants received under subchapter 5 of this chapter, if any, calculated as of the date of the violation.

(c) In addition to the other penalties provided in this section, a state's attorney or the Attorney General may institute any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate any violation of this chapter.

§ 2904. CIVIL INVESTIGATION

(a)(1) The Attorney General or a state's attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule or regulation made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, or physical objects of any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation.

(2) The Attorney General or a state's attorney may require the attendance of such person or of any other person having knowledge in the premises in the county where such person resides or has a place of business or in Washington County if such person is a nonresident or has no place of business within the State and may take testimony and require proof material for his or her information and may administer oaths or take acknowledgment in respect of any book, record, paper, or memorandum.

(3) The Attorney General or a state's attorney shall serve notice of the time, place, and cause of such examination or attendance or notice of the cause of the demand for written responses personally or by certified mail upon such person at his or her principal place of business or, if such place is not known, to his or her last known address. Such notice shall include a statement that a knowing and intentional violation of subchapters 2 through 4 of this chapter is subject to criminal prosecution.

(4) Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this State for good cause shown, be disclosed to any person other than the authorized agent or representative of the Attorney General or a state's attorney or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same, except that any transcript of oral testimony, written responses, documents, or other information produced pursuant to this section may be used in the enforcement of this chapter, including in connection with

any civil action brought under section 2903 of this subchapter or subsection (c) of this section.

(5) Nothing in this subsection is intended to prevent the Attorney General or a state's attorney from disclosing the results of an investigation conducted under this section, including the grounds for his or her decision as to whether to bring an enforcement action alleging a violation of this chapter or of any rule or regulation made pursuant to this chapter.

(6) This subsection shall not be applicable to any criminal investigation or prosecution brought under the laws of this or any state.

(b)(1) A person upon whom a notice is served pursuant to the provisions of this section shall comply with its terms unless otherwise provided by the order of a court of this State.

(2) Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place; conceals, withholds, or destroys; or mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject to such notice or mistakes or conceals any information shall be fined not more than $5,000.00.

(c)(1) Whenever any person fails to comply with any notice served upon him or her under this section or whenever satisfactory copying or reproduction of any such material cannot be done and the person refuses to surrender the material, the Attorney General or a state's attorney may file, in the superior court in which the person resides or has his or her principal place of business or in Washington County if the person is a nonresident or has no principal place of business in this State, and serve upon the person a petition for an order of the court for the enforcement of this section.

(2) Whenever any petition is filed under this section, the court shall have jurisdiction to hear and determine the matter so presented and to enter any order or orders as may be required to carry into effect the provisions of this section. Any disobedience of any order entered under this section by any court shall be punished as a contempt of the court.

(d) Any person aggrieved by a civil investigation conducted under this section may seek relief from Washington Superior Court or the superior court in the county in which the aggrieved person resides. Except for cases the court considers to be of greater importance, proceedings before superior court as authorized by this section shall take precedence on the docket over all other cases.

§ 2905. ADJUSTMENTS FOR INFLATION

(a) Whenever it is required by this chapter, the Secretary of State shall make adjustments to monetary amounts provided in this chapter based on the Consumer Price Index. Increases shall be rounded to the nearest $10.00 and shall apply for the term of two two-year general election cycles. Increases shall be effective for the first two-year general election cycle beginning after the general election held in 2016.

(b) On or before the first two-year general election cycle beginning after the general election held in 2016, the Secretary of State shall calculate and publish on the online database set forth in section 2906 of this chapter each adjusted monetary amount that will apply to those two two-year general election cycles. On or before the beginning of each second subsequent two-year general election cycle, the Secretary shall publish the amount of each adjusted monetary amount that shall apply for that two-year general election cycle and the next two-year general election cycle.

§ 2906. CAMPAIGN DATABASE; CANDIDATE INFORMATION PUBLICATION

(a) Campaign database. For each two-year general election cycle, the Secretary of State shall develop and continually update a publicly accessible campaign database which shall be made available to the public through the Secretary of State's home page online service or through printed reports from the Secretary in response to a public request within 14 days of the date of the request. The database shall contain:

(1) at least the following information for all candidates for statewide, county, and local office and for the General Assembly:

(A) for candidates receiving public financing grants, the amount of each grant awarded; and

(B) the information contained in any reports submitted pursuant to subchapter 4 of this chapter;

(2) campaign finance reports filed by candidates for federal office;

(3) the adjustments for inflation made to monetary amounts as required by this chapter; and

(4) any photographs, biographical sketches, and position statements submitted to the Secretary pursuant to subsection (b) of this section.

(b) Candidate information publication.

(1) Any candidate for statewide office and any candidate for federal office qualified to be on the ballot in this State may submit to the Secretary of

State a photograph, biographical sketch, and position statement of a length and format specified by the Secretary for the purposes of preparing a candidate information publication.

(2) Without making any substantive changes in the material presented, the Secretary shall prepare a candidate information publication for statewide distribution prior to the general election, which includes the candidates' photographs, biographies, and position statements; a brief explanation of the process used to obtain candidate submissions; and, with respect to offices for which public financing is available, an indication of which candidates are receiving Vermont campaign finance grants and which candidates are not receiving Vermont campaign finance grants.

(3) The Secretary shall prepare, publish, and distribute the candidate information publication throughout the State no later than one week prior to the general election. The Secretary shall also seek voluntary distribution of the candidate information publication in weekly and daily newspapers and other publications in the State. The Secretary shall also make the candidate information publication available in large type, audiotape, and Internet versions.

§ 2907. ADMINISTRATION

The Secretary of State shall administer this chapter and shall perform all duties required under this chapter. The Secretary may employ or contract for the services of persons necessary for performance of these duties.

Subchapter 2. Registration and Maintenance Requirements

§ 2921. CANDIDATES; REGISTRATION; CHECKING ACCOUNT; TREASURER

(a) Each candidate who has made expenditures or accepted contributions of $500.00 or more in a two-year general election cycle shall register with the Secretary of State stating his or her full name and address; the office the candidate is seeking; the name and address of the bank in which the candidate maintains his or her campaign checking account; and the name and address of the treasurer responsible for maintaining the checking account. A candidate's treasurer may be the candidate or his or her spouse.

(b) All expenditures by a candidate shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the candidate under subsection (a) of this section, or, if under $250.00, the candidate may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the candidate for at least two years from

the end of the two-year general election cycle in which the expenditure was made.

§ 2922. POLITICAL COMMITTEES; REGISTRATION; CHECKING ACCOUNT; TREASURER

(a) Each political committee shall register with the Secretary of State within 10 days of making expenditures of $1,000.00 or more and accepting contributions of $1,000.00 or more stating its full name and address; the name and address of the bank in which it maintains its campaign checking account; and the name and address of the treasurer responsible for maintaining the checking account.

(b) All expenditures by a political committee shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the political committee under subsection (a) of this section, or, if under $250.00, the political committee may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the political committee for at least two years from the end of the two-year general election cycle in which the expenditure was made.

(c) A political committee whose principal place of business or whose treasurer is not located in this State shall file a statement with the Secretary of State designating a person who resides in this State upon whom may be served any process, notice, or demand required or permitted by law to be served upon the political committee. This statement shall be filed at the same time as the registration required in subsection (a) of this section.

§ 2923. POLITICAL PARTIES; REGISTRATION; CHECKING ACCOUNTS; TREASURER

(a)(1) Each political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year general election cycle shall register with the Secretary of State within 10 days of reaching the $1,000.00 threshold. In its registration, the party shall state its full name and address, the name and address of the bank in which it maintains its campaign checking account, and the name and address of the treasurer responsible for maintaining the checking account.

(2) A political party may permit any subsidiary, branch, or local unit of the political party to maintain its own checking account. If a subsidiary, branch, or local unit of a political party is so permitted, it shall file with the Secretary of State within five days of establishing the checking account its full name and address, the name of the political party, the name and address of the

bank in which it maintains its campaign checking account, and the name and address of the treasurer responsible for maintaining the checking account.

(b) All expenditures by a political party or its subsidiary, branch, or local unit shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the political party under subsection (a) of this section, or if under $250.00, the political party may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the political party for at least two years from the end of the two-year general election cycle in which the expenditure was made.

(c) A political party or its subsidiary, branch, or local unit whose principal place of business or whose treasurer is not located in this State shall file a statement with the Secretary of State designating a person who resides in this State upon whom may be served any process, notice, or demand required or permitted by law to be served upon the political party, subsidiary, branch, or local unit. This statement shall be filed at the same time as the registration required in subsection (a) of this section.

§ 2924. CANDIDATES; SURPLUS CAMPAIGN FUNDS; NEW CAMPAIGN ACCOUNTS

(a) A candidate who has surplus funds after all campaign debts have been paid shall not convert the surplus to personal use, other than to reduce personal campaign debts or as otherwise provided in this chapter.

(b) Surplus funds in a candidate's account after payment of all campaign debts may be:

(1) contributed to other candidates, political parties, or political committees subject to the contribution limits set forth in this chapter;

(2) contributed to a charity;

(3) contributed to the Secretary of State Services Fund; or

(4) contributed using a combination of the provisions set forth in subdivisions (1)–(3) of this subsection.

(c) The "final report" of a candidate shall indicate the amount of the surplus and how it has been or is to be liquidated.

(d)(1) A candidate who chooses to roll over any surplus contributions into a new campaign account for public office may close out his or her former campaign by filing a final report with the Secretary of State converting all debts and assets to the new campaign.

(2) A candidate who rolls over surplus contributions into a new campaign account shall be required to file a new bank designation form only if there has been a change in the treasurer or the location of the campaign account.

§ 2925. POLITICAL COMMITTEES; SURPLUS CAMPAIGN FUNDS

(a) A member of a political committee which has surplus funds after all campaign debts have been paid shall not convert the surplus to personal use.

(b) Surplus funds in a political committee's account after payment of all campaign debts may be:

(1) contributed to other candidates, political parties, or political committees subject to the contribution limits set forth in this chapter;

(2) contributed to a charity;

(3) contributed to the Secretary of State Services Fund; or

(4) contributed using a combination of the provisions set forth in subdivisions (1)–(3) of this subsection.

(d) The "final report" of a political committee shall indicate the amount of the surplus and how it has been or is to be liquidated.

§ 2926. REQUIREMENTS FOR SEPARATE SEGREGATED FUNDS

(a) The separate segregated fund of a corporation or labor union shall be considered a political committee.

(b) Only a natural person may make a contribution to a separate segregated fund.

(c) A separate segregated fund may be used only to make contributions to candidates, political committees, or political parties.

Subchapter 3. Contribution Limitations

§ 2941. LIMITATIONS OF CONTRIBUTIONS

In any two-year general election cycle:

(1) A candidate for state representative or for local office shall not accept contributions totaling more than:

(A) $750.00 from a single source;

(B) $750.00 from a political committee; or

(C) $3,000.00 from a political party.

(2) A candidate for state senator or county office shall not accept contributions totaling more than:

(A) $1,500.00 from a single source;

(B) $1,500.00 from a political committee; or

(C) $6,000.00 from a political party.

(3) A candidate for the office of Governor, Lieutenant Governor, Secretary of State, State Treasurer, Auditor of Accounts, or Attorney General shall not accept contributions totaling more than:

(A) $3,000.00 from a single source;

(B) $3,000.00 from a political committee; or

(C) $85,000.00 from a political party.

(4) A political committee shall not accept contributions totaling more than:

(A) $3,000.00 from a single source;

(B) $3,000.00 from a political committee; or

(C) $3,000.00 from a political party.

(5) A political party shall not accept contributions totaling more than:

(A) $3,000.00 from a single source;

(B) $3,000.00 from a political committee; or

(C) $30,000.00 from a political party.

(6) A single source shall not contribute more than an aggregate of:

(A) $25,000.00 to candidates; and

(B) $25,000.00 to political committees and political parties.

(7) A single source, political committee, or political party shall not contribute more to a candidate, political committee, or political party than the candidate, political committee, or political party is permitted to accept under subdivisions (1) through (5) of this section.

§ 2942. EXCEPTIONS

The contribution limitations established by this subchapter shall not apply to contributions to a political committee made for the purpose of advocating a position on a public question, including a constitutional amendment.

§ 2943. LIMITATIONS ADJUSTED FOR INFLATION

The contribution limitations contained in this subchapter shall be adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

§ 2944. ACCOUNTABILITY FOR RELATED EXPENDITURES

(a) A related campaign expenditure made on a candidate's behalf shall be considered a contribution to the candidate on whose behalf it was made.

(b) For the purposes of this section, a "related campaign expenditure made on the candidate's behalf" means any expenditure intended to promote the election of a specific candidate or group of candidates or the defeat of an opposing candidate or group of candidates if intentionally facilitated by, solicited by, or approved by the candidate or the candidate's committee.

(c)(1) An expenditure made by a political party or by a political committee that recruits or endorses candidates that primarily benefits six or fewer candidates who are associated with the political party or political committee making the expenditure is presumed to be a related expenditure made on behalf of those candidates, except that the acquisition, use, or dissemination of the images of those candidates by the political party or political committee shall not be presumed to be a related expenditure made on behalf of those candidates.

(2) An expenditure made by a political party or by a political committee that recruits or endorses candidates that substantially benefits more than six candidates and facilitates party or political committee functions, voter turnout, platform promotion, or organizational capacity shall not be presumed to be a related expenditure made on a candidate's behalf.

(3) For the purposes of this section, a "related campaign expenditure made on the candidate's behalf" does not mean:

(A) the cost of invitations and postage and of food and beverages voluntarily provided by an individual in conjunction with an opportunity for a group of voters to meet a candidate if the cumulative value of these items provided by the individual on behalf of any candidate does not exceed $500.00 per event; or

(B) the sale of any food or beverage by a person for use at a campaign event providing an opportunity for a group of voters to meet a candidate if the charge to the candidate is at least equal to the cost of the food or beverages to the person and if the cumulative value of the food or beverages does not exceed $500.00 per event.

(d)(1) A candidate may seek a determination that an expenditure is a related expenditure made on behalf of an opposing candidate by filing a petition with the superior court of the county in which either candidate resides.

(2) Within 24 hours of the filing of a petition, the court shall schedule the petition for hearing. Except as to cases the court considers of greater

importance, proceedings before the superior court, as authorized by this section, and appeals therefrom take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(3) The findings and determination of the court shall be prima facie evidence in any proceedings brought for violation of this chapter.

(e) The Secretary of State may adopt rules necessary to administer the provisions of this section.

§ 2945. ACCEPTING CONTRIBUTIONS

(a) A candidate, political committee, or political party accepts a contribution when the contribution is deposited in the candidate's, committee's, or party's campaign account or two business days after the candidate, committee, or party receives it, whichever comes first.

(b) A candidate, political committee, or political party shall not accept a monetary contribution in excess of $50.00 unless made by check, credit or debit card, or other electronic transfer.

§ 2946. CANDIDATE'S ATTRIBUTION TO PREVIOUS CYCLE

A candidate's expenditures related to a previous two-year general election cycle and contributions used to retire a debt of a previous two-year general election cycle shall be attributed to the earlier two-year general election cycle.

§ 2947. CONTRIBUTIONS FROM A CANDIDATE OR IMMEDIATE FAMILY

This subchapter shall not be interpreted to limit the amount a candidate or his or her immediate family may contribute to his or her own campaign. For purposes of this subsection, "immediate family" means a candidate's spouse, parent, grandparent, child, grandchild, sister, brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, legal guardian, or former legal guardian.

§ 2948. PROHIBITION ON TRANSFERRING CONTRIBUTIONS

A candidate, political committee, or political party shall not accept a contribution which the candidate, political committee, or political party knows is not directly from the contributor but was transferred to the contributor by another person for the purpose of transferring the same to the candidate, political committee, or political party or otherwise circumventing the provisions of this chapter. It shall be a violation of this chapter for a person to

make a contribution with the explicit or implicit understanding that the contribution will be transferred in violation of this subsection.

§ 2949. USE OF TERM "CANDIDATE"

For purposes of this subchapter, the term "candidate" includes the candidate's committee, except in regard to the provisions of section 2947 of this subchapter.

§ 2950. LIMITATIONS ON CONTRIBUTIONS; CORPORATIONS AND LABOR UNIONS; SEPARATE SEGREGATED FUNDS

(a) Notwithstanding any provision of law to the contrary and except as provided in subsection (b) of this section, a corporation or labor union shall not make a contribution to a candidate, political committee, or political party.

(b)(1) A corporation or labor union may:

(A) establish a separate segregated fund that may contribute to candidates, political committees, and political parties; and

(B) provide its meeting facilities to a candidate, political committee, or political party on a nondiscriminatory and nonpreferential basis.

(2) A corporation may use money, property, labor, or any other thing of monetary value of the corporation for the purposes of soliciting its stockholders, executive or administrative personnel, and the immediate families of those persons for contributions to the corporation's separate segregated fund and for financing the administration of that separate segregated fund. The corporation's employees and the immediate families of those employees to whom the foregoing authority does not extend may only be solicited in writing, and such solicitations may only take place two times in a calendar year.

(3) A labor union may use money, property, labor, or any other thing of monetary value of the labor union for the purposes of soliciting its members, executive or administrative personnel, and the immediate families of those persons for contributions to the labor union's separate segregated fund and for financing the administration of that separate segregated fund. The labor union's employees and the immediate families of those employees to whom the foregoing authority does not extend and stockholders and their immediate families of a corporation in which the labor union represents members working for the corporation may only be solicited in writing, and such solicitations may only take place two times in a calendar year.

(c) Notwithstanding any provision of law to the contrary, a candidate, political committee, or political party shall not accept a contribution from a

corporation or labor union except from the separate segregated fund of that corporation or labor union.

(d) The provisions of this section shall not apply to a nonprofit corporation that:

(1) is not organized or operating for the principal purpose of conducting a business;

(2) has no shareholders or other persons affiliated so as to have a claim on its assets or earnings; and

(3) was not established by a business corporation or a labor union and has a policy not to accept significant contributions from those entities.

(e) As used in this section, "immediate families" means the spouse and the father, mother, sons, and daughters who live in the same household as a corporation or labor union's stockholder, executive or administrative personnel, member, or employee.

Subchapter 4. Reporting Requirements; Disclosures

§ 2961. SUBMISSION OF REPORTS TO THE SECRETARY OF STATE

(a)(1) The Secretary of State shall provide on the online database set forth in section 2906 of this chapter digital access to the form that he or she provides for any report required by this chapter. Digital access shall enable any person required to file a report under this chapter to file the report by completing and submitting the report to the Secretary of State online.

(2) The Secretary shall maintain on the online database reports that have been filed for each two-year general election cycle so that any person may have direct machine-readable electronic access to the individual data elements in each report and the ability to search those data elements as soon as a report is filed.

(b) Any person required to file a report with the Secretary of State under this chapter shall file the report digitally on the online database.

§ 2962. REPORTS; GENERAL PROVISIONS

(a) Any report required to be submitted to the Secretary of State under this chapter shall contain the statement "I hereby certify that the information provided on all pages of this campaign finance disclosure report is true to the best of my knowledge, information, and belief" and places for the signature of the candidate or the treasurer of the candidate, political committee, or political party.

(b) Any person required to file a report under this chapter shall provide the information required in the Secretary of State's reporting form. Disclosure shall be limited to the information required to administer this chapter.

(c) All reports filed under this chapter shall be retained in an indexed file by the Secretary of State and shall be subject to the examination of any person.

§ 2963. CAMPAIGN REPORTS; SECRETARY OF STATE; FORMS; FILING

(a) The Secretary of State shall prescribe and provide a uniform reporting form for all campaign finance reports. The reporting form shall be designed to show the following information:

(1) the full name, town of residence, and mailing address of each contributor who contributes an amount in excess of $100.00, the date of the contribution, and the amount contributed, as well as a space on the form for the occupation and employer of each contributor, which the candidate, political committee, or political party shall make a reasonable effort to obtain;

(2) the total amount of all contributions of $100.00 or less and the total number of all such contributions;

(3) each expenditure listed by amount, date, to whom paid, and for what purpose;

(4) the amount contributed or loaned by the candidate to his or her own campaign during the reporting period; and

(5) each debt or other obligation, listed by amount, date incurred, to whom owed, and for what purpose, incurred during the reporting period.

(b)(1) The form shall require the reporting of all contributions and expenditures accepted or spent during the reporting period and during the campaign to date and shall require full disclosure of the manner in which any indebtedness is discharged or forgiven.

(2) Contributions and expenditures for the reporting period and for the campaign to date also shall be totaled in an appropriate place on the form. The total of contributions shall include a subtotal of nonmonetary contributions and a subtotal of all monetary contributions.

(3) The form shall contain a list of the required filing times so that the person filing may designate for which time period the filing is made.

(4) Contributions accepted and expenditures spent after 5:00 p.m. on the third day prior to the filing deadline shall be reported on the next report.

§ 2964. CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE, THE GENERAL ASSEMBLY, AND COUNTY OFFICE; POLITICAL COMMITTEES; POLITICAL PARTIES

(a)(1) Each candidate for state office, the General Assembly, and county office who has made expenditures or accepted contributions of $500.00 or more during a two-year general election cycle, and, except as provided in subsection (b) of this section, each political committee and each political party required to register under section 2923 of this chapter shall file with the Secretary of State campaign finance reports as follows, except that once a candidate, political committee, or political party is required to file these reports, subsequent reports shall only be required to be filed under this subdivision if the candidate, political committee, or political party has made expenditures or accepted contributions since the last required report:

(A) in the first year of the two-year general election cycle, on March 15 and November 15 of the odd-numbered year; and

(B) in the second year of the two-year general election cycle:

(i) on March 15;

(ii) on June 15, July 1, and July 15;

(iii) on September 1;

(iv) on October 1, October 15 and November 1; and

(v) two weeks after the general election.

(2) The failure of a candidate, political committee, or political party to file a report under this subsection shall be deemed an affirmative statement that a report is not required of the candidate, political committee, or political party under subdivision (1) of this subsection.

(b) A political committee or a political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of influencing a local election or supporting or opposing one or more candidates in a local election shall file campaign finance reports regarding that election 30 days before, 10 days before, and two weeks after the local election with the Secretary of State.

(c) Any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, which makes expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of advocating a position on a public question in any election shall file a report of its expenditures 30 days

before, 10 days before, and two weeks after the election with the Secretary of State.

§ 2965. FINAL REPORTS; CANDIDATES FOR STATE OFFICE, THE GENERAL ASSEMBLY, AND COUNTY OFFICE; POLITICAL COMMITTEES; POLITICAL PARTIES

(a) At any time, but not later than December 15th following the general election, each candidate for state office, the General Assembly, and county office who has made expenditures or accepted contributions of $500.00 or more during the two-year general election cycle shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and disposition of surplus and which shall constitute the termination of his or her campaign activities.

(b) At any time, a political committee or a political party may file a "final report" which lists a complete accounting of all contributions and expenditures since the last report and disposition of surplus and which shall constitute the termination of its campaign activities.

§ 2966. REPORTS BY CANDIDATES NOT REACHING MONETARY REPORTING THRESHOLD

Each candidate for state office, the General Assembly, and county office who has made expenditures or accepted contributions of less than $500.00 during a two-year general election cycle shall file with the Secretary of State 10 days following the general election a statement that the candidate has not made expenditures or accepted contributions of $500.00 or more during the two-year general election cycle.

§ 2967. ADDITIONAL CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE AND THE GENERAL ASSEMBLY

(a) In addition to any other reports required to be filed under this chapter, a candidate for state office or for the General Assembly who accepts a monetary contribution in an amount over $2,000.00 within 10 days of a primary or general election shall report the contribution to the Secretary of State within 24 hours of receiving the contribution.

(b) A report required by this section shall include the following information:

(1) the full name, town of residence, and mailing address of the contributor; the date of the contribution; and the amount contributed; and

(2) the amount contributed or loaned by the candidate to his or her own campaign.

§ 2968. CAMPAIGN REPORTS; LOCAL CANDIDATES

(a)(1) Each candidate for local office who has made expenditures or accepted contributions of $500.00 or more since the last local election for that office shall file with the Secretary of State campaign finance reports 30 days before, 10 days before, and two weeks after the local election.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a candidate for local office required to file a report under that subdivision shall only be required to file subsequent reports under that subdivision if the candidate has made expenditures or accepted contributions since his or her last required report.

(b) Within 40 days after the local election, each candidate for local office who has made expenditures or accepted contributions of $500.00 or more shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and a disposition of surplus and which shall constitute the termination of his or her campaign activities.

(c) The failure of a local candidate to file a campaign finance report shall be deemed an affirmative statement that the candidate has not accepted contributions or made expenditures of $500.00 or more since the last local election for that office or has not made expenditures or accepted contributions since the last required report.

§ 2969. REPORT OF MASS MEDIA ACTIVITIES

(a)(1) In addition to any other reports required to be filed under this chapter, a person who makes expenditures for any one mass media activity totaling $500.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each activity, file a mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The copy of the mass media report shall be sent by e-mail to each candidate who has provided the Secretary of State with an e-mail address on his or her consent form and to any other candidate by mail.

(3) The mass media report shall be filed and the copy of the report shall be sent within 24 hours of the expenditure or activity, whichever occurs first. For the purposes of this section, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure.

(b) The report shall identify the person who made the expenditure; the name of each candidate whose name or likeness was included in the activity; the amount and date of the expenditure; to whom it was paid; and the purpose of the expenditure.

(c) If the activity occurs within 30 days before the election and the expenditure was previously reported, an additional report shall be required under this section.

(d)(1) In addition to the reporting requirements of this section, an independent expenditure-only political committee that makes an expenditure for any one mass media activity totaling $5,000.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each such activity and within 24 hours of the expenditure or activity, whichever occurs first, file an independent expenditure-only political committee mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The report shall include all of the information required under subsection (b) of this section, as well as the names, dates, and amounts of all contributions in excess of $100.00 accepted since the filing of the committee's last report.

§ 2970. IDENTIFICATION IN ELECTIONEERING COMMUNICATIONS

(a) An electioneering communication shall contain the name and mailing address of the person, candidate, political committee, or political party that paid for the communication. The name and address shall appear prominently such that a reasonable person would clearly understand by whom the expenditure has been made, except that:

(1) An electioneering communication transmitted through radio and paid for by a candidate does not need to contain the candidate's address.

(2) An electioneering communication paid for by a person acting as an agent or consultant on behalf of another person, candidate, political committee, or political party shall clearly designate the name and mailing address of the person, candidate, political committee, or political party on whose behalf the communication is published or broadcast.

(b) If an electioneering communication is a related campaign expenditure made on a candidate's behalf as provided in section 2944 of this chapter, then in addition to other requirements of this section, the communication shall also clearly designate the candidate on whose behalf it was made by including language such as "on behalf of" such candidate.

(c) In addition to the identification requirements in subsections (a) and (b) of this section, an electioneering communication paid for by or on behalf of a political committee or political party shall contain the name of any contributor who contributed more than 25 percent of all contributions and more than $2,000.00 to that committee or party since the beginning of the two-year general election cycle in which the electioneering communication was made.

(d) The identification requirements of this section shall not apply to lapel stickers or buttons, nor shall they apply to electioneering communications made by a single individual acting alone who spends, in a single two-year general election cycle, a cumulative amount of no more than $150.00 on those electioneering communications, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

§ 2971. SPECIFIC IDENTIFICATION REQUIREMENTS FOR RADIO OR TELEVISION COMMUNICATIONS

(a) A person, candidate, political committee, or political party that makes an expenditure for an electioneering communication shall include in any communication which is transmitted through radio or television, in a clearly spoken manner, an audio statement of the name and title of the person who paid for the communication, that the person paid for the communication, and that the person approves of the content of the communication.

(b) If the person who paid for the communication is not a natural person, the audio statement required by this section shall include the name of that person, the name and title of the principal officer of the person, and a statement that the officer approves of the content of the communication.

Subchapter 5. Public Financing Option

§ 2981. DEFINITIONS

As used in this subchapter:

(1) "Affidavit" means the Vermont campaign finance affidavit required under section 2982 of this chapter.

(2) "General election period" means the period beginning the day after the primary election and ending the day of the general election.

(3) "Primary election period" means the period beginning the day after primary petitions must be filed under section 2356 of this title and ending the day of the primary election.

(4) "Vermont campaign finance qualification period" means the period beginning February 15 of each even-numbered year and ending on the date on which primary petitions must be filed under section 2356 of this title.

§ 2982. FILING OF VERMONT CAMPAIGN FINANCE AFFIDAVIT

(a) A candidate for the office of Governor or Lieutenant Governor who intends to seek Vermont campaign finance grants from the Secretary of State Services Fund shall file a Vermont campaign finance affidavit on the date on or before which primary petitions must be filed, whether the candidate seeks to enter a party primary or is an independent candidate.

(b) The Secretary of State shall prepare a Vermont campaign finance affidavit form, informational materials on procedures and financial requirements, and notification of the penalties for violation of this subchapter.

(c)(1) The Vermont campaign finance affidavit shall set forth the conditions of receiving grants under this subchapter and provide space for the candidate to agree that he or she will abide by such conditions and all expenditure and contribution limitations, reporting requirements, and other provisions of this chapter.

(2) The affidavit shall also state the candidate's name, legal residence, business or occupation, address of business or occupation, party affiliation, if any, the office sought, and whether the candidate intends to enter a party primary.

(3) The affidavit shall also contain a list of all the candidate's qualifying contributions together with the name and town of residence of the contributor and the date each contribution was made.

(4) The affidavit may further require affirmation of such other information as deemed necessary by the Secretary of State for the administration of this subchapter.

(5) The affidavit shall be sworn and subscribed to by the candidate.

§ 2983. VERMONT CAMPAIGN FINANCE GRANTS; CONDITIONS

(a) A person shall not be eligible for Vermont campaign finance grants if, prior to February 15 of the general election year during any two-year general election cycle, he or she becomes a candidate by announcing that he or she seeks an elected position as Governor or Lieutenant Governor or by accepting contributions totaling $2,000.00 or more or by making expenditures totaling $2,000.00 or more.

(b) A candidate who accepts Vermont campaign finance grants shall:

(1) not solicit, accept, or expend any contributions except qualifying contributions, Vermont campaign finance grants, and contributions authorized under section 2985 of this chapter, which contributions may be solicited,

accepted, or expended only in accordance with the provisions of this subchapter;

(2) deposit all qualifying contributions, Vermont campaign finance grants, and any contributions accepted in accordance with the provisions of section 2985 of this chapter in a federally insured noninterest-bearing checking account; and

(3) not later than 40 days after the general election, deposit in the Secretary of State Services Fund, after all permissible expenditures have been paid, the balance of any amounts remaining in the account established under subdivision (2) of this subsection.

§ 2984. QUALIFYING CONTRIBUTIONS

(a) In order to qualify for Vermont campaign finance grants, a candidate for the office of Governor or Lieutenant Governor shall obtain during the Vermont campaign finance qualification period the following amount and number of qualifying contributions for the office being sought:

(1) for Governor, a total amount of no less than $35,000.00 collected from no fewer than 1,500 qualified individual contributors making a contribution of no more than $50.00 each; or

(2) for Lieutenant Governor, a total amount of no less than $17,500.00 collected from no fewer than 750 qualified individual contributors making a contribution of no more than $50.00 each.

(b) A candidate shall not accept more than one qualifying contribution from the same contributor and a contributor shall not make more than one qualifying contribution to the same candidate in any Vermont campaign finance qualification period. For the purpose of this section, a qualified individual contributor means an individual who is registered to vote in Vermont. No more than 25 percent of the total number of qualified individual contributors may be residents of the same county.

(c) Each qualifying contribution shall indicate the name and town of residence of the contributor and the date accepted and be acknowledged by the signature of the contributor.

(d) A candidate may retain and expend qualifying contributions obtained under this section. A candidate may expend the qualifying contributions for the purpose of obtaining additional qualifying contributions and may expend the remaining qualifying contributions during the primary and general election periods. Amounts expended under this subsection shall be considered expenditures for purposes of this chapter.

§ 2985. VERMONT CAMPAIGN FINANCE GRANTS; AMOUNTS; TIMING

(a) The Secretary of State shall make grants from the Secretary of State Services Fund in separate grants for the primary and general election periods to candidates who have qualified for Vermont campaign finance grants under this subchapter.

(b) Whether a candidate has entered a primary or is an independent candidate, Vermont campaign finance grants shall be in the following amounts:

(1) For Governor, $150,000.00 in a primary election period and $450,000.00 in a general election period, provided that the grant for a primary election period shall be reduced by an amount equal to the candidate's qualifying contributions.

(2) For Lieutenant Governor, $50,000.00 in a primary election period and $150,000.00 in a general election period, provided that the grant for a primary election period shall be reduced by an amount equal to the candidate's qualifying contributions;

(3) A candidate who is an incumbent of the office being sought shall be entitled to receive a grant in an amount equal to 85 percent of the amount listed in subdivision (1) or (2) of this subsection.

(c) In an uncontested general election and in the case of a candidate who enters a primary election and is unsuccessful in that election, an otherwise eligible candidate shall not be eligible for a general election period grant. However, such candidate may solicit and accept contributions and make expenditures as follows: contributions shall be subject to the limitations set forth in subchapter 3 of this chapter, and expenditures shall be limited to an amount equal to the amount of the grant set forth in subsection (b) of this section for the general election for that office.

(d) Grants awarded in a primary election period but not expended by the candidate in the primary election period may be expended by the candidate in the general election period.

(e) Vermont campaign finance grants for a primary election period shall be paid to qualifying candidates within the first 10 business days of the primary election period. Vermont campaign finance grants for a general election period shall be paid to qualifying candidates during the first 10 business days of the general election period.

§ 2986. MONETARY AMOUNTS ADJUSTED FOR INFLATION

The monetary amounts contained in sections 2983–2985 of this subchapter shall be adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

Sec. 4. 17 V.S.A. § 2969 is amended to read:

§ 2969. REPORT OF MASS MEDIA ACTIVITIES

(a)(1) In addition to any other reports required to be filed under this chapter, a person who makes expenditures for any one mass media activity totaling $500.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each activity, file a mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The copy of the mass media report shall be sent by e-mail to each candidate who has provided the Secretary of State with an e-mail address on his or her consent form and to any other candidate by mail.

(3) The mass media report shall be filed and the copy of the report shall be sent within 24 hours of the expenditure or activity, whichever occurs first. For the purposes of this section, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure.

(b) The report shall identify the person who made the expenditure; the name of each candidate whose name or likeness was included in the activity; the amount and date of the expenditure; to whom it was paid; and the purpose of the expenditure.

(c) If the activity occurs within 30 days before the election and the expenditure was previously reported, an additional report shall be required under this section.

(d)~~(1) In addition to the reporting requirements of this section, an independent expenditure-only political committee that makes an expenditure for any one mass media activity totaling $5,000.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each such activity and within 24 hours of the expenditure or activity, whichever occurs first, file an independent expenditure-only political committee mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.~~

~~(2) The report shall include all of the information required under subsection (b) of this section, as well as the names, dates, and amounts of all contributions in excess of $100.00 accepted since the filing of the committee's last report.~~ [Repealed.]

Sec. 5. EVALUATION OF 2014 PRIMARY AND GENERAL ELECTIONS

The House and Senate Committees on Government Operations shall evaluate the 2014 primary and general elections to determine the effect of the implementation of this act.

Sec. 6. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

(a) This act shall take effect on passage, except that:

(1) in Sec. 3 of this act, 17 V.S.A. § 2961 (submission of reports to the Secretary of State) shall take effect on January 15, 2015;

(2) in Sec. 3 of this act, 17 V.S.A. § 2941(6) (limitations of contributions; aggregate limits on contributions from a single source) shall not take effect any sooner than January 15, 2015 and unless the final disposition, including all appeals, of *McCutcheon v. Federal Election Commission*, No. 12cv1034 (D.D.C. Sept. 28, 2012) holds that aggregate limits on contributions from single sources are constitutional; and

(3) Sec. 4 of this act, amending 17 V.S.A. § 2969, shall not take effect unless the final disposition, including all appeals, of *Vermont Right to Life Committee, Inc. v. Sorrell*, No. 2:09-cv-188 (D. Vt. June 21, 2012) holds that limits on contributions to independent expenditure-only political committees are constitutional.

(b) The provisions of 17 V.S.A. § 2941(4) (limitations of contributions; limits on contributions to a political committee) in Sec. 3 of this act shall not apply to independent expenditure-only political committees, except that those provisions shall apply to independent expenditure-only political committees if the final disposition, including all appeals, of *Vermont Right to Life Committee, Inc. v. Sorrell*, No. 2:09-cv-188 (D. Vt. June 21, 2012) holds that limits on contributions to independent expenditure-only political committees are constitutional.

(c) As used in this section, "independent expenditure-only political committee" shall have the same meaning as in Sec. 3, 17 V.S.A. § 2901(9), of this act.

Which was agreed to.

Thereupon, the recommendation of amendment as substituted, was agreed to, and third reading of the bill was ordered on a roll call, Yeas 24, Nays 3.

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, Baruth, Bray, *Campbell, Collins, Cummings, Doyle, Fox, French, Galbraith, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Sears, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Flory, *Hartwell, *Snelling.

Those Senators absent and not voting were: Ayer, Benning, Rodgers.

*Senator Campbell explained his vote as follows:

"Mr. President,

"There are many things to be proud of in this Great state of ours. One of them deals with its legislature in which I am extremely proud to serve. As a member of the General Assembly over the past 12 years, I have never witnessed even the slightest hint of corruption of influence peddling that seems pervasive in Washington, DC.

"While I believe we are fortunate to be free of corruption or purchasing influences. I also believe it is essential that we have a campaign finance law that clearly and concisely sets forth the parameters, rules, and regulations that govern our election process.

"That is why this bill is so critical and why I will be supporting its passage. However, with that said, I feel it is important that I highlight the one section of this bill I cannot support for the sake of transparency in Vermont politics.

"That section relates to corporate contributions and aims to curtail the possibility of political corruption, however, the reality of the section is very different: the reality is it takes away from transparency when it comes to corporate donations while only truly restricting small, local businesses as I will now further explain:

"It has been mentioned that this bill mirrors language from a 1907 federal law. That law, while still on the books, has been amended by 1971's Federal Election Campaign Act, which allows corporations and unions to set up separate segregated funds to make contributions. However, under the Code of Federal Regulations, the name of a separate segregated fund has to include the full name of its connected organization.

"This amendment prevents corporations from donating money under their actual name and instead not only allows, but indeed forces, corporations to

contribute to candidates and parties under the name of their PACs instead. While it is abundantly clear that it is our desire to move toward transparency in Vermont, this amendment only supports a second layer of anonymity.

"Currently, you could know a candidate's contribution comes from the XYZ Corporation directly, or, with this amendment, you will only know that the donation comes from Vermonters for Excellent Government, XYZ Corporation's new PAC.

"Mr. President, there are 91,202 incorporated entities in Vermont. The burden of this amendment would not fall on large corporations, which, through the political branch of their PACs, can easily influence elections, but on small incorporated Vermont businesses. This unintended side effect of placing small businesses in a decided disadvantage over big corporations is unacceptable.

"In closing, Mr. President, while I am excited to see the Senate, re-establish our campaign finance law today, I am also saddened to see it contain this affront on transparency which is certainly not in the best interest of Vermont."

*Senator Hartwell explained his vote as follows:

Mr. President:

"I support the bill except for provisions regarding penalties (§ 2903) and civil investigation (§ 2904) which provisions make this bill a crime bill, inappropriate to members, candidates to the Vermont Legislature; in particular, and in addition to the unacceptable criminal process and fines and imprisonment, the civil investigation can result in wrongful conclusion which lends to a person having to seek redress at his/her expense which may be financially ruinous and ruinous of a candidacy; I support a campaign finance bill but not overly severe and unfair sanctions."

*Senator Snelling explained her vote as follows:

Mr. President:

"I strongly support campaign finance report and setting contribution limits. I will gladly comply with all requirements for reporting and disclosure as I always have. However, I strongly object to the premise throughout this legislation that implies that Vermont is like Washington and easily corrupted. I have yet to see any evidence of this. Thank you."

Bill Passed in Concurrence with Proposal of Amendment

H. 511.

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

An act relating to "zappers" and automated sales suppression devices.

Third Reading Ordered

H. 13.

Senator French, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to statutory revision.

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.

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. 198. An act relating to the Legacy Insurance Management Act.

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

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

And has passed the same in concurrence.

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

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

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

Pursuant to the request of the House for a Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

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

The Speaker has appointed as members of such committee on the part of the House:

Rep. Malcolm of Pawlet
Rep. Klein of East Montpelier
Rep. Canfield of Fair Haven.

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

H.C.R. 97. House concurrent resolution honoring Girls on the Run of Vermont, Inc..

H.C.R. 98. House concurrent resolution congratulating the 2012 Randolph Union High School Galloping Ghosts Division III championship girls' cross-country team.

H.C.R. 99. House concurrent resolution honoring Lyndon State College and designating April 17, 2013 as Green and Gold Day.

H.C.R. 100. House concurrent resolution congratulating the 2013 Mt. Abraham Union High School Eagles Division II championship girls' basketball team.

H.C.R. 101. House concurrent resolution congratulating Joel Najman on his 30th anniversary as Vermont Public Radio's rock and roll impresario.

H.C.R. 102. House concurrent resolution congratulating Gandin Brothers, Inc. of South Ryegate on its 100th anniversary.

H.C.R. 103. House concurrent resolution commemorating the semiquincentennial anniversary of the Town of Westford.

H.C.R. 104. House concurrent resolution congratulating Christian DeKett of St. Johnsbury Academy on winning the 2013 Vermont State Poetry Out Loud championship.

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

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

S.C.R. 21. Senate concurrent resolution congratulating iBrattleboro on its tenth anniversary.

And has adopted the same in concurrence.

Senate Concurrent Resolution

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, was adopted on the part of the Senate:

By Senator White,

S.C.R. 21.

Senate concurrent resolution congratulating iBrattleboro on its tenth anniversary.

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 adopted in concurrence:

By Representative Stuart and others,

By Senators Ayer, Baruth, Bray, Campbell, Collins, Doyle, Flory, French, Galbraith, Hartwell, Lyons, MacDonald, McCormack, Nitka, Pollina, Rodgers, Snelling, White and Zuckerman,

H.C.R. 97.

House concurrent resolution honoring Girls on the Run of Vermont, Inc..

By Representatives French and Townsend,

H.C.R. 98.

House concurrent resolution congratulating the 2012 Randolph Union High School Galloping Ghosts Division III championship girls' cross-country team.

By Representative Batchelor and others,

By Senators Kitchel, Benning, Baruth, Collins, Cummings, Doyle, Mullin, Rodgers and Starr,

H.C.R. 99.

House concurrent resolution honoring Lyndon State College and designating April 17, 2013 as Green and Gold Day.

By Representative Fisher and others,

H.C.R. 100.

House concurrent resolution congratulating the 2013 Mt. Abraham Union High School Eagles Division II championship girls' basketball team.

By Representative Dakin and others,

By All Members of the Senate,

H.C.R. 101.

House concurrent resolution congratulating Joel Najman on his 30th anniversary as Vermont Public Radio's rock and roll impresario.

By Representative Larocque,

By Senators Benning and Kitchel,

H.C.R. 102.

House concurrent resolution congratulating Gandin Brothers, Inc. of South Ryegate on its 100th anniversary.

By Representative Heath,

H.C.R. 103.

House concurrent resolution commemorating the semiquincentennial anniversary of the Town of Westford.

By Representative Fay and others,

By Senators Benning and Kitchel,

H.C.R. 104.

House concurrent resolution congratulating Christian DeKett of St. Johnsbury Academy on winning the 2013 Vermont State Poetry Out Loud championship.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, April 16, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 25.

TUESDAY, APRIL 16, 2013

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.

Bill Referred to Committee on Appropriations

S. 165.

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 collective bargaining for deputy state's attorneys.

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 Baruth and Benning,

J.R.S. 26. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 19, 2013, it be to meet again no later than Tuesday, April 23, 2013.

Joint Resolution Referred

J.R.S. 27.

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

By Senators Lyons, Ashe, Baruth, Cummings, Fox, Hartwell, Pollina and Rodgers,

J.R.S. 27. Joint resolution relating to an application of the General Assembly for Congress to call a convention for proposing amendments to the U.S. Constitution.

Whereas, it was the stated intention of the framers of the Constitution of the United States of America that the Congress of the United States of America should be "dependent on the people alone" (James Madison or Alexander Hamilton, Federalist 52), and

Whereas, that dependency has evolved from a dependency on the people alone to a dependency on those who spend excessively in elections through campaigns or third-party groups, and

Whereas, the U.S. Supreme Court ruling in *Citizens United v. Federal Election Commission*, 130 S.Ct. 876 (2010), removed restrictions on amounts of independent political spending, and

Whereas, the removal of those restrictions has resulted in the corrupting influence of powerful economic forces, which have supplanted the will of the people by undermining our ability to choose our political leadership, write our own laws, and determine the fate of our State, and

Whereas, the State of Vermont believes that a convention called pursuant to Article V of the U.S. Constitution should be convened to consider amendments to that Constitution to limit the corrupting influence of money in our political system and desires that said convention should be so limited, and

Whereas, the Congress of the United States has failed to propose, pursuant to Article V of the Constitution, amendments that would adequately address the concerns of Vermont, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly, pursuant to Article V of the U.S. Constitution, hereby petitions the U.S. Congress to call a convention for the purpose of proposing amendments to the Constitution of the United States of America, *and be it further*

Resolved: That not intending to condition this petition, Vermont requests that its specific concerns notwithstanding, the agenda of the convention be limited to those matters enumerated by at least 10 of the states calling for the convention, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vice President of the United States; the President Pro Tempore and the Secretary of the Senate of the United States; the Speaker and Clerk of the House of Representatives of the United States; the Archivist of the United States; and the Vermont Congressional Delegation.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Judiciary.

Bills Referred

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

H. 198.

An act relating to the Legacy Insurance Management Act.

To the Committee on Rules.

H. 529.

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

To the Committee on Rules.

House Proposal of Amendment Concurred In

S. 144.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SALE OF ST. ALBANS STATE OFFICE BUILDING

(a) Notwithstanding 29 V.S.A. § 166(b), the Commissioner of Buildings and General Services is authorized to sell the state office building at 20 Houghton Street in St. Albans. The Commissioner is authorized to convey 20 Houghton Street by warranty deed.

(b) The Commissioner of Buildings and General Services is authorized to negotiate and enter into a lease or lease-purchase agreement to replace the state office building at 20 Houghton Street in St. Albans. It is the intent of the General Assembly that the replacement state office building remain in downtown St. Albans.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Bill Passed in Concurrence

H. 13.

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

An act relating to statutory revision.

Proposals of Amendment; Third Reading Ordered

H. 71.

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

An act relating to tobacco products.

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

First: In Sec. 22, 33 V.S.A. § 1918, in subdivision (f)(1), by striking out the second sentence in its entirety and inserting in lieu thereof the following: The bond shall be issued by a surety company in good standing and authorized to transact business in this State to secure the payment of any escrow due or which may become due from the nonparticipating manufacturer or its United States importer.

Second: By striking out Sec. 23 in its entirety and inserting in lieu thereof a new Sec. 23 to read as follows:

Sec. 23. EFFECTIVE DATES

This section shall take effect on passage. Sec. 19 of this act shall take effect on June 30, 2013. All remaining sections shall take effect on July 1, 2013.

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

Senator MacDonald, for the Committee on Finance, 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 Economic Development, Housing and General Affairs.

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

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, April 17, 2013.

WEDNESDAY, APRIL 17, 2013

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. 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 a House bill of the following title:

H. 521. An act relating to making miscellaneous amendments to education law.

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. 104. An act relating to expedited partner therapy.

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

Committee Relieved of Further Consideration

S. 165.

On motion of Senator Baruth, the Committee on Appropriations was relieved of further consideration of Senate bill entitled:

An act relating to collective bargaining for deputy state's attorneys,

Thereupon, under the rule, the bill was ordered placed on the Calendar for notice the next legislative day.

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. 510.

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

Bill Referred

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

H. 521.

An act relating to making miscellaneous amendments to education law.

To the Committee on Rules.

Bill Amended; Consideration Postponed

S. 82.

Senate bill entitled:

An act relating to campaign finance law.

Was taken up.

Thereupon, pending third reading of the bill, Senators Pollina, Ayer, French, McAllister and White moved to amend the bill as follows:

First: In Sec. 3, in 17 V.S.A. § 2964 (campaign reports; candidates for state office, the General Assembly, and county office; political committees; political parties), by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a)(1) Each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of $500.00 or more during a two-year general election cycle and, except as provided in subsection (b) of this section, each political committee and each political party required to register under section 2923 of this chapter shall file with the Secretary of State campaign finance reports as follows, except that once such a candidate, political committee, or political party is required to file these reports, subsequent reports shall only be required to be filed under this subdivision if the candidate, political committee, or political party has made expenditures or accepted contributions since the last required report:

(A) in the first year of the two-year general election cycle, on March 15 and November 15 of the odd-numbered year; and

(B) in the second year of the two-year general election cycle:

(i) on March 15;

(ii) on July 15, August 1, and August 15;

(iii) on September 1;

(iv) on October 1, October 15 and November 1; and

(v) two weeks after the general election.

(2)(A) Each candidate for a four-year-term county office who has made expenditures or accepted contributions of $500.00 or more during a four-year general election cycle shall file with the Secretary of State campaign finance reports as follows, except that once such a candidate is required to file these reports, subsequent reports shall only be required to be filed under this subdivision if the candidate has made expenditures or accepted contributions since the last required report:

(i) in the first three years of the four-year general election cycle, on March 15 and November 15; and

(ii) in the fourth year of the four-year general election cycle:

(I) on March 15;

(II) on July 15, August 1, and August 15;

(III) on September 1;

(IV) on October 1, October 15 and November 1; and

(V) two weeks after the general election.

(B) As used in this subdivision (2), "four-year general election cycle" means the 48-month period that begins 38 days after a general election.

(3) The failure of a candidate, political committee, or political party to file a report under this subsection shall be deemed an affirmative statement that a report is not required of the candidate, political committee, or political party under subdivision (1) of this subsection.

Second: In Sec. 3, in 17 V.S.A. § 2965 (final reports; candidates for state office, the General Assembly, and county office; political committees; political parties), by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) At any time, but not later than December 15th following the general election, each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of $500.00 or more during the two-year general election cycle and each candidate for a four-year-term county office who has made expenditures or accepted contributions of $500.00 or more during the four-year general election cycle shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and disposition of surplus and which shall constitute the termination of his or her campaign activities.

Third: In Sec. 3, by striking out 17 V.S.A. § 2966 (reports by candidates not reaching monetary reporting threshold) in its entirety and inserting in lieu thereof the following:

§ 2966. REPORTS BY CANDIDATES NOT REACHING MONETARY REPORTING THRESHOLD

(a) Each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of less than $500.00 during a two-year general election cycle shall file with the Secretary of State 10 days following the general election a statement that the candidate has not made expenditures or accepted contributions of $500.00 or more during the two-year general election cycle.

(b) Each candidate for a four-year-term county office who has made expenditures or accepted contributions of less than $500.00 during a four-year general election cycle shall file with the Secretary of State 10 days following the general election a statement that the candidate has not made expenditures or accepted contributions of $500.00 or more during the four-year general election cycle.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Flory moved to amend the bill in Sec. 3, in 17 V.S.A. § 2924 (candidates; surplus campaign funds; new campaign accounts), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b)(1) A candidate may only retain in his or her campaign account surplus funds up to an amount equivalent to twice the amount that a single source may contribute to the candidate.

(2) In order to comply with the requirements of subdivision (1) of this subsection or to otherwise liquidate surplus funds, such funds may be:

(A) contributed to other candidates, political parties, or political committees subject to the contribution limits set forth in this chapter;

(B) contributed to a charity;

(C) contributed to the Secretary of State Services Fund; or

(D) contributed using a combination of the provisions set forth in subdivisions (A)–(C) of this subdivision (2).

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Flory?, Senator Flory requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending third reading of the bill, Senator Galbraith moved to amend the bill in Sec. 3, in 17 V.S.A. § 2926 (requirements for separate segregated funds), by adding a new subsection (d) to read as follows:

(d)(1) A corporation or labor union that registers a separate segregated fund as a political committee under this subchapter shall include in the name of that political committee the name of the corporation or labor union and may also include a clearly recognized abbreviation or acronym by which the corporation or labor union is commonly known.

(2) When filing reports required under this chapter or when making contributions, a separate segregated fund shall use either its registered name or an abbreviation or acronym registered under subdivision (1) of this subsection.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Galbraith?, Senator Nitka moved that consideration of the bill be postponed until Thursday, April 18, 2013, which was agreed to.

Bill Passed in Concurrence with Proposal of Amendment

H. 71.

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

An act relating to tobacco products.

Third Reading Ordered

H. 531.

Senator Mazza, for the Committee on Institutions, to which was referred House bill entitled:

An act relating to Building 617 in Essex.

Reported that the bill ought to pass in concurrence.

Senator Westman, for the Committee on Appropriations, 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.

Bill Amended; Third Reading Ordered

S. 155.

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

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

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

Sec. 1. SHORT TITLE

This bill may be referred to as the Strategic Workforce Enhancement and Employment Program (SWEEP).

Sec. 2. FINDINGS AND PURPOSE

(a) The State of Vermont offers a wide range of workforce training and workforce education programs designed to increase and diversify the skills of and opportunities available to the workers of this State.

(b) Over the past several years, significant resources have been devoted to enhancing many of the available workforce development opportunities. However, the current state of the economy and the continuing pressures projected for the budget over the next several years require a critical analysis of every state investment to ensure the maximum return on investment of limited resources.

(c) The General Assembly finds that Vermont's Farm to Plate Initiative can serve as an effective model for the workforce development and education strategic plan. The Initiative has greatly enhanced our collective understanding and the future development of the operation and ongoing needs of Vermont's food system. The Farm to Plate Initiative demonstrates the success of an approach that is:

(1) strategic, comprehensive, and systems-based;

(2) forward-looking, with a ten-year planning horizon;

(3) informed and driven by performance metrics; and

(4) built on a foundation of broad stakeholder engagement.

(d) In adopting this act, it is the goal of the Vermont General Assembly to use the experiences of workforce development training and education providers along with measurable data to ensure that workforce training and workforce development education programs in Vermont are effective, relevant, and responsive to the ongoing needs of Vermont's citizens, employers, and the State's economy.

(e) To achieve this goal, the General Assembly resolves to create a workforce development needs assessment and strategic plan that is:

(1) primarily constituent-driven, whereby those who use the services administered by the various workforce development education and training programs shall be consulted in order to define and understand their workforce and training needs;

(2) secondarily administrator-driven, whereby those who administer the various workforce development education and training programs are responsible for identifying, developing, and implementing the forward-looking, long-term initiatives required to meet Vermont's workforce development needs; and

(3) modeled after the Farm to Plate Initiative set forth in 10 V.S.A. § 330.

Sec. 3. 10 V.S.A § 545 is added to read:

§ 545. WORKFORCE DEVELOPMENT NEEDS ASSESSMENT AND STRATEGIC PLAN

(a) The Commissioner of Labor, in coordination with the Secretary of Commerce and Community Development and the Secretary of Education, and in consultation with the Workforce Development Council and the Secretary of Human Services, shall create a strategic plan for workforce development in Vermont that shall:

(1) identify the components of Vermont's labor market and workforce trends based upon existing data, studies, and analysis;

(2) identify current and future workforce skill requirements; and

(3) identify and determine the effectiveness of existing state workforce development and training resources, including those programs established under this chapter, chapters 22 and 22A of this title, and 16 V.S.A. chapters 37 and 39, and recommend ways to enhance operational efficiencies.

(b) The strategic plan shall identify gaps between the public, nonprofit, and private workforce development programs and Vermont's workforce development needs and propose measures to bridge these gaps.

(c) The Commissioner of Labor shall:

(1) consider the Farm to Plate Initiative, as set forth in section 330 of this title, as a model for the design and implementation of the needs assessment and strategic plan and consult with the Vermont Sustainable Jobs Fund in these efforts;

(2) use the information gathered from the needs assessment and the strategic plan on an ongoing basis to identify methods and funding necessary to strengthen the link among the Vermont workforce and public, nonprofit, and private workforce development programs;

(3) coordinate with the State Auditor of Accounts to develop measurable benchmarks to assess the performance of the State's workforce development programs; and

(4) on or before January 15 of each year, submit to the House Committee on Commerce and Economic Development, the Senate Committee on Economic Development, Housing and General Affairs, and the House and Senate Committees on Education a report on the workforce development strategic plan and the performance of the State's workforce development programs.

(d) The Commissioner of Labor may seek and accept funds from private and public entities and utilize technical assistance, loans, grants, and other means as available for the purposes of this section.

Sec. 4. APPROPRIATIONS; TRANSFERS

Of the amounts appropriated to the Department of Labor from the Workforce Education and Training Fund in fiscal year 2014, the amount of $150,000.00 shall be used to fund the design and implementation of the workforce development needs assessment and strategic plan pursuant to 10 V.S.A. § 545.

Sec. 5. AUTHORIZATION OF LIMITED SERVICE POSITION

(a) Of the funds transferred pursuant to Sec. 3 of this act, the Commissioner of Labor is authorized to expend:

(1) up to $100,000.00 for salary and benefits for one limited service position to design and implement the workforce development needs assessment and strategic plan pursuant to 10 V.S.A. § 545; and

(2) up to $50,000.00 for expenses incurred for travel, consulting, reporting, meeting, and other activities arising from the design and implementation of the workforce development needs assessment and strategic plan pursuant to 10 V.S.A. § 545.

(b) Unless additional funding is authorized by the General Assembly in subsequent years, funding for the limited service position created in this section shall be for one year.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

And that when so amended the bill ought to pass.

Senator Fox, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

By striking out Secs. 4 and 5, and redesignating Sec. 6 (effective date) as Sec. 4.

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, and the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

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

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 39.

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

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

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:

* * * Electronic Filings and Case Management * * *

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

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

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

* * *

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

§ 11a. ELECTRONIC FILING AND ISSUANCE

(a) As used in this section:

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

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

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

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

(5) "Electronic issuance" means:

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

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

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

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

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

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

(3) for any filing or submittal to the Board for which the filing or submitting entity is required to provide notice or a copy to another state agency under this title or under 10 V.S.A. chapter 43, waive such requirement if the

state agency will receive notice of and access to the filing or submittal through an electronic filing system; and

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

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

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

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

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

* * *

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

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

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

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

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

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

§ 225. RATE SCHEDULES

(a) Within a time to be fixed by the board, each company subject to the provisions of this chapter shall file with the ~~department~~ Department and the Board, with separate filings to the ~~directors for regulated utility planning and public advocacy~~ Directors for Regulated Utility Planning and for Public Advocacy, schedules which shall be open to public inspection, showing all rates including joint rates for any service performed or any product furnished by it within the ~~state~~ State, and as a part thereof shall file the rules and regulations that in any manner affect the tolls or rates charged or to be charged for any such service or product. Those schedules, or summaries of the schedules approved by the ~~department~~ Department, shall be published by the company in two newspapers with general circulation in the ~~state~~ State within 15 days after such filing. A change shall not thereafter be made in any such schedules, including schedules of joint rates or in any such rules and regulations, except upon 45 days notice to the ~~board and to the department of public service~~ Board and the Department, and such notice to parties affected by such schedules as the ~~board~~ Board shall direct. The ~~board~~ Board shall consider the ~~department's~~ Department's recommendation and take action pursuant to sections 226 and 227 of this title before the date on which the changed rate is to become effective. All such changes shall be plainly indicated upon existing schedules, or by filing new schedules in lieu thereof 45 days prior to the time the same are to take effect. Subject only to temporary increases, rates may not thereafter be raised without strictly complying with the notice and filing requirements set forth in this section. In no event may a company amend, supplement, or alter an existing filing or substantially revise the proof in support of such filing in order to increase, decrease, or substantiate a pending rate request, unless, upon opportunity for hearing, the company demonstrates that such a change in filing or proof is necessary for the purpose of providing adequate and efficient service. However, upon application of any company subject to the provisions of this chapter, and with the consent of the ~~department of public service~~ Department, the ~~board~~ Board may for good cause shown prescribe a shorter time within which such change may be made; but a change which in effect decreases such tolls or rates may be made upon five days' notice to the ~~board and the department of public service~~ Board and the Department and such notice to parties affected as the ~~board~~ Board shall direct.

(b) Immediately upon receipt of notice of a change in a rate schedule filed by a company, the ~~department~~ Department shall investigate the justness and reasonableness of that change. At least 15 days prior to the date on which the

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

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

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

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

* * *

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

* * *

* * * Participation in Federal Proceedings * * *

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

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

* * * Coordination of Energy Planning * * *

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

§ 202. ELECTRICAL ENERGY PLANNING

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

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

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

(2) an assessment of all energy resources available to the ~~state~~ State for electrical generation or to supply electrical power, including, among others,

fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy and strategies for minimizing the economic and environmental costs of energy supply, including the production of pollutants, by means of efficiency and emission improvements, fuel shifting, and other appropriate means;

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

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

(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate ~~five-year~~ six-year period, for the next succeeding ~~five-year~~ six-year period, and long-term sustainable strategies for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont.

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

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

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

(E) Vermont electric transmission companies;

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

(G) industrial customer representatives;

(H) commercial customer representatives;

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

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

(K) other interested state agencies; and

(L) other energy providers.

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

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

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

(g) The ~~director~~ Director shall annually review that portion of a plan extending over the next ~~five~~ six years. The ~~department~~ Department, through the ~~director~~ Director, shall ~~annually~~ biennially extend the plan by ~~one~~ two additional ~~year~~ years; and from time to time, ~~but in no~~ and in any event ~~less than~~ every ~~five years~~ sixth year, institute proceedings to review a plan and make revisions, where necessary. The ~~five year~~ six-year review and any

interim revisions shall be made according to the procedures established in this section for initial adoption of the plan. The six-year review and any revisions made in connection with that review shall be performed contemporaneously with readoption of the comprehensive energy plan under section 202b of this title.

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

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

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

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

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

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

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

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

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

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

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

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

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

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

Sec. 10. INTENT; RETROACTIVE APPLICATION

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

* * * Smart Meter Report * * *

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

(c) Reports.

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

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

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

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

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

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

* * * Joint Energy and Utility Committee * * *

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

CHAPTER 17. JOINT ENERGY AND UTILITY COMMITTEE

§ 601. CREATION OF COMMITTEE; MEETINGS

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

(b) The ~~committee~~ Committee shall elect a chair, ~~vice-chair~~ vice chair, and clerk and shall adopt rules of procedure. The ~~chair~~ Chair shall rotate biennially between the ~~house~~ House and the ~~senate~~ Senate members. The ~~committee~~ Committee may meet during a session of the ~~general assembly~~ General Assembly at the call of the ~~chair~~ Chair or a majority of the members of the

~~committee~~ Committee. The ~~committee~~ Committee may meet no more than four times during adjournment ~~subject to approval of the speaker of the house and the president pro tempore of the senate~~, except that the Speaker of the House and the President Pro Tempore of the Senate may approve one or more additional meetings of the Committee during adjournment.

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

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

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

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

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

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

§ 603. ~~FUNCTIONS~~ DUTIES

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

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

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

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

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

(1) the Public Service Board;

(2) the Commissioner of Public Service;

(3) ratepayers and advocacy groups;

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

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

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

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

* * *

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

Sec. 13. REPORT; NEW ELECTRIC TRANSMISSION FACILITIES

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

(1) An assessment of:

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

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

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

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

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

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

* * * Public Service Board Ratemaking * * *

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

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

Sec. 15. APPLICATION

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

* * * Effective Date * * *

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage.

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.

Thereupon, Senator Rodgers moved to amend the proposal of amendment of the Committee on Finance, in Sec. 6, 30 V.S.A. § 248, by striking out subsection (f) in its entirety and inserting in lieu thereof the following:

(f) However~~, the~~:

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

(2) The petitioner shall submit plans for the construction of such a facility within the ~~state must be submitted by the petitioner~~ State to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement. Such municipal or regional planning commission may hold a public hearing on

the proposed plans. Such commissions ~~shall~~ may make recommendations~~, if any,~~ to the ~~public service board~~ Public Service Board and to the petitioner ~~at least seven days prior to filing of the petition~~ within 21 days after the date the petition is filed with the ~~public service board~~ Board.

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Finance be amended as proposed by Senator Rodgers?, Senator Rodgers requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, was agreed to.

Thereupon, pending the question, Shall the bill be read the third time?, Senator Ayer moved to amend the Senate proposal of amendment by striking out Secs. 14 and 15 in their entirety, which was disagreed to on a roll call, Yeas 5, Nays 23.

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, Cummings, Doyle, Snelling, White.

Those Senators who voted in the negative were: Ashe, Baruth, Benning, Bray, Collins, Flory, Fox, French, Galbraith, Hartwell, Kitchel, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Starr, Westman, Zuckerman.

Those Senators absent or not voting were: Campbell (presiding), Lyons.

Thereupon, third reading of the bill was ordered.

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 House bills of the following titles:

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

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

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 relating weekend adjournment.

And has adopted the same in concurrence.

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

H. 431. An act relating to mediation in foreclosure actions.

And has severally concurred therein.

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Thursday, April 18, 2013.

THURSDAY, APRIL 18, 2013

The Senate was called to order by the President.

Devotional Exercises

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

Bill Referred to Committee on Appropriations

S. 119.

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 amending perpetual conservation easements.

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. 60.

An act relating to providing state financial support for school meals for children of low-income households.

H. 169.

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

H. 182.

An act relating to search and rescue.

Bills Referred

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

H. 200.

An act relating to civil penalties for possession of marijuana.

To the Committee on Rules.

H. 525.

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

To the Committee on Rules.

Committee Relieved of Further Consideration; Bills Committed

H. 198.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the Legacy Insurance Management Act,

and the bill was committed to the Committee on Finance.

H. 200.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to civil penalties for possession of marijuana,

and the bill was committed to the Committee on Judiciary.

H. 395.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the establishment of the Vermont Clean Energy Loan Fund,

and the bill was committed to the Committee on Economic Development, Housing and General Affairs.

H. 521.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to making miscellaneous amendments to education law,

and the bill was committed to the Committee on Education.

H. 525.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to approval of amendments to the charter of the Town of Stowe,

and the bill was committed to the Committee on Government Operations.

H. 529.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

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

and the bill was committed to the Committee on Government Operations.

Bill Passed

S. 155.

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

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

Bill Passed in Concurrence

H. 531.

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

An act relating to Building 617 in Essex.

Proposals of Amendment; Third Reading Ordered

H. 280.

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

An act relating to payment of wages.

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

First: In Sec. 1, 21 V.S.A. § 341, in subdivision (5), by striking out the word "bonuses" and inserting in lieu thereof incentive pay

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

Sec. 2. 21 V.S.A. § 342 is amended to read:

§ 342. WEEKLY PAYMENT OF WAGES

(a)(1) Any ~~person~~ employer having one or more employees doing and transacting business within the ~~state~~ State shall pay each week, in lawful money or checks, the wages earned by each employee to a day not more than six days prior to the date of such payment.

(2) After giving written notice to the employee or employees, any ~~person~~ employer having an employee or employees doing and transacting business within the ~~state~~ State may, notwithstanding subdivision (1) of this subsection, pay biweekly or semimonthly in lawful money or checks~~,~~ each employee the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment.

* * *

Third: In Sec. 3, 21 V.S.A. § 342a, in subsection (f), by inserting a sentence at the end of the subsection to read as follows: "The costs of transcription shall be paid by the requesting party."

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 proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

House Proposals of Amendment Concurred In

S. 159.

House proposals of amendment to Senate bill entitled:

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

Were taken up.

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

First: In Sec. 1, 10 V.S.A. § 6001, in subdivision (3)(D)(vii), by striking out the following: unless the chair of the district commission, after notice and opportunity for hearing, determines that action has been taken to circumvent the requirements of this chapter, and

Second: By striking out Sec. 6 (repeal of 10 V.S.A. § 6001e) in its entirety and inserting in lieu thereof the following: [Deleted.]

Third: In Sec. 14, 10 V.S.A. § 6089, in the last sentence, by striking out the following: 6001(3)(D)(vii) and inserting in lieu thereof the following: 6001e

Fourth: In Sec. 21, 10 V.S.A. § 8020(c) and (d), in subsection (d), in the first sentence, after the word document, by striking out the word and and inserting in lieu thereof the word or

Thereupon, the question, Shall the Senate concur in the House proposals of amendment?, was decided in the affirmative.

Consideration Resumed; Bill Amended; Bill Passed

S. 82.

Consideration was resumed on Senate bill entitled:

An act relating to campaign finance law.

Thereupon, pending the question, Shall the bill be amended as moved by Senator Galbraith?, Senator Galbraith requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending third reading of the bill, Senators Nitka, Flory, Ayer, Cummings, French, McAllister, and White moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Unduly large campaign contributions reduce public confidence in the electoral process and increase the risk and the appearance that candidates and

elected officials may be beholden to contributors and not act in the best interests of all Vermont citizens.

(2) When a person is able to make unduly large contributions to a candidate, there is a risk of voters losing confidence in our system of representative government because voters may believe that a candidate will be more likely to represent the views of persons who make those contributions and less likely to represent views of their constituents and Vermont citizens in general. This loss of confidence may lead to increased voter cynicism and a lack of participation in the electoral process among both candidates and voters.

(3) Lower limits encourage candidates to interact and communicate with a greater number of voters in order to receive contributions to help fund a campaign, rather than to rely on a small number of large contributions. This interaction between candidates and the electorate helps build a greater confidence in our representative government and is likely to make candidates more responsive to voters.

(4) Different limits on contributions to candidates based on the office they seek are necessary in order for these candidates to run effective campaigns. Moreover, since it generally costs less to run an effective campaign for lower ticket races, a uniform limit on contributions for all offices could enable contributors to exert undue influence over those lower ticket races.

(5) Exempting certain activities of political parties from the definition of what constitutes a contribution is important so as to not overly burden collective political activity. These activities, such as using the assistance of volunteers, preparing party candidate listings, and hosting certain campaign events, are part of a party's traditional role in assisting candidates to run for office. Moreover, these exemptions help protect the right to associate in a political party.

(6) In order to provide the electorate with information regarding who seeks to influence their votes through campaign advertising; to make campaign financing more transparent; to aid voters in evaluating those seeking office; to deter actual corruption and avoid its appearance by exposing contributions and expenditures to the light of publicity; and to gather data necessary to detect violations of contributions limits, it is imperative that Vermont increase the frequency of campaign finance reports and include more information in electioneering communications.

(7) Increasing identification information in electioneering communications, such as requiring the names of top contributors to the political committee or political party that paid for the communication, will enable the electorate to immediately evaluate the speaker's message and will

bolster the sufficiently important interest in permitting Vermonters to learn the sources of significant influence in our State's elections.

(8) The General Assembly is aware of reports of potential corruption in other states and in federal politics. It is important to enact legislation that will prevent corruption here and maintain the electorate's confidence in the integrity of Vermont's government.

(9) This act is necessary in order to implement more fully the provisions of Article 8 of Chapter I of the Constitution of the State of Vermont, which declares "That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution."

Sec. 2. REPEAL

17 V.S.A. chapter 59 (campaign finance) is repealed.

Sec. 3. 17 V.S.A. chapter 61 is added to read:

CHAPTER 61. CAMPAIGN FINANCE

Subchapter 1. General Provisions

§ 2901. DEFINITIONS

As used in this chapter:

(1) "Candidate" means an individual who has taken affirmative action to become a candidate for state, county, local, or legislative office in a primary, special, general, or local election. An affirmative action shall include one or more of the following:

(A) accepting contributions or making expenditures totaling $500.00 or more;

(B) filing the requisite petition for nomination under this title or being nominated by primary or caucus; or

(C) announcing that the individual seeks an elected position as a state, county, or local officer or a position as representative or senator in the General Assembly.

(2) "Candidate's committee" means the candidate's campaign staff, whether paid or unpaid.

(3) "Clearly identified," with respect to a candidate, means:

(A) the name of the candidate appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(4) "Contribution" means a payment, distribution, advance, deposit, loan, or gift of money or anything of value, paid or promised to be paid for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates in any election. For purposes of this chapter, "contribution" shall not include any of the following:

(A) a personal loan of money to a candidate from a lending institution made in the ordinary course of business;

(B) services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political party;

(C) unreimbursed travel expenses paid for by an individual for himself or herself who volunteers personal services to a candidate;

(D) unreimbursed campaign-related travel expenses paid for by the candidate or the candidate's spouse;

(E) the use by a candidate or volunteer of his or her own personal property, including offices, telephones, computers, and similar equipment;

(F) the use of a political party's offices, telephones, computers, and similar equipment;

(G) the payment by a political party of the costs of preparation, display, or mailing or other distribution of a party candidate listing;

(H) documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this title, lists of registered voters, and voter identification information created, obtained, or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party or to another political party;

(I) compensation paid by a political party to its employees whose job responsibilities are not for the specific and exclusive benefit of a single candidate in any election;

(J) compensation paid by a political party to its employees or consultants for the purpose of providing assistance to another political party;

(K) campaign training sessions provided to three or more candidates;

(L) costs paid for by a political party in connection with a campaign event at which three or more candidates are present; or

(M) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention or depict a clearly identified candidate.

(5) "Election" means the procedure whereby the voters of this State or any of its political subdivisions select a person to be a candidate for public office or to fill a public office or to act on public questions including voting on constitutional amendments. Each primary, general, special, or local election shall constitute a separate election.

(6) "Electioneering communication" means any communication that refers to a clearly identified candidate for office and that promotes or supports a candidate for that office or attacks or opposes a candidate for that office, regardless of whether the communication expressly advocates a vote for or against a candidate, including communications published in any newspaper or periodical or broadcast on radio or television or over the Internet or any public address system; placed on any billboards, outdoor facilities, buttons, or printed material attached to motor vehicles, window displays, posters, cards, pamphlets, leaflets, flyers, or other circulars; or contained in any direct mailing, robotic phone calls, or mass e-mails.

(7) "Expenditure" means a payment, disbursement, distribution, advance, deposit, loan, or gift of money or anything of value, paid or promised to be paid, for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates. For the purposes of this chapter, "expenditure" shall not include any of the following:

(A) a personal loan of money to a candidate from a lending institution made in the ordinary course of business;

(B) services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political party;

(C) unreimbursed travel expenses paid for by an individual for himself or herself who volunteers personal services to a candidate; or

(D) unreimbursed campaign-related travel expenses paid for by the candidate or the candidate's spouse.

(8) "Full name" means an individual's full first name, middle name or initial, if any, and full legal last name, making the identity of the person who made the contribution apparent by unambiguous reference.

(9) "Independent expenditure-only political committee" means a political committee that conducts its activities entirely independent of candidates; does not give contributions to candidates, political committees, or

political parties; does not make related expenditures; and is not closely related to a political party or to a political committee that makes contributions to candidates or makes related expenditures.

(10) "Mass media activity" means a television commercial, radio commercial, mass mailing, mass electronic or digital communication, literature drop, newspaper or periodical advertisement, robotic phone call, or telephone bank, which includes the name or likeness of a clearly identified candidate for office.

(11) "Party candidate listing" means any communication by a political party that:

(A) lists the names of at least three candidates for election to public office;

(B) is distributed through public advertising such as broadcast stations, cable television, newspapers, and similar media or through direct mail, telephone, electronic mail, a publicly accessible site on the Internet, or personal delivery;

(C) treats all candidates in the communication in a substantially similar manner; and

(D) is limited to:

(i) the identification of each candidate, with which pictures may be used;

(ii) the offices sought;

(iii) the offices currently held by the candidates;

(iv) the party affiliation of the candidates and a brief statement about the party or the candidates' positions, philosophy, goals, accomplishments, or biographies;

(v) encouragement to vote for the candidates identified; and

(vi) information about voting, such as voting hours and locations.

(12) "Political committee" or "political action committee" means any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, which accepts contributions of $1,000.00 or more and makes expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of supporting or opposing one or more candidates, influencing an election, or advocating a position on a public question in any election, and includes an independent expenditure-only political committee.

(13) "Political party" means a political party organized under chapter 45 of this title and any committee established, financed, maintained, or controlled by the party, including any subsidiary, branch, or local unit thereof, and shall be considered a single, unified political party. The national affiliate of the political party shall be considered a separate political party.

(14) "Public question" means an issue that is before the voters for a binding decision.

(15) "Single source" means an individual, partnership, corporation, association, labor organization, or any other organization or group of persons which is not a political committee or political party.

(16) "Telephone bank" means more than 500 telephone calls of an identical or substantially similar nature that are made to the general public within any 30-day period.

(17) "Two-year general election cycle" means the 24-month period that begins 38 days after a general election.

§ 2902. EXCEPTIONS

The definitions of "contribution," "expenditure," and "electioneering communication" shall not apply to:

(1) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication that has not been paid for or such facilities are not owned or controlled by any political party, committee, or candidate; or

(2) any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and if all candidates in the race have an equal opportunity to promote their candidacies through the station.

§ 2903. PENALTIES

(a) A person who knowingly and intentionally violates a provision of subchapter 2, 3, or 4 of this chapter shall be fined not more than $1,000.00 or imprisoned not more than six months or both.

(b) A person who violates any provision of this chapter shall be subject to a civil penalty of up to $10,000.00 for each violation and shall refund the unspent balance of Vermont campaign finance grants received under subchapter 5 of this chapter, if any, calculated as of the date of the violation.

(c) In addition to the other penalties provided in this section, a state's attorney or the Attorney General may institute any appropriate action,

injunction, or other proceeding to prevent, restrain, correct, or abate any violation of this chapter.

§ 2904. CIVIL INVESTIGATION

(a)(1) The Attorney General or a state's attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule or regulation made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, or physical objects of any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation.

(2) The Attorney General or a state's attorney may require the attendance of such person or of any other person having knowledge in the premises in the county where such person resides or has a place of business or in Washington County if such person is a nonresident or has no place of business within the State and may take testimony and require proof material for his or her information and may administer oaths or take acknowledgment in respect of any book, record, paper, or memorandum.

(3) The Attorney General or a state's attorney shall serve notice of the time, place, and cause of such examination or attendance or notice of the cause of the demand for written responses personally or by certified mail upon such person at his or her principal place of business or, if such place is not known, to his or her last known address. Such notice shall include a statement that a knowing and intentional violation of subchapters 2 through 4 of this chapter is subject to criminal prosecution.

(4) Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this State for good cause shown, be disclosed to any person other than the authorized agent or representative of the Attorney General or a state's attorney or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same, except that any transcript of oral testimony, written responses, documents, or other information produced pursuant to this section may be used in the enforcement of this chapter, including in connection with any civil action brought under section 2903 of this subchapter or subsection (c) of this section.

(5) Nothing in this subsection is intended to prevent the Attorney General or a state's attorney from disclosing the results of an investigation conducted under this section, including the grounds for his or her decision as to whether to bring an enforcement action alleging a violation of this chapter or of any rule or regulation made pursuant to this chapter.

(6) This subsection shall not be applicable to any criminal investigation or prosecution brought under the laws of this or any state.

(b)(1) A person upon whom a notice is served pursuant to the provisions of this section shall comply with its terms unless otherwise provided by the order of a court of this State.

(2) Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place; conceals, withholds, or destroys; or mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject to such notice or mistakes or conceals any information shall be fined not more than $5,000.00.

(c)(1) Whenever any person fails to comply with any notice served upon him or her under this section or whenever satisfactory copying or reproduction of any such material cannot be done and the person refuses to surrender the material, the Attorney General or a state's attorney may file, in the superior court in which the person resides or has his or her principal place of business or in Washington County if the person is a nonresident or has no principal place of business in this State, and serve upon the person a petition for an order of the court for the enforcement of this section.

(2) Whenever any petition is filed under this section, the court shall have jurisdiction to hear and determine the matter so presented and to enter any order or orders as may be required to carry into effect the provisions of this section. Any disobedience of any order entered under this section by any court shall be punished as a contempt of the court.

(d) Any person aggrieved by a civil investigation conducted under this section may seek relief from Washington Superior Court or the superior court in the county in which the aggrieved person resides. Except for cases the court considers to be of greater importance, proceedings before superior court as authorized by this section shall take precedence on the docket over all other cases. Any person who seeks relief and prevails may be awarded the costs of seeking relief, including reasonable attorney's fees.

§ 2905. ADJUSTMENTS FOR INFLATION

(a) Whenever it is required by this chapter, the Secretary of State shall make adjustments to monetary amounts provided in this chapter based on the Consumer Price Index. Increases shall be rounded to the nearest $10.00 and shall apply for the term of two two-year general election cycles. Increases shall be effective for the first two-year general election cycle beginning after the general election held in 2016.

(b) On or before the first two-year general election cycle beginning after the general election held in 2016, the Secretary of State shall calculate and publish on the online database set forth in section 2906 of this chapter each adjusted monetary amount that will apply to those two two-year general election cycles. On or before the beginning of each second subsequent two-year general election cycle, the Secretary shall publish the amount of each adjusted monetary amount that shall apply for that two-year general election cycle and the next two-year general election cycle.

§ 2906. CAMPAIGN DATABASE; CANDIDATE INFORMATION PUBLICATION

(a) Campaign database. For each two-year general election cycle, the Secretary of State shall develop and continually update a publicly accessible campaign database which shall be made available to the public through the Secretary of State's home page online service or through printed reports from the Secretary in response to a public request within 14 days of the date of the request. The database shall contain:

(1) at least the following information for all candidates for statewide, county, and local office and for the General Assembly:

(A) for candidates receiving public financing grants, the amount of each grant awarded; and

(B) the information contained in any reports submitted pursuant to subchapter 4 of this chapter;

(2) campaign finance reports filed by candidates for federal office;

(3) the adjustments for inflation made to monetary amounts as required by this chapter; and

(4) any photographs, biographical sketches, and position statements submitted to the Secretary pursuant to subsection (b) of this section.

(b) Candidate information publication.

(1) Any candidate for statewide office and any candidate for federal office qualified to be on the ballot in this State may submit to the Secretary of State a photograph, biographical sketch, and position statement of a length and format specified by the Secretary for the purposes of preparing a candidate information publication.

(2) Without making any substantive changes in the material presented, the Secretary shall prepare a candidate information publication for statewide distribution prior to the general election, which includes the candidates' photographs, biographies, and position statements; a brief explanation of the

process used to obtain candidate submissions; and, with respect to offices for which public financing is available, an indication of which candidates are receiving Vermont campaign finance grants and which candidates are not receiving Vermont campaign finance grants.

(3) The Secretary shall prepare, publish, and distribute the candidate information publication throughout the State no later than one week prior to the general election. The Secretary shall also seek voluntary distribution of the candidate information publication in weekly and daily newspapers and other publications in the State. The Secretary shall also make the candidate information publication available in large type, audiotape, and Internet versions.

§ 2907. ADMINISTRATION

The Secretary of State shall administer this chapter and shall perform all duties required under this chapter. The Secretary may employ or contract for the services of persons necessary for performance of these duties.

Subchapter 2. Registration and Maintenance Requirements

§ 2921. CANDIDATES; REGISTRATION; CHECKING ACCOUNT; TREASURER

(a) Each candidate who has made expenditures or accepted contributions of $500.00 or more in a two-year general election cycle shall register with the Secretary of State stating his or her full name and address; the office the candidate is seeking; the name and address of the bank in which the candidate maintains his or her campaign checking account; and the name and address of the treasurer responsible for maintaining the checking account. A candidate's treasurer may be the candidate or his or her spouse.

(b) All expenditures by a candidate shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the candidate under subsection (a) of this section, or, if under $250.00, the candidate may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the candidate for at least two years from the end of the two-year general election cycle in which the expenditure was made.

§ 2922. POLITICAL COMMITTEES; REGISTRATION; CHECKING ACCOUNT; TREASURER

(a) Each political committee shall register with the Secretary of State within 10 days of making expenditures of $1,000.00 or more and accepting contributions of $1,000.00 or more stating its full name and address; the name

and address of the bank in which it maintains its campaign checking account; and the name and address of the treasurer responsible for maintaining the checking account.

(b) All expenditures by a political committee shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the political committee under subsection (a) of this section, or, if under $250.00, the political committee may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall be maintained by the political committee for at least two years from the end of the two-year general election cycle in which the expenditure was made.

(c) A political committee whose principal place of business or whose treasurer is not located in this State shall file a statement with the Secretary of State designating a person who resides in this State upon whom may be served any process, notice, or demand required or permitted by law to be served upon the political committee. This statement shall be filed at the same time as the registration required in subsection (a) of this section.

§ 2923. POLITICAL PARTIES; REGISTRATION; CHECKING ACCOUNTS; TREASURER

(a)(1) Each political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year general election cycle shall register with the Secretary of State within 10 days of reaching the $1,000.00 threshold. In its registration, the party shall state its full name and address, the name and address of the bank in which it maintains its campaign checking account, and the name and address of the treasurer responsible for maintaining the checking account.

(2) A political party may permit any subsidiary, branch, or local unit of the political party to maintain its own checking account. If a subsidiary, branch, or local unit of a political party is so permitted, it shall file with the Secretary of State within five days of establishing the checking account its full name and address, the name of the political party, the name and address of the bank in which it maintains its campaign checking account, and the name and address of the treasurer responsible for maintaining the checking account.

(b) All expenditures by a political party or its subsidiary, branch, or local unit shall be paid by either a credit card or a debit card, check, or other electronic transfer from the single campaign checking account in the bank designated by the political party under subsection (a) of this section, or if under $250.00, the political party may make the expenditure from cash from that campaign checking account if accompanied by a receipt, a copy of which shall

be maintained by the political party for at least two years from the end of the two-year general election cycle in which the expenditure was made.

(c) A political party or its subsidiary, branch, or local unit whose principal place of business or whose treasurer is not located in this State shall file a statement with the Secretary of State designating a person who resides in this State upon whom may be served any process, notice, or demand required or permitted by law to be served upon the political party, subsidiary, branch, or local unit. This statement shall be filed at the same time as the registration required in subsection (a) of this section.

§ 2924. CANDIDATES; SURPLUS CAMPAIGN FUNDS; NEW CAMPAIGN ACCOUNTS

(a) A candidate who has surplus funds after all campaign debts have been paid shall not convert the surplus to personal use, other than to reduce personal campaign debts or as otherwise provided in this chapter.

(b) Surplus funds in a candidate's account may be:

(1) contributed to other candidates, political parties, or political committees subject to the contribution limits set forth in this chapter;

(2) contributed to a charity;

(3) contributed to the Secretary of State Services Fund; or

(4) contributed using a combination of the provisions set forth in subdivisions (1)–(3) of this subsection.

(c) The "final report" of a candidate shall indicate the amount of the surplus and how it has been or is to be liquidated.

(d)(1) A candidate who chooses to roll over any surplus contributions into a new campaign account for public office may close out his or her former campaign by filing a final report with the Secretary of State converting all debts and assets to the new campaign.

(2) A candidate who rolls over surplus contributions into a new campaign account shall be required to file a new bank designation form only if there has been a change in the treasurer or the location of the campaign account.

§ 2925. POLITICAL COMMITTEES; SURPLUS CAMPAIGN FUNDS

(a) A member of a political committee which has surplus funds after all campaign debts have been paid shall not convert the surplus to personal use.

(b) Surplus funds in a political committee's account may be:

(1) contributed to other candidates, political parties, or political committees subject to the contribution limits set forth in this chapter;

(2) contributed to a charity;

(3) contributed to the Secretary of State Services Fund; or

(4) contributed using a combination of the provisions set forth in subdivisions (1)–(3) of this subsection.

(c) The "final report" of a political committee shall indicate the amount of the surplus and how it has been or is to be liquidated.

Subchapter 3. Contribution Limitations

§ 2941. LIMITATIONS OF CONTRIBUTIONS

In any two-year general election cycle:

(1) A candidate for state representative or for local office shall not accept contributions totaling more than:

(A) $750.00 from a single source;

(B) $750.00 from a political committee; or

(C) $3,000.00 from a political party.

(2) A candidate for state senator or county office shall not accept contributions totaling more than:

(A) $1,500.00 from a single source;

(B) $1,500.00 from a political committee; or

(C) $6,000.00 from a political party.

(3) A candidate for the office of Governor, Lieutenant Governor, Secretary of State, State Treasurer, Auditor of Accounts, or Attorney General shall not accept contributions totaling more than:

(A) $3,000.00 from a single source;

(B) $3,000.00 from a political committee; or

(C) $85,000.00 from a political party.

(4) A political committee shall not accept contributions totaling more than:

(A) $3,000.00 from a single source;

(B) $3,000.00 from a political committee; or

(C) $3,000.00 from a political party.

(5) A political party shall not accept contributions totaling more than:

(A) $3,000.00 from a single source;

(B) $3,000.00 from a political committee; or

(C) $30,000.00 from a political party.

(6) A single source shall not contribute more than an aggregate of:

(A) $25,000.00 to candidates; and

(B) $25,000.00 to political committees and political parties.

(7) A single source, political committee, or political party shall not contribute more to a candidate, political committee, or political party than the candidate, political committee, or political party is permitted to accept under subdivisions (1) through (5) of this section.

§ 2942. EXCEPTIONS

The contribution limitations established by this subchapter shall not apply to contributions to a political committee made for the purpose of advocating a position on a public question, including a constitutional amendment.

§ 2943. LIMITATIONS ADJUSTED FOR INFLATION

The contribution limitations contained in this subchapter shall be adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

§ 2944. ACCOUNTABILITY FOR RELATED EXPENDITURES

(a) A related campaign expenditure made on a candidate's behalf shall be considered a contribution to the candidate on whose behalf it was made.

(b) For the purposes of this section, a "related campaign expenditure made on the candidate's behalf" means any expenditure intended to promote the election of a specific candidate or group of candidates or the defeat of an opposing candidate or group of candidates if intentionally facilitated by, solicited by, or approved by the candidate or the candidate's committee.

(c)(1) An expenditure made by a political party or by a political committee that recruits or endorses candidates that primarily benefits six or fewer candidates who are associated with the political party or political committee making the expenditure is presumed to be a related expenditure made on behalf of those candidates, except that the acquisition, use, or dissemination of the images of those candidates by the political party or political committee shall not be presumed to be a related expenditure made on behalf of those candidates.

(2) An expenditure made by a political party or by a political committee that recruits or endorses candidates that substantially benefits more than six candidates and facilitates party or political committee functions, voter turnout, platform promotion, or organizational capacity shall not be presumed to be a related expenditure made on a candidate's behalf.

(3) For the purposes of this section, a "related campaign expenditure made on the candidate's behalf" does not mean:

(A) the cost of invitations and postage and of food and beverages voluntarily provided by an individual in conjunction with an opportunity for a group of voters to meet a candidate if the cumulative value of these items provided by the individual on behalf of any candidate does not exceed $500.00 per event; or

(B) the sale of any food or beverage by a person for use at a campaign event providing an opportunity for a group of voters to meet a candidate if the charge to the candidate is at least equal to the cost of the food or beverages to the person and if the cumulative value of the food or beverages does not exceed $500.00 per event.

(d)(1) A candidate may seek a determination that an expenditure is a related expenditure made on behalf of an opposing candidate by filing a petition with the superior court of the county in which either candidate resides.

(2) Within 24 hours of the filing of a petition, the court shall schedule the petition for hearing. Except as to cases the court considers of greater importance, proceedings before the superior court, as authorized by this section, and appeals therefrom take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(3) The findings and determination of the court shall be prima facie evidence in any proceedings brought for violation of this chapter.

(e) The Secretary of State may adopt rules necessary to administer the provisions of this section.

§ 2945. ACCEPTING CONTRIBUTIONS

(a) A candidate, political committee, or political party accepts a contribution when the contribution is deposited in the candidate's, committee's, or party's campaign account or two business days after the candidate, committee, or party receives it, whichever comes first.

(b) A candidate, political committee, or political party shall not accept a monetary contribution in excess of $50.00 unless made by check, credit or debit card, or other electronic transfer.

§ 2946. CANDIDATE'S ATTRIBUTION TO PREVIOUS CYCLE

A candidate's expenditures related to a previous campaign and contributions used to retire a debt of a previous campaign shall be attributed to the earlier campaign.

§ 2947. CONTRIBUTIONS FROM A CANDIDATE OR IMMEDIATE FAMILY

This subchapter shall not be interpreted to limit the amount a candidate or his or her immediate family may contribute to his or her own campaign. For purposes of this subsection, "immediate family" means a candidate's spouse, parent, grandparent, child, grandchild, sister, brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, legal guardian, or former legal guardian.

§ 2948. PROHIBITION ON TRANSFERRING CONTRIBUTIONS

A candidate, political committee, or political party shall not accept a contribution which the candidate, political committee, or political party knows is not directly from the contributor but was transferred to the contributor by another person for the purpose of transferring the same to the candidate, political committee, or political party or otherwise circumventing the provisions of this chapter. It shall be a violation of this chapter for a person to make a contribution with the explicit or implicit understanding that the contribution will be transferred in violation of this section.

§ 2949. USE OF TERM "CANDIDATE"

For purposes of this subchapter, the term "candidate" includes the candidate's committee, except in regard to the provisions of section 2947 of this subchapter.

Subchapter 4. Reporting Requirements; Disclosures

§ 2961. SUBMISSION OF REPORTS TO THE SECRETARY OF STATE

(a)(1) The Secretary of State shall provide on the online database set forth in section 2906 of this chapter digital access to the form that he or she provides for any report required by this chapter. Digital access shall enable any person required to file a report under this chapter to file the report by completing and submitting the report to the Secretary of State online.

(2) The Secretary shall maintain on the online database reports that have been filed for each two-year general election cycle so that any person may have direct machine-readable electronic access to the individual data elements

in each report and the ability to search those data elements as soon as a report is filed.

(b) Any person required to file a report with the Secretary of State under this chapter shall file the report digitally on the online database.

§ 2962. REPORTS; GENERAL PROVISIONS

(a) Any report required to be submitted to the Secretary of State under this chapter shall contain the statement "I hereby certify that the information provided on all pages of this campaign finance disclosure report is true to the best of my knowledge, information, and belief" and places for the signature of the candidate or the treasurer of the candidate, political committee, or political party.

(b) Any person required to file a report under this chapter shall provide the information required in the Secretary of State's reporting form. Disclosure shall be limited to the information required to administer this chapter.

(c) All reports filed under this chapter shall be retained in an indexed file by the Secretary of State and shall be subject to the examination of any person.

§ 2963. CAMPAIGN REPORTS; SECRETARY OF STATE; FORMS; FILING

(a) The Secretary of State shall prescribe and provide a uniform reporting form for all campaign finance reports. The reporting form shall be designed to show the following information:

(1) the full name, town of residence, and mailing address of each contributor who contributes an amount in excess of $100.00, the date of the contribution, and the amount contributed, as well as a space on the form for the occupation and employer of each contributor, which the candidate, political committee, or political party shall make a reasonable effort to obtain;

(2) the total amount of all contributions of $100.00 or less and the total number of all such contributions;

(3) each expenditure listed by amount, date, to whom paid, and for what purpose;

(4) the amount contributed or loaned by the candidate to his or her own campaign during the reporting period; and

(5) each debt or other obligation, listed by amount, date incurred, to whom owed, and for what purpose, incurred during the reporting period.

(b)(1) The form shall require the reporting of all contributions and expenditures accepted or spent during the reporting period and during the

campaign to date and shall require full disclosure of the manner in which any indebtedness is discharged or forgiven.

(2) Contributions and expenditures for the reporting period and for the campaign to date also shall be totaled in an appropriate place on the form. The total of contributions shall include a subtotal of nonmonetary contributions and a subtotal of all monetary contributions.

(3) The form shall contain a list of the required filing times so that the person filing may designate for which time period the filing is made.

(4) Contributions accepted and expenditures spent after 5:00 p.m. on the third day prior to the filing deadline shall be reported on the next report.

§ 2964. CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE, THE GENERAL ASSEMBLY, AND COUNTY OFFICE; POLITICAL COMMITTEES; POLITICAL PARTIES

(a)(1) Each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of $500.00 or more during a two-year general election cycle and, except as provided in subsection (b) of this section, each political committee and each political party required to register under section 2923 of this chapter shall file with the Secretary of State campaign finance reports as follows, except that once such a candidate, political committee, or political party is required to file these reports, subsequent reports shall only be required to be filed under this subdivision if the candidate, political committee, or political party has made expenditures or accepted contributions since the last required report:

(A) in the first year of the two-year general election cycle, on March 15 and November 15 of the odd-numbered year; and

(B) in the second year of the two-year general election cycle:

(i) on March 15;

(ii) on July 15, August 1, and August 15;

(iii) on September 1;

(iv) on October 1, October 15 and November 1; and

(v) two weeks after the general election.

(2)(A) Each candidate for a four-year-term county office who has made expenditures or accepted contributions of $500.00 or more during a four-year general election cycle shall file with the Secretary of State campaign finance reports as follows, except that once such a candidate is required to file these reports, subsequent reports shall only be required to be filed under this

subdivision if the candidate has made expenditures or accepted contributions since the last required report:

(i) in the first three years of the four-year general election cycle, on March 15 and November 15; and

(ii) in the fourth year of the four-year general election cycle:

(I) on March 15;

(II) on July 15, August 1, and August 15;

(III) on September 1;

(IV) on October 1, October 15 and November 1; and

(V) two weeks after the general election.

(B) As used in this subdivision (2), "four-year general election cycle" means the 48-month period that begins 38 days after a general election.

(3) The failure of a candidate, political committee, or political party to file a report under this subsection shall be deemed an affirmative statement that a report is not required of the candidate, political committee, or political party under subdivision (1) or (2) of this subsection.

(b) A political committee or a political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of influencing a local election or supporting or opposing one or more candidates in a local election shall file campaign finance reports regarding that election 30 days before, 10 days before, and two weeks after the local election with the Secretary of State.

§ 2965. FINAL REPORTS; CANDIDATES FOR STATE OFFICE, THE GENERAL ASSEMBLY, AND COUNTY OFFICE; POLITICAL COMMITTEES; POLITICAL PARTIES

(a) At any time, but not later than December 15th following the general election, each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of $500.00 or more during the two-year general election cycle and each candidate for a four-year-term county office who has made expenditures or accepted contributions of $500.00 or more during the four-year general election cycle shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and disposition of surplus and which shall constitute the termination of his or her campaign activities.

(b) At any time, a political committee or a political party may file a "final report" which lists a complete accounting of all contributions and expenditures

since the last report and disposition of surplus and which shall constitute the termination of its campaign activities.

§ 2966. REPORTS BY CANDIDATES NOT REACHING MONETARY REPORTING THRESHOLD

(a) Each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of less than $500.00 during a two-year general election cycle shall file with the Secretary of State 10 days following the general election a statement that the candidate has not made expenditures or accepted contributions of $500.00 or more during the two-year general election cycle.

(b) Each candidate for a four-year-term county office who has made expenditures or accepted contributions of less than $500.00 during a four-year general election cycle shall file with the Secretary of State 10 days following the general election a statement that the candidate has not made expenditures or accepted contributions of $500.00 or more during the four-year general election cycle.

§ 2967. ADDITIONAL CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE AND THE GENERAL ASSEMBLY

(a) In addition to any other reports required to be filed under this chapter, a candidate for state office or for the General Assembly who accepts a monetary contribution in an amount over $2,000.00 within 10 days of a primary or general election shall report the contribution to the Secretary of State within 24 hours of receiving the contribution.

(b) A report required by this section shall include the following information:

(1) the full name, town of residence, and mailing address of the contributor; the date of the contribution; and the amount contributed; and

(2) the amount contributed or loaned by the candidate to his or her own campaign.

§ 2968. CAMPAIGN REPORTS; LOCAL CANDIDATES

(a)(1) Each candidate for local office who has made expenditures or accepted contributions of $500.00 or more since the last local election for that office shall file with the Secretary of State campaign finance reports 30 days before, 10 days before, and two weeks after the local election.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a candidate for local office required to file a report under that subdivision shall only be required to file subsequent reports under that subdivision if the

candidate has made expenditures or accepted contributions since his or her last required report.

(b) Within 40 days after the local election, each candidate for local office who has made expenditures or accepted contributions of $500.00 or more shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and a disposition of surplus and which shall constitute the termination of his or her campaign activities.

(c) The failure of a local candidate to file a campaign finance report shall be deemed an affirmative statement that the candidate has not accepted contributions or made expenditures of $500.00 or more since the last local election for that office or has not made expenditures or accepted contributions since the last required report.

§ 2969. CAMPAIGN REPORTS; OTHER ENTITIES; PUBLIC QUESTIONS

Any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, which makes expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of advocating a position on a public question in any election shall file a report of its expenditures 30 days before, 10 days before, and two weeks after the election with the Secretary of State.

§ 2970. REPORT OF MASS MEDIA ACTIVITIES

(a)(1) In addition to any other reports required to be filed under this chapter, a person who makes expenditures for any one mass media activity totaling $500.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each activity, file a mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The copy of the mass media report shall be sent by e-mail to each candidate who has provided the Secretary of State with an e-mail address on his or her consent form and to any other candidate by mail.

(3) The mass media report shall be filed and the copy of the report shall be sent within 24 hours of the expenditure or activity, whichever occurs first. For the purposes of this section, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure.

(b) The report shall identify the person who made the expenditure; the name of each candidate whose name or likeness was included in the activity; the amount and date of the expenditure; to whom it was paid; and the purpose of the expenditure.

(c) If the activity occurs within 30 days before the election and the expenditure was previously reported, an additional report shall be required under this section.

(d)(1) In addition to the reporting requirements of this section, an independent expenditure-only political committee that makes an expenditure for any one mass media activity totaling $5,000.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each such activity and within 24 hours of the expenditure or activity, whichever occurs first, file an independent expenditure-only political committee mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The report shall include all of the information required under subsection (b) of this section, as well as the names, dates, and amounts of all contributions in excess of $100.00 accepted since the filing of the committee's last report.

§ 2971. IDENTIFICATION IN ELECTIONEERING COMMUNICATIONS

(a) An electioneering communication shall contain the name and mailing address of the person, candidate, political committee, or political party that paid for the communication. The name and address shall appear prominently such that a reasonable person would clearly understand by whom the expenditure has been made, except that:

(1) An electioneering communication transmitted through radio and paid for by a candidate does not need to contain the candidate's address.

(2) An electioneering communication paid for by a person acting as an agent or consultant on behalf of another person, candidate, political committee, or political party shall clearly designate the name and mailing address of the person, candidate, political committee, or political party on whose behalf the communication is published or broadcast.

(b) If an electioneering communication is a related campaign expenditure made on a candidate's behalf as provided in section 2944 of this chapter, then in addition to other requirements of this section, the communication shall also clearly designate the candidate on whose behalf it was made by including language such as "on behalf of" such candidate.

(c) In addition to the identification requirements in subsections (a) and (b) of this section, an electioneering communication paid for by or on behalf of a political committee or political party shall contain the name of any contributor who contributed more than 25 percent of all contributions and more than $2,000.00 to that committee or party since the beginning of the two-year general election cycle in which the electioneering communication was made.

(d) The identification requirements of this section shall not apply to lapel stickers or buttons, nor shall they apply to electioneering communications made by a single individual acting alone who spends, in a single two-year general election cycle, a cumulative amount of no more than $150.00 on those electioneering communications, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

§ 2972. SPECIFIC IDENTIFICATION REQUIREMENTS FOR RADIO OR TELEVISION COMMUNICATIONS

(a) A person, candidate, political committee, or political party that makes an expenditure for an electioneering communication shall include in any communication which is transmitted through radio or television, in a clearly spoken manner, an audio statement of the name and title of the person who paid for the communication, that the person paid for the communication, and that the person approves of the content of the communication.

(b) If the person who paid for the communication is not a natural person, the audio statement required by this section shall include the name of that person, the name and title of the principal officer of the person, and a statement that the officer approves of the content of the communication.

Subchapter 5. Public Financing Option

§ 2981. DEFINITIONS

As used in this subchapter:

(1) "Affidavit" means the Vermont campaign finance affidavit required under section 2982 of this chapter.

(2) "General election period" means the period beginning the day after the primary election and ending the day of the general election.

(3) "Primary election period" means the period beginning the day after primary petitions must be filed under section 2356 of this title and ending the day of the primary election.

(4) "Vermont campaign finance qualification period" means the period beginning February 15 of each even-numbered year and ending on the date on which primary petitions must be filed under section 2356 of this title.

§ 2982. FILING OF VERMONT CAMPAIGN FINANCE AFFIDAVIT

(a) A candidate for the office of Governor or Lieutenant Governor who intends to seek Vermont campaign finance grants from the Secretary of State Services Fund shall file a Vermont campaign finance affidavit on the date on or before which primary petitions must be filed, whether the candidate seeks to enter a party primary or is an independent candidate.

(b) The Secretary of State shall prepare a Vermont campaign finance affidavit form, informational materials on procedures and financial requirements, and notification of the penalties for violation of this subchapter.

(c)(1) The Vermont campaign finance affidavit shall set forth the conditions of receiving grants under this subchapter and provide space for the candidate to agree that he or she will abide by such conditions and all expenditure and contribution limitations, reporting requirements, and other provisions of this chapter.

(2) The affidavit shall also state the candidate's name, legal residence, business or occupation, address of business or occupation, party affiliation, if any, the office sought, and whether the candidate intends to enter a party primary.

(3) The affidavit shall also contain a list of all the candidate's qualifying contributions together with the name and town of residence of the contributor and the date each contribution was made.

(4) The affidavit may further require affirmation of such other information as deemed necessary by the Secretary of State for the administration of this subchapter.

(5) The affidavit shall be sworn and subscribed to by the candidate.

§ 2983. VERMONT CAMPAIGN FINANCE GRANTS; CONDITIONS

(a) A person shall not be eligible for Vermont campaign finance grants if, prior to February 15 of the general election year during any two-year general election cycle, he or she becomes a candidate by announcing that he or she seeks an elected position as Governor or Lieutenant Governor or by accepting contributions totaling $2,000.00 or more or by making expenditures totaling $2,000.00 or more.

(b) A candidate who accepts Vermont campaign finance grants shall:

(1) not solicit, accept, or expend any contributions except qualifying contributions, Vermont campaign finance grants, and contributions authorized under section 2985 of this chapter, which contributions may be solicited,

accepted, or expended only in accordance with the provisions of this subchapter;

(2) deposit all qualifying contributions, Vermont campaign finance grants, and any contributions accepted in accordance with the provisions of section 2985 of this chapter in a federally insured noninterest-bearing checking account; and

(3) not later than 40 days after the general election, deposit in the Secretary of State Services Fund, after all permissible expenditures have been paid, the balance of any amounts remaining in the account established under subdivision (2) of this subsection.

§ 2984. QUALIFYING CONTRIBUTIONS

(a) In order to qualify for Vermont campaign finance grants, a candidate for the office of Governor or Lieutenant Governor shall obtain during the Vermont campaign finance qualification period the following amount and number of qualifying contributions for the office being sought:

(1) for Governor, a total amount of no less than $35,000.00 collected from no fewer than 1,500 qualified individual contributors making a contribution of no more than $50.00 each; or

(2) for Lieutenant Governor, a total amount of no less than $17,500.00 collected from no fewer than 750 qualified individual contributors making a contribution of no more than $50.00 each.

(b) A candidate shall not accept more than one qualifying contribution from the same contributor and a contributor shall not make more than one qualifying contribution to the same candidate in any Vermont campaign finance qualification period. For the purpose of this section, a qualified individual contributor means an individual who is registered to vote in Vermont. No more than 25 percent of the total number of qualified individual contributors may be residents of the same county.

(c) Each qualifying contribution shall indicate the name and town of residence of the contributor and the date accepted and be acknowledged by the signature of the contributor.

(d) A candidate may retain and expend qualifying contributions obtained under this section. A candidate may expend the qualifying contributions for the purpose of obtaining additional qualifying contributions and may expend the remaining qualifying contributions during the primary and general election periods. Amounts expended under this subsection shall be considered expenditures for purposes of this chapter.

§ 2985. VERMONT CAMPAIGN FINANCE GRANTS; AMOUNTS; TIMING

(a) The Secretary of State shall make grants from the Secretary of State Services Fund in separate grants for the primary and general election periods to candidates who have qualified for Vermont campaign finance grants under this subchapter.

(b) Whether a candidate has entered a primary or is an independent candidate, Vermont campaign finance grants shall be in the following amounts:

(1) For Governor, $150,000.00 in a primary election period and $450,000.00 in a general election period, provided that the grant for a primary election period shall be reduced by an amount equal to the candidate's qualifying contributions.

(2) For Lieutenant Governor, $50,000.00 in a primary election period and $150,000.00 in a general election period, provided that the grant for a primary election period shall be reduced by an amount equal to the candidate's qualifying contributions;

(3) A candidate who is an incumbent of the office being sought shall be entitled to receive a grant in an amount equal to 85 percent of the amount listed in subdivision (1) or (2) of this subsection.

(c) In an uncontested general election and in the case of a candidate who enters a primary election and is unsuccessful in that election, an otherwise eligible candidate shall not be eligible for a general election period grant. However, such candidate may solicit and accept contributions and make expenditures as follows: contributions shall be subject to the limitations set forth in subchapter 3 of this chapter, and expenditures shall be limited to an amount equal to the amount of the grant set forth in subsection (b) of this section for the general election for that office.

(d) Grants awarded in a primary election period but not expended by the candidate in the primary election period may be expended by the candidate in the general election period.

(e) Vermont campaign finance grants for a primary election period shall be paid to qualifying candidates within the first 10 business days of the primary election period. Vermont campaign finance grants for a general election period shall be paid to qualifying candidates during the first 10 business days of the general election period.

§ 2986. MONETARY AMOUNTS ADJUSTED FOR INFLATION

The monetary amounts contained in sections 2983–2985 of this subchapter shall be adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

Sec. 4. 17 V.S.A. § 2970 is amended to read:

§ 2970. REPORT OF MASS MEDIA ACTIVITIES

(a)(1) In addition to any other reports required to be filed under this chapter, a person who makes expenditures for any one mass media activity totaling $500.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each activity, file a mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The copy of the mass media report shall be sent by e-mail to each candidate who has provided the Secretary of State with an e-mail address on his or her consent form and to any other candidate by mail.

(3) The mass media report shall be filed and the copy of the report shall be sent within 24 hours of the expenditure or activity, whichever occurs first. For the purposes of this section, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure.

(b) The report shall identify the person who made the expenditure; the name of each candidate whose name or likeness was included in the activity; the amount and date of the expenditure; to whom it was paid; and the purpose of the expenditure.

(c) If the activity occurs within 30 days before the election and the expenditure was previously reported, an additional report shall be required under this section.

(d)~~(1) In addition to the reporting requirements of this section, an independent expenditure-only political committee that makes an expenditure for any one mass media activity totaling $5,000.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each such activity and within 24 hours of the expenditure or activity, whichever occurs first, file an independent expenditure-only political committee mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.~~

~~(2) The report shall include all of the information required under subsection (b) of this section, as well as the names, dates, and amounts of all contributions in excess of $100.00 accepted since the filing of the committee's last report.~~ [Repealed.]

Sec. 5. EVALUATION OF 2014 PRIMARY AND GENERAL ELECTIONS

The House and Senate Committees on Government Operations shall evaluate the 2014 primary and general elections to determine the effect of the implementation of this act.

Sec. 6. SECRETARY OF STATE; REPORT; CORPORATIONS AND LABOR UNIONS; SEPARATE SEGREGATED FUNDS

(a) By December 15, 2013, the Secretary of State shall report to the Senate and House Committees on Government Operations regarding any impact on his or her office and on corporations and labor unions if corporations and labor unions were required to establish separate segregated funds in order to make contributions to candidates, political committees, and political parties as provided in 2 U.S.C. § 441b and related federal law.

(b) The report shall include an analysis of what entities would be subject to the requirement described in subsection (a) of this section and how those entities would otherwise be able to use their general treasury funds in relation to political activity.

Sec. 7. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

(a) This act shall take effect on passage, except that:

(1) in Sec. 3 of this act, 17 V.S.A. § 2961 (submission of reports to the Secretary of State) shall take effect on January 15, 2015;

(2) in Sec. 3 of this act, 17 V.S.A. § 2941(6) (limitations of contributions; aggregate limits on contributions from a single source) shall not take effect any sooner than January 15, 2015 and unless the final disposition, including all appeals, of *McCutcheon v. Federal Election Commission*, No. 12cv1034 (D.D.C. Sept. 28, 2012) holds that aggregate limits on contributions from single sources are constitutional; and

(3) Sec. 4 of this act, amending 17 V.S.A. § 2970, shall not take effect unless the final disposition, including all appeals, of *Vermont Right to Life Committee, Inc. v. Sorrell*, No. 2:09-cv-188 (D. Vt. June 21, 2012) holds that limits on contributions to independent expenditure-only political committees are constitutional.

(b) The provisions of 17 V.S.A. § 2941(4) (limitations of contributions; limits on contributions to a political committee) in Sec. 3 of this act shall not

apply to independent expenditure-only political committees, except that those provisions shall apply to independent expenditure-only political committees if the final disposition, including all appeals, of *Vermont Right to Life Committee, Inc. v. Sorrell*, No. 2:09-cv-188 (D. Vt. June 21, 2012) holds that limits on contributions to independent expenditure-only political committees are constitutional.

(c) As used in this section, "independent expenditure-only political committee" shall have the same meaning as in Sec. 3, 17 V.S.A. § 2901(9), of this act.

Thereupon, pending the question, Shall the bill be amended as moved by Senators Nitka, Flory, Ayer, Cummings, French, McAllister, and White?, Senator Flory raised a point of order under Mason's Manual of Legislative Procedure in that during debate no person may impugn the motives of members.

Thereupon, the President *sustained* the point of order and cautioned that during debate no person may impugn the motives of members.

Thereupon, the question, Shall the bill be amended as moved by Senators Nitka, Flory, Ayer, Cummings, French, McAllister, and White was agreed to on a roll call, Yeas 19, Nays 11.

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: Ayer, Bray, Campbell, Collins, Cummings, Doyle, Flory, French, Hartwell, Kitchel, Mazza, McAllister, Mullin, Nitka, Rodgers, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: Ashe, Baruth, Benning, Fox, Galbraith, Lyons, MacDonald, McCormack, Pollina, Sears, Zuckerman.

Thereupon, pending third reading of the bill, Senator Galbraith moved to amend the bill in Sec. 3, in 17 V.S.A. § 2941 (limitations of contributions), by adding a new subdivision to be subdivision (8) to read as follows:

(8)(A) For the purpose of calculating the limits on contributions from a single source under this section, if a single source is a natural person who owns a business which also makes contributions, the contributions from that business shall be considered a contribution from the single source.

(B) Except in the case of publicly traded corporations, if a business is owned by more than one natural person, the contributions from that business

shall be calculated pro rata among those persons based on their ownership interest.

Which was disagreed to on a roll call, Yeas 9, Nays 21.

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: Ashe, Baruth, Benning, Galbraith, MacDonald, McCormack, Pollina, Westman, Zuckerman.

Those Senators who voted in the negative were: Ayer, Bray, Campbell, Collins, Cummings, Doyle, Flory, Fox, French, Hartwell, Kitchel, Lyons, Mazza, McAllister, Mullin, Nitka, Rodgers, *Sears, Snelling, Starr, White.

*Senator Sears explained his vote as follows:

Mr. President:

"The term serious has been used too often in this debate."

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

First: In Sec. 3, by striking out 17 V.S.A. § 2964 in its entirety and inserting in lieu thereof the following:

§ 2964. CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE; POLITICAL COMMITTEES; POLITICAL PARTIES

(a)(1) Each candidate for state office who has made expenditures or accepted contributions of $500.00 or more during a two-year general election cycle and, except as provided in subsection (b) of this section, each political committee and each political party required to register under section 2923 of this chapter shall file with the Secretary of State campaign finance reports as follows, except that once such a candidate, political committee, or political party is required to file these reports, subsequent reports shall only be required to be filed under this subdivision if the candidate, political committee, or political party has made expenditures or accepted contributions since the last required report:

(A) in the first year of the two-year general election cycle, on March 15 and November 15 of the odd-numbered year; and

(B) in the second year of the two-year general election cycle:

(i) on March 15;

(ii) on July 15, August 1, and August 15;

(iii) on September 1;

(iv) on October 1, October 15, and November 1; and

(v) two weeks after the general election.

(2) The failure of a candidate, political committee, or political party to file a report under this subsection shall be deemed an affirmative statement that a report is not required of the candidate, political committee, or political party under subdivision (1) of this subsection.

(b) A political committee or a political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of influencing a local election or supporting or opposing one or more candidates in a local election shall file with the Secretary of State campaign finance reports regarding that election 30 days before, 10 days before, and two weeks after the local election.

Second: In Sec. 3, by adding a new section to be 17 V.S.A. § 2964a to read as follows:

§ 2964a. CAMPAIGN REPORTS; CANDIDATES FOR THE GENERAL ASSEMBLY

Each candidate for the General Assembly who has made expenditures or accepted contributions of $500.00 or more during a two-year general election cycle shall file with the Secretary of State campaign finance reports as follows, except that once such a candidate is required to file these reports, subsequent reports shall only be required to be filed under this subdivision if the candidate has made expenditures or accepted contributions since the last required report:

(1) in the first year of the two-year general election cycle, on July 15; and

(2) in the second year of the two-year general election cycle, on July 15 and the 15th of each month thereafter until and including December 15.

Third: In Sec. 3, by striking out 17 V.S.A. § 2968 (campaign reports; local candidates) in its entirety and inserting in lieu thereof two new sections to be 17 V.S.A. § 2968 and 17 V.S.A. § 2968a to read as follows:

§ 2968. CAMPAIGN REPORTS; COUNTY OFFICE CANDIDATES

(a) Each candidate for county office who has made expenditures or accepted contributions of $500.00 or more shall file campaign finance reports as follows, except that once such a candidate is required to file these reports, subsequent reports shall only be required to be filed if the candidate has made expenditures or accepted contributions since the last required report:

(1) 10 days before the primary election;

(2) 10 days before the general election;

(3) further campaign reports shall be filed on the 15th day of July and annually thereafter or until all contributions and expenditures have been accounted for and any indebtedness and surplus have been eliminated.

(b) Within 40 days after the general election, each candidate for county office who has made expenditures or accepted contributions of $500.00 or more shall file a "final report" which lists a complete accounting of all contributions and expenditures and disposition of surplus and which shall constitute the termination of his or her campaign activities.

§ 2968a. CAMPAIGN REPORTS; LOCAL OFFICE CANDIDATES

Each candidate for local office who has made expenditures or accepted contributions of $500.00 or more shall file campaign finance reports as follows, except that once such a candidate is required to file the first report, the second report shall only be required to be filed if the candidate has made expenditures or accepted contributions since the first report:

(1) 10 days before the local election; and

(2) 10 days after the local election.

Thereupon, pending the question, Shall the bill be amended a recommended by Senator Galbraith?, Senator Galbraith requested and was granted leave to withdraw the recommendation of amendment.

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

First: In Sec. 3, by striking out 17 V.S.A. § 2964 (campaign reports; candidates for state office, the General Assembly, and county office; political committees; political parties) in its entirety and inserting in lieu thereof the following:

§ 2964. CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE, THE GENERAL ASSEMBLY, AND COUNTY OFFICE; POLITICAL COMMITTEES; POLITICAL PARTIES

(a)(1) Each candidate for state office, the General Assembly, and a two-year-term county office who has made expenditures or accepted contributions of $500.00 or more during a two-year general election cycle and, except as provided in subsection (b) of this section, each political committee and each political party required to register under section 2923 of this chapter shall file with the Secretary of State campaign finance reports as follows, except that once such a candidate, political committee, or political party is required to file these reports, subsequent reports shall only be required to be

filed under this subdivision if the candidate, political committee, or political party has made expenditures or accepted contributions of $100.00 or more since the last required report:

(A) in the first year of the two-year general election cycle, on March 15 and November 15 of the odd-numbered year; and

(B) in the second year of the two-year general election cycle:

(i) on March 15;

(ii) on July 15, August 1, and August 15;

(iii) on September 1;

(iv) on October 1, October 15, and November 1; and

(v) two weeks after the general election.

(2)(A) Each candidate for a four-year-term county office who has made expenditures or accepted contributions of $500.00 or more during a four-year general election cycle shall file with the Secretary of State campaign finance reports as follows, except that once such a candidate is required to file these reports, subsequent reports shall only be required to be filed under this subdivision if the candidate has made expenditures or accepted contributions of $100.00 or more since the last required report:

(i) in the first three years of the four-year general election cycle, on March 15 and November 15; and

(ii) in the fourth year of the four-year general election cycle:

(I) on March 15;

(II) on July 15, August 1, and August 15;

(III) on September 1;

(IV) on October 1, October 15, and November 1; and

(V) two weeks after the general election.

(B) As used in this subdivision (2), "four-year general election cycle" means the 48-month period that begins 38 days after a general election.

(3) The failure of a candidate, political committee, or political party to file a report under this subsection shall be deemed an affirmative statement that a report is not required of the candidate, political committee, or political party under subdivision (1) or (2) of this subsection.

(b) A political committee or a political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year

general election cycle for the purpose of influencing a local election or supporting or opposing one or more candidates in a local election shall file with the Secretary of State campaign finance reports regarding that election 30 days before, 10 days before, and two weeks after the local election.

Second: In Sec. 3, by striking out 17 V.S.A. § 2968 (campaign reports; local candidates) in its entirety and inserting in lieu thereof the following:

§ 2968. CAMPAIGN REPORTS; LOCAL CANDIDATES

(a)(1) Each candidate for local office who has made expenditures or accepted contributions of $500.00 or more since the last local election for that office shall file with the Secretary of State campaign finance reports 30 days before, 10 days before, and two weeks after the local election.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a candidate for local office required to file a report under that subdivision shall only be required to file subsequent reports under that subdivision if the candidate has made expenditures or accepted contributions of $100.00 or more since his or her last required report.

(b) Within 40 days after the local election, each candidate for local office who has made expenditures or accepted contributions of $500.00 or more shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and a disposition of surplus and which shall constitute the termination of his or her campaign activities.

(c) The failure of a local candidate to file a campaign finance report shall be deemed an affirmative statement that the candidate has not accepted contributions or made expenditures of $500.00 or more since the last local election for that office or has not made expenditures or accepted contributions of $100.00 or more since the last required report.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill in Sec. 3, by striking out 17 V.S.A. § 2947 (contributions from a candidate or immediate family) in its entirety.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 29, Nays 1.

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: Ashe, Ayer, Baruth, Benning, Bray, Campbell, Collins, Cummings, Doyle, Flory, Fox, French, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, *Snelling, Starr, Westman, White, Zuckerman.

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

*Senator Galbraith explained his vote as follows:

"This bill is a sham. It is intended to persuade Vermonters that we are serious about campaign finance reform when we are not.

"The bill purports to impose limits on the amount that an individual can contribute to a candidate when it does not. A wealthy donor can contribute from his personal account and from each company that he owns. This enables wealthy donors to evade easily the limits in this bill. For example, a donor who owns five rental properties—each its own LLC—could contribute $18,000 to a candidate for statewide office rather than the pretend limit in this bill of $3000.

"For 107 years, federal law has banned direct corporate contributions to federal candidates. Two weeks ago, this Senate voted 22-8 to conform Vermont law to federal law. Today, we voted to undo that ban ostensibly because it might limit the ability of owners of small Vermont businesses to make political contributions. This argument doesn't pass the laugh test. Any small business owner who wants to make a political contribution can do so just like anyone else—as an individual. And, if he wants to use funds from his business, he can make an owner's draw to obtain the funds.

"Contributions from small corporations are not the issue. A survey of campaign finance filings in Vermont shows that very few small corporations make contributions. Contributions mostly come from large corporations including many multi-nationals. And, these corporations almost always support incumbents. In the last election, nearly 30% of the contributions to the winning candidate for Governor came from corporations while his opponent received next to none. In the contested 2010 Governor's race many large corporations contributed to both parties. Obviously, they were not trying to influence the outcome. They were buying access and we should have put a stop to that.

"This Senate has proposed a constitutional amendment to undo Citizens United with the goal of getting corporate money out of politics. But our real message is: Let's get corporate money out of politics but please don't take away my corporate contribution. There is one word for this: hypocrisy.

"In the course of the debate on this bill, one Senator asked to be excused from voting on the Galbraith Amendment to ban corporate contributions on the grounds that he accepted corporate contributions and therefore had a financial interest in the vote. While he withdrew his request, he articulated a principle all Senators might consider applying. If we recused ourselves from voting on matters of interest to our corporate contributors, the problem of corporate influence in Vermont politics would disappear and my amendment would not be necessary."

*Senator Snelling explained her vote as follows:

"I vote yes to move the bill forward in its current form. As always I am willing to comply with all requirements. However, I remain unconvinced that corruption from corporate contributions is a significant problem in Vermont. I believe we should be looking at the influence of special interests and lobbying during the session."

Committee of Conference Appointed

H. 131.

An act relating to harvesting guidelines and procurement standards.

Was taken up. Pursuant to the request of the House, the President announced the appointment of:

Senator Hartwell
Senator Rodgers
Senator Snelling

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Appointment of Senate Members to the Mental Health Oversight Committee

Pursuant to the provisions of Sec. 141c of No. 122 of the Acts of 2004, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Mental Health Oversight Committee for terms of two years:

Senator Ayer
Senator Rodgers
Senator Fox
Senator McAllister

Scenery Preservation Council

Pursuant to the provisions of 10 V.S.A. §425(a), the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Scenery Preservation Council during this biennium:

Senator Mazza

Appointment of Senate Members to the Senate Sexual Harassment Panel

Pursuant to the provisions of Senate Rule 101, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Senate Sexual Harassment Panel (SSHP) during this biennium: (6 Members)

Senator Benning
Senator Baruth
Senator Zuckerman
Senator Fox
Senator Kitchel
Senator White

Appointment of Senate Members to the Vermont Citizens Advisory Committee on Lake Champlain's Future

Pursuant to the provisions of 10 V.S.A. §1960, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Committee on Lake Champlain's Future for the current biennium:

Senator Lyons
Senator Ayer

Vermont Sentencing Commission

Pursuant to the provisions of Sec. 16(b) of No. 192 of the Acts of 2006, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Vermont Sentencing Commission during this biennium:

Senator Sears

Appointment of Senate Member to Board of Directors of Vermont Student Assistance Corporation (VSAC)

Pursuant to the provisions of 16 V.S.A. §2831, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the board of directors of the Vermont Student Assistance Corporation (VSAC) for a term of six (6) years:

Senator Cummings

Appointment of Senate Member to the Vermont Tobacco Evaluation and Review Board

Pursuant to the provisions of 18 V.S.A. §9505, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Vermont Tobacco Evaluation and Review Board for a term of two years:

Senator Pollina

Government Accountability Committee

Pursuant to the provisions of Sec. 5 of No. 206 of the Acts of 2008, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Joint Legislative Government Accountability for the current biennium:

Senator White
Senator Pollina
Senator Snelling
Senator Doyle

Vermont Child Poverty Council

Pursuant to the provisions of No. 68 § 1(b) of the Acts of 2007, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Vermont Child Poverty Council during this biennium:

Senator Campbell
Senator Ayer
Senator Mullin

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 a House bill of the following title:

H. 512. An act relating to approval of amendments to the charter of the City of Barre.

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

Adjournment

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

FRIDAY, APRIL 19, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Alan Parker of Craftsbury.

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. 99.

An act relating to equal pay.

H. 178.

An act relating to anatomical gifts.

Bill Referred

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

H. 512.

An act relating to approval of amendments to the charter of the City of Barre.

To the Committee on Rules.

Proposal of Amendment; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment; Bill Messaged

H. 510.

Senator Mazza, for the Committee on Transportation, to which was referred House bill entitled:

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

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 ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2014 transportation program appended to the Agency of Transportation's proposed fiscal year 2014 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 funds" or "TIB" refers to monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

* * * Program Development – Funding Sources * * *

Sec. 1a. PROGRAM DEVELOPMENT – FUNDING

Spending authority in program development is modified in accordance with this section. Among projects selected in the Secretary's discretion, the Secretary shall:

(1) reduce project spending authority in the total amount of $3,827,500.00 in transportation funds;

(2) increase project spending authority in the total amount of $2,087,500.00 in TIB bond proceeds on projects eligible under 32 V.S.A. § 972; and

(3) increase project spending authority in the total amount of $1,740,000.00 in federal funds.

* * * Town Highway Bridge * * *

Sec. 2. TOWN HIGHWAY BRIDGE

The following modification is made to the town highway bridge program:

(1) Spending authority for the Mount Tabor project to replace bridge 2 on town highway 1 (VT FH 17-1(1)) is added to read:

FY14	As Proposed	As Amended	Change
PE	0	0	0
Construction	0	1,579,500	1,579,500
Total	0	1,579,500	1,579,500
Sources of funds			
State	0	0	0
TIB	0	0	0
Federal	0	1,579,500	1,579,500
Local	0	0	0
Total	0	1,579,500	1,579,500

* * * Maintenance * * *

Sec. 3. MAINTENANCE

(a) Total authorized spending in the maintenance program is amended as follows:

FY14	As Proposed	As Amended	Change
Personal services	39,744,134	39,744,134	0
Operating expenses	50,687,536	48,877,536	-1,810,000
Grants	75,000	75,000	0
Total	90,506,670	88,696,670	-1,810,000
Sources of funds			
State	79,961,670	78,151,670	-1,810,000
Federal	10,445,000	10,445,000	0
Interdep't transfer	100,000	100,000	0
Total	90,506,670	88,696,670	-1,810,000

(b) The reduction in authorized maintenance program spending under subsection (a) of this section shall be allocated among maintenance activities as specified by the Secretary.

* * * Paving * * *

Sec. 4. PROGRAM DEVELOPMENT – PAVING

(a) Spending authority for the statewide–district leveling activity within the program development–paving program is amended to read:

FY14	As Proposed	As Amended	Change
PE	0	0	0
Construction	6,000,000	5,338,000	-662,000
Total	6,000,000	5,338,000	-662,000
Sources of funds			
State	6,000,000	5,338,000	-662,000

TIB	0	0	0
Federal	0	0	0
Total	6,000,000	5,338,000	-662,000

(b) Spending authority for the Bethel–Randolph Resurface VT 12 project (STP 2921()) is amended to read:

FY14	As Proposed	As Amended	Change
PE	0	0	0
Construction	5,200,000	5,200,000	0
Total	5,200,000	5,200,000	0
Sources of funds			
State	1,585,563	983,840	-601,723
TIB	-601,723	0	601,723
Federal	4,216,160	4,216,160	0
Total	5,200,000	5,200,000	0

(c) Spending authority for the Bolton–Waterbury Resurface US 2 project (STP 2709(1)) is amended to read:

FY14	As Proposed	As Amended	Change
PE	0	0	0
Construction	6,530,000	6,530,000	0
Total	6,530,000	6,530,000	0
Sources of funds			
State	0	601,723	601,723
TIB	1,235,476	633,753	-601,723
Federal	5,294,524	5,294,524	0
Total	6,530,000	6,530,000	0

(d) Spending authority on the Weathersfield Resurface VT 131 project (STP 2913(1)) within the program development – paving program is amended to read:

FY14	As Proposed	As Amended	Change
PE	0	0	0
Construction	5,000,000	5,000,000	0
Total	5,000,000	5,000,000	0
Sources of funds			
State	946,000	696,000	-250,000
TIB	0	250,000	250,000
Federal	4,054,000	4,054,000	0
Total	5,000,000	5,000,000	0

* * * Rest Areas * * *

Sec. 5. REST AREAS

Spending authority on the Derby–Welcome Center project within the rest area program is amended to read:

FY14	As Proposed	As Amended	Change
PE	50,000	50,000	0
Construction	2,500,000	0	-2,500,000
Total	2,550,000	50,000	-2,500,000
Sources of funds			
State	0	0	0
TIB	255,000	5,000	-250,000
Federal	2,295,000	45,000	-2,250,000
Total	2,550,000	50,000	-2,500,000

* * * Rail * * *

Sec. 6. RAIL

(a) The Secretary shall reduce by $600,000.00 the spending of fiscal year 2014 state transportation funds on projects or activities within the rail program selected at his or her discretion.

(b) Authorized spending in the fiscal year 2014 rail program shall be reduced by $200,000.00 in transportation funds, and $500,000.00 in TIB funds, which were previously authorized in the fiscal year 2013 transportation program and appropriated in the 2013 appropriations bill.

Sec. 7. CANCELLATION OF RAIL PROJECTS

Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following rail projects:

(1) Salisbury-Middlebury – 05G342 – Rail Improvements;

(2) White River Junction-Newport – 05G350 – Improve RR Bridges;

(3) Proctor-New Haven – STRB(37) – 08G090 – Repair and/or Replace 6 Bridges;

(4) Middlebury – WCRS( ) – 09G108 – Bridge 236;

(5) Waterbury – STP 2036(10) – 09G364 – Crossing;

(6) Rutland–Fair Haven – 09G372 – 2 Miles of CWR;

(7) Rutland–Fair Haven – 11G254 – Crossings.

Sec. 8. PITTSFORD BRIDGE 219 PROJECT

For the Pittsford Bridge 219 Project (HPP ABRB(9)), the estimate of total construction costs of $10,350,000.00 is deleted and replaced with the amount of $2,100,000.00, and the estimate of the total cost of all activities of $11,863,814.00 is deleted and replaced with the amount of $3,613,814.00.

* * * Amtrak Vermont Services; Fares * * *

Sec. 8a. AMTRAK VERMONT SERVICES; FARES

The Agency shall work with Amtrak and other states with which Vermont has agreements under the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) to implement as soon as possible fares that maximize revenues for Vermont. The goal of the change in fares is to reduce by at least 20 percent the amount of the year-over-year increase in Vermont's subsidy to Amtrak required under PRIIA in fiscal year 2014.

* * * Aviation * * *

Sec. 9. AVIATION

(a) Spending authority on the Statewide-Airport Facilities Maintenance and Improvements project (AIR 04-3144) within the aviation program is amended to read:

FY14	As Proposed	As Amended	Change
Construction	1,850,758	1,710,758	-140,000
Total	1,850,758	1,710,758	-140,000
Sources of funds			
State	1,810,758	1,670,758	-140,000
TIB	0	0	0
Federal	40,000	40,000	0
Total	1,850,758	1,710,758	-140,000

(b) The Secretary shall reduce the spending of state transportation funds on activities within the Statewide-Airport Facilities Maintenance and Improvements project selected at his or her discretion in the amount specified in subsection (a) of this section.

* * * Fiscal Year 2014 Transportation Infrastructure Bonds * * *

Sec. 10. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

Pursuant to 32 V.S.A. § 972, the State Treasurer is authorized to issue transportation infrastructure bonds up to a total amount of $11,700,000.00 for the purpose of funding:

(1) the spending authorized in Sec. 11 of this act;

(2) a debt service reserve to support the successful issuance of transportation infrastructure bonds; and

(3) the cost of preparing, issuing, and marketing the bonds as authorized under 32 V.S.A. § 975.

Sec. 11. TRANSPORTATION INFRASTRUCTURE BONDS; SPENDING AUTHORITY

The amount of $10,387,500.00 from the issuance of transportation infrastructure bonds is authorized for expenditure in fiscal year 2014 on eligible projects as defined in 32 V.S.A. § 972(d) on projects in the State's fiscal year 2014 program development program.

* * * Transportation Alternatives Grant Program* * *

Sec. 12. 19 V.S.A. § 38 is amended to read:

§ 38. TRANSPORTATION ~~ENHANCEMENT~~ ALTERNATIVES GRANT PROGRAM

(a) The ~~Vermont transportation enhancement grant committee~~ Transportation Alternatives Grant Committee is created and shall be comprised of:

(1) the ~~secretary of transportation~~ Secretary of Transportation or his or her designee~~,~~;

(2) a representative from the ~~division of historic preservation~~ Division of Historic Preservation appointed by the ~~secretary of the agency of commerce and community development~~ Secretary of Commerce and Community Development~~,~~;

(3) one member ~~to be~~ appointed by the ~~secretary of the agency of commerce and community development~~ Secretary of Commerce and Community Development to represent the tourism and marketing industry~~,~~;

(4) a representative of the ~~agency of natural resources~~ Agency of Natural Resources appointed by the ~~secretary of the agency of natural resources,~~ Secretary of Natural Resources;

(5) three municipal representatives appointed by the governing body of the Vermont ~~league of cities and towns,~~ League of Cities and Towns;

(6) one member representing and appointed by the governing board of the Vermont ~~association of planning and development agencies,~~ Association of Planning and Development Agencies;

(7) two members from the ~~house~~ House designated by the ~~speaker,~~ Speaker; and

(8) two members from the ~~senate~~ Senate designated by the ~~committee on committees~~ Committee on Committees.

(b) Municipal and legislative members of the Transportation Alternatives Grant Committee shall serve concurrently for two-year terms and the initial appointments of these members shall be made in a manner which allows for them to serve a full legislative biennium. In the event a municipal or legislative member ceases to serve on the ~~committee~~ Committee prior to the full term, the appointing authority shall fill the position for the remainder of the term. The ~~committee~~ Committee shall, to the greatest extent practicable, encompass a broad geographic representation of Vermont.

~~(b)~~(c) The ~~Vermont transportation enhancement grant program~~ Transportation Alternatives Grant Program is created. The ~~grant program shall be funded as provided in subsection (c) of this section and~~ Grant Program shall be administered by the ~~agency~~ Agency, and shall be funded in the amount provided for in 23 U.S.C. § 213(a), less the funds set aside for the Recreational Trails Program as specified in 23 U.S.C. § 213(f). ~~The grant program~~ Awards shall be made to eligible entities as defined under 23 U.S.C. § 213(c)(4), and awards under the Grant Program shall be limited to ~~enhancement~~ the activities ~~as defined in~~ described at 23 U.S.C. § ~~101(a)(35) which are sponsored by municipalities, nonprofit organizations, or political subdivisions of the state other than the agency~~ 213(b) other than Recreational Trails Program grants.

(d) Eligible ~~applicants~~ entities awarded a grant must provide all funds required to match federal funds awarded for ~~an enhancement~~ a transportation alternatives project. All grant awards shall be decided and awarded by the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee.

~~(c) The following federal aid highway program funds received by the state under the federal aid highway reauthorization act, and succeeding reauthorization acts, that succeed the Transportation Equity Act for the 21st Century (Public Law 105-178 as amended) shall be exclusively reserved to cover the costs of enhancement projects awarded grants under the Vermont transportation enhancement grant program with respect to federal fiscal years 2004 and thereafter:~~

~~(1) at a minimum, four percent of the state's apportionment of surface transportation funds received by the state under 23 U.S.C. § 104(b)(3) over the life of the applicable federal reauthorization act; and, if greater,~~

~~(2) at a maximum, the state's apportionment of federal aid highway program funds that are exclusively reserved for transportation enhancement activities under 23 U.S.C. § 133(d)(2) received by the state over the life of the applicable federal reauthorization act.~~

~~(d) For each fiscal year starting with fiscal year 2005, the agency shall determine or estimate as required:~~

~~(1) the state's apportionment of surface transportation program funds which the state expects to receive under 23 U.S.C. § 104(b)(3) with respect to the equivalent federal fiscal year; and~~

~~(2) the state's pro rata apportionment of federal aid highway program funds which are exclusively reserved for transportation enhancement activities under 23 U.S.C. 133(d)(2). To determine the pro rata amount, the agency shall estimate the total amount of exclusively reserved funds expected to be received by the state over the life of the applicable federal reauthorization act, subtract the total amount of enhancement grants awarded under this section with respect to prior federal fiscal years of the applicable federal reauthorization act, and divide the resulting sum by the number of years remaining in the life of the applicable federal reauthorization act. The agency shall adjust the amounts determined under subdivisions (1) and (2) of this subsection to account for any differences between estimates made, actual appropriations received, and enhancement grants awarded with respect to applicable prior federal fiscal years.~~

~~(e)(1) For each fiscal year starting with fiscal year 2005, the state's enhancement grant program for the fiscal year shall be at the discretion of the secretary:~~

~~(A) at a minimum, four percent of the adjusted amount ascertained by the agency under subdivision (d)(1) of this section; and~~

~~(B) at a maximum, the adjusted amount ascertained by the agency under subdivision (d)(2) of this section.~~

~~(2) The agency shall plan its budget accordingly and advise the general assembly in its recommended budget:~~

~~(A) if sufficient information is available to determine a sum certain, of the amount of the enhancement grant program; or~~

~~(B) if sufficient information is not available to determine a sum certain, of the range within which the agency estimates the size of the enhancement grant program will be.~~

~~(f)~~(e) ~~Enhancement~~ Transportation alternatives grant awards shall be announced annually by the ~~transportation enhancement grant committee~~

Transportation Alternatives Grant Committee not earlier than December and not later than the following March ~~of the federal fiscal year of the federal funds being committed by the grant awards~~.

~~(g)~~(f) Each year, ~~up to~~ $200,000.00 of the grant program or such lesser sum if all eligible applications amount to less than $200,000.00 shall be reserved for municipalities for eligible salt and sand shed projects. Grant awards for eligible projects shall not exceed $50,000.00 per project. Regarding the balance of grant program funds, in evaluating applications for ~~enhancement~~ transportation alternatives grants, the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee shall give preferential weighting to projects involving as a primary feature a bicycle or pedestrian facility. The degree of preferential weighting and the circumstantial factors sufficient to overcome the weighting shall be in the complete discretion of the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee.

~~(h)~~(g) The ~~agency~~ Agency shall develop an outreach and marketing effort designed to provide information to communities with respect to the benefits of participating in the ~~enhancement program~~ Transportation Alternatives Grant Program. The outreach and marketing activities shall include apprising municipalities of the availability of grants for salt and sand sheds. The outreach effort should be directed to areas of the ~~state~~ State historically underserved by this program.

Sec. 12a. 19 V.S.A. § 42 is amended to read:

§ 42. REPORTS PRESERVED

Notwithstanding 2 V.S.A. § 20(d), the reports or reporting requirements of sections 7(k), 10b(d), 10c(k), 10c(l), 10e(c), 10g, 11f(i), 12a, and 12b(d)~~, and 38(e)(2)~~ of this title shall be preserved absent specific action by the ~~general assembly~~ General Assembly repealing the reports or reporting requirements.

Sec. 13. TRANSPORTATION ALTERNATIVES GRANT PROGRAM PRIORITIES; CONFORMING AMENDMENTS

2012 Acts and Resolves No. 153, Sec. 24 is amended to read:

Sec. 24. ~~ENHANCEMENT~~ TRANSPORTATION ALTERNATIVES GRANT PROGRAM PRIORITIES

In addition to the priorities for salt and sand shed projects and bicycle or pedestrian facility projects specified in 19 V.S.A. § ~~38(g)~~ 38(f), in evaluating applications for ~~enhancement~~ transportation alternatives grants in fiscal years ~~2013,~~ 2014~~,~~ and 2015, the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee shall give preferential weighting

to projects involving a municipality implementing eligible environmental mitigation projects under a river corridor plan that has been adopted by the ~~agency of natural resources~~ Agency of Natural Resources as part of a basin plan, under a municipal plan adopted pursuant to 24 V.S.A. § 4385, or under a mitigation plan adopted by the municipality and approved by the Federal Emergency Management Agency. The degree of preferential weighting afforded shall be in the complete discretion of the ~~transportation enhancement grant committee~~ Transportation Alternatives Grant Committee.

* * * Central Garage * * *

Sec. 14. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2014, 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.

* * * State Highways; Relinquishment to Municipal Control * * *

Sec. 15. 19 V.S.A. § 15 is amended to read:

§ 15. CHANGES IN THE STATE HIGHWAY SYSTEM

(a) ~~Highways~~ Except as provided in subsection (b) of this section, highways may be added to or deleted from the state highway system by:

(1) ~~legislative action~~ an act of the General Assembly; or

(2) a proposal by the ~~agency~~ Agency which is accepted by the legislative body of the affected municipality and approved by an act of the ~~general assembly~~ General Assembly.

(b) Upon entering into an agreement with the affected municipality, the Secretary may relinquish to municipal control segments of state highway rights-of-way that have been replaced by new construction and are no longer needed as part of the state highway system. Upon their relinquishment to municipal control, the segments shall become class 3 town highways, and may be reclassified by the municipality in accordance with chapter 7 of this title.

* * * State Highway System; Town of Clarendon * * *

Sec. 15a. STATE HIGHWAY SYSTEM; TOWN OF CLARENDON

Pursuant to 19 V.S.A. § 15, the General Assembly approves the addition to the state highway system of a segment of Airport Road (TH #7) in the Town of Clarendon extending from its intersection with Vermont Route 103 to the main entrance of the Rutland–Southern Vermont Regional Airport. The existing 35 miles per hour speed limit on this segment of Airport Road shall remain in force after its transfer to the state highway system, unless and until the Traffic Committee alters the speed limit pursuant to 23 V.S.A. § 1003.

* * * Transportation Board; Small Claims Against the Agency * * *

Sec. 16. 19 V.S.A. § 20 is amended to read:

§ 20. SMALL CLAIMS FOR INJURY OR DAMAGE

~~When a claim~~ ~~is~~ The Board shall have exclusive jurisdiction over claims of $5,000.00 or less made for personal injuries or property damage, or both, sustained as the result of the negligence of any employee of the ~~agency, the board~~ Agency. The Board may hear all parties in interest and may award damages not to exceed ~~$2,000.00~~ $5,000.00. When the Board awards damages ~~are awarded, the board~~, it shall certify its ~~findings~~ decision to the ~~commissioner of finance and management who~~ Commissioner of Finance and Management. Upon the disposition of any appeal or the expiration or waiver of all appeal rights, the Commissioner of Finance and Management shall issue his or her warrant for the amount of the award, with payment in the manner prescribed by 12 V.S.A. § 5604.

* * * Limited Access Facilities; Fair Market Value Rent * * *

Sec. 17. 19 V.S.A. § 26a is amended to read:

§ 26a. DETERMINATION OF RENT TO BE CHARGED FOR LEASING OR LICENSING STATE-OWNED PROPERTY UNDER THE AGENCY'S JURISDICTION

(a) Except as otherwise provided by subsection (b) of this section, or as otherwise provided by law, leases or licenses negotiated by the ~~agency~~ Agency under 5 V.S.A. §§ 204 and 3405 and ~~section~~ sections 26 and 1703(d) of this title ordinarily shall require the payment of fair market value rent, as determined by the prevailing area market prices for comparable space or property. However, the ~~agency~~ Agency may lease or license state-owned property under its jurisdiction for less than fair market value when the ~~agency~~ Agency determines that the proposed occupancy or use serves a public purpose or that there exist other relevant factors, such as a prior course of dealing between the parties, that justify setting rent at less than fair market value.

* * *

* * * Emergency Repairs; Condemnation Authority * * *

Sec. 18. 19 V.S.A. § 518 is amended to read:

§ 518. MINOR ALTERATIONS TO EXISTING FACILITIES

(a) For purposes of this section, the term "minor alterations to existing facilities" means any of the following activities involving existing facilities, provided the activity does not require a permit under 10 V.S.A. chapter 151 (Act 250):

(1) Activities which qualify as "categorical exclusions" under 23 C.F.R. § 771.117~~(c)~~ and the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321–4347~~, and do not require a permit under 10 V.S.A. chapter 151 (Act 250)~~; or

(2) Activities involving emergency repairs to or emergency replacement of an existing bridge ~~or~~, culvert, highway, or state-owned railroad, even ~~though~~ if the need for repairs or replacement does not arise from damage caused by a natural disaster or catastrophic failure from an external cause~~; provided, however, that the activities do not require a permit under 10 V.S.A. chapter 151 (Act 250)~~. Any temporary rights under this subdivision shall be limited to 10 years from the date of taking.

(b) In cases involving minor alterations to existing facilities, the ~~agency~~ Agency, following the procedures of section 923 of this title, may exercise the powers of a selectboard. If an appeal is taken under subdivision 923(5) of this title, the person taking the appeal shall follow the procedure specified in section 513 of this title.

* * * Secretary's Authority with Regard to Junkyards * * *

Sec. 19. 19 V.S.A. § 7(f) is amended to read:

(f) The ~~secretary~~ Secretary may:

* * *

(7) organize, reorganize, transfer, or abolish sections and staff function sections within the ~~agency~~ Agency; except however, the ~~secretary~~ Secretary may not alter the number of highway districts without legislative approval~~; and~~

~~(8) adopt rules regarding the operation of junkyards~~.

* * * State Highway Closures * * *

Sec. 20. 19 V.S.A. § 43 is amended to read:

§ 43. STATE HIGHWAY CLOSURES

(a) For purposes of this section, the phrase "planned closure of a state highway" means the closure of a state highway for more than 48 hours for a project that is part of the State's annual transportation program. The phrase does not include emergency projects, or closures of 48 hours or less for maintenance work.

(b) Before the planned closure of a state highway, the ~~agency~~ Agency shall:

(1) contact the legislative body of any municipality affected by the closure to determine whether the legislative body wishes to convene a regional

public meeting for the purpose of ~~listening to~~ hearing public concerns~~. The agency~~ regarding the planned closure; and

(2) conduct a regional public meeting if requested by the legislative body of a municipality affected by the closure.

(c) To address concerns raised at a meeting held pursuant to subsection (b) of this section or otherwise to reduce adverse impacts of the planned closure of a state highway, the Agency shall consult with other state agencies and departments, regional chambers of commerce, regional planning commissions, local legislative bodies, emergency medical service organizations, school officials, and area businesses to develop mitigation strategies ~~to reduce the impact of the planned closure on the local and regional economies~~.

~~(b)~~(d) In developing mitigation strategies, the ~~agency~~ Agency shall consider the need to provide a level of safety for the traveling public comparable to that available on the segment of state highway affected by the planned closure. If the ~~agency~~ Agency finds town highways unsuitable for a signed detour, the ~~agency~~ Agency will advise local legislative bodies of the reasons for its determination.

* * * Taxation of Diesel and Motor Fuels * * *

Sec. 21. 23 V.S.A. § 3003 is amended to read:

§ 3003. IMPOSITION OF TAX; EXCEPTIONS

(a) A tax of ~~$0.25~~ $0.27, a fee of $0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a $0.03 motor fuel transportation infrastructure assessment~~,~~ which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

(1) sold or delivered by a distributor; or

(2) used by a user.

* * *

Sec. 22. 23 V.S.A. § 3003 is amended to read:

(a) A tax of ~~$0.27~~ $0.29, a fee of $0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a $0.03 motor fuel transportation infrastructure assessment which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

(1) sold or delivered by a distributor; or

(2) used by a user.

* * *

Sec. 23. 23 V.S.A. § 3106 is amended to read:

§ 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

(a)(1) Except for sales of motor fuels between distributors licensed in this ~~state~~ State, which sales shall be exempt from the ~~tax and from the motor fuel transportation infrastructure assessment~~ taxes and assessments authorized under this section, ~~in all cases not~~ unless 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~~ Commissioner:

(A) a tax of ~~$0.19~~ $0.115 upon each gallon of motor fuel sold by the distributor~~,~~; and

(B) the following assessments, which shall be levied on the tax-adjusted retail price of gasoline as defined herein:

(i) a motor fuel transportation infrastructure assessment in the amount of two percent of the tax-adjusted retail price 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~~; and

(ii) a fuel tax assessment, which shall be used exclusively for transportation purposes and not be transferred from the Transportation Fund, that is the greater of:

(I) $0.134 per gallon; or

(II) four percent of the tax-adjusted retail price or $0.18 per gallon, whichever is less, upon each gallon of motor fuel sold by the distributor.

(2) For the purposes of subdivision (1)(B) of this subsection, the retail price applicable for a quarter shall be the average of the monthly retail prices for regular gasoline determined and published by the Department of Public Service for the three months of the preceding quarter. The tax-adjusted retail price applicable for a quarter shall be the retail price exclusive of: all federal and state taxes and assessments, and the petroleum distributor licensing fee

established by 10 V.S.A. § 1942, at the rates applicable in the preceding quarter.

(3) The distributor shall also pay to the ~~commissioner a tax and a motor fuel transportation infrastructure assessment in the same amounts~~ Commissioner the tax and assessments specified in this subsection upon each gallon of motor fuel used within the ~~state~~ State by him or her.

* * *

Sec. 24. MOTOR FUEL ASSESSMENTS: MAY 1, 2013–SEPTEMBER 30, 2013

Notwithstanding the provisions of 23 V.S.A. § 3106(a)(1)(B) and 3106(a)(2), from May 1, 2013 through September 30, 2013, the motor fuel transportation infrastructure assessment required under 23 V.S.A. § 3106(a)(1)(B)(i) shall be $0.0656 per gallon, and the fuel tax assessment required under 23 V.S.A. § 3106(a)(1)(B)(ii) shall be $0.134 per gallon.

* * * DUI Special Enforcement Fund * * *

Sec. 25. 23 V.S.A. § 1220a(b) is amended to read:

(b) The DUI enforcement special fund shall consist of:

(1) receipts from the surcharges assessed under section 206 and subsections 674(i), 1091(d), 1094(f), 1128(d), 1133(d), 1205(r), and 1210(k) of this title;

(2) beginning in fiscal year 2000 and thereafter, the first $150,000.00 of revenues collected from fines imposed under subchapter 13 of chapter 13 of this title pertaining to DUI related offenses;

(3) beginning ~~in fiscal year 2000~~ May 1, 2013 and thereafter, ~~two percent~~ $0.0038 per gallon of the revenues raised by the motor fuel tax on gasoline imposed by chapter 28 of this title; and

(4) any additional funds transferred or appropriated by the ~~general assembly~~ General Assembly.

* * * Transfer of Position * * *

Sec. 26. TRANSFER OF POSITION

Effective May 1, 2013, one position (080134) and any funds related thereto are transferred from the Department of Taxes to the Department of Motor Vehicles.

* * * Appropriation of Transportation Funds * * *

Sec. 27. 19 V.S.A. § 11a is amended to read:

§ 11a. TRANSPORTATION FUNDS APPROPRIATED FOR THE DEPARTMENT OF PUBLIC SAFETY

No transportation funds shall be appropriated for the support of government other than for the ~~agency of transportation~~ Agency, the ~~transportation board~~ Board, transportation pay act funds, construction of transportation capital facilities ~~used by the agency of transportation~~, transportation debt service, the ~~department of buildings and general services~~ operation of information centers by the Department of Buildings and General Services, and the ~~department of public safety~~ Department of Public Safety. The amount of transportation funds appropriated to the ~~department of public safety~~ Department of Public Safety shall not exceed:

(1) $25,250,000.00 in fiscal year 2014;

(2) $22,750,000.00 in fiscal year 2015; and

(3) $20,250,000.00 in fiscal year 2016 and in succeeding fiscal years.

* * *

* * * Electric Vehicles; Contribution to Transportation Fund; Study * * *

Sec. 28. STUDY OF CHARGES ON ELECTRICITY USED TO POWER PLUG-IN ELECTRIC VEHICLES

(a) The Commissioner of Public Service or designee and the Commissioner of Taxes or designee (collectively, the "Commissioners"), in consultation with the Public Service Board, the Commissioner of Motor Vehicles or designee, the Joint Fiscal Office, and any other persons or entities the Commissioners deem appropriate, shall study the feasibility, alternative implementation mechanisms, and timeline for replacing, in whole or in part, motor fuel tax revenues not collected from operators of plug-in hybrid and all-electric vehicles. The Commissioners shall develop recommendations as to the most reasonable and efficient mechanisms, and a realistic time frame, to charge operators of plug-in hybrid and all-electric vehicles for their use of transportation infrastructure so as to contribute to the Transportation Fund.

(b) On or before December 15, 2013, the Commissioners shall submit a written report of their findings and recommendations to the House and Senate Committees on Transportation. The Commissioners' report shall also identify which recommendations would require legislative action and include proposed legislation to implement any recommendations requiring legislative action.

* * * Propane and Natural Gas-Powered Vehicles; Study * * *

Sec. 29. PROPANE AND NATURAL GAS-POWERED VEHICLES; STUDY

(a)(1) In Act 153 of 2012, the General Assembly required that effective on July 1, 2013, the sales and use tax on natural gas used to propel a motor vehicle be allocated to the Transportation Fund. The applicable sales and use tax rate is six percent. Act 153 did not address propane used to propel motor vehicles.

(2) In a November 5, 2012 report submitted pursuant to 2012 Acts and Resolves No. 153, Sec. 39, the Vermont Energy Investment Corporation found that the six percent sales and use tax rate on natural gas would be insufficient to replace motor fuel or diesel tax revenues not collected from operators of motor vehicles propelled by natural gas. The report did not address motor vehicles propelled by propane.

(b) The Commissioner of Motor Vehicles or designee ("Commissioner"), in consultation with the Commissioner of Taxes or designee, the Joint Fiscal Office, and any other persons or entities the Commissioner deems appropriate, shall study mechanisms to charge operators of motor vehicles propelled by natural gas or by propane for their use of the transportation system, so as to replace, in whole or in part, motor fuel or diesel tax revenues not collected from such operators. The Commissioner shall formulate recommendations on the most reasonable and efficient mechanisms to charge such operators and identify implementation steps required.

(c) On or before December 15, 2013, the Commissioner shall submit a written report of his or her findings and recommendations to the House and Senate Committees on Transportation. The Commissioner's report shall also identify which recommendations would require legislative action and include proposed legislation to implement any recommendations requiring legislative action.

* * * State Facilities Served by Town Highways * * *

Sec. 30. STATE FACILITIES SERVED BY TOWN HIGHWAYS

(a) The General Assembly finds that access to state parks and other state facilities is critical for the State and its economy. For state parks and state facilities that are primarily accessible by class 3 and 4 town highways, no state funding source other than general town highway aid exists to assist municipalities with the maintenance and rehabilitation of these highways.

(b) A Study Committee is established consisting of:

(1) the Secretary of Transportation or designee, who shall chair the committee;

(2) the Commissioner of Forests, Parks and Recreation or designee;

(3) the Commissioner of Buildings and General Services or designee;

(4) a member designated by the Vermont League of Cities and Towns.

(c) The Study Committee shall examine the condition of class 3 and 4 town highways that serve as primary access roads to state parks and other state facilities used by the public, alternative mechanisms for the State to assist municipalities with the maintenance or rehabilitation of such town highways, the appropriate municipal share for projects to maintain or rehabilitate such highways and whether a cap on any state assistance is appropriate, and the potential fiscal impact to the State of the alternative mechanisms reviewed by the Committee. The Committee shall formulate recommendations for consideration by the General Assembly as to whether and how the State should assist municipalities in maintaining and rehabilitating the town highways described in this subsection.

(d) On or before December 15, 2013, the Study Committee shall submit a written report of its findings and recommendations to the House and Senate Committees on Transportation.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section, Sec. 8a (Amtrak Vermont services), Sec. 10 (authority to issue transportation infrastructure bonds), and Sec. 15a (addition to state highway system) of this act shall take effect on passage.

(b) Secs. 23–26 of this act shall take effect on May 1, 2013.

(c) Sec. 22 (taxation of diesel at $0.29 per gallon) of this act shall take effect on July 1, 2014.

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

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

Senator Lyons, for the Committee on Finance, 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.

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 of the Committee on Transportation was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator MacDonald, moved that the proposal of amendment be amended as follows:

First: By adding a new section to be number Sec. 30a to read as follows:

Sec. 30a. SCHOOL BUS PILOT PROGRAM

(a) Definitions. As used in this section, the term "person" shall have the same meaning as in 1 V.S.A. § 128, and the term "Type II school bus" shall have the same meaning as in 23 V.S.A. § 4(34)(C).

(b) Pilot program. Upon application, the Commissioner of Motor Vehicles shall approve up to three persons who satisfy the requirements of this section to participate in a pilot program. Pilot program participants shall be authorized to operate on Vermont highways Type II school buses registered in this State that are retrofitted with an auxiliary fuel tank to enable the use of biodiesel, waste vegetable oil, or straight vegetable oil, provided the school bus has passed inspection in accordance with subdivision (c)(3) of this section and the bus and its auxiliary tank comply with the Federal Motor Vehicle Safety Standards applicable to Type II school buses. If more than three persons apply to participate in the pilot program, the Commissioner shall give priority to applicants who seek to install the auxiliary fuel tank in connection with a student-led or student-generated school project.

(c) Documentation; requirements. The Commissioner may prescribe that applicants furnish information necessary to implement the pilot program. After an applicant furnishes such information and is approved, the Commissioner shall provide the person with documentation of the person's selection under the pilot program and the expiration date of the program. If the approved person is a municipality or another legal entity, the Commissioner's documentation shall list the specific individuals authorized to operate the Type II school bus. The Commissioner's documentation shall:

(1) be carried in the school bus while it is operated on a highway;

(2) constitute and be recognized by enforcement officers in Vermont as a waiver, until expiration of the pilot program, of those provisions of 23 V.S.A. §§ 4(37), 1221, and 1283(a)(6) and of any rule that would prohibit school buses retrofitted with auxiliary fuel tanks from lawfully operating on Vermont highways; and

(3) be recognized by authorized inspection stations as a waiver of the prohibition on auxiliary or added fuel tanks, and of the requirement that buses only be equipped with such motor fuel tanks as are regularly installed by the manufacturer, specified in the School Bus Periodic Inspection Manual ("Inspection Manual"); provided, however, that no school bus equipped with an auxiliary or added fuel tank shall pass inspection unless all other requirements of the Inspection Manual regarding fuel systems are satisfied.

(d) Expiration. The pilot program established and the waivers granted under this section shall expire on September 1, 2015.

Second: In Sec. 31, in subsection (a), by striking out the word "and" before "Sec. 15a" and after "(addition to state highway system)" by adding the following: , and Sec. 30a (school bus pilot program)

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Cummings moved to amend the proposal of amendment by striking out Secs. 22, 23 and 24.

Thereupon, pending the question, Shall the proposal of amendment be amended as proposed by Senator Cummings?, Senator Cummings requested and was granted leave to withdraw the proposal of amendment.

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 on a roll call, Yeas 23, Nays 5.

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: Ashe, Ayer, Baruth, Benning, Bray, Campbell, Collins, Flory, Fox, Galbraith, Kitchel, Lyons, MacDonald, Mazza, McAllister, Mullin, Nitka, Rodgers, Sears, Snelling, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Cummings, Doyle, *McCormack, Pollina, Starr.

Those Senators absent and not voting were: French, Hartwell.

*Senator McCormack explained his vote as follows:

"With great respect for the Transportation Committee and its good work, I reluctantly vote no. We must maintain our transportation infrastructure and so we must tax ourselves to pay for it. But we should tax according to ability to pay. A gas tax, while admirable from an environmental perspective is regressive."

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

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 a bill originating in the Senate of the following title:

S. 73. An act relating to the moratorium on home health agency certificates of need.

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 the following House bill:

H. 511. An act relating to "zappers" and automated sales suppression devices.

And has severally concurred therein.

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

H.C.R. 105. House concurrent resolution congratulating the 2013 Proctor High School Phantoms Division IV championship girls' basketball team.

H.C.R. 106. House concurrent resolution congratulating the 2012 Proctor High School Phantoms Division IV championship boys' soccer team.

H.C.R. 107. House concurrent resolution congratulating The Palms Restaurant on its 80th anniversary.

H.C.R. 108. House concurrent resolution commemorating the 60th anniversary of the Korean War Armistice Agreement.

H.C.R. 109. House concurrent resolution commemorating the sestercentennial anniversary of the town of Newbury.

H.C.R. 110. House concurrent resolution designating April 24, 2013 as National Walk@Lunch Day in Vermont.

H.C.R. 111. House concurrent resolution commemorating the sestercentennial anniversary of the Town of Essex.

H.C.R. 112. House concurrent resolution designating April 26 as Long-Term Care Ombudsman Day in Vermont.

H.C.R. 113. House concurrent resolution congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' basketball team.

H.C.R. 114. House concurrent resolution congratulating the Vermont Debate and Forensics League State Tournament champions at Champlain Valley Union High School.

H.C.R. 115. House concurrent resolution congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' and boys' Nordic ski teams.

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. 22. Senate concurrent resolution congratulating Margaret Jane Kelly of Barre on her 90th birthday.

S.C.R. 23. Senate concurrent resolution designating April 19, 2013 as Vermont Golf Day.

And has adopted the same in concurrence.

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 severally adopted on the part of the Senate:

By Senators Doyle, Cummings and Pollina,

S.C.R. 22.

Senate concurrent resolution congratulating Margaret Jane Kelly of Barre on her 90th birthday.

By Senators Campbell and Mullin,

By Representative Juskiewcz of Cambridge,

S.C.R. 23.

Senate concurrent resolution designating April 19, 2013 as Vermont Golf Day.

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 severally adopted in concurrence:

By Representative Potter and others,

H.C.R. 105.

House concurrent resolution congratulating the 2013 Proctor High School Phantoms Division IV championship girls' basketball team.

By Representative Potter and others,

H.C.R. 106.

House concurrent resolution congratulating the 2012 Proctor High School Phantoms Division IV championship boys' soccer team.

By Representative Russell and others,

By Senators Flory, French and Mullin,

H.C.R. 107.

House concurrent resolution congratulating The Palms Restaurant on its 80th anniversary.

By Representative Canfield and others,

By Senators Ashe, Ayer, Baruth, Benning, Campbell, Collins, Cummings, Doyle, Flory, Fox, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman and White,

H.C.R. 108.

House concurrent resolution commemorating the 60th anniversary of the Korean War Armistice Agreement.

By Representative Conquest,

H.C.R. 109.

House concurrent resolution commemorating the sestercentennial anniversary of the town of Newbury.

By Representative Frank and others,

H.C.R. 110.

House concurrent resolution designating April 24, 2013 as National Walk@Lunch Day in Vermont.

By Representative Myers and others,

H.C.R. 111.

House concurrent resolution commemorating the sestercentennial anniversary of the Town of Essex.

By Representative Pugh and others,

H.C.R. 112.

House concurrent resolution designating April 26 as Long-Term Care Ombudsman Day in Vermont.

By Representative Lenes and others,

By Senators Fox, Lyons and Snelling,

H.C.R. 113.

House concurrent resolution congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' basketball team.

By Representative Lenes and others,

By Senators Fox, Lyons and Snelling,

H.C.R. 114.

House concurrent resolution congratulating the Vermont Debate and Forensics League State Tournament champions at Champlain Valley Union High School.

By Representative Lenes and others,

By Senators Lyons, Fox and Snelling,

H.C.R. 115.

House concurrent resolution congratulating the 2013 Champlain Valley Union High School Redhawks Division I championship girls' and boys' Nordic ski teams.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, April 23, 2013, at nine o'clock in the forenoon pursuant to J.R.S. 26.

TUESDAY, APRIL 23, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Deadra Ashton of Tunbridge.

Pledge of Allegiance

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

Rules Suspended; Bill Committed

H. 395.

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

An act relating to the establishment of the Vermont Clean Energy Loan Fund.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Economic Development, Housing and General Affairs, Senator Hartwell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Natural Resources and Energy with the report of the Committee on Economic Development, Housing and General Affairs *intact*,

Which was agreed to.

Bill Referred to Committee on Finance

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:

H. 50. An act relating to the sale, transfer, or importation of pets.

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 Baruth and Benning,

J.R.S. 28. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 26, 2013, it be to meet again no later than Tuesday, April 30, 2013.

Proposals of Amendment; Third Reading Ordered

H. 406.

Senator French, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to listers and assessors.

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. 3a to read as follows:

Sec. 3a. 17 V.S.A. § 2651b is amended to read:

§ 2651b. ELIMINATION OF OFFICE OF AUDITOR; APPOINTMENT OF PUBLIC ACCOUNTANT

* * *

(c) The authority to vote to eliminate the office of town auditor as provided in this section shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of town auditor.

Second: By adding a new section to be numbered section Sec. 3b to read as follows:

Sec. 3b. REPEAL

1998 Acts and Resolves No. 83, Sec. 9 (municipal charters) is repealed.

Third: In Sec. 4 (amending 17 V.S.A. § 2651c), by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4) The authority to vote to eliminate the office of lister as provided in this subsection shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of lister.

After passage, the title of the bill is to be amended to read:

An act relating to town listers, assessors, and auditors.

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 proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

House Proposals of Amendment Concurred In

S. 104.

House proposals of amendment to Senate bill entitled:

An act relating to expedited partner therapy.

Were taken up.

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

First: In Sec. 1, subsection (c), by striking out the following: "Centers for Disease Control and Prevention (CDC)" and inserting in lieu thereof the following: Commissioner

Second: In Sec. 1, subsection (d), by striking out the following: "CDC" and inserting in lieu thereof the following: Centers for Disease Control and Prevention

Third: In Sec. 2, subsection (d), by striking out the following: "CDC" and inserting in lieu thereof the following: Centers for Disease Control and Prevention

Thereupon, the question, Shall the Senate concur in the House proposals of amendment?, was decided in the affirmative.

Bill Passed in Concurrence with Proposal of Amendment

H. 280.

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

An act relating to payment of wages.

Third Reading Ordered

S. 165.

Senate committee bill entitled:

An act relating to collective bargaining for deputy state's attorneys.

Having appeared on the Calendar for notice for one day, was taken up.

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. 527.

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

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

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 Amended; Third Reading Ordered

S. 119.

Senator Hartwell, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to amending perpetual conservation easements.

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

Sec. 1. 10 V.S.A. chapter 155 is redesignated to read:

CHAPTER 155. ACQUISITION OF INTERESTS IN LAND BY PUBLIC AGENCIES <u>AND QUALIFIED ORGANIZATIONS</u>

Sec. 2. DESIGNATION

<u>10 V.S.A. §§ 6301–6311 are designated as 10 V.S.A. chapter 155, subchapter 1 to read:</u>

Subchapter 1. General Provisions

Sec. 3. 10 V.S.A. § 6301 is amended to read:

§ 6301. PURPOSE

It is the purpose of this chapter to encourage and assist the maintenance of the present uses of Vermont's agricultural, forest, and other undeveloped land and to prevent the accelerated residential and commercial development thereof; to preserve and to enhance Vermont's scenic natural resources; to strengthen the base of the recreation industry and to increase employment, income, business, and investment; to enable the citizens of Vermont to plan its orderly growth in the face of increasing development pressures in the interests of the public health, safety, and welfare; and to encourage the use of conservation and preservation ~~tools~~ easements and related instruments to support farm, forest, and related enterprises, thereby strengthening Vermont's economy to improve the quality of life for Vermonters, and to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

Sec. 4. 10 V.S.A. § 6301a is amended to read:

§ 6301a. DEFINITIONS

As used in this chapter:

(1) "State agency" means the ~~agency of natural resources~~ Agency of Natural Resources or any of its departments, ~~agency of transportation~~ Agency of Transportation, ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets, or ~~Vermont housing and conservation board~~ Vermont Housing and Conservation Board.

(2) "Qualified organization" means:

(A) an organization qualifying under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which is not a private foundation as defined in Section 509(a) of the Internal ~~Revenuw~~ Revenue Code, and which has been certified by the ~~commissioner of taxes~~ Commissioner of Taxes as being principally engaged in the preservation of undeveloped land for the purposes expressed in section 6301 of this title.

(B) an organization qualifying under Section 501(c)(2) of the Internal Revenue Code of 1986, as amended, provided such organization is controlled exclusively by an organization or organizations described in subdivision (2)(A) of this section.

(3) "Taxation" and "tax" means ad valorem taxes levied by the ~~state~~ State and its municipalities.

(4) "Adequate compensation to the holder" means the increase, if any, in the value of a landowner's estate by reason of an amendment to a conservation easement that applies to the estate.

(5) "Adjoining landowner" means a person who owns land in fee simple, if that land either:

(A) shares a property boundary with a tract of land where an easement amendment is proposed; or

(B) is adjacent to a tract of land where an easement amendment is proposed and the two properties are separated by only a river, stream, or public highway.

(6) "Amend" or "amendment" means a modification of an existing conservation easement, the substitution of a new easement for an existing conservation easement, or the whole or partial termination of an existing conservation easement.

(7) "Conservation easement" means a conservation right or interest that is less than a fee simple interest and that restricts the landowner's use or development of land in order to protect the land's natural, scenic, agricultural, recreational, or cultural qualities or resources or other public values. The term excludes interests in fee simple, leases, restrictive covenants not held by a qualified organization, rights-of-way, spring rights, timber harvesting rights, and similar affirmative rights to use or extract resources from the land. The term also excludes trail easements and other public recreational rights unless those easements or rights are included in the stated purposes of a conservation easement.

(8) "Conservation right or interest" means a right or interest described in sections 823 and 6303 of this title.

(9) "Holder" means a state agency, a qualified organization, or a municipality that possesses a conservation right or interest. The term "holder" includes all coholders of a conservation right or interest.

(10) "Holder's public review process" means the public review process conducted by an easement holder for a proposed amendment, as set forth in subchapter 2 of this chapter.

(11) "Landowner" means an owner of the fee interest in land that is subject to a conservation easement.

(12) "Panel" means the Easement Amendment Panel of the Natural Resources Board **e**stablished in subchapter 2 of this chapter.

(13) "Person" shall have the same meaning as in 1 V.S.A. § 128.

(14) "Protected property" means real property that is subject to a conservation right or interest.

(15) "Protected qualities" means natural, scenic, agricultural, recreational, or cultural qualities and resources and other public values protected by a conservation easement.

(16) "Public conservation interest" means the benefits to the public, the environment, and Vermont's working landscape afforded by conserving land for its natural, scenic, or agricultural qualities, its recreational or cultural resources, or other public values, and also includes investments in a conservation easement made by a state agency, a municipality, and a qualified organization.

Sec. 5. 10 V.S.A. § 6310 is added to read:

§ 6310. EASEMENT HOLDER; FEE INTEREST; NONMERGER

If a holder of a conservation easement is or becomes the owner in fee simple of property subject to the easement, the easement shall continue in effect and shall not be extinguished.

Sec. 6. 10 V.S.A. § 6311 is added to read:

§ 6311. CONSERVATION RIGHTS AND INTERESTS; TAX LIENS

Conservation rights and interests shall not be affected by any tax lien which attaches to the subject property under 32 V.S.A. § 5061 subsequent to the recording of the conservation rights and interests in the municipal land records.

Sec. 7. 10 V.S.A. chapter 155, subchapter 2 is added to read:

Subchapter 2. Amendment of Perpetual Conservation Easements

§ 6321. PURPOSE

The purpose of this subchapter is to set forth a process and establish the criteria for determining if an amendment of a conservation easement may be appropriate and authorized and to provide that in all cases in which an amendment would materially alter the terms of an existing conservation easement, the proposed amendment is reviewed and approved following public notice, disclosure of the circumstances and reasons for the amendment, and an opportunity for the public to comment.

§ 6322. APPLICABILITY; EXEMPTIONS

(a) This subchapter applies to the amendment of conservation easements. As set forth in section 6301a of this title, whole or partial terminations of conservation easements constitute amendments within the meaning of this chapter.

(b) A conservation easement shall not be amended without the written approval of the landowner and each holder.

(c) Except for the easements identified in subsection (d) of this section, conservation easements shall be amended only in accordance with this chapter, and this chapter shall constitute the exclusive means under law by which an amendment to a conservation easement may be contested or appealed.

(d) The following easement amendments shall be exempt from sections 6324–6333 of this title unless, for a particular easement amendment, the landowner and each holder elect to employ and be bound by those provisions:

(1) any amendment of a conservation easement that requires the approval of the General Assembly or is part of a land transaction that requires such approval;

(2) any amendment of a conservation easement that was originally required by a federal, state, or local regulatory body, including a district environmental commission under 10 V.S.A. chapter 151, the Public Service Board, or an appropriate municipal panel under 24 V.S.A. chapter 117, by issuance of a state or municipal land use permit, an environmental permit or other environmental approval, a certificate of public good, or other regulatory approval under the terms of which any amendment of the easement must be approved by the body issuing the permit, certificate, or other approval; and

(3) any amendment that is the result of the exercise of a right of eminent domain granted under the Vermont Constitution, Chapter I, Art. 2.

§ 6323. EASEMENT AMENDMENT PANEL

(a) An Easement Amendment Panel consisting of five members is created as a panel of the Vermont Natural Resources Board established under section 6021 of this title.

(1) The regular members of the Panel shall be:

(A) The Chair of the Natural Resources Board, who shall serve as Chair of the Easement Amendment Panel.

(B) Two members of the Natural Resources Board, chosen by the Governor, whose terms on this Panel shall be contemporaneous with their terms on the Board.

(C) One member appointed by the Governor for a term of four years from a list of no fewer than five candidates submitted by qualified organizations. The Vermont Housing and Conservation Board shall provide a list of qualified organizations to the Governor from which the Governor shall receive nominations.

(D) One member appointed by the Governor for a term of four years from a list of five candidates submitted by the Vermont Housing and Conservation Board.

(2) There shall be the following alternate members of the Panel, who may be appointed to serve by the Chair on a particular matter before the Panel when a regular Panel member is unable to serve:

(A) One alternate member appointed by the Governor for a term of four years from the list submitted to the Governor by qualified organizations under subdivision (1)(C) of this subsection.

(B) One alternate member appointed by the Governor for a term of four years from the list submitted to the Governor by the Vermont Housing and Conservation Board under subdivision (1)(D) of this subsection.

(3) Each member of the Natural Resources Board not appointed to the Panel shall be an alternate to the Panel and may be designated by the Chair to serve on a particular matter before the Panel if a regular or alternate member under subdivision (1) or (2) of this subsection is unable to serve.

(b) The Governor shall seek to appoint members to the Panel who are knowledgeable about agriculture, forestry, and environmental science. A person shall not be eligible for appointment to the Panel if that person has been employed as a staff member of or consultant to or has served on the governing board of a holder during the 12 months preceding the appointment.

(c) Other departments and agencies of state government shall cooperate with the Panel and make available to the Panel data, facilities, and personnel as may be needed to assist the Panel in carrying out its duties and functions.

(d) A Panel member shall not participate in a particular matter before the Panel if the member has a personal or financial interest in the matter or is related to the petitioner, if a natural person, within the fourth degree of consanguinity or affinity or, if a corporation, to any officer, director, trustee, or agent of the corporation within the same degree.

(e) Decisions by the Panel shall be made as promptly as possible, consistent with the degree of review required by the proposed amendment.

(f) The Panel shall keep a record of its proceedings, and any decision by the Panel shall be in writing and shall provide an explanation of the reasons and basis for the decision.

(g) Members of the Panel shall receive per diem pay and all necessary and actual expenses in accordance with 32 V.S.A. § 1010.

(h) Powers. The Panel shall have the power, with respect to any matter within its jurisdiction, to:

(1) allow members of the public to enter upon the lands under or proposed to be under the conservation easement, at times designated by the Panel, for the purpose of inspecting and investigating conditions related to the matter before the Panel;

(2) enter upon or authorize others to enter upon the lands under or proposed to be under the conservation easement for the purpose of conducting inspections, investigations, examinations, tests, and site evaluations as it deems necessary to verify information presented in any matter within its jurisdiction;

(3) adopt rules of procedure and substantive rules, in accordance with the provisions of 3 V.S.A. chapter 25, that interpret and carry out the provisions of this subchapter that pertain to easement amendments; and

(4) establish a schedule of filing fees to be paid by petitioners.

§ 6324. AMENDMENT CATEGORIES

(a) This subchapter divides amendments of conservation easements into three categories, which are:

(1) Category 1 amendments under section 6325 of this title, which may be made by the holder without a public review process;

(2) Category 2 amendments under section 6326 of this title, which are amendments that require a procedural determination by an independent entity concerning whether they may be made without a public review process in accordance with this subchapter or whether they should undergo such a process.

(3) Category 3 amendments under section 6327 of this title, which are amendments that require a public review process in accordance with this subchapter.

(b) Except for those amendments that are expressly exempt from the provisions of this subchapter, a person shall not approve or execute an amendment to a conservation amendment other than a Category 1 amendment without complying with sections 6326 through 6331 of this title.

§ 6325. CATEGORY 1 AMENDMENTS; APPROVAL BY HOLDER WITHOUT REVIEW

(a) A Category 1 amendment is an amendment to an existing conservation easement that has a beneficial, neutral, or not more than a de minimis negative impact on the protected qualities under the existing easement. The holder and landowner may approve a Category 1 amendment without notice to or review

by an independent entity. Category 1 amendments shall be limited to the following:

(1) placing additional land under the protection of the easement;

(2) adding, expanding, or enhancing the protected qualities under the easement;

(3) including, for the benefit of a holder, a right of first refusal, an option to purchase at agricultural value, or another right to acquire an ownership interest in the property in the future;

(4) amending the easement to protect areas that were excluded from the easement or to further restrict rights and uses that were retained by the landowner under the existing easement;

(5) correcting typographical or clerical errors without altering the intent of or the protected qualities or the uses permitted under the easement;

(6) modernizing or clarifying the language of the easement without changing its intent or the protected qualities or the uses permitted under the easement;

(7) permitting additional uses under the easement that will have no more than a de minimis negative impact on the protected qualities under the easement;

(8) merging conservation easements on two or more protected properties into a single easement, adjusting the boundaries between two or more protected properties, or adjusting the boundaries of areas excluded from the easement resulting from the merger, provided that the merger does not:

(A) remove land covered by the easement;

(B) permit new uses under the easement that will have more than a de minimis negative impact on protected qualities on the property; or

(C) reduce the existing safeguards of the protected qualities on the property;

(9) modifying the legal description of the protected property to reference a subsequent survey of the area covered by or excluded from the easement; or

(10) relocating an existing recreational trail without materially detracting from the public's access or quality of experience.

(b) In the event a holder or landowner of a protected property seeks a recordable document from the Panel establishing that an amendment constitutes a Category 1 amendment, the holder shall follow the procedures for a Category 2 amendment under section 6326 of this title.

§ 6326. CATEGORY 2 AMENDMENTS; CRITERIA; REVIEW

(a) A Category 2 amendment is an amendment that:

(1) the holder reasonably believes will have not more than a de minimis negative impact on the protected qualities under an existing easement but that does not clearly meet the definition of a Category 1 amendment; or

(2) adjusts the boundaries of the land protected by the easement or adjusts the boundaries of areas excluded from the easement, but only if:

(A) the adjustment does not reduce the area covered by the easement by more than the greater of:

(i) two acres; or

(ii) one percent of the land protected by the easement, not to exceed five acres; and

(B) the holder reasonably believes the amendment will have no more than a de minimis negative impact on the protected qualities under the existing easement.

(b) A holder seeking review of a Category 2 amendment shall submit a request for review to the Panel, together with a copy of the amendment, a description of the protected property and easement, and an explanation of the purpose and effect of the amendment. The request for review shall include the applicant's and landowner's names and addresses, and the address of the applicant's principal office in this State and, if the applicant is not a municipality or state agency, a statement of its qualifications as a holder. The request to the Panel shall be signed by each holder and the landowner or the landowner's representative. In addition, the holder shall certify and demonstrate that the amendment:

(1) is consistent with the public conservation interest;

(2) is consistent with the conservation purpose and intent of the easement;

(3) complies with all applicable federal, state, and local laws;

(4) does not result in private inurement or confer impermissible private benefit under 26 U.S.C. § 501(c)(3);

(5) has a net beneficial, neutral, or not more than a de minimis negative impact on the protected qualities under the existing easement. In determining such net beneficial, neutral, or de minimis negative impact, the holder shall address the degree to which the amendment will balance the stated goals and purposes of the easement and shall identify whether these goals and purposes

are ranked by the terms of the easement and demonstrate that the proposed amendment is consistent with that ranking; and

(6) is consistent with the documented intent of the donor, grantor, and all persons that directly funded the acquisition of the easement.

(c) Within a reasonable time after receiving a request for review of a Category 2 amendment and after providing 10 days' notice to all other panel members, the Chair of the Panel shall make a determination and promptly notify the holder and landowner of the subject easement that:

(1) no further review of the amendment is required because it satisfies all of the criteria listed under subsection (b) of this section;

(2) the holder must submit further information before a review can be completed; or

(3) the holder must seek approval of the amendment as a Category 3 amendment because the amendment fails one or more of the criteria listed under subsection (b) of this section.

(d) If two or more members of the Panel believe that the proposed amendment fails one or more of the criteria listed under subsection (b) of this section and those members notify the Chair either individually or collectively within 10 days of the date of the Chair's notice to the Panel members, the amendment shall be subject to review as a Category 3 amendment.

(e) If the determination under this section is that no further information or approval is required, the Chair shall, upon the holder's request, send a notice of this determination in a recordable form to the holder.

(f) The Panel may adopt rules allowing certain Category 2 amendments to proceed as Category 1 amendments, provided the Panel establishes reasonable limitations to ensure that any such amendment will have not more than a de minimis negative impact on the protected qualities under the easement.

§ 6327. CATEGORY 3 AMENDMENTS; REVIEW OPTIONS

(a) A Category 3 amendment is an amendment to an existing conservation easement that:

(1) removes a protected quality from the easement or changes the hierarchy of the easement's stated purposes;

(2) materially reduces the safeguards afforded to the protected qualities under the easement; or

(3) is not a Category 1 or Category 2 amendment.

(b) A holder shall not execute or record a Category 3 amendment without first:

(1) filing a petition for approval and obtaining the approval of the Panel for a Category 3 amendment in accordance with section 6328 of this title;

(2) filing a petition for approval and obtaining the approval of the Environmental Division of the Superior Court for a Category 3 amendment in accordance with section 6329 of this title. If an easement provides that the proposed amendment may only be approved by court order, then a holder may seek to amend the easement only by filing a petition for approval with the Environmental Division; or

(3) notifying the Panel that the holder will be conducting a holder's public review process under section 6330 of this title and completing that review process and any review by the Panel under section 6331 of this title.

(c) Having elected one of the review options described in this section for a given amendment, a holder may not elect to use one of the other options for the same amendment, except as provided in subsection 6330(h) of this title.

§ 6328. CATEGORY 3 PETITION TO PANEL; PROCEDURE; CRITERIA

(a) Petition. A petition to the Panel to seek approval of a Category 3 amendment shall comply with each of the following:

(1) The petition shall include:

(A) a copy of the existing easement and proposed amendment;

(B) a map and description of the protected property and easement;

(C) an explanation of the purpose and effect of the amendment;

(D) the same certification and demonstration required for Category 2 amendments by subdivisions 6326(b)(1)–(4) of this title;

(E) the landowner's name and address;

(F) the applicant's name and address, the address of the applicant's principal office in this State, and, if the applicant is not a municipality or state agency, a statement of its qualifications as a holder;

(G) the filing fee in accordance with the schedule established by the Panel;

(H) a statement as to whether the easement was originally conveyed with any donor-imposed restriction accepted by the holder in exchange for the easement.

(2) The petition shall be signed by each holder of the subject easement, the landowner or landowner's representative, and any person who holds an executory interest that allows assumption of the ownership of the property or the easement if the amendment is approved.

(b) Service of petition. Immediately on filing with the Panel, the petitioner shall send a copy of the petition to:

(1) the Attorney General, the Vermont Housing and Conservation Board, and the Agencies of Agriculture, Food and Markets and of Natural Resources;

(2) the legislative body, the planning commission, and the conservation commission, if any, of the municipality in which the property is located;

(3) the executive director of the regional planning commission within whose region the property is located;

(4) any person holding an executory interest in the conservation easement; and

(5) all persons who originally conveyed or amended the conservation easement, unless the existing easement was conveyed or amended more than 25 years before the filing of the petition or the Panel determines that the addresses cannot be reasonably ascertained under the circumstances or that notification of such persons is otherwise impracticable; however, if the original conveyance of the easement contained any donor-imposed restrictions accepted by the holder in exchange for the easement, the Panel shall require the petitioner to demonstrate that it has made reasonable efforts to provide a copy of the petition to all persons who originally conveyed the conservation easement.

(c) Online posting. At the time a petition for a Category 3 amendment is filed, the holder shall post on its website or on another website designated by the Panel a copy of the petition and accompanying materials and information required under subsection (a) of this section.

(d) Notice of petition and proposed hearing by Panel.

(1) On receipt of a complete petition, the Panel shall promptly publish, at the expense of the petitioner, a notice of the petition in at least one area newspaper reasonably calculated to reach members of the public in the area where the protected property is located. The Panel also shall post the notice of public hearing on the Natural Resources Board website. The Panel shall send copies of the hearing notice to the petitioners, to the persons listed in subsection (b) of this section, and to adjoining landowners who may be affected by the amendment to the easement, unless it determines that the

number of adjoining landowners is so large that direct notification is not practicable.

(2) The Panel's notice shall include each of the following:

(A) a description of the property subject to the existing conservation easement, the name of each petitioner, and a summary of the proposed amendment;

(B) the date, time, and place of the public hearing that the Panel proposes to hold. The date of the proposed public hearing shall be not less than 25 days and not more than 40 days from the date of publication of the notice in the newspaper. The place of the public hearing shall be in the vicinity of the protected property subject to the easement;

(C) a link to the website on which the petition for the amendment and accompanying materials and information can be found;

(D) a statement that the Panel may waive the proposed public hearing, if no request for a hearing is received by the Panel within 15 days of the date on which the notice is published in the newspaper;

(E) information on how a person may request a public hearing; and

(F) information on how a person may confirm whether the proposed public hearing will be held.

(e) Request for hearing. Any person may request that the Panel hold a public hearing on the proposed amendment. The request for a hearing shall be submitted to the Panel and state the reasons why a hearing is warranted. On receipt by the Panel of a request for hearing, the Panel promptly shall send a copy of the request to the petitioners and to all persons listed in subsection (b) of this section.

(f) Public hearing; process; subpoena authority. The Panel shall conduct a public hearing on a petition under this section if a request for a public hearing is timely filed or it determines that a hearing is necessary.

(1) Any petition and any hearing on a petition for amendment of an easement shall not be considered a contested case under 3 V.S.A. chapter 25.

(2) Any person may participate in any hearing on any petition for amendment of an easement and shall have an opportunity to provide written or oral testimony to the Panel.

(3) The Panel shall have the power to issue a subpoena under the Vermont Rules of Civil Procedure to compel a petitioner to make available all relevant records pertaining to the conservation easement and the proposed

amendment. The Environmental Division of the Superior Court shall have jurisdiction over any motion to quash or enforce such a subpoena.

(A) A petitioner may request that the Panel not disclose personal or confidential information contained in records subject to a subpoena under this section that the petitioner demonstrates is not directly and substantially related to the criteria of subsection (h) of this section. On a determination that the petitioner has made such a demonstration, the records shall be exempt from inspection and copying under the Public Records Act and the Panel shall keep the records confidential from all persons except the Panel's members and staff unless a court of competent jurisdiction orders disclosure of the records.

(B) Any person who believes that additional information is needed from the easement holder before or during the hearing may direct a request to the Panel, which may then require the petitioner to produce the requested information.

(C) If the petitioner fails to respond to a subpoena in a timely fashion, the Panel may deny the petition for amendment.

(g) Information considered. In any proceeding under this section, the Panel shall consider all circumstances and information that may reasonably bear upon the public conservation interest in upholding or amending the conservation easement, including each of the following:

(1) any material change in circumstances that has taken place since the easement was conveyed or last amended, including changes in applicable laws or regulations, in the native flora or fauna, or in community conditions and needs, or the development of new technologies or new agricultural and forestry enterprises;

(2) whether the circumstances leading to the proposed amendment were anticipated at the time the easement was conveyed or last amended;

(3) the existence or lack of reasonable alternatives to address the changed circumstances;

(4) whether the amendment changes an easement's stated purpose or hierarchy of purposes;

(5) the certification requirements for Category 2 amendments listed in subdivisions 6326(b)(1)–(4) of this title;

(6) the documented intent of the donor, grantor, and all direct funding sources and any donor-imposed restrictions accepted by the holder in exchange for the easement, if applicable; and

(7) any other information or issue that the Panel considers relevant.

(h) Criteria for approval.

(1) The Panel shall approve an amendment if it finds, by clear and convincing evidence, that the amendment:

(A) is consistent with the public conservation interest;

(B) is consistent with the purposes stated in section 6301 of this chapter;

(C) will not result in private inurement or confer impermissible private benefit under 26 U.S.C. § 501(c)(3);

(D) will result in adequate compensation to the holder. Any such compensation shall be paid to the holder of the easement and shall be used by the holder for the conservation of lands in a manner consistent, as nearly as possible, with the public conservation interest stated in the easement; and

(E) meets at least one of the following:

(i) the amendment promotes or enhances the conservation purposes of the easement or the protected qualities under the easement, even though it may be inconsistent with a strict interpretation of the terms of the existing easement;

(ii) enforcement of the easement term proposed for amendment would result in significant financial burdens to the easement holder or landowner and result in minimal conservation benefit to the public; or

(iii) the amendment clearly enhances the public conservation interest, even though it may allow the diminution of one or more conservation purposes or protected qualities on the property protected by the existing easement.

(2) In the event the conservation easement subject to the petition requires that an amendment comply with more restrictive conditions than the criteria listed in this subsection, the Panel must also find that those conditions have been met in order to approve the amendment.

(i) Decision. Following the hearing, or after a determination without a hearing, the Panel shall issue a written decision approving, approving with conditions, or denying the amendment request and stating the reasons for the Panel's decision.

(1) The Panel shall post its written decision on the Board's website and shall distribute a copy to each holder of the subject easement, the landowner, the Attorney General, and to any other person who participated in the public hearing, if one was held.

(2) If the decision approves an amendment that terminates an easement in whole or in part, the Panel shall require that the holder apply any monetary compensation to achieve a conservation purpose similar to that stated in the easement and shall require, as a condition of approval, the holder to identify such purpose and provide documentation proving that the compensation has been applied in accordance with this subdivision (2).

(j) The Attorney General may request reconsideration of a decision by the Panel. Such a request shall be filed within 30 days of the decision and shall identify each specific issue to be reconsidered. The request shall not be governed by the Vermont Rules of Civil Procedure and shall address the merits of each specific issue. In its decision, the Panel shall address the merits of each such issue under subsection (h) of this section.

§ 6329. PETITION TO ENVIRONMENTAL DIVISION

(a) A holder may file a petition for approval of a Category 3 amendment with the Environmental Division of the Superior Court. A holder shall file a petition for approval of an easement amendment with the Environmental Division of the Superior Court, pursuant to the requirements of this section, if, by its express terms, an easement provides that the proposed amendment may only be approved by court order.

(1) The petition shall be signed by each holder, the landowner or landowner's representative, and any person who holds an executory interest that allows assumption of ownership of the property or the easement, if the amendment is approved.

(2) The petitioner shall serve the petition on the persons described in subdivisions 6328(b)(1)–(5) of this title.

(A) As to a petition under this section, the Division shall determine which persons who originally conveyed or amended the easement shall be notified under subdivision 6328(b)(5) of this title.

(B) The petitioner shall serve the petition on adjoining landowners who may be affected by the amendment to the easement, unless on motion of the petitioner the Division determines that the number of adjoining landowners is so large that such service is not practicable. The Division may direct the petitioner to provide a list of adjoining landowners.

(3) A petition under this section shall include the content required by subdivision 6328(a)(1)(A) through (F) of this title and such other information as the Division's rules may direct.

(b) A petition under this section shall be a matter of original jurisdiction before the Environmental Division. The Division shall provide notice of the

first status conference or hearing, whichever is earlier, to the persons signing the petition and the persons on whom service of the petition is required. The Vermont Rules of Environmental Court Proceedings shall apply to petitions under this section. The Attorney General shall have a statutory right to intervene in a petition under this section and may appear at his or her discretion.

(c) In deciding a petition under this section, the Division shall consider the information described under subsection 6328(g) of this title and apply the criteria enumerated under subdivision 6328(h) of this title. However, if the terms of the conservation easement proposed for an amendment provide one or more criteria for amendment that are more stringent than those applied by the Panel, the Division shall apply the more stringent criteria set forth in the easement in making its decision.

(d) Unless otherwise agreed, the holder or holders who file a petition under this section shall bear the costs and expenses of review of the petition.

§ 6330. HOLDER'S PUBLIC REVIEW AND HEARING PROCESS

(a) A holder may adopt and conduct a holder's public review process for a Category 3 amendment. Such a process may only be used if all holders agree to use the process and one of the holders is publicly identified in the initial notice as responsible for the publication by newspaper and on its website of all notices and documents required under this section.

(b) A holder's public review process shall include each of the following:

(1) Creation of an easement amendment proposal containing the same information described in subdivision 6328(a)(1)(A)–(F) of this title, except that a holder may defer the certification requirements referenced in subdivision 6328(a)(1)(D) of this title until after it completes the public hearing;

(2) Posting of the easement amendment proposal on the website of the holder publicly identified under subsection (a) of this section;

(3) Publication of a notice of the petition in at least one area newspaper reasonably calculated to reach members of the public in the area where the protected property is located. The notice also shall be placed on the website of the holder publicly identified under subsection (a) of this section. The notice shall include each of the following:

(A) A description of the property subject to the existing conservation easement, the name of each petitioner, and a summary of the proposed amendment;

(B) The date, time, and place of the public hearing. The date of the public hearing shall be not less than 25 days and not more than 40 days from

the date of publication of the notice in the newspaper. The place of the public hearing shall be in the vicinity of the protected property subject to the easement;

(C) A link to the website where the easement amendment proposal and accompanying materials and information may be found;

(4) Sending a copy of the easement amendment proposal and notice to the persons described in subdivisions 6328(b)(1)–(5) of this title;

(5) Sending a copy of the notice to all adjoining landowners who may be affected by the amendment to the easement, unless all holders of the subject easement agree that the number of adjoining landowners is so large that direct notification is not practicable.

(c) Any person may participate in the holder's public review process and public hearing by submitting written comments or oral comments, or both, at the public hearing. The holder may require each participant in the public hearing to sign a register noting their presence at the hearing and providing their electronic or other mailing address.

(d) If following the public review and hearing process the holder approves the amendment, the holder shall prepare a written decision that:

(1) Explains the changes to the easement that have been approved;

(2) Considers the information described under subsection 6328(g) of this title in relation to the easement amendment proposal;

(3) Applies the criteria enumerated under subdivision 6328(h) of this title to the easement amendment proposal;

(4) Lists all persons who submitted written or oral comments during the public review and hearing process;

(5) Summarizes the nature of any objection made to the amendment during the public review and hearing process and explains how the objection was addressed or why it was rejected.

(e) All holders of an easement shall conduct a single, combined holder's public review process that complies with this section for any particular amendment that has been proposed to the easement. The holders may prepare a written decision to which they all agree. If all holders do not agree to the written decision, the amendment shall not be approved.

(f) The holder shall file the decision with the Panel, together with a certification that the holder has conducted a public hearing and complied with this section. At the time of this filing, the holder shall post on its website:

(1) a copy of the written decision and certification filed with the Panel;

(2) the date that the decision and certification were filed with the Panel; and

(3) the notice described in subsection (g) of this section.

(g) Immediately on filing the decision with the Panel, the holder shall send a notice of the decision to all persons listed in subdivisions 6328(b)(1)–(5) of this title and shall provide a link to the holder's website where the decision, certification, and other information may be found. The notice shall:

(1) state the date on which the decision was filed with the Panel;

(2) list the persons who have the right to file a request for review with the Panel under subsection 6331(a) of this title and state that any request for review must be submitted to the Panel within 30 days of the date the holder filed its decision with the Panel; and

(3) state that any such request for review must state the basis for the appeal, include a statement of issues, and make a prima facie showing that the holder's decision is not in the public conservation interest.

(h) If at any time prior to the issuance of a final decision by the holder, any holder or the landowner decides to terminate the holder's public review process, the amendment shall not be approved. However, at the option of the landowner and holder, the proposed amendment may be submitted and approved as a Category 3 amendment by the Panel or the Environmental Division of the Superior Court in accordance with this subchapter.

§ 6331. PANEL REVIEW OF HOLDER'S DECISION FOLLOWING PUBLIC REVIEW AND HEARING

(a) The following persons have the right to request that the Panel review the holder's decision under section 6330 of this title:

(1) the Attorney General;

(2) the person who originally conveyed the easement, if the easement was donated or provided through a bargain sale or other mechanism in which the person who conveyed the easement received a tax deduction;

(3) the legislative body of the municipality in which the property subject to the easement is located;

(4) any person who provided an oral or written comment during the holder's public review and hearing process.

(b) A request to review under this section must be filed with the Panel within 30 days of the date the holder files the decision and certification with the Panel.

(c) A request for review of a holder's decision must be in writing, state the basis for the request to review, contain a statement of issues, and make a prima facie showing that the holder's decision is not in the public conservation interest.

(1) A person who originally conveyed the easement may also make a prima facie case that the amendment fails to comply with conditions concerning amendments that may be contained in the original easement.

(2) In this section, the term "prima facie" means an initial showing of specific facts which, if proven, would show that the easement amendment is not in the public conservation interest or, if the request was filed by a person who originally conveyed the easement, does not comply with conditions concerning amendments that may be contained in the original easement. A prima facie showing also shall include the reasons why the facts prove that the amendment is not in the public conservation interest or does not comply with the original easement's conditions.

(d) The Panel, on its own initiative or by written request of the holder, may dismiss a request for review without further hearing if the person requesting the review is not eligible to request review under this section or the request for review fails to comply with subsection (c) of this section.

(e) With respect to an amendment for which the holder's public review and hearing under section 6330 of this title was completed, the Panel shall, at the request of the landowner or holder, issue a certificate in recordable form that the holder has made the required certifications and that no further approval of the amendment is required if:

(1) no request for review was filed within the time permitted under subsection (b) of this section; or

(2) such a request was filed and dismissed under subsection (d) of this section.

(f) In the event that a timely request for review is filed and not dismissed under subsection (d) of this section, the Panel shall review the amendment as a Category 3 amendment in accordance with section 6328 of this title, provided that:

(1) the request for review shall be limited to the statement of issues raised in the request for review, unless the Panel determines that a request to amend the statement of issues is timely filed and will not result in prejudice to any party to the proceeding; and

(2) the decision of the holder shall be presumed to be in the public conservation interest. This presumption shall be rebutted if the Panel finds that

there was a substantial violation of the procedural requirements of section 6330 of this title or if the amendment does not meet the criteria of section 6328(h) of this title.

§ 6332. REVOCATION OF EASEMENT AMENDMENTS

(a) Revocation by the Panel. On its own initiative or at the request of the Attorney General or a person who participated in the Panel's or holder's review process, the Panel may revoke easement amendments approved under section 6328, 6330, or 6331 of this title.

(1) A revocation petition before the Panel shall be a contested case under 3 V.S.A. chapter 25, and the Panel shall comply with 3 V.S.A. § 814(c) (notice; opportunity to show compliance).

(2) The Panel may revoke an easement amendment approved under section 6328, 6330, or 6331 of this title if finds one or more of the following:

(A) noncompliance with the easement amendment decision of the Panel or any condition of that decision;

(B) noncompliance with the holder's decision following the holder's public review and hearing process under section 6330 of this title, concerning which decision the Panel has issued a certificate to the holder pursuant to section 6331 of this title;

(C) failure of a holder of the easement to disclose all relevant and material facts in the petition or during the review process;

(D) misrepresentation by a holder of the easement of any relevant and material fact at any time.

(b) The Attorney General or the Panel may petition the Environmental Division to revoke an easement amendment approved by the Division under section 6329 of this title.

(1) Each holder of the easement amendment subject to the petition shall be given notice and an opportunity to show compliance.

(2) The Division may revoke an easement amendment approved by the Division under section 6329 of this title if it finds one or more of the following:

(A) noncompliance with the easement amendment decision of the Division or any condition of that decision;

(B) failure of a holder of the easement to disclose all relevant and material facts in the petition or during the review process;

(C) misrepresentation by a holder of the easement of any relevant and material fact at any time.

(c) This section shall not be applied to alter the rights of a good faith purchaser who, subsequent to approval of an amendment under this chapter, purchased property affected by the amendment without notice of the misrepresentation or failure to disclose and was not responsible for and had no knowledge or constructive notice of the conditions imposed by the Panel or Environmental Division.

§ 6333. APPEALS

(a) Appeals. A final decision of the Panel or the Environmental Division of the Superior Court under this subchapter may be appealed to the Supreme Court within 30 days of the decision's issuance.

(b) Persons eligible to appeal. Only the following persons shall have the right to appeal to the Vermont Supreme Court under this section:

(1) a holder of the subject easement;

(2) the landowner;

(3) the Attorney General;

(4) the Panel, but only of a decision of the Environmental Division on a revocation petition brought by the Panel under section 6332 of this title; or

(5) the persons who originally conveyed the easement if the conservation easement contained any donor-imposed restriction accepted by the holder in exchange for the easement.

(c) Appeal by fewer than all holders. If the appeal is filed by fewer than all of the holders, the holder or holders filing the appeal shall bear the holder's cost and expenses of the appeal. However, the decision on appeal shall be binding on all holders and on all other parties.

(d) Preservation. An objection that has not been raised before the Panel or the Environmental Division may not be considered by the Supreme Court, unless the failure or neglect to raise that objection is excused by the Supreme Court because of extraordinary circumstances.

(e) Standard of review. The Supreme Court may reverse a decision appealed under this section only if the decision is clearly erroneous or the Panel or Environmental Division clearly abused its discretion.

§ 6334. CONTRIBUTOR RESTITUTION ACTIONS; DAMAGE LIMITATION

A decision by the Panel or the Environmental Division on an amendment under this subchapter shall not affect any right of a person who has personally or directly contributed to the holder's acquisition of the easement to seek restitution in a court of competent jurisdiction of the contribution based upon misrepresentation or breach of contract on the part of the easement holder. However, such restitution shall be only for the amount contributed or granted, and shall not include interest, damages, attorney's fees, or other costs, unless the reviewing court finds that the holder has acted in bad faith.

§ 6335. REPORT TO GENERAL ASSEMBLY

Each state agency shall provide to the General Assembly a report of any easement amendments made during the previous year. The report shall summarize each easement amendment and describe both the reasons for the amendment and how the amendment promotes the public conservation interest. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

Sec. 8. 4 V.S.A. § 34 is amended to read:

§ 34. JURISDICTION; ENVIRONMENTAL DIVISION

The ~~environmental division~~ Environmental Division shall have:

(1) jurisdiction of matters arising under 10 V.S.A. chapters 201 and 220 ~~of Title 10~~;

(2) jurisdiction of matters arising under 24 V.S.A. chapter 61, subchapter 12, and chapter 117 ~~and subchapter 12 of chapter 61 of Title 24~~; ~~and~~

(3) original jurisdiction to revoke permits under 10 V.S.A. chapter 151 ~~of Title 10~~; and

(4) such original jurisdiction to approve or deny and to revoke amendments of conservation easements as is provided by 10 V.S.A. chapter 155, subchapter 2.

Sec. 9. 10 V.S.A. § 324 is amended to read:

§ 324. STEWARDSHIP

(a) The Board shall amend or terminate conservation easements held pursuant to this chapter only in accordance with chapter 155, subchapter 2 of this title.

(b) If an activity funded by the ~~board~~ Board involves acquisition by the ~~state~~ State of an interest in real property for the purpose of conserving and protecting agricultural land or forestland, important natural areas, or recreation lands, the ~~board~~ Board, in its discretion, may make a one-time grant to the appropriate state agency, qualified organization, or municipality. The grant shall not exceed ten percent of the current appraised value of that property interest and shall be used to support its proper management or maintenance or both.

Sec. 10. 10 V.S.A. § 823 is amended to read:

§ 823. INTERESTS IN REAL PROPERTY

Conservation and preservation rights and interests shall be deemed to be interests in real property and shall run with the land. A document creating such a right or interest shall be deemed to be a conveyance of real property and shall be recorded under 27 V.S.A. chapter 5. ~~Such a right or interest shall be subject to the requirement of filing a notice of claim within the 40-year period as provided in 27 V.S.A. § 603.~~ Such a right or interest shall be enforceable in law or in equity. Any subsequent transfer, mortgage, lease, or other conveyance of the real property or an interest in the real property shall reference the grant of conservation rights and interests in the real property, provided, however, that the failure to include a reference to the grant shall not affect the validity or enforceability of the conservation rights and interests.

Sec. 11. 27 V.S.A. § 604 is amended to read:

§ 604. FAILURE TO FILE NOTICE

(a) This subchapter shall not bar or extinguish any of the following interests, by reason of failure to file the notice provided for in section 605 of this title:

* * *

(8) Any conservation rights or interests created pursuant to 10 V.S.A. chapter 34 or 155.

* * *

Sec. 12. EASEMENT AMENDMENT PANEL; INITIAL APPOINTMENTS

By October 1, 2013, the Governor shall appoint the members of the Easement Amendment Panel under Sec. 7 of this act, 10 V.S.A. § 6323(a)(2)–(4) (members; easement amendment panel). The initial term of the members appointed under 10 V.S.A. § 6323(a) from a list submitted by qualified organizations shall expire on February 1, 2017. The initial term of

the members appointed under 10 V.S.A. § 6323(a) from a list submitted by the Vermont Housing and Conservation Board shall expire on February 1, 2015.

Sec. 13. EFFECTIVE DATES

(a) This section, Sec. 12 of this act, and, in Sec. 7 of this act, 10 V.S.A. § 6323 shall take effect on passage.

(b) The remainder of the act shall take effect on January 1, 2014.

And that when so amended the bill ought to pass.

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

First: In Sec. 7, in 10 V.S.A. § 6323, by striking out subsection (h) in its entirety and inserting in lieu thereof a new subsection (h) to read as follows:

(h) Powers. The Panel shall have the power, with respect to any matter within its jurisdiction, to:

(1) allow members of the public to enter upon the lands under or proposed to be under the conservation easement, at times designated by the Panel, for the purpose of inspecting and investigating conditions related to the matter before the Panel;

(2) enter upon or authorize others to enter upon the lands under or proposed to be under the conservation easement for the purpose of conducting inspections, investigations, examinations, tests, and site evaluations as it deems necessary to verify information presented in any matter within its jurisdiction;

(3) adopt rules of procedure and substantive rules, in accordance with the provisions of 3 V.S.A. chapter 25, that interpret and carry out the provisions of this subchapter that pertain to easement amendments.

Second: In Sec. 7, in 10 V.S.A. § 6323, by adding a subsection (i) to read as follows:

(i) Filing fees.

(1) A fee in the amount of $100.00 shall accompany a request for review of a Category 2 amendment, pursuant to section 6326 of this title.

(2) A fee in the amount set by 32 V.S.A. § 1431(b)(1) shall accompany a petition for approval of a Category 3 amendment, pursuant to section 6328 of this title; a request for review of a holder's decision, pursuant to section 6331 of this title; and a request to revoke an easement amendment, pursuant to section 6332 of this title. The Panel may also assess to persons before the

Panel the actual cost of the payment of per diems under subsection (g) of this section and the actual cost of providing notice, holding hearings, paying mileage, and other expenses of the filing. Persons assessed costs by the Panel may petition the Environmental Division of the Superior Court for review of those costs.

(3) The filing fees established by this subsection and the costs assessed pursuant to this subsection shall be deposited into the Act 250 Permit Fund, pursuant to section 6029 of this title.

Third: By inserting a new section to be numbered Sec. 12a to read as follows:

Sec. 12a. 10 V.S.A. § 6029 is amended to read:

§ 6029. ACT 250 PERMIT FUND

There is hereby established a special fund to be known as the ~~Act 250 permit fund~~ Act 250 Permit Fund for the purposes of implementing the provisions of this chapter and the Easement Amendment Panel of the Board created under section 6323 of this title. Revenues to the ~~fund~~ Fund shall be those fees collected in accordance with ~~section~~ sections 6083a and 6323 of this title, gifts, appropriations, and copying and distribution fees. The ~~board~~ Board shall be responsible for the ~~fund~~ Fund and shall account for revenues and expenditures of the ~~board~~ Board. At the ~~commissioner's~~ Commissioner's discretion, the ~~commissioner of finance and management~~ Commissioner of Finance and Management may anticipate amounts to be collected and may issue warrants based thereon for the purposes of this section. Disbursements from the ~~fund~~ Fund shall be made through the annual appropriations process to the ~~board~~ Board and to the ~~agency of natural resources~~ Agency of Natural Resources to support those programs within the ~~agency~~ Agency that directly or indirectly assist in the review of Act 250 applications. This ~~fund~~ Fund shall be administered as provided in 32 V.S.A. chapter 7, subchapter 5 ~~of chapter 7 of Title 32~~.

And that when so amended the bill ought to pass.

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

First: In Sec. 7, in 10 V.S.A. § 6325, subsection (a), in the first sentence, before the period, by inserting the words and that does not, by the express terms of the easement, require approval by court order

Second: In Sec. 7, in 10 V.S.A. § 6326, subsection (a), before the first colon, by inserting the words does not, by the express terms of the easement, require approval by court order and that

Third: In Sec. 7, in 10 V.S.A. § 6328, subsection (a), subdivision (1), subdivision (G), by striking out the words "the schedule established by the Panel" and inserting in lieu thereof the words subsection 6323(i) of this title

Fourth: In Sec. 7, in 10 V.S.A. § 6328, subsection (h), subdivision (2), by striking out the words "more restrictive conditions than" and inserting in lieu thereof the words conditions that are more restrictive than or different from

Fifth: In Sec. 7, in 10 V.S.A. § 6329, subsection (a), subdivision (3), by striking out the word "subdivision" and inserting in lieu thereof the word subdivisions and before the words "of this title", by inserting and (H)

Sixth: In Sec. 7, in 10 V.S.A. § 6329, subsection (c), by striking out the second sentence in its entirety and inserting in lieu thereof However, if the terms of the conservation easement proposed for an amendment provide one or more conditions for amendment that are more restrictive than or different from those applied by the Panel, the Division shall also apply those conditions set forth in the easement in making its decision.

Seventh: In Sec. 7, in 10 V.S.A. § 6330, subsection (b), subdivision (1), by striking out the word "subdivision" and inserting in lieu thereof the word subdivisions and after "6328(a)(1)(A)–(F)", by inserting and (H)

And that when so amended 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 the recommendation of amendment of the Committee on Natural Resources and Energy was amended as recommended by the Committee on Finance.

Thereupon, the question, Shall the recommendation of the Committee on Natural Resources and Energy, as amended, be amended as recommended by the Committee on Agriculture?, was decided in the affirmative.

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

Thereupon, third reading of the bill was ordered.

Proposals of Amendment; Third Reading Ordered

H. 401.

Senator Snelling, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to municipal and regional planning and flood resilience.

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

First: In Sec. 1, 24 V.S.A. § 4302, in subdivision (c)(14)(A), in the second sentence, by striking out the words "should be constructed to withstand flooding and fluvial erosion and", and by inserting after the words "exacerbate flooding" the words and fluvial erosion

Second: In Sec. 3, 24 V.S.A. § 4348a, in subdivision (a)(11)(A)(i), by striking out the words "that should" and inserting in lieu thereof the word to

Third: In Sec. 4, 24 V.S.A. § 4382, in subdivision (a)(12)(A)(i), by striking out the words "that should" and inserting in lieu thereof the word to

Fourth: In Sec. 8, by striking out the section in its entirety and inserting in lieu thereof the following:

Sec. 8. EFFECTIVE DATES

(a) This section and Secs. 5 (required provisions and prohibited effects) and 6 (regulation of accessory dwelling units) of this act shall take effect on passage.

(b) Secs. 1 (purpose; goals), 2 (flood hazard area), 3 (elements of a regional plan), 4 (the plan for a municipality), and 7 (river corridors and buffers) of this act shall take effect on July 1, 2014.

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 proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Appointments Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

Shems, Ron of Moretown - Chair, Natural Resources Board – February 1, 2013, to January 31, 2015.

Marro, Nicola of Montpelier - Member, Transportation Board – March 25, 2013, to February 29, 2016.

Kittell, Vanessa of East Fairfield - Member, Transportation Board - March 25, 2013, to February 29, 2016.

Dailey, Thomas of Bennington - Member, Transportation Board - March 25, 2013, to February 29, 2016.

Fitzgerald, James of St. Albans - Member, Transportation Board – August 12, 2012, to February 28, 2015.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, April 24, 2013.

WEDNESDAY, APRIL 24, 2013

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. 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 a House bill of the following title:

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

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

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

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

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Rules Suspended; House Proposals of Amendment to Senate Proposal of Amendment Concurred In; Rules Suspended; Bill Messaged

H. 510.

Pending entry on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and House proposals of amendment to Senate proposal of amendment to House bill entitled:

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

Was taken up for immediate consideration.

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

First: By striking out Secs. 22, 23, and 24 in their entirety and inserting in lieu thereof the following:

Sec. 22. 23 V.S.A. § 3003 is amended to read:

§ 3003. IMPOSITION OF TAX; EXCEPTIONS

(a) A tax of ~~$0.27~~ $0.28, a fee of $0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a $0.03 motor fuel transportation infrastructure assessment which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

(1) sold or delivered by a distributor; or

(2) used by a user.

* * *

Sec. 23. 23 V.S.A. § 3106 is amended to read:

§ 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

(a)(1) Except for sales of motor fuels between distributors licensed in this ~~state~~ State, which sales shall be exempt from the ~~tax and from the motor fuel transportation infrastructure assessment~~ taxes and assessments authorized

under this section, ~~in all cases not~~ unless 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~~ Commissioner:

(A) a tax of ~~$0.19~~ $0.182 upon each gallon of motor fuel sold by the distributor~~,~~; and

(B) the following assessments, which shall be levied on the tax-adjusted retail price of gasoline as defined herein:

(i) a motor fuel transportation infrastructure assessment in the amount of two percent of the tax-adjusted retail price 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~~; and

(ii) a fuel tax assessment, which shall be used exclusively for transportation purposes and not be transferred from the Transportation Fund, that is the greater of:

(I) $0.067 per gallon; or

(II) two percent of the tax-adjusted retail price or $0.09 per gallon, whichever is less, upon each gallon of motor fuel sold by the distributor.

(2) For the purposes of subdivision (1)(B) of this subsection, the retail price applicable for a quarter shall be the average of the monthly retail prices for regular gasoline determined and published by the Department of Public Service for the three months of the preceding quarter. The tax-adjusted retail price applicable for a quarter shall be the retail price exclusive of all federal and state taxes and assessments, and the petroleum distributor licensing fee established by 10 V.S.A. § 1942, at the rates applicable in the preceding quarter.

(3) The consolidated executive branch fee report and request for transportation made pursuant to 32 V.S.A. § 605(b)(1) may recommend an adjustment in the tax specified in subdivision (1)(A) of this subsection to reflect changes in the Consumer Price Index for All Urban Consumers.

(4) The distributor shall also pay to the ~~commissioner a tax and a motor fuel transportation infrastructure assessment in the same amounts~~ Commissioner the tax and assessments specified in this subsection upon each gallon of motor fuel used within the ~~state~~ State by him or her.

* * *

Sec. 23a. 23 V.S.A. § 3106 is amended to read:

§ 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

(a)(1) Except for sales of motor fuels between distributors licensed in this State, which sales shall be exempt from the taxes and assessments authorized under this section, unless exempt 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) a tax of ~~$0.182~~ $0.121 upon each gallon of motor fuel sold by the distributor; and

(B) the following assessments, which shall be levied on the tax-adjusted retail price of gasoline as defined herein:

(i) a motor fuel transportation infrastructure assessment in the amount of two percent of the tax-adjusted retail price upon each gallon of motor fuel sold by the distributor; and

(ii) a fuel tax assessment, which shall be used exclusively for transportation purposes and not be transferred from the Transportation Fund, that is the greater of:

(I) ~~$0.067~~ $0.134 per gallon; or

(II) ~~two~~ four percent of the tax-adjusted retail price or ~~$0.09~~ $0.18 per gallon, whichever is less, upon each gallon of motor fuel sold by the distributor.

* * *

Sec. 24. MOTOR FUEL ASSESSMENTS: MAY 1, 2013–SEPTEMBER 30, 2013

Notwithstanding the provisions of 23 V.S.A. § 3106(a)(1)(B) and 3106(a)(2), from May 1, 2013 through September 30, 2013, the motor fuel transportation infrastructure assessment required under 23 V.S.A. § 3106(a)(1)(B)(i) shall be $0.0656 per gallon, and the fuel tax assessment required under 23 V.S.A. § 3106(a)(1)(B)(ii) shall be $0.067 per gallon.

Second: By striking out Sec. 31 in its entirety and inserting in lieu thereof the following:

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section, Sec. 8a (Amtrak Vermont services), Sec. 10 (authority to issue transportation infrastructure bonds), Sec. 15a (addition to state highway system), and Sec. 30a (school bus pilot program) of this act shall take effect on passage.

(b) Secs. 23, 24, 25, and 26 of this act shall take effect on May 1, 2013.

(c) Secs. 22 (taxation of diesel) and 23a (taxation of motor fuel) of this act shall take effect on July 1, 2014.

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

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

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

Rules Suspended; Bill Committed

H. 107.

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

An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange.

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.

Rules Suspended; Bill Committed

S. 37.

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

An act relating to the creation of a tax increment financing district.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Finance, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Rules with the report of the Committee on Finance *intact*,

Which was agreed to.

Bill Referred to Committee on Appropriations

H. 533.

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:

An act relating to capital construction and state bonding.

Bill Referred

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

H. 536.

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

To the Committee on Rules.

Bill Passed in Concurrence with Proposals of Amendment

H. 39.

House bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the Senate proposal of amendment as follows:

First: In Sec. 6, 30 V.S.A. § 248, by striking out subsection (f) and inserting in lieu thereof a new subsection (f) to read as follows:

(f) However~~, the~~:

(1) The petitioner shall submit a notice of intent to construct such a facility within the State to the municipal and regional planning commissions at least six months prior to an application for a certificate of public good under this section. The Board shall specify by rule the content of such a notice of intent, which shall be designed to provide a reasonable description of the facility to be built, its size and location, and related infrastructure to be

constructed. A notice of intent under this subdivision shall not be required for a facility that the Board determines to be eligible for treatment under subsection (j) (facilities of limited size and scope) of this section.

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

Second: By adding a new section to be numbered Sec. 6a to read as follows:

Sec. 6a. APPLICATION

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

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

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Galbraith moved that the Senate proposal of amendment be amended as follows:

First: After Sec. 5, by striking out the internal caption and inserting in lieu thereof a new internal caption and inserting a new section to be numbered Sec. 5a to read as follows:

* * * CPG: Recommendations of Municipal and Regional Planning Commissions; Wind Generation in Windham * * *

Sec. 5a. FINDINGS

The General Assembly finds that:

(1) In a 2006 survey, 287 residents of the Town of Windham opposed the siting of a wind generation plant, with 15 residents in favor.

(2) In 2008, the Town of Windham included the following statement in Sec. B.1 of its municipal plan adopted under 24 V.S.A. chapter 117:

> Commercial wind energy systems (wind farms) are defined as those that are regulated under Section 248 of Title 30 of the Vermont Statutes but not including net metering applications (as per 30 V.S.A. §219a) or temporary meteorological towers. These are generally large-scale projects with multiple turbines designed to generate electricity. It is the policy of the Town of Windham that commercial wind energy systems are prohibited throughout all of town.

(3) On June 2, 2012, Gov. Peter Shumlin, speaking on Vermont Public Television, stated:

> I have always said and I will always say I believe that no energy project should be built in a town in Vermont where the residents of that community don't vote affirmatively to host it. We shouldn't send them into towns that don't want them. So the answer is, I've been clear on this right from the beginning. Lowell is a great example. The people of Lowell voted, overwhelmingly, to have the Lowell project built. I support the Lowell project. If the people of any other project in Vermont in their community, in that town vote no, I support it not going in that community. We shouldn't build energy projects where they are not wanted.

(4) On October 9, 2012, the Department of Public Service filed a letter with the Public Service Board in Docket No. 7905 that opposed granting a certificate of public good (CPG) for wind meteorological stations to be sited in Windham, stating that "the Board should defer to the clear mandate of the Town Plan and not grant a CPG for the temporary siting of any MET towers in Windham."

Second: In Sec. 6, 30 V.S.A. § 248, after the second ellipsis, by inserting subsection (q) to read as follows:

(q) Notwithstanding the Board's assessment of the general good of the State under subsection (a) of this section or the requirement of subdivision (b)(1) of this section to give due consideration to the land conservation measures in the plan of any affected municipality, the Board may issue a certificate of public good for a wind generation plant to be located in the Town of Windham only if it finds, in addition to all other criteria of this section, that the plant is in conformance with the duly adopted municipal plan under 24 V.S.A. chapter 117. For the purpose of this subsection, "plant" shall have the same meaning as under section 8002 of this title.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senator Galbraith?, Senator Rodgers moved to substitute a proposal of amendment for the proposal of amendment of Senator Galbraith, as follows:

First: In Sec. 6, 30 V.S.A. § 248, after the first ellipsis, by inserting subsection (b) to read as follows:

(b) Before the ~~public service board~~ Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) with respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However, with respect to an in-state wind generation plant exceeding 2.2 megawatts, the plant shall be in conformance with the duly adopted plan under 24 V.S.A. chapter 117 for the municipality in which the plant is to be located if the plan was adopted prior to the effective date of this section. However, with respect to a natural gas transmission line subject to ~~board~~ Board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the ~~board~~ Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located;

* * *

Second: By adding a new section to be numbered Sec. 6a to read as follows:

Sec. 6a. 30 V.S.A. § 248(b) is amended to read:

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) with respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. ~~However, with respect to an in-state wind generation plant exceeding~~

~~2.2 megawatts, the plant shall be in conformance with the duly adopted plan under 24 V.S.A. chapter 117 for the municipality in which the plant is to be located if the plan was adopted prior to the effective date of this section.~~ However, with respect to a natural gas transmission line subject to Board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located;

* * *

Third: By striking out Sec. 16 (effective date) in its entirety and inserting in lieu thereof a new Sec. 16 to read as follows:

Sec. 16. EFFECTIVE DATES

This act shall take effect on passage except that Sec. 6a (Board findings for a certificate of public good) shall take effect on July 1, 2014.

Thereupon, pending the question, Shall the proposal of amendment of Senator Rodgers be substituted for the proposal of amendment of Senator Galbraith?, Senator Ashe moved that the bill be ordered to lie.

Thereupon, Senator Ashe requested and was granted leave to withdraw his motion.

Thereupon, Senator Rodgers requested and was granted leave to withdraw his substitute proposal of amendment.

Thereupon, Senator Galbraith requested and was granted leave to withdraw his proposal of amendment.

Thereupon, pending third reading of the bill, Senators Bray and Ayer moved that the Senate proposal of amendment be amended as follows:

First: In Sec. 6, 30 V.S.A. § 248, before the first ellipsis, by inserting the following:

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

* * *

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

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

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

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

(E) The ~~agency of natural resources~~ Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the ~~byways advisory council~~ Byways Advisory Council in such a proceeding.

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

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

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

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

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

Second: In Sec. 6, 30 V.S.A. § 248, in subsection (f), after the last sentence, by inserting the following: However, if the 45-day period under subdivision (a)(4)(F) of this section is invoked, such recommendations may be made at the end of that period.

Which was agreed to.

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

Bill Passed

S. 119.

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

An act relating to amending perpetual conservation easements.

Bills Passed in Concurrence with Proposals of Amendment

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

H. 401. An act relating to municipal and regional planning and flood resilience.

H. 406. An act relating to listers and assessors.

Bill Passed in Concurrence

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

H. 527. An act relating to approval of the adoption and the codification of the charter of the Town of Northfield.

Third Reading Ordered

H. 518.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to miscellaneous amendments to Vermont retirement laws.

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.

House Proposal of Amendment Concurred In

S. 73.

House proposal of amendment to Senate bill entitled:

An act relating to the moratorium on home health agency certificates of need.

Was taken up.

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

In Sec. 1, 2010 Acts and Resolves No. 83, Sec. 2, subsection (d), before the period, by inserting the following: or to a licensed home for the terminally ill as defined in 33 V.S.A. § 7102

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

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. 119, H. 401, H. 406, H. 527.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, April 25, 2013.

THURSDAY, APRIL 25, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Peter Anderson of Jericho.

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 considered joint resolution originating in the Senate of the following title:

J.R.S. 28. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bill Referred to Committee on Finance

H. 101.

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 hunting, fishing, and trapping.

Bill Introduced

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

S. 168.

By Senator White,

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

To the Committee on Government Operations.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 533.

Appearing 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 Flory, 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:

* * * Capital Appropriations * * *

Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that of the $159,900,000.00 authorized in this act, no more than $90,248,531.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(b) It is the intent of the General Assembly that 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.

Sec. 2. STATE BUILDINGS

(a) The following sums are appropriated to the Department of Buildings and General Services, and the Commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions are notified before that action is taken.

(b) The following sums are appropriated in FY 2014:

(1) Statewide, asbestos: $50,000.00

(2) Statewide, building reuse and planning: $75,000.00

(3) Statewide, contingency: $100,000.00

(4) Statewide, major maintenance: $8,000,000.00

(5) Statewide, BGS engineering and architectural project costs: $2,802,597.00

(6) Statewide, physical security enhancements: $200,000.00

(7) Burlington, 32 and 108 Cherry Street, HVAC and DDC controls upgrades and roof renovations: $250,000.00

(8) Montpelier, 133 State Street, foundation and parking lot restoration: $1,450,000.00

(9) Montpelier, capitol district heat plant:

(A) 122 State Street, construction: $2,500,000.00

(B) 120 State Street, Loading Dock, parking reconfiguration: $400,000.00

(10) Southern State Correctional Facility, steamline replacement: $600,000.00

(11) Southern State Correctional Facility, copper waterline replacement: $400,000.00

(12) Montpelier, Capitol Complex Historic Preservation, major maintenance: $200,000.00

(13) NWSCF, roof and soffit replacement, A, B, and C wings: $425,000.00

(14) Chittenden Regional Correctional Facility, HVAC upgrades: $400,000.00

(15) Renovation and replacement of state-owned assets, Tropical Storm Irene:

(A) Vermont State Hospital, related projects: $8,700,000.00

(B) Waterbury State Office Complex: $21,200,000.00

(C) National Life: $4,100,000.00

(D) Notwithstanding subsection (a) of this section, allocations in this subdivision shall be used only to fund the projects described in this subdivision (15). However, if costs associated with these projects exceed the amount allocated in this subdivision, the Commissioner, in consultation with the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, may transfer funds from other projects in this section.

(E) For the purpose of allowing the Department of Buildings and General Services to enter into contractual agreements and complete work on the projects described in this subdivision (15) as soon as possible, it is the intent of the General Assembly that these are committed funds.

(F) A special committee consisting of the Joint Fiscal Committee and the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions ("Special Committee") is hereby established. If there are any material changes to the planning or funding of the Waterbury State Office Complex, the Special Committee shall meet to review and approve these changes at the next regularly scheduled meeting of the Joint Fiscal Committee or at an emergency meeting called by the Chairs of the

House Committee on Corrections and Institutions, the Senate Committee on Institutions, and the Joint Fiscal Committee. The Special Committee shall be entitled to per diem and expenses as provided in 2 V.S.A. § 406.

(G) The Commissioner of Buildings and General Services shall notify the House Committee on Corrections and Institutions and the Senate Committee on Institutions at least monthly of updates to the planning process for the projects described in this subdivision (b)(15).

(H) As used in this subdivision (b)(15), a "material change" means a change to the planning or funding of the Waterbury State Office Complex that:

(i) increases the total project cost estimate by 10 percent; or

(ii) constitutes a change in plan or design.

(16) Barre, Barre Court, pellet boiler installation, supplement HVAC project: $329,000.00

(17) Laboratory, feasibility and governance study conducted by the Department of Buildings and General Services, the Agency of Natural Resources, and the Agency of Agriculture, Food and Markets (as described in Sec. 41 of this act): $100,000.00

(c) The following sums are appropriated in FY 2015:

(1) Statewide, asbestos and lead abatement: $50,000.00

(2) Statewide, building reuse and planning: $75,000.00

(3) Statewide, contingency: $100,000.00

(4) Statewide, major maintenance: $8,639,064.00

(5) Statewide, BGS engineering and architectural project costs: $2,802,597.00

(6) Statewide, physical security enhancements: $100,000.00

(7) Southern State Correctional Facility, steamline replacement: $600,000.00

(8) Southern State Correctional Facility, copper waterline replacement: $300,000.00

(9) Montpelier, Capitol Complex Historic Preservation, major maintenance: $200,000.00

(10) Renovation and replacement of state-owned assets, Tropical Storm Irene:

(A) Waterbury State Office Complex: $33,000,000.00

(B) For the purpose of allowing the Department of Buildings and General Services to enter into contractual agreements and complete work on the projects described in this subdivision (10) as soon as possible, it is the intent of the General Assembly that these are committed funds not subject to budget adjustment.

(d) It is the intent of the General Assembly that the Commissioner of Buildings and General Services may use up to $75,000.00 of the funds appropriated in subdivision (b)(4) of this section for the purpose of funding projects described in 2009 Acts and Resolves No. 43, Sec. 24(b), and in Sec. 49 of this act.

(e) It is the intent of the General Assembly to review the proposal submitted by the Commissioner of Finance and Management pursuant to Sec. 39 of this act and evaluate the suitability of the FY 2015 appropriation to the Department of Buildings and General Services for engineering costs in subdivision (c)(5) of this section.

Appropriation – FY 2014	$52,281,597.00
Appropriation – FY2015	$45,866,661.00
Total Appropriation – Section 2	$98,148,258.00

Sec. 3. ADMINISTRATION

The following sums are 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) $100,000.00 is appropriated in FY 2014.

(2) $100,000.00 is appropriated in FY 2015.

Total Appropriation – Section 3	$200,000.00

Sec. 4. HUMAN SERVICES

(a) The following sums are appropriated in FY 2014 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:	$5,000,000.00
(2) Corrections, security upgrades:	$100,000.00
(3) Corrections, facilities conditions analysis:	$100,000.00

(b) The following sums are appropriated in FY 2015 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 the Department of Health laboratory with the UVM Colchester research facility: $6,000,000.00

(2) Corrections, security upgrades: $100,000.00

(c) It is the intent of the General Assembly that the funds appropriated in subdivision (b)(1) of this section are committed funds not subject to budget adjustment.

(d) On or before January 15, 2014, the Department of Corrections and the Department of Buildings and General Services shall report to the General Assembly on capital needs at state correctional facilities. The report shall evaluate five-year capital needs and shall include:

(1) a facilities conditions analysis;

(2) an assessment of space required for programming use;

(3) proposed unit configurations for the housing of aging and other special needs populations;

(4) a strategy for housing all Vermont inmates at instate correctional facilities and reducing recidivism rates;

(5) an estimate of the funding required to increase community capacity to meet capital needs; and

(6) an estimate of the funding required to increase capacity in state correctional facilities.

(e) The Commissioner of Buildings and General Services may use the funds appropriated to the Department of Buildings and General Services for the Agency of Human Services in subdivision (a)(3) of this section for the purpose described in subdivision (d)(1) of this section.

Appropriation – FY 2014	$5,200,000.00
Appropriation – FY 2015	$6,100,000.00
Total Appropriation – Section 4	$11,300,000.00

Sec. 5. JUDICIARY

(a) The sum of $1,000,000.00 is appropriated in FY 2014 to the Department of Buildings and General Services on behalf of the Judiciary for

the planning and design for building renovations and addition to the Lamoille County Courthouse in Hyde Park.

(b) The sum of $2,500,000.00 is appropriated in FY 2015 to continue the project described in subsection (a) of this section.

Total Appropriation – Section 5 $3,500,000.00

Sec. 6. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2014 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: $200,000.00

(2) Bennington Monument, structural repairs and ADA compliance: $175,000.00

(b) The following sums are appropriated in FY 2014 to the Agency of Commerce and Community Development for the following projects:

(1) Underwater preserves: $25,000.00

(2) Placement and replacement of roadside historic site markers: $15,000.00

(c) The following sums are appropriated in FY 2014 to the Department of Buildings and General Services for the following projects:

(1) Battle of Cedar Creek and Winchester Memorials, relocation and placement of roadside marker: $30,000.00

(2) Schooner Lois McClure, upgrades: $50,000.00

(d) The following sum is appropriated in FY 2015 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the Department of Buildings and General Services: $200,000.00

(e) The following sums are appropriated in FY 2015 to the Agency of Commerce and Community Development for the following projects:

(1) Underwater preserves: $35,000.00

(2) Placement and replacement of roadside historic site markers: $15,000.00

Appropriation – FY 2014	$495,000.00
Appropriation – FY 2015	$250,000.00
Total Appropriation – Section 6	$745,000.00

Sec. 7. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2014 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: $225,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: $225,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment of the Arts, provided that all capital funds are made available to the cultural facilities grant program: $225,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: $225,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program: $225,000.00

(6) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: $225,000.00

(b) The following sum is appropriated in FY 2014 to the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: $225,000.00

(c) The following sums are appropriated in FY 2015 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: $225,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: $225,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment of the Arts, provided that all capital funds are made available to the cultural facilities grant program: $225,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: $225,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program: $225,000.00

(6) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: $225,000.00

(d) The following sum is appropriated in FY 2015 to the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: $225,000.00

Appropriation – FY 2014	$1,575,000.00
Appropriation – FY 2015	$1,575,000.00
Total Appropriation – Section 7	$3,150,000.00

Sec. 8. EDUCATION

(a) The sum of $6,704,634.00 is appropriated in FY 2014 to the Agency of Education for funding the state share of completed school construction projects pursuant to 16 V.S.A. § 3448.

(b) The sum of $10,411,446 is appropriated in FY 2015 to the Agency of Education for the funding the state share of completed school construction projects pursuant to 16 V.S.A. § 3448. It is the intent of the General Assembly that the funds appropriated in subdivision (b) of this section are committed funds not subject to budget adjustment.

Appropriation – FY 2014	$6,704,634.00
Appropriation – FY 2015	$10,411,446.00
Total Appropriation – Section 8	$17,116,080.00

Sec. 9. UNIVERSITY OF VERMONT

(a) The sum of $1,400,000.00 is appropriated in FY 2014 to the University of Vermont for construction, renovation, and major maintenance.

(b) The sum of $1,400,000.00 is appropriated in FY 2015 to the University of Vermont for construction, renovation, and major maintenance.

(c) 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 9 $2,800,000.00

Sec. 10. VERMONT STATE COLLEGES

(a) The sum of $1,400,000.00 is appropriated in FY 2014 to the Vermont State Colleges for construction, renovation, and major maintenance.

(b) The sum of $1,400,000.00 is appropriated in FY 2015 to the Vermont State Colleges for construction, renovation, and major maintenance.

(c) On or before January 15, 2014, the Vermont State Colleges shall, in coordination with the Enhanced 911 Board, bring each state college into compliance with the requirements of 30 V.S.A. § 7057 (privately owned telephone systems) or develop a comprehensive plan approved by the Enhanced 911 Board to bring each state college into compliance with the Enhanced 911 program requirements. The funds appropriated in FY 2015 to the Vermont State Colleges shall only become available after the Enhanced 911 Board has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions that the Vermont State Colleges has met these requirements.

(d) 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 $2,800,000.00

Sec. 11. NATURAL RESOURCES

(a) The following sums are appropriated to the Agency of Natural Resources in FY 2014 for:

(1) the Water Pollution Control Fund for the following projects:

(A) Clean Water State/EPA Revolving Loan Fund (CWSRF) match: $1,381,600.00

(B) Principal associated with funding for the Pownal project: $500,000.00

(C) Administrative support – engineering, oversight, and program management: $300,000.00

(2) the Drinking Water Supply for the following projects:

(A) Drinking Water State Revolving Fund: $2,500,000.00

(B) Engineering, oversight, and project management: $300,000.00

(C) EcoSystem restoration and protection: $2,250,000.00

(D) Waterbury waste treatment facility for phosphorous removal: $3,440,000.00

(3) 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: $2,000.000.00

(4) the Department of Fish and Wildlife for the following projects:

(A) general infrastructure projects: $1,000,000.00

(B) Fish and Wildlife Enforcement Division, for safety ramps, GPS units, deer decoys, and snowmobiles: $75,950.00

(C) Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure: $25,000.00

(b) The following sums are appropriated to the Agency of Natural Resources in FY 2015 for:

(1) the Water Pollution Control Fund for the following projects:

(A) Clean Water State/EPA Revolving Loan Fund (CWSRF) match: $700,000.00

(B) Interest associated with delayed grant funding for the Pownal project: $30,000.00

(C) Springfield loan conversions: $78,000.00

(D) Administrative support – engineering, oversight, and program management: $300,000.00

(2) the Drinking Water Supply for the following projects:

(A) Drinking Water State Revolving Fund: $1,000,000.00

(B) Engineering, oversight, and project management: $300,000.00

(C) EcoSystem restoration and protection: $2,073,732.00

(3) dam safety and hydrology projects: $400,000.00

(4) 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: $2,000,000.00

(5) the Department of Fish and Wildlife: $1,000,000.00

(c) It is the intent of the General Assembly to review the proposal submitted by the Commissioner of Finance and Management pursuant to Sec. 39 of this act to evaluate the suitability of the FY 2015 appropriations to the Agency of Natural Resources for engineering costs in subdivisions (b)(1)(D) and (b)(2)(B) of this section.

Appropriation – FY 2014	$13,772,550.00
Appropriation – FY 2015	$7,881,732.00
Total Appropriation – Section 11	$21,654,282.00

Sec. 12. MILITARY

(a) The sum of $750,000.00 is appropriated in FY 2014 to the Department of Military for land acquisition, new construction, maintenance, and renovations at state armories. To the extent feasible, these funds shall be used to match federal funds.

(b) The sum of $500,000.00 is appropriated in FY 2015 for the purpose described in subsection (a) of this section.

Total Appropriation – Section 12	$1,250,000.00

Sec. 13. PUBLIC SAFETY

(a) The sum of $3,000,000.00 is appropriated in FY 2014 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. For the purpose of allowing the Department of Buildings and General Services to enter into contractual agreements and complete work on the projects described in this subsection as soon as possible, it is the intent of the General Assembly that these are committed funds.

(b) The sum of $3,100,000.00 is appropriated in FY 2015 for 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 on the project as soon as possible, it is the intent of the General Assembly that these are committed funds not subject to budget adjustment.

(c) The sum of $550,000.00 is appropriated in FY 2014 to the Department Buildings and General Services for the Department of Public Safety to purchase land for public safety field stations and to conduct feasibility studies.

(d) The sum of $300,000.00 is appropriated in FY 2015 for the project described in subsection (c) of this section.

(e) The sum of $50,000.00 is appropriated in FY 2014 to the Department of Public Safety for the purchase of fire safety equipment for the Fire Service Training Center in Pittsford.

Appropriation – FY 2014	$3,600,000.00
Appropriation – FY 2015	$3,400,000.00
Total Appropriation – Section 13	$7,000,000.00

Sec. 14. AGRICULTURE, FOOD AND MARKETS

(a) The sum of $150,000.00 is appropriated in FY 2014 to the Department of Buildings and General Services for the Agency of Agriculture, Food and Markets for major maintenance costs at the Vermont Exposition Center Building in Springfield, Massachusetts.

(b) The sum of $1,200,000.00 is appropriated in FY 2015 to the Agency of Agriculture, Food and Markets for the conservation reserve enhancement program and the best management practice implementation cost share program to continue to reduce nonpoint source pollution in Vermont. Cost share funds for the best management practice implementation cost share program shall not exceed 90 percent of the total cost of a project. Whenever possible, state funds shall be combined with federal funds to complete projects.

Appropriation – FY 2014	$150,000.00
Appropriation – FY 2015	$1,200,000.00
Total Appropriation – Section 14	$1,350,000.00

Sec. 15. VERMONT PUBLIC TELEVISION

(a) The sum of $205,750.00 is appropriated in FY 2014 to Vermont Public Television for the continuation of digital conversion and energy conservation retrofitting.

(b) The sum of $200,000.00 is appropriated in FY 2015 to Vermont Public Television for transmission security.

Appropriation – FY 2014	$205,750.00
Appropriation – FY 2015	$200,000.00
Total Appropriation – Section 15	$405,750.00

Sec. 16. VERMONT RURAL FIRE PROTECTION

(a) The sum of $100,000.00 is appropriated in FY 2014 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force to continue the dry hydrant program.

(b) The sum of $100,000.00 is appropriated in FY 2015 for the project described in subsection (a) of this section.

Total Appropriation – Section 16 $200,000.00

Sec. 17. VERMONT VETERANS' HOME

(a) The sum of $1,216,000.00 is appropriated in FY 2014 to the Department of Buildings and General Services for the Vermont Veterans' Home for emergency mold remediation actions, for updates to the 2006 facilities assessment report, and for the development of a comprehensive plan to address and prevent mold growth.

(b) The Commissioner of Buildings and General Services, in consultation with the Chief Administrative Officer of the Veterans' Home, shall apply for any eligible federal funds to use as a match for the appropriation made in subsection (a) of this section and shall work with Vermont's Congressional Delegation to investigate the availability of other possible federal funding sources. The Commissioner of Buildings and General Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the availability of federal funds and the status of a federal match to be used for the project described in subsection (a) of this section on or before July 31, 2013.

(c) The Commissioner of Buildings and General Services, in consultation with the Chief Administrative Officer of the Veterans' Home, shall contract with an independent third party to conduct an update to the 2006 facilities assessment report of the Vermont Veterans' Home. On or before January 15, 2014, the Commissioner shall submit a copy of the report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(d) The Commissioner of Buildings and General Services, in consultation with the Chief Administrative Officer of the Veterans' Home, shall contract with an independent third party to prepare a comprehensive plan to address the ongoing mold issues at the Home and prevent any additional mold issues.

(1) The plan shall include:

(A) identification of currently known mold issues and potential mold issues at the Veterans' Home;

(B) recommendations for implementing preventive measures to address mold growth;

(C) estimates for the projected cost to implement the recommendations and preventive measures;

(D) a proposed time line to implement the plan; and

(E) a review and consideration of the findings of the Veterans' Home management and operations review required by 2013 Acts and Resolves No. 1, Sec. 53.1, the updated facilities assessment report required by subsection (c) of this section, and the findings and recommendations of any other design professionals or consultants engaged by the Department of Buildings and General Services to work at the Veterans' Home.

(2) On or before February 15, 2014, the Commissioner shall submit a copy of the plan to the Veterans' Home Board of Trustees, the Vermont State Employees' Association (VSEA), the House Committee on Corrections and Institutions, and the Senate Committee on Institutions.

Total Appropriation – Section 17	$1,216,000.00

Sec. 18. VERMONT INTERACTIVE TECHNOLOGIES

(a) The sum of $288,000.00 is appropriated in FY 2014 to the Vermont States Colleges for the Vermont Interactive Technologies for the purchase of equipment necessary for systems and unit upgrades at Vermont Interactive Technologies sites.

(b) The sum of $88,000.00 is appropriated in FY 2015 for the project described in subsection (a) of this section.

Appropriation – FY 2014	$288,000.00
Appropriation – FY 2015	$88,000.00
Total Appropriation – Section 18	$376,000.00

Sec. 18a. ENHANCED 911 PROGRAM

(a) The sum of $10,000.00 is appropriated in FY 2014 to the Enhanced 911 Board for the planning and implementation of the Enhanced 911 program in schools pursuant to 30 V.S.A. § 7057.

(b) The sum of $10,000.00 is appropriated in FY 2015 for the project described in subsection (a) of this section.

Total Appropriation – Section 18a	$20,000.00

* * * Financing this Act * * *

Sec. 19. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated by 2009 Acts and Resolves No. 43, Sec. 1 (32 Cherry Street): $48,065.57

(2) of the amount appropriated by 2009 Acts and Resolves No. 43, Sec. 1 (Rutland multimodal garage trench drains): $404.09

(3) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 3 (VSH ongoing safety): $96.98

(4) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 14 (two-way radio system): $12,579.71

(5) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 2 (DMV bathroom renovations): $119,067.33

(6) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 2 (engineer cost): $158,779.04

(7) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 2 (116 State Street): $0.02

(8) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 2 (Waterbury fuel tank replacement): $400,000.00

(9) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 7 (recreation grant program): $8,150.00

(10) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 7 (Human Service and Educational Grant): $2,515.61

(11) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 14(e) (architectural assessment, Middlesex): $6.80

(12) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 6(3) (Vermont Arts Council, cultural facilities grant): $29,454.00

(b) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects 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 1989 Acts and Resolves No. 52, Sec. 8(b)(1) (water pollution): $9,426.24

(2) of the amount appropriated by 1990 Acts and Resolves No. 276, Sec. 10 (potable water supply construction): $17,430.00

(3) of the amount appropriated by 1991 Acts and Resolves No. 93, Sec. 11(d)(2) (water supply): $46,514.75

(4) of the amount appropriated by 1992 Acts and Resolves No. 256, Sec. 11(e)(1) (water pollution): $35,000.65

(5) of the amount appropriated by 1998 Acts and Resolves No. 148, Sec. 13(b)(1) (water supply): $72,513.80

(6) of the amount appropriated by 1998 Acts and Resolves No. 148, Sec. 13(b)(2)(A) (pollution control): $305,394.84

(7) of the amount appropriated by 2001 Acts and Resolves No. 61, Sec. 9(a) (various projects): $277,833.51

(8) of the amount appropriated by 2003 Acts and Resolves No. 63, Sec. 8 (water pollution/drinking): $118,725.81

(9) of the amount appropriated by 2004 Acts and Resolves No. 121, Sec. 10 (water pollution grants): $896.40

(10) of the amount appropriated by 2004 Acts and Resolves No. 121, Sec. 10 (clean and clear program): $44,447.91

(11) of the amount appropriated by 2004 Acts and Resolves No. 121, Sec. 10 (ecological assessments): $36.70

(12) of the amount appropriated by 2004 Acts and Resolves No. 121, Sec. 10 (species recovery plan): $3.90

(13) of the amount appropriated by 2005 Acts and Resolves No. 43, Sec. 9 (water pollution grants): $128,115.97

(14) of the amount appropriated by 2005 Acts and Resolves No. 43, Sec. 9 (clean and clear program): $135,500.37

(15) of the amount appropriated by 2006 Acts and Resolves No. 147, Sec. 10 (water pollution grants): $34,703.62

(16) of the amount appropriated by 2006 Acts and Resolves No. 147, Sec. 10 (clean and clear program): $40,686.00

(17) of the amount appropriated by 2007 Acts and Resolves No. 52, Sec. 11 (water pollution control): $35,000.00

(18) of the amount appropriated by 2007 Acts and Resolves No. 52, Sec. 11 (state-owned dams): $198,104.00

(19) of the amount appropriated by 2007 Acts and Resolves No. 52, Sec. 11 (clean and clear): $320,042.39

(20) of the amount appropriated by 2008 Acts and Resolves No. 200, Sec. 12 (clean and clear): $92,906.23

(21) of the amount appropriated by 2008 Acts and Resolves No. 200, Sec. 12 (water pollution): $87,967.95

(22) of the amount appropriated by 2009 Acts and Resolves No. 43, Sec. 9 (water pollution control): $231,202.30

(23) of the amount appropriated by 2009 Acts and Resolves No. 43, Sec. 9 (clean and clear): $515,957.62

(24) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 12 (Drinking Water State Revolving Fund): $5,500.00

(25) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 12 (water pollution control): $123,666.00

(26) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 12 (clean and clear): $66,864.08

(27) of the amount appropriated by 2010 Acts and Resolves No. 161, Sec. 12 (sea lamprey control project): $155,898.60

(28) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 12(a) (water pollution control): $210,000.00

(29) of the amount appropriated by 2011 Acts and Resolves No. 40, Sec. 12(a) (water pollution TMDL/wetland): $20,112.00

(30) of the amount appropriated by 2012 Acts and Resolves No. 40, Sec. 12(b) (drinking water projects): $35,483.32

(31) of the amount appropriated by 2012 Acts and Resolves No. 40, Sec. 12(b) (water pollution control): $472,239.85

(c) The following unexpended funds appropriated to the Agency of Commerce and Community Development for capital construction projects 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 2007 Acts and Resolves No. 52, Sec. 7(e) (Unmarked Burial Fund): $18,928.39

(2) of the amount appropriated by 2008 Acts and Resolves No. 200, Sec. 7(b)(1) (Unmarked Burial Fund): $24,769.00

(d) 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 proceeds from the sale of property authorized by 2009 Acts and Resolves No. 43, Sec. 25(i) (sale of Thayer school): $433,478.30

(2) of the amount recouped by the state for waterfront enhancement authorized by 1993 Acts and Resolves No. 59, Sec. 16d(c) (special fund 21896, Waterfront Preservation Fund): $190,000.00

(3) of the proceeds from the sale of property authorized by 2009 Acts and Resolves No. 43, Sec. 25(d) (sale of former North American Playcare, Inc. building in Middlesex): $132,040.88

(4) of the proceeds from the sale of property authorized by 20 V.S.A. § 542 (Northfield, Ludlow, and Rutland armories): $311,539.21

Total Reallocations and Transfers – Section 19 $5,728,049.74

Sec. 20. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The State Treasurer is authorized to issue general obligation bonds in the amount of $159,900,000.00 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.

(b) The State Treasurer is further authorized to issue additional general obligation bonds in the amount of $7,603,320.00 that were previously authorized but unissued under 2011 Acts and Resolves No. 40, Sec. 25 for the purpose of funding the appropriations of this act. This amount shall be allocated to the Department of Buildings and General Services to defray expenditures in Sec. 2 of this act.

Total Revenues – Section 20 $167,503,320.00

Sec. 21. SALE OF BUILDING 617 IN ESSEX; USE OF PROCEEDS

The proceeds from the sale of Building 617 in Essex shall be allocated to the Department of Buildings and General Services and used to defray FY 2014 expenditures in Sec. 2 of this act. To the extent such use of proceeds results in a like amount of general obligation bonds authorized in Sec. 20 of this act for Sec. 2 to remain unissued at the end of FY 2014, then such unissued amount of bonds shall remain authorized to be issued in FY 2015 to provide additional funding for the Waterbury State Office Complex and such amount shall be appropriated in FY 2015 to Sec. 2(c)(10) of this act.

* * * Policy * * *

* * * Buildings and General Services * * *

Sec. 22. REPEAL; ROBERT GIBSON PARK; TOWN OF BRATTLEBORO

1999 Acts and Resolves No. 29, Sec. 19(b)(1)(C)(i) (repayment of appropriation for Robert Gibson Park) is repealed.

Sec. 23. 2012 Acts and Resolves No. 104, Sec. 25 is amended to read:

Sec. 25. EMPLOYEE SERVICE MEMORIAL

(a) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services, in consultation with the ~~commissioner of human resources~~ Commissioner of Human Resources and an association representing Vermont state employees, shall develop a plan to honor the services of past, present, and future Vermont state employees with an appropriate memorial. On or before January 15, ~~2013~~ 2014, the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall recommend a future location for an employee service memorial and provide estimated costs to the ~~general assembly~~ General Assembly.

(b) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services may accept donations for the administration, materials, creation, and maintenance of the service memorial.

Sec. 24. NEWPORT WATERFRONT

Notwithstanding 29 V.S.A. §§ 165(h) and 166(b), the Commissioner of Buildings and General Services is authorized to sell, lease, gift, or otherwise convey the property or any portion thereof associated with the Waterfront in the City of Newport. The Commissioner is further authorized to accept federal or state grants for improvements, maintenance, and operating costs associated with the Newport Waterfront.

Sec. 25. BATTLE OF CEDAR CREEK AND WINCHESTER MEMORIALS

The Commissioner of Buildings and General Services is authorized to use the appropriation in Sec. 6(c)(1) of this act for expenses associated with the placement of a Vermont historical roadside marker at the Cedar Creek Battlefield in Virginia, the relocation of the Battle of Winchester Memorial to its original location on the Third Winchester Battlefield in Virginia, and reimbursement to the Civil War Trust, the State of Virginia, and the United States Veterans Administration for any expenses associated with the completion of these projects. Expenses associated with the placement of the roadside marker or the relocation of the Memorial may include site acquisition, planning, design, transportation, and any other reasonably related costs.

Sec. 26. 29 V.S.A. § 165 is amended to read:

§ 165. SPACE ALLOCATION, INVENTORY, AND USE; LEASING PROPERTY; COMMISSIONER'S PREAPPROVAL REQUIRED

* * *

(d) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall by rule establish procedures which all agencies shall follow in the leasing of real property. No agency shall enter into any lease, no lease shall be valid, and no state funds shall be paid by the ~~department of finance and management~~ Department of Finance and Management pursuant to the terms of any lease, unless the proposed lease has been pre-approved by the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services. If a lease is entered into pursuant to this section, the Commissioner of Buildings and General Services shall preapprove any additional fees, reimbursements, charges, or fit-up costs in excess of the proposed lease rental rate.

Sec. 27. SPECIAL FUND FOR WATERFRONT

Notwithstanding 1993 Acts and Resolves No. 59, Sec. 16d(c), the funds allocated to the special fund for the waterfront to be used for the purpose of waterfront enhancement and preservation are transferred to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act.

Sec. 28. WINDSOR COUNTY COURTHOUSE

Of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 5 to the Department of Buildings and General Services on behalf of the Judiciary, the sum of $40,000.00 is directed to the Windsor County Courthouse in Woodstock to perform repairs and upgrades to bring the facility into ADA compliance.

Sec. 29. 2011 Acts and Resolves No. 40, Sec. 12(b), as amended by 2012 Acts and Resolves No. 104, Sec. 8, is amended to read:

(b) The following sums are appropriated to the ~~agency of natural resources~~ Agency of Natural Resources in FY 2013 for:

* * *

~~(E)~~(6) the ~~department of forests, parks and recreation~~ Department of Forests, Parks and Recreation for the Vermont Youth Conservation Corps to perform stabilization, restoration, and cleanup of environmental damage to waterways, forests, and public access lands caused by Tropical Storm Irene, including projects such as controlling the spread of invasive species, stabilizing flood-eroded river and stream banks; restoring vital aquatic and wildlife

habitats, removing toxic materials from fragile natural areas, and remediating recognized viewsheds: 200,000

* * *

* * * Commerce and Community Development * * *

Sec. 30. REGIONAL ECONOMIC DEVELOPMENT GRANT PROGRAM

The Commissioner of Buildings and General Services, in consultation with the Secretary of Commerce and Community Development, the Regional Development Corporations of Vermont, and the Regional Economic Development Advisory Committee, shall consider whether the Regional Economic Development grants are being awarded to projects for the purpose of funding capital expenses and whether catastrophic situations should qualify for grants.

* * * Agency of Agriculture, Food and Markets * * *

Sec. 31. ADDITIONAL FUNDING FOR CAPITAL PROJECTS

If additional support is required for the Best Management Practice Implementation Cost-Share Program and the Conservation Reserve Enhancement Program in FY 2014, the Secretary of Agriculture, Food and Markets is authorized to use as funding prior capital fund appropriations for these programs to the Agency of Agriculture, Food and Markets.

Sec. 32. AGRICULTURE; REALLOCATION

Of the amount held in the Eastern States Building Special Fund #21682, it the intent of the General Assembly that the Agency of Agriculture, Food and Markets shall redirect the sum of $125,000.00 to the Department of Buildings and General Services for major maintenance at the Vermont Exposition Center Building in Springfield, Massachusetts.

* * * Capital Planning and Finance * * *

Sec. 33. 29 V.S.A. § 152 is amended to read:

§ 152. DUTIES OF COMMISSIONER

(a) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services, in addition to the duties expressly set forth elsewhere by law, shall have the authority to:

* * *

(3) Prepare or cause to be prepared plans and specifications for construction and repair on all state-owned buildings:

(A) For which the ~~legislature~~ General Assembly or the ~~emergency board~~ Emergency Board has made specific appropriations. In consultation with the department or agency concerned, the ~~commissioner~~ Commissioner shall select sites, purchase lands, determine plans and specifications, and advertise for bids for the furnishing of materials and construction thereof and of appurtenances thereto. The ~~commissioner~~ Commissioner shall determine the time for beginning and completing the construction. Any change orders occurring under the contracts let as the result of actions previously mentioned in this section shall not be allowed unless they have the approval of the ~~secretary of administration~~ Secretary of Administration.

(B) For which no specific appropriations have been made by the ~~legislature~~ General Assembly or the ~~emergency board~~ Emergency Board. The ~~commissioner~~ Commissioner may, with the approval of the ~~secretary of administration~~ Secretary of Administration acquire an option, for a price not to exceed $75,000.00, on an individual property without prior legislative approval, provided the option contains a provision stating that purchase of the property shall occur only upon the approval of the ~~general assembly~~ General Assembly and the appropriation of funds for this purpose. The ~~state treasurer~~ State Treasurer is authorized to advance a sum not to exceed $75,000.00, upon warrants drawn by the ~~commissioner of finance and management~~ Commissioner of Finance and Management for the purpose of purchasing an option on a property pursuant to this subdivision.

(C) For which the Department of Buildings and General Services is granted a right of first refusal. The Commissioner may, with the approval of the Secretary of Administration, enter into an agreement that grants the Department of Buildings and General Services a right of first refusal to purchase property, provided that the right of first refusal contains a provision stating that the purchase of the property shall occur only upon the approval of the General Assembly.

* * *

(23) With the approval of the ~~secretary of administration~~ Secretary of Administration, transfer during any fiscal year to the ~~department of buildings and general services~~ Department of Buildings and General Services for use only for major maintenance within the capitol complex in Montpelier, any unexpended balances of funds appropriated in any capital construction act for any ~~executive or judicial branch~~ Executive or Judicial Branch project, excluding any appropriations for state grant-in-aid programs, which is completed or substantially completed as determined by the ~~commissioner~~ Commissioner. On or before January 15 of each year, the ~~commissioner~~ Commissioner shall report to the ~~house committee on corrections and~~

~~institutions and the senate committee on institutions~~ House Committee on Corrections and Institutions and the Senate Committee on Institutions regarding~~:~~

~~(A)~~ all transfers and expenditures made pursuant to this subdivision (23)~~; and~~

~~(B) the unexpended balance of projects completed for two or more years~~.

* * *

Sec. 34. 32 V.S.A. § 310 is amended to read:

§ 310. FORM OF ANNUAL CAPITAL BUDGET AND ~~SIX-YEAR~~ TEN-YEAR CAPITAL PROGRAM PLAN

(a) Each biennial capital budget request submitted to the ~~general assembly~~ General Assembly shall be accompanied by, and placed in the context of, a ~~six-year~~ ten-year state capital program plan to be prepared, and revised annually, by the ~~governor~~ Governor and approved by the ~~general assembly~~ General Assembly. The ~~six-year~~ ten-year plan shall include a list of all projects which will be recommended for funding in the current and ensuing ~~five~~ nine fiscal years. The list shall be prioritized based on need.

(b) The capital budget request for the following ~~fiscal year~~ biennium shall be presented as the next increment of the ~~six-year~~ ten-year plan. Elements of the plan shall include:

(1) Assessment and projection of need.

(A) Capital needs and projections shall be based upon current and projected statistics on capital inventories and upon state demographic and economic conditions.

(B) Capital funding shall be categorized as follows:

(i) state buildings, facilities, ~~and~~ land acquisitions, major maintenance, renewable energy sources, and conservation;

(ii) higher education;

(iii) aid to municipalities for education, environmental conservation, including water, sewer, and solid waste projects, and other purposes; and

(iv) transportation facilities.

(C) The capital needs and projections shall be for the current and the next ~~five~~ nine fiscal years, with longer-term projections presented for programs with reasonably predictable longer-term needs.

(D) Capital needs and projections shall be presented independently of financing requirements or opportunities.

(2) Comprehensive cost and financing assessment.

(A) Amounts appropriated and expended for the current fiscal year and for the preceding fiscal year shall be indicated for capital programs and for individual projects. The assessment shall indicate further the source of funds for any project which required additional funding and a description of any authorized projects which were delayed.

(B) Amounts proposed to be appropriated for the following fiscal year and each of the ~~five~~ nine years thereafter shall be indicated for capital programs and for individual projects and shall be revised annually to reflect revised cost estimates and changes made in allocations due to project delays.

(C) The capital costs of programs and of individual projects, including funds for the development and evaluation of each project, shall be presented in full, for the entire period of their development.

(D) The operating costs, both actual and prospective, of capital programs and of individual projects shall be presented in full, for the entire period of their development and expected useful life.

(E) The financial burden and funding opportunities of programs and of individual projects shall be presented in full, including federal, state, and local government shares, and any private participation.

(F) Alternative methods of financing capital programs and projects should be described and assessed, including debt financing and use of current revenues.

Sec. 35. TEN-YEAR CAPITAL PROGRAM PLAN

On or before January 15, 2014, the Commissioner of Buildings and General Services, in consultation with the House Committee on Corrections and Institutions and the Senate Committee on Institutions, shall develop a proposal for the planning process for a ten-year capital program plan. The ten-year capital program plan shall include proposals for capital construction requests and major maintenance, and shall set forth definitions and criteria to be used for prioritizing capital projects. Projects may be prioritized based on criteria including: critical priorities, prior capital allocations or commitments, strategic investments, and future investments.

Sec. 36. 32 V.S.A. § 701a is amended to read:

§ 701a. CAPITAL CONSTRUCTION BILL

(a) When the capital budget has been submitted by the ~~governor~~ Governor to the ~~general assembly~~ General Assembly, it shall immediately be referred to the ~~committee on corrections and institutions~~ Committee on Corrections and Institutions which shall proceed to consider the budget request in the context of the ~~six-year~~ ten-year capital program plan also submitted by the ~~governor~~ Governor pursuant to sections 309 and 310 of this title. The ~~committee~~ Committee shall also propose to the ~~general assembly~~ General Assembly a prudent amount of total general obligation bonding for the following fiscal year, for support of the capital budget, in consideration of the recommendation of the ~~capital debt affordability advisory committee~~ Capital Debt Affordability Advisory Committee pursuant to subchapter 8 of chapter 13 of this title.

(b) As soon as possible, the ~~committee~~ Committee shall prepare a bill to be known as the "capital construction bill," which shall be introduced for action by the ~~general assembly~~ General Assembly.

(c) The spending authority authorized by a capital construction act shall carry forward until expended, unless otherwise provided. ~~Any unencumbered funds remaining after a two-year period~~ All unexpended funds remaining for projects authorized by capital construction acts enacted in a legislative session that was two or more years prior to the current legislative session shall be reported to the ~~general assembly~~ General Assembly and may be reallocated in future capital construction acts.

(d) On or before October 15, each entity to which spending authority ~~is~~ has been authorized by a capital construction act enacted in a legislative session that was two or more years prior to the current legislative session shall submit to the ~~department of buildings and general services~~ Department of Buildings and General Services a report on the status of each authorized project ~~authorized~~ with unexpended funds. The report shall follow the form provided by the ~~department of buildings and general services~~ Department of Buildings and General Services and shall include details regarding how much of the appropriation has been spent, how much of the appropriation is unencumbered, actual progress in meeting the goals of the project, and any impediments to completing the project on time and on budget. The ~~department~~ Department may request additional or clarifying information regarding each project. On or before January 15, the ~~department~~ Department shall present the information collected to the ~~house committee on corrections and institutions and the senate committee on institutions~~ House Committee on Corrections and Institutions and the Senate Committee on Institutions.

Sec. 37. AVAILABILITY OF APPROPRIATIONS

Notwithstanding 32 V.S.A. § 1 (fiscal year to commence on July 1 and end on June 30), the appropriations in this act designated as FY 2014 shall be available on passage of this act, and those designated as FY 2015 shall be available on passage of the Capital Construction and State Bonding Budget Adjustment Act of the 2014 legislative session.

Sec. 38. ADDITIONAL FUNDING FOR CAPITAL PROJECTS

The Commissioner of Buildings and General Services, in consultation with the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, is authorized to use funds appropriated in this act for capital projects requiring additional support that were funded with capital or general fund appropriations in prior years.

Sec. 39. ACCOUNTING STANDARDS FOR ENGINEERING COSTS

(a) The Commissioner of Finance and Management shall establish a working group to develop a set of criteria and guidelines for allocating engineering costs between the Capital bill and the General Fund. The Working Group shall review current state practices, standard accounting classifications and approaches taken in other states. The Group shall include the Commissioner of Finance and Management or designee, the Commissioner of Buildings and General Services or designee, the Secretary of Natural Resources or designee, the State Auditor or designee, and a Joint Fiscal Officer or designee.

(b) On or before September 30, 2013, the Commissioner of Finance and Management shall present the proposal to the Joint Fiscal Committee and the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions for review with the intent that the criteria and guidelines on cost allocations will be used in the FY 2015 capital budget.

* * * Human Services * * *

Sec. 40. SECURE RESIDENTIAL FACILITY

Pursuant to the Level 1 Psychiatric Care Evaluation required by the Fiscal Year 2014 Appropriations Act, Sec. E.314.2, the Commissioner of Buildings and General Services shall develop a proposal to establish a permanent secure residential facility no later than January 15, 2015.

* * * Natural Resources * * *

Sec. 41. LABORATORY FEASIBILITY STUDY

On or before December 15, 2013, the Department of Buildings and General Services, the Agency of Natural Resources, and the Agency of Agriculture,

Food and Markets shall examine and report to the General Assembly on the feasibility of sharing the same laboratory, exploring relationships with the University of Vermont and the Vermont State Colleges system, or other public or private entities, and determining what specialized services may be sold within the Northeast region to fulfill state and regional laboratory needs. This report shall include a cost-benefit analysis and a governance model.

Sec. 42. 24 V.S.A. § 4763b is amended to read:

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only one single-family residence on its own lot meets the definition of a failed supply or system, the ~~secretary of natural resources~~ Secretary of Natural Resources may lend monies to the owner of the residence from the Vermont ~~wastewater and potable water revolving loan fund~~ Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) loans may only be made to households with an income equal to or less than 200 percent of the state average median household income;

(2) loans may only be made to households where the recipient of the loan resides in the residence on a year-round basis;

(3) loans may only be made if the owner of the residence has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least ~~two~~ one other financing ~~entities~~ entity;

(4) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the ~~secretary of natural resources~~ Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the ~~secretary of natural resources~~ Secretary of Natural Resources that the proposed project has secured all state and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan~~.~~;

(5) all funds from the repayment of loans made under this section shall be deposited into the Vermont ~~wastewater and potable water revolving loan fund~~ Wastewater and Potable Water Revolving Loan Fund.

(b) The ~~secretary of natural resources~~ Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The ~~secretary~~ Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

Sec. 43. ADDITIONAL FUNDING FOR CAPITAL PROJECTS

(a) If additional support is required for the Dufresne Dam Project in FY 2014, the Secretary of Natural Resources is authorized to use as funding prior capital funds authorized in 2011 Acts and Resolves No. 40, Sec. 12(a)(4)(A) for the Wolcott Pond Dam repair and maintenance.

(b) On or before January 15, 2014, the Secretary of Natural Resources shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the status of close-out audits of project grants funded with capital funds.

(c) In FY 2014, the Secretary of Natural Resources, in consultation with the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, is authorized to reallocate unexpended funds that were appropriated to the Agency of Natural Resources:

(1) between projects authorized in different capital construction acts if the funds are appropriated to the same department within the Agency of Natural Resources for a related purpose; and

(2) between a project authorized in a capital construction act and a project not authorized in a capital construction act if the funds are used for planning advances pursuant to 10 V.S.A. § 1591(a).

(d) The Secretary shall reallocate no more than:

(1) $200,000.00 in unexpended funds pursuant to subdivision (c)(1) of this section; and

(2) $30,000.00 per project and $100,000.00 in total pursuant to subdivision (c)(2) of this section.

* * * Military Department * * *

Sec. 44. 20 V.S.A. § 542 is amended to read:

§ 542. ACQUISITION, MAINTENANCE, AND DISPOSAL OF PROPERTY FOR THE NATIONAL GUARD USE

In the name of the ~~state~~ State, the ~~board~~ Board shall be responsible for the real estate and personal property of the ~~national guard~~ National Guard. The ~~board~~ Board may acquire or purchase, and maintain and dispose of by sale or otherwise real estate and personal property. Upon determination by the ~~board~~ Board that real estate is to be disposed of, the disposal shall be at fair market value, and proceeds shall be allocated to future capital ~~appropriations~~ construction acts.

* * * Education * * *

Sec. 45. STATE AID FOR SCHOOL CONSTRUCTION; EXTENSION OF SUSPENSION

(a) In 2007 Acts and Resolves No. 52, Sec. 36, the General Assembly suspended state aid for school construction in order to permit the Secretary of Education and the Commissioner of Finance and Management to recommend a sustainable plan for state aid for school construction.

(b) In 2008 Acts and Resolves No. 200, Sec. 45, as amended by 2009 Acts and Resolves No. 54, Sec. 22, the General Assembly, in the absence of a recommendation, extended the suspension until a sustainable plan for state aid for school construction is developed and adopted.

(c) State aid remains suspended pursuant to the terms of 2008 Acts and Resolves No. 200, Sec. 45 as amended by 2009 Acts and Resolves No. 54, Sec. 22.

(d) Notwithstanding the suspension, the State intends to honor its obligation by FY 2016 to pay for projects for which state aid had been committed prior to the suspension.

Sec. 46. MORGAN SCHOOL

Notwithstanding 16 V.S.A. § 3448(b) or any other provision of law to the contrary, the Morgan School District is authorized to sell the Morgan School building and property to the town of Morgan to use for community purposes without repayment of school construction aid. Thereafter, if the town of Morgan sells the building and property to another entity, including the Morgan School District, the town shall repay the sum owed to the State for school construction aid under the terms set forth in 16 V.S.A. § 3448(b).

Sec. 47. ENHANCED 911 PROGRAM; IMPLEMENTATION IN SCHOOL DISTRICTS

On or before January 15, 2014, the Enhanced 911 Board shall, in coordination with the Secretary of Education, provide technical assistance and guidance to school districts to comply with the requirement in 30 V.S.A. § 7057 that accurate location information be associated with each landline telephone installed in a school. The Board is authorized to use funds appropriated in Sec. 18a of this act to plan and implement compliance with this program. It is the intent of the General Assembly that these funds are used by the Enhanced 911 Board as a supplement to funding from the Vermont Universal Service Fund established pursuant to 30 V.S.A. chapter 88.

* * * Public Safety * * *

Sec. 48. PUBLIC SAFETY FIELD STATION PROJECT

The Department of Buildings and General Services, in consultation with the Department of Public Safety, is authorized to use appropriations in Sec. 13 of this act to conduct feasibility studies, and identify and purchase land for future public safety field station sites. If the Department of Buildings and General Services proposes to purchase property when the General Assembly is not in session, the Commissioner of Buildings and General Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions of the proposal.

* * * Energy Use on State Properties * * *

Sec. 49. RENEWABLE ENERGY AND ENERGY CONSERVATION POLICY

(a) The Department of Buildings and General Services shall incorporate the use of renewable energy sources, energy efficiency, and thermal energy conservation in any new building construction or major renovation project in excess of $250,000.00 unless a life cycle cost analysis demonstrates that the investment cannot be recouped or there are limitations on siting.

(b) On or before January 15, 2014, the Department of Buildings and General Services shall contract for a desk audit to examine and report on the feasibility of installing renewable energy devices on up to 20 properties owned by the State.

(c) As used in this section, the "life cycle cost" of each new building construction or major renovation project shall mean the present value purchase price of an item, plus the replacement cost, plus or minus the salvage value, plus the present value of operation and maintenance costs, plus the energy and environmental externalities' costs or benefits.

* * * Effective Date * * *

Sec. 50. EFFECTIVE DATE

This act shall take effect on passage.

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

Senator Sears, 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 Institutions with the following amendments thereto:

First: In Sec. 1, subsection (a), by striking out the following: "$90,248,531.00" and inserting in lieu thereof the following: $90,148,531.00.

Second: In Sec. 2, State Buildings, by striking out subdivision (c)(4) and inserting in lieu thereof the following:

(4) Statewide, major maintenance: $8,739,064.00

Third: In Sec. 2, in subsection (e), by striking out the following: "$45,866,661.00" and "$98,148,258.00" and inserting in lieu thereof the following: $45,966,661.00 and 98,248,258.00

Fourth: By striking out Sec. 4, Human Services, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. HUMAN SERVICES

(a) The following sums are appropriated in FY 2014 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: $5,000,000.00

(2) Corrections, security upgrades: $100,000.00

(b) The following sums are appropriated in FY 2015 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 the Department of Health laboratory with the UVM Colchester research facility: $6,000,000.00

(2) Corrections, security upgrades: $100,000.00

(c) It is the intent of the General Assembly that the funds appropriated in subdivision (b)(1) of this section are committed funds not subject to budget adjustment.

Appropriation – FY 2014	$5,100,000.00
Appropriation – FY 2015	$6,100,000.00
Total Appropriation – Section 4	$11,200,000.00

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 recommendation of proposal of amendment of the Committee on Institutions was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Institutions, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 105.

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

An act relating to adult protective services reporting requirements.

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

First: In Sec. 1, by striking out subdivisions (2) and (3), and by renumbering the remaining subdivisions to be numerically correct

Second: In Sec. 1, in the newly renumbered subdivision (4), by striking out the second sentence and inserting in lieu thereof:

The request for proposals for the grants contained an acknowledgment by the Self-Neglect Task Force that data are lacking at both the state and community levels to determine the scope of the problem of self-neglect.

Third: In Sec. 3, subsection (a), by striking out the first sentence and inserting in lieu thereof the following:

On or before January 15, 2006 and on or before January 15 of each year thereafter until January 15, 2018, the ~~secretary of the agency of human services~~ Secretary of Human Services shall submit a report to the following committees: the ~~house and senate committees on judiciary, the house~~

~~committee on human services, and the senate committee on health and welfare~~ House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare.

Fourth: In Sec. 3, subdivision (a)(1)(A)(iv), by inserting before the following: ", including" the following: regardless of whether reports were opened, substantiated, or unsubstantiated

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 proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Bill Passed in Concurrence

H. 518.

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

An act relating to miscellaneous amendments to Vermont retirement laws.

Proposal of Amendment; Third Reading Ordered

H. 2.

Senator Westman, for the Committee on Transportation, to which was referred House bill entitled:

An act relating to the Governor's Snowmobile Council.

Reported recommending that the Senate propose to the House to amend the bill in Sec. 2 by striking out the following: "on July 1, 2013" and inserting in lieu thereof the following: on passage

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. 95.

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

An act relating to unclaimed life insurance benefits.

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

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

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

(1) within 90 days of identifying the match:

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

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

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

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

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

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

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

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

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

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

§ 3802a. POLICYHOLDER INFORMATION

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

(1) Social Security Number, if any, name, and date of birth;

(2) beneficiary designation information;

(3) coverage eligibility;

(4) benefit amount; and

(5) premium payment status.

Seventh: By adding a new section to be numbered Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATE; APPLICATION

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

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 proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 205.

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

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

Reported recommending that the Senate propose to the House to amend the bill in the Auctioneers portion of the bill by adding a new section to be numbered Sec. 47a to read as follows:

Sec. 47a. 26 V.S.A. § 4606 is amended to read:

§ 4606. APPLICATION

* * *

(b)(1) The ~~director~~ Director shall license otherwise qualified applicants who have obtained a license in another jurisdiction which has licensure requirements substantially equivalent to those in this ~~state~~ State.

(2) For experienced applicants from states without licensure, the Director may allow related education, training, or experience of the applicant on a case-by-case basis to be a substitute for all or part of the apprenticeship requirement.

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.

Proposals of Amendment; Third Reading Ordered

H. 377.

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

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

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

First: In Sec. 2, 24 V.S.A. § 2791, in subdivision (3), by striking out the words "a regional" and inserting in lieu thereof the word the

Second: In Sec. 8, 24 V.S.A. § 2793e, in subsection (c), by striking out subdivision (5) in its entirety and inserting in lieu thereof a new subdivision (5) to read as follows:

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the availability of land for housing within the neighborhood planning area, and the smart growth principles. Based on those considerations, the municipality shall select an area for neighborhood development area designation that:

(A) Avoids or that minimizes to the extent feasible the inclusion of "important natural resources" as defined in subdivision 2791(14) of this title. If an "important natural resource" is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, describe any anticipated disturbance to such resource, and describe why the disturbance cannot be avoided or minimized.

(B) Is served by planned or existing transportation infrastructure that conforms with "complete streets" principles as described under 19 V.S.A. § 309d and establishes pedestrian access directly to the downtown, village center, or new town center.

(C) Is compatible with and will reinforce the character of adjacent National Register Historic Districts, national or state register historic sites, and other significant cultural and natural resources identified by local or state government.

Third: In Sec. 8, 24 V.S.A. § 2793e, in subsection (d), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) When approving a neighborhood development area, the State Board shall consult with the applicant about any changes the Board considers making to the boundaries of the proposed area. After consultation with the applicant, the Board may change the boundaries of the proposed area.

Fourth: In Sec. 8, 24 V.S.A. § 2793e, in subsection (d), in subdivision (2), before the words "the members" by inserting the following: at least 80 percent but no fewer than seven of and by striking out the word "unanimously" and inserting in lieu thereof the word present

Fifth: In Sec. 8, 24 V.S.A. § 2793e, in subsection (h), after the last sentence, by inserting a new sentence to read as follows: Before reviewing such an application, the State Board shall request comment from the municipality.

Sixth: By adding a new section to be numbered Sec. 14a to read as follows:

Sec. 14a. 32 V.S.A. § 3850 is added to read:

§ 3850. BLIGHTED PROPERTY IMPROVEMENT PROGRAM

(a) At an annual or special meeting, a municipality may vote to authorize the legislative body of the municipality to exempt from municipal taxes for a period not to exceed five years the value of improvements made to dwelling units certified as blighted. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(b) If a municipality votes to approve the exemption described in subsection (a) of this section, the legislative body of the municipality shall appoint an independent review committee that is authorized to certify dwelling units in the municipality as blighted and exempt the value of improvements made to these dwelling units.

(c) As used in this section, a dwelling unit may be certified as blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

(d) If a dwelling unit is certified as blighted under subsection (b) of this section, the exemption shall take effect on the April 1 following the certification of the dwelling unit.

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

Senator Mullin, for the Committee on Finance, 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 Economic Development, Housing and General Affairs.

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

Proposals of Amendment; Third Reading Ordered

H. 513.

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

An act relating to the Department of Financial Regulation.

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

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

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

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

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

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

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

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

Sixth: By adding a section to be numbered Sec. 35a to read as follows:

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

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

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

~~(10)~~(9) "Negative trend" means ~~a decreasing marginal difference of total adjusted capital over authorized control level risk based capital~~, with respect to a life or health insurer or fraternal benefit society, negative trend over a period of time as determined in accordance with the trend test calculation ~~incorporated~~ included in the life or fraternal risk based capital instructions.

Eighth: By adding a new section to be numbered Sec. 51a to read as follows:

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

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

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

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 proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Rules Suspended; Bill Committed

H. 395.

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

An act relating to the establishment of the Vermont Clean Energy Loan Fund.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Economic Development, Housing and General Affairs, Senator Hartwell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the reports of the Committee on Economic Development, Housing and General Affairs and Committee on Natural Resources and Energy *intact*,

Which was agreed to.

Adjournment

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

FRIDAY, APRIL 26, 2013

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. 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. 54. An act relating to Public Records Act exemptions.

H. 226. An act relating to the regulation of underground storage tanks.

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

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. 47. An act relating to protection orders and second degree domestic assault.

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

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. 71. An act relating to tobacco products.

And has severally concurred therein.

Bill Referred to Committee on Finance

H. 262.

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 establishing a program for the collection and recycling of paint.

Bills Referred

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

H. 54.

An act relating to Public Records Act exemptions.

To the Committee on Rules.

H. 226.

An act relating to the regulation of underground storage tanks.

To the Committee on Rules.

H. 517.

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

To the Committee on Rules.

Bills Passed in Concurrence with Proposals of Amendment

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

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

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

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

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

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

Bill Passed in Concurrence with Proposal of Amendment; Rules Suspended; Bill Messaged

H. 533.

House bill of the following title:

An act relating to capital construction and state bonding.

Was taken up.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment, on a roll call, Yeas 24, Nays 0.

Senator Collins 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, Collins, Cummings, Doyle, Flory, Fox, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Snelling, Starr, Zuckerman.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Ashe, Bray, Campbell, Sears, Westman, White.

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

Third Readings Ordered

H. 474.

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

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

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. 525.

Senator French, for the Committee on Government Operations, to which was referred House bill entitled:

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

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. 529.

Senator McAllister, for the Committee on Government Operations, to which was referred House bill entitled:

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

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.

Committee Relieved of Further Consideration; Bills Committed

H. 512.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to approval of amendments to the charter of the City of Barre,

and the bill was committed to the Committee on Government Operations.

H. 517.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of House bill entitled:

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

and the bill was committed to the Committee on Government Operations.

Committee Relieved of Further Consideration

S. 37.

On motion of Senator Baruth, the Committee on Rules was relieved of further consideration of Senate bill entitled:

An act relating to the creation of a tax increment financing district,

Thereupon, under the rule, the bill was ordered placed on the Calendar for notice the next legislative day.

Message from the Governor

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

Mr. President:

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

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

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

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

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. 403. An act relating to community supports for persons with serious functional impairments.

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

H. 538. An act relating to making miscellaneous amendments to education funding laws.

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

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

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 adopted House concurrent resolutions of the following titles:

H.C.R. 116. House concurrent resolution commemorating the second annual Turkic Cultural Day in Vermont.

H.C.R. 117. House concurrent resolution designating April 19, 2013 as Alzheimer's Awareness Day at the State House.

H.C.R. 118. House concurrent resolution designating April 2013 as the month of the military child in Vermont.

H.C.R. 119. House concurrent resolution in memory of Richard Swift of Barre Town.

H.C.R. 120. House concurrent resolution commemorating the sestercentennial of the Town of Stowe.

H.C.R. 121. House concurrent resolution celebrating Latchis Arts' 10th anniversary as the owner of the Latchis Hotel and Theatre.

H.C.R. 122. House concurrent resolution commemorating the sestercentennial of the Town of Swanton.

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 severally adopted in concurrence:

By Representative Johnson and others,

H.C.R. 116.

House concurrent resolution commemorating the second annual Turkic Cultural Day in Vermont.

By All Members of the House,

By All Members of the Senate,

H.C.R. 117.

House concurrent resolution designating April 19, 2013 as Alzheimer's Awareness Day at the State House.

By Representative Cole and others,

By Senators Ashe, Baruth, Benning, Bray, Campbell, Cummings, Doyle, Flory, Fox, French, Galbraith, Hartwell, Kitchel, Lyons, Mazza, McCormack, Nitka, Rodgers, Starr, White and Zuckerman,

H.C.R. 118.

House concurrent resolution designating April 2013 as the month of the military child in Vermont.

By Representatives Koch and McFaun,

H.C.R. 119.

House concurrent resolution in memory of Richard Swift of Barre Town.

By Representative Scheuermann,

By Senator Westman,

H.C.R. 120.

House concurrent resolution commemorating the sestercentennial of the Town of Stowe.

By Representative Stuart and others,

H.C.R. 121.

House concurrent resolution celebrating Latchis Arts' 10th anniversary as the owner of the Latchis Hotel and Theatre.

By Representatives Savage and Consejo,

H.C.R. 122.

House concurrent resolution commemorating the sestercentennial of the Town of Swanton.

Adjournment

On motion of Senator Baruth, the Senate adjourned, to reconvene on Monday, April 29, 2013, at Noon pursuant to J.R.S. 28.

MONDAY, APRIL 29, 2013

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

H. 515.

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 miscellaneous agricultural subjects.

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. 521.

An act relating to making miscellaneous amendments to education law.

Adjournment

On motion of Senator Ayer, the Senate adjourned, to reconvene again on Tuesday, April 30, 2013, at nine o'clock in the morning

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TUESDAY, APRIL 30, 2013

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 Baruth and Benning,

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

Resolved by the Senate and House of Representatives:

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

Bill Introduced

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

S. 169.

By Senators Pollina and Zuckerman,

An act relating to regulating the use of drones.

To the Committee on Judiciary.

Bills Referred

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

H. 403.

An act relating to community supports for persons with serious functional impairments.

To the Committee on Rules.

H. 450.

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

To the Committee on Rules.

H. 538.

An act relating to making miscellaneous amendments to education funding laws.

To the Committee on Rules.

Bill Ordered to Lie

S. 165.

Senate bill entitled:

An act relating to collective bargaining for deputy state's attorneys.

Was taken up.

Thereupon, pending the question, Shall the bill pass?, on motion of Senator Sears, the bill was ordered to lie.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 205.

House bill entitled:

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

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. 47a, to read as follows:

* * * Barbers and Cosmetologists * * *

Sec. 47a. AMENDMENT TO RULES OF THE BOARD OF BARBERS AND COSMETOLOGISTS

By March 31, 2014, the Board of Barbers and Cosmetologists (the "Board") shall amend Rule 12.3 of the Board to allow in a shop, including in an immediate work area of a shop, any cat or dog belonging to the owner or to an employee of that shop.

Which was disagreed to on a division of the Senate, Yeas 13, Nays 14.

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

Proposal of Amendment; Third Reading Ordered

H. 169.

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

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

Reported that the bill ought to pass in concurrence.

Senator Westman, for the Committee on Appropriations, 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.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Mullin, Benning, Flory, Galbraith, Mazza, McAllister, Sears, Starr, Snelling, and Westman moved that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 4 (effective date) in its entirety and by inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings unless the context clearly requires otherwise:

* * *

(6)(A)(i) "Employment," subject to the other provisions of this subdivision (6), means service within the jurisdiction of this ~~state~~ State, performed prior to January 1, 1978, which was employment as defined in this subdivision prior to such date and, subject to the other provisions of this subdivision, service performed after December 31, 1977, by an employee, as defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Services partly within and partly without this ~~state~~ State may by election as hereinbefore provided be treated as if wholly within the jurisdiction of this ~~state~~ State. And whenever an employing unit shall have elected to come under the provisions of a similar act of a state where a part of the services of an employee are performed, the ~~commissioner~~ Commissioner, upon his or her approval of said election as to any such employee, may treat the services covered by said approved election as having been performed wholly without the jurisdiction of this ~~state~~ State.

* * *

(C) The term "employment" shall not include:

* * *

(xxi) Service performed by a direct seller if the individual is in compliance with all the following:

(I) The individual is engaged in:

(aa) the trade or business of selling or soliciting the sale of consumer products, including services or other intangibles, in the home or a location other than in a permanent retail establishment, including whether the sale or solicitation of a sale is to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis for resale by the buyer or any other person; or

(bb) the trade or business of the delivery or distribution of newspapers or shopping news, including any services directly related to such trade or business.

(II) Substantially all the remuneration, whether or not received in cash, for the performance of the services described in subdivision (I) of this subdivision (C)(xxi) is directly related to sales or other output, including the performance of services, rather than to the number of hours worked.

(III) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee for federal and state tax purposes.

* * *

Second: By inserting a new section to be numbered Sec. 5 to read as follows:

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage except that Sec. 4 of this act shall take effect on July 1, 2013.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Mullin, Benning, Flory, Galbraith, Mazza, McAllister, Sears, Starr, Snelling, and Westman?, Senator MacDonald moved to substitute a proposal of amendment for the proposal of amendment of Senators Mullin, Benning, Flory, Galbraith, Mazza, McAllister, Sears, Starr, Snelling, and Westman as follows:

By adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. 21 V.S.A. § 1325 is amended to read:

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

(a) The commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible

individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

(1) The individual's employment with that employer was terminated under disqualifying circumstances.

(2) The individual's employment or right to reemployment with that employer was terminated by retirement of the individual pursuant to a retirement or lump-sum retirement pay plan under which the age of mandatory retirement was agreed upon by the employer and its employees or by the bargaining agent representing those employees.

(3) As of the date on which the individual filed an initial claim for benefits, the individual's employment with that employer had not been terminated or reduced in hours.

(4) The individual was employed by that employer as a result of another employee taking leave under subchapter 4A of chapter 5 of this title, and the individual's employment was terminated as a result of the reinstatement of the other employee under subchapter 4A of chapter 5 of this title.

(5) [Repealed.]

(6) The individual was a newspaper carrier engaged in the trade or business of the delivery or distribution of newspapers or shopping news.

* * *

Which was disagreed to.

Thereupon, the question, Shall the bill be amended as proposed by Senators Mullin, Benning, Flory, Galbraith, Mazza, McAllister, Sears, Starr, Snelling, and Westman?, was agreed to on a roll call, Yeas 18, Nays 10.

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: Ayer, Benning, Campbell, Collins, Doyle, Flory, French, Galbraith, Hartwell, Kitchel, Mazza, Mullin, Nitka, Rodgers, Sears, Snelling, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Baruth, Cummings, Fox, Lyons, MacDonald, McCormack, Pollina, White, Zuckerman.

Those Senators absent and not voting were: Bray, McAllister.

Thereupon, third reading of the bill was ordered.

Proposals of Amendment; Third Reading Ordered

H. 99.

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

An act relating to equal pay.

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

First: In Sec. 2, 21 V.S.A. § 495, by striking out subdivision (a)(7)(B) and inserting a new subdivision (a)(7)(B) to read as follows:

(B)(i) No employer may do any of the following:

~~(i)~~(I) Require, as a condition of employment, that an employee refrain from disclosing the amount of his or her wages or from inquiring about or discussing the wages of other employees.

~~(ii)~~(II) Require an employee to sign a waiver or other document that purports to deny the employee the right to disclose the amount of his or her wages or to inquire about or discuss the wages of other employees.

~~(iii) Discharge, formally discipline, or otherwise discriminate against an employee who discloses the amount of his or her wages.~~

(ii) Unless otherwise required by law, an employer may prohibit a human resources manager from disclosing the wages of other employees.

Second: In Sec. 2, 21 V.S.A. § 495, in subsection (h), by inserting a sentence at the end of the subsection to read as follows: Unless otherwise required by law, nothing in this section shall require an employee to disclose his or her wages in response to an inquiry by another employee.

Third: In Sec. 3, 3 V.S.A. § 345, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) A contractor subject to this section shall maintain and make available its books and records at reasonable times and upon notice to the contracting agency and the Attorney General so that either may determine whether the contractor is in compliance with this section.

Fourth: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. 21 V.S.A. § 309 is added to read:

§ 309. FLEXIBLE WORKING ARRANGEMENTS

(a)(1) An employee may request a flexible working arrangement that meets the needs of the employer and employee. The employer shall consider a request using the procedures in subsections (b) and (c) of this section at least twice per calendar year.

(2) As used in this section, "flexible working arrangement" means intermediate or long-term changes in the employee's regular working arrangements including changes in the number of days or hours worked, changes in the time the employee arrives at or departs from work, work from home, or job-sharing. "Flexible working arrangement" does not include vacation, routine scheduling of shifts, or another form of employee leave.

(b)(1) The employer shall discuss the request for a flexible working arrangement with the employee in good faith. The employer and employee may propose alternative arrangements during the discussion.

(2) The employer shall consider the employee's request for a flexible working arrangement and whether the request could be granted in a manner that is not inconsistent with its business operations or its legal or contractual obligations.

(3) As used in this section, "inconsistent with business operations" includes:

(A) the burden on an employer of additional costs;

(B) a detrimental effect on aggregate employee morale unrelated to discrimination or other unlawful employment practices;

(C) a detrimental effect on the ability of an employer to meet consumer demand;

(D) an inability to reorganize work among existing staff;

(E) an inability to recruit additional staff;

(F) a detrimental impact on business quality or business performance;

(G) an insufficiency of work during the periods the employee proposes to work; and

(H) planned structural changes to the business.

(c) The employer shall notify the employee of the decision regarding the request. If the request was submitted in writing, the employer shall state any complete or partial denial of the request in writing.

(d) This section shall not diminish any rights under this chapter or pursuant to a collective bargaining agreement. An employer may institute a flexible working arrangement policy that is more generous than is provided by this section.

(e) The Attorney General, a state's attorney, or the Human Rights Commission in the case of state employees may enforce subsections (b) and (c) of this section by restraining prohibited acts, conducting civil investigations, and obtaining assurances of discontinuance in accordance with the procedures established in subsection 495b(a) of this title. An employer subject to a complaint shall have the rights and remedies specified in subsection 495b(a) of this title. An investigation against an employer shall not be a prerequisite for bringing an action. The Civil Division of the Superior Court may award injunctive relief and court costs in any action. There shall be no private right of action to enforce this section.

(f) An employer shall not retaliate against an employee exercising his or her rights under this section. The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this section.

(g) Nothing in this section shall affect any legal rights an employer or employee may have under applicable law to create, terminate, or modify a flexible working arrangement.

Fifth: By striking out Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read as follows:

Sec. 13. PAID FAMILY LEAVE STUDY COMMITTEE

(a) Creation. There is created a Committee to study the issue of paid family leave in Vermont and to make recommendations regarding whether and how paid family leave may benefit Vermont citizens.

(b) Membership. The Committee shall consist of the following members:

(1) two members of the House of Representatives, who shall not be of the same party, chosen by the Speaker;

(2) two members of the Senate, who shall not be of the same party, chosen by the Committee on Committees;

(3) three representatives from the business community, one appointed by the Speaker and two by the Committee on Committees;

(4) two representatives from labor organizations, one appointed by the Speaker and one by the Committee on Committees;

(5) one representative appointed by the Governor;

(6) the Attorney General or designee;

(7) the Commissioner of Labor or designee;

(8) the Executive Director of the Vermont Commission on Women or designee; and

(9) the Executive Director of the Human Rights Commission or designee.

(c) Duties. The Committee shall examine:

(1) existing paid leave laws and proposed paid leave legislation in other states;

(2) which employees should be eligible for paid leave benefits;

(3) the appropriate level of wage replacement for eligible employees;

(4) the appropriate duration of paid leave benefits;

(5) mechanisms for funding paid leave through employee contributions;

(6) administration of paid leave benefits;

(7) transitioning to a funded paid leave program; and

(8) any other issues relevant to paid leave.

(d) The Committee shall make recommendations including proposed legislation to address paid family leave in Vermont.

(e) The Committee shall convene its first meeting on or before September 1, 2013. The Commissioner of Labor or designee shall be designated Chair of the Committee and shall convene the first and subsequent meetings. The Committee shall have the administrative assistance of the Department of Labor.

(f) The Committee shall report its findings and recommendations on or before January 15, 2014 to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs.

(g) For participation on the Committee at meetings during the adjournment of the General Assembly, legislative members shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(h) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their participation shall be entitled to per diem compensation or reimbursement of expenses, or both, pursuant to 32 V.S.A. § 1010.

(i) The Committee shall cease to function upon transmitting its report.

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

Senator Fox, 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 Economic Development, Housing and General Affairs with the following amendments thereto:

First: In Sec. 13 (Study Committee), subsection (b), by striking out subdivisions (1) and (2) in their entirety and inserting in lieu thereof the following:

(1) One member of the House of Representatives chosen by the Speaker;

(2) One member of the Senate chosen by the Committee on Committees;

Second: In Sec. 13 (Study Committee), at the end of subsection (e) by adding the following: The Committee shall meet not more than five (5) times.

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 proposals of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the proposals of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, were agreed to and third reading of the bill was ordered on a roll call, Yeas, 29, Nays 0.

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, Campbell, Collins, Cummings, Doyle, Flory, Fox, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Bray.

Proposals of Amendment; Third Reading Ordered

H. 178.

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

An act relating to anatomical gifts.

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

First: In Sec. 2, 18 V.S.A. § 5227, by inserting a new subsection (c) to read as follows:

(c) If the disposition of the remains of a decedent is determined under subdivision (a)(9) of this section and the funeral director or crematory operator has cremated the remains, the funeral director or crematory operator shall retain the remains for three years, and, if no interested party as provided in subdivisions (a)(1) through (8) of this section claims the decedent's remains after three years, the funeral director or crematory operator shall arrange for the final disposition of the cremated remains consistent with any applicable law and standard funeral practices.

And by relettering the existing subsection (c) to be (d).

Second: In Sec. 4, subsection (b), at the end of subdivision (4), by striking out the word "and" and by inserting new subdivisions (5) and (6) to read as follows:

(5) a licensed funeral director or crematory operator;

(6) a family member of a decedent who made an anatomical gift under 18 V.S.A. chapter 110; and

And by renumbering the existing subdivision (5) to be (7)

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

Senator Fox, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposals 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, and the proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 131.

Senator Hartwell, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

An act relating to harvesting guidelines and procurement standards.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposal of amendment and that the bill be further amended in Sec. 4, 30 V.S.A. § 248(b)(11), by striking out subdivisions (B) and (C) in their entirety and inserting in lieu thereof new subdivisions (B) and (C) to read:

(B) ~~incorporate commercially available and feasible designs to~~ achieve ~~a reasonable~~ the highest design system efficiency that is commercially available, feasible, and cost-effective for the type and design of the proposed facility; and

(C) comply with harvesting ~~guidelines~~ procedures and procurement standards that ~~are consistent~~ ensure long-term forest health and sustainability. These procedures and standards at a minimum shall be consistent with the guidelines and standards developed ~~by the secretary of natural resources~~ pursuant to 10 V.S.A. § 2750 (harvesting guidelines and procurement standards) when adopted under that statute.

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

Committee on the part of the Senate

JOHN W. MALCOLM
ANTHONY W. KLEIN
WILLIAM P. CANFIELD

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Proposals of Amendment Amended; Bill Passed in Concurrence with Proposals of Amendment

H. 474.

House bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senators Ashe and Snelling move that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 2 V.S.A. § 970, by inserting subdivision (a)(11) to read as follows:

(11) Assess whether and how the State of Vermont should provide funds to nonprofit organization, including whether grants to or contracts with nonprofit organizations should require results-based accountability.

Second: In Sec. 1, 2 V.S.A. § 970, by inserting subsection (h) to read as follows:

(h)(1) On or before January 1, 2014, the Committee shall:

(A) review whether and under what conditions or situations the State of Vermont, through its agencies and other instrumentalities, should provide funding, grants, or other financial awards to a nonprofit organization subject to requirements for results-based accountability from the organization;

(B) if, after completion of its review under subdivision (1)(A) of this subsection (h), it determines that results-based accountability should be required as a condition of a financial award from the State to a nonprofit organization, review whether a special fund should be created to provide nonprofit organizations with funding to develop capacities and other resources to support results-based accountability at an organizational level; and

(C) if it determines that a special fund should be established under subdivision (1)(B) of this subsection (h), examine how the special fund would be financed, including whether a fee or assessment on a nonprofit organization would be an appropriate funding mechanism.

(2) On or before January 15, 2014, the Committee shall submit its findings or recommendations under this subsection to the Senate Committee on Finance, the House Committee on Ways and Means, and the Senate and House Committee on Appropriations.

Third: By adding a new section to be numbered Sec. 2 to read as follows:

Sec. 2. REPEAL; GOVERNMENT ACCOUNTABILITY REVIEW OF FUNDING OF NONPROFIT ORGANIZATIONS UNDER RESULTS-BASED ACCOUNTABILTY

2 V.S.A. § 970(h) (results-based accountability; funding of nonprofit organizations) shall be repealed on January 16, 2014.

And by renumbering the existing Sec. 2 to be Sec. 3.

Which was agreed to.

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

Bills Passed in Concurrence

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

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

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

Bill Amended; Third Reading Ordered

S. 37.

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

An act relating to the creation of a tax increment financing district.

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

Sec. 1. RESOLUTION OF TAX INCREMENT FINANCING DISTRICT AUDIT REPORT ISSUES

In 2011 and 2012, the State Auditor of Accounts performed and reported on required reviews and audits of all active tax increment financing districts. However, the tax increment financing laws currently lack a specific remedy to recover amounts identified in the Auditor's Reports or an enforcement mechanism to address issues identified in the Reports. The General Assembly seeks to address issues identified in the 2011 and 2012 Auditor's Reports by clarifying tax increment financing laws and specifying a process for future oversight and enforcement. Accordingly, it is the intent of the General Assembly not to consider amounts identified as underpayments to the

Education Fund by the 2011 and 2012 Auditor's Reports as owed to the State unless and until the amounts are identified as owed to the State through rulemaking, as described in Sec. 14 of this act. If the rule identifies amounts as owed to the State, these amounts shall begin to accumulate upon the adoption date of the rule.

Sec. 2. 24 V.S.A. § 1891 is amended to read:

§ 1891. DEFINITIONS

When used in this subchapter:

* * *

(4) "Improvements" means the installation, new construction, or reconstruction of ~~streets, utilities, and other infrastructure needed for transportation, telecommunications, wastewater treatment, and water supply, parks, playgrounds, land acquisition, parking facilities, brownfield remediation, and other public improvements necessary for carrying out the objectives of this chapter~~ infrastructure that will serve a public purpose and fulfill the purpose of tax increment financing districts as stated in section 1893 of this subchapter, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation.

(5) "Original taxable ~~property~~ value" means the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the tax increment financing district ~~on the day the district was created under~~ as of the creation date as set forth in section 1892 of this subchapter, provided that no parcel within the district shall be divided or bisected by the district boundary.

(6) "Related costs" means expenses incurred and paid by the municipality, exclusive of the actual cost of constructing and financing improvements, that are directly related to the creation and implementation of the tax increment financing district ~~and~~, including 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 direct municipal expenses such as departmental or personnel costs related to creating or administering the district to the extent they are paid from the tax increment realized from municipal and not education taxes and using only that portion of the municipal increment above the required percentage in servicing the debt as determined in accordance with subsection 1894(f) of this subchapter.

(7) "Financing" means ~~the following types of~~ debt incurred, including principal, interest, and any fees or charges directly related to that

debt, or other instruments or borrowing 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~~

only if authorized by the legal voters of the municipality in accordance with section 1894 of this subchapter. Payment for the cost of district improvements may also include direct payment by the municipality using the district increment. However, such payment is also subject to a vote by the legal voters of the municipality in accordance with section 1894 of this subchapter and, if not included in the tax increment financing plan approved under subsection 1894(d) of this subchapter, is also considered a substantial change and subject to the review process provided by subdivision 1901(3) of this subchapter. If interfund loans within the municipality are used as the method of financing, no interest shall be charged.

(8) "Committed" means pledged and appropriated for the purpose of the current and future payment of tax increment financing incurred in accordance with section 1894 of this subchapter and related costs as defined in this section.

Sec. 3. 24 V.S.A. § 1892 is amended to read:

§ 1892. CREATION OF DISTRICT

(a) Upon a finding that such action will serve the public purposes of this subchapter and subject to subsection (d) of this section, the legislative body of any municipality may create within its jurisdiction~~,~~ a special district ~~or districts~~ to be known as a tax increment financing ~~districts~~ district. ~~They shall describe the~~ The district shall be described by its boundaries and the properties therein and ~~shall show~~ the district boundary shall be shown on a plan entitled "Proposed Tax Increment Financing District (municipal name), Vermont." The legislative body shall hold one or more public hearings, after public notice, on the proposed plan.

(b) When adopted by the act of the legislative body of that municipality, the plan shall be recorded with the municipal clerk and lister or assessor, and the creation of the district shall occur at 12:01 a.m. on April 1 of the calendar year so voted by the municipal legislative body.

(c) A municipality that has approved the creation of a district under this section may designate a coordinating agency from outside the municipality's departments or offices to administer the district to ensure compliance with this subchapter and any statutory or other requirements and may claim this expense as a related cost. However, the coordinating agency shall not be authorized to enter into any agreement or make any covenant on behalf of the municipality.

(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district, and the Vermont Economic Progress Council is not authorized to approve any additional tax increment financing districts even if one of the districts named in this subsection is terminated pursuant to subsection 1894(a) of this subchapter:

(1) the City of Burlington, Downtown;

(2) the City of Burlington, Waterfront;

(3) the Town of Milton, North and South;

(4) the City of Newport;

(5) the City of Winooski;

(6) the Town of Colchester;

(7) the Town of Hartford;

(8) the City of St. Albans; and

(9) the City of Barre.

Sec. 4. 24 V.S.A. § 1894 is amended to read:

§ 1894. POWER AND LIFE 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 April 1 of the year so voted. 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 years after creation of the district, no indebtedness may be incurred unless the municipality obtains reapproval from the Vermont economic progress council under 32 V.S.A. § 5404a(h). When considering reapproval, the Vermont economic progress council shall consider only material changes in the application under 32 V.S.A. § 5404a(h). The Vermont economic progress council shall presume that an~~

~~applicant qualifies for reapproval upon a showing that the inability of the district to incur indebtedness was the result of the macro-economic conditions in the first five years after the creation of the district. Upon reapproval, the Vermont economic progress council shall grant a five-year extension of the period to incur indebtedness.~~

~~(3) The district shall continue until the date and hour the indebtedness is retired.~~

(1) A municipality approved under 32 V.S.A. § 5404a(h) may incur indebtedness against revenues of the tax increment financing district at any time during a period of up to ten years following the creation of the district. If no debt is incurred during this ten-year period, the district shall terminate.

(2) Any indebtedness incurred under subdivision (1) of this subsection may be retired over any period authorized by the legislative body of the municipality.

(3) If no indebtedness is incurred within the first ten years after the creation of the district, no indebtedness may be incurred against revenues of the tax increment financing district.

(4) The district shall continue until the date and hour the indebtedness is retired or, if no debt is incurred, ten years following the creation of the district.

(b) Use of the education property tax increment. For ~~any~~ only debt and related costs incurred within the first ~~five~~ ten years after creation of the district, ~~or within the first five years after reapproval by the Vermont economic progress council, but for no other debt,~~ up to 75 percent of 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~~ education tax increment generated the year in which the first debt incurred for improvements financed in whole or in part with incremental education property tax revenue. Upon incurring the first debt, a municipality shall notify the Department of Taxes and the Vermont Economic Progress Council of the beginning of the 20-year retention period of education tax increment.

(c) ~~Prior to requesting municipal approval to secure financing, the municipality shall provide the council with all information related to the proposed financing necessary for approval and to assure its consistency with the plan approved pursuant to 32 V.S.A. § 5404a(h). The council shall also assure the viability and reasonableness of any proposed financing other than bonding and least-cost financing~~ Use of the municipal property tax increment. For only debt and related costs incurred within the first ten years after creation of the district, not less than an equal share of the municipal tax increment pursuant to subsection (f) of this section shall be retained to service the debt,

beginning the first year in which debt is incurred, pursuant to subsection (b) of this section.

(d) Approval of tax increment financing plan. The Vermont Economic Progress Council shall approve a municipality's tax increment financing plan prior to a public vote to pledge the credit of that municipality under subsection (h) of this section. The tax increment financing plan shall include all information related to the proposed financing necessary for approval by the Council and to assure its viability and consistency with the tax increment financing district plan approved by the Council pursuant to 32 V.S.A. § 5404a(h). The tax increment financing plan may be submitted to and approved by the Council concurrently with the tax increment financing district plan.

(e) Proportionality. The municipal legislative body may pledge and appropriate the state education and municipal tax increments received from properties contained within the tax increment financing district for the financing of improvements and for related costs only in the same proportion by which the improvement or related costs serve the district, as determined by the Council when approved in accordance with 32 V.S.A. § 5404a(h), and in the case of an improvement that does not reasonably lend itself to a proportionality formula, the Council shall apply a rough proportionality and rational nexus test.

(f) Equal share required. If any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(h), 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 approved by the Council or used by the municipality to service this debt.

(g) Adjustment of percentage. During the tenth year following the creation of the tax increment financing district, the municipality shall submit an updated tax increment financing plan to the Council which shall include adjustments and updates of appropriate data and information sufficient for the Council to determine, based on tax increment financing debt actually incurred and the history of increment generated during the first ten years, whether the percentages approved under subsection (f) of this section should be continued or adjusted to a lower percentage to be retained for the remaining duration of the retention period and still provide sufficient municipal and education increment to service the remaining debt.

(h) Vote required on each instance of debt. Notwithstanding any provision of any municipal charter, each instance of borrowing to finance or otherwise pay for tax increment financing district improvements shall occur only after 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, authorize the legislative body to pledge the credit of the municipality, borrow, or otherwise secure the debt for the specific purposes so warned; provided that each request to pledge the credit of the municipality for the purposes of financing tax increment financing district improvements shall include the new amount of debt proposed to be incurred and the total outstanding tax increment financing debt approved to date.

(i) Notice to voters. A municipal legislative body shall provide information to the public prior to the public vote required under subsection (h) of this section. This information shall include the amount and types of debt and related costs to be incurred, including principal, interest, and fees, terms of the debt, the improvements to be financed, the expected development to occur because of the improvements, and notice to the voters that if the tax increment received by the municipality from any property tax source is insufficient to pay the principal and interest on the debt in any year, for whatever reason, including a decrease in property value or repeal of a state property tax source, unless determined otherwise at the time of such repeal, the municipality shall remain liable for the full payment of the principal and interest for the term of indebtedness. If interfund loans within the municipality are used, the information must also include documentation of the terms and conditions of such loan. If interfund loans within the municipality are used as the method of financing, no interest shall be charged.

Sec. 5. 24 V.S.A. § 1895 is amended to read:

§ 1895. ORIGINAL TAXABLE VALUE

~~On or about 12:01 a.m., April 1, of the first year~~ As of the date the district is created, the lister or assessor for the municipality shall certify the ~~assessed valuation of all taxable real property within the district as then most recently determined, which is referred to in this subchapter as the "original taxable value,"~~ original taxable value and shall certify to the legislative body in each year thereafter during the life of the district the amount by which the original taxable value has increased or decreased~~,~~ and the proportion which any such increase bears to the total assessed valuation of the real property for that year or the proportion which any such decrease bears to the original taxable value.

Sec. 6. 24 V.S.A. § 1896 is amended to read:

§ 1896. TAX INCREMENTS

(a) In each ~~subsequent~~ year following the creation of the district, the listers or assessor shall include no more than the original taxable value of the real property in the assessed valuation upon which the listers or assessor computes the rates of all taxes levied by the municipality, the school district, and every

other taxing district in which the tax increment financing district is situated; but the listers or assessor shall extend all rates so determined against the entire assessed valuation of real property for that year. In each year for which the assessed valuation exceeds the original taxable value, the municipality ~~treasurer~~ shall hold apart, rather than remit to the taxing districts, that proportion of all taxes paid that year on the real property in the district which the excess valuation bears to the total assessed valuation. The amount held apart each year is the "tax increment" for that year. ~~So much~~ No more than the percentages established pursuant to section 1894 of this subchapter of the municipal and state education tax increments received with respect to the district and ~~pledged~~ committed for the payment for financing for improvements and related costs shall be segregated by the municipality in a special tax increment financing account ~~on~~ and in its official books and records until all capital indebtedness of the district has been fully paid. The final payment shall be reported to the lister or assessor, who shall thereafter include the entire assessed valuation of the district in the assessed valuations upon which tax rates are computed and extended and taxes are remitted to all taxing districts.

(b) ~~Adjustment upon reappraisal. In the event of a reappraisal of 20 percent or more of all parcels in the municipality, the value of the original taxable property in the district shall be changed by a multiplier, the denominator of which is the municipality's education property grand list for the property within the district in the year prior to the reappraisal or partial reappraisal and the numerator of which shall be the municipality's reappraised or partially reappraised education property grand list for the property within the district. The state education property tax revenues for the district in the first year following a townwide reappraisal or partial town-wide reappraisal shall not be less than the dollar amount of the state education property tax revenues in the prior year.~~ [Repealed.]

(c) Notwithstanding any charter provision or other provision, all property taxes assessed within a district shall be subject to the provision of subsection (a) of this section.

(d) Amounts held apart under subsection (a) of this section shall only be used for financing and related costs as defined in section 1891 of this subchapter.

Sec. 7. REPEAL

24 V.S.A. § 1897 (tax increment financing) is repealed.

Sec. 8. 24 V.S.A. § 1898 is amended to read:

§ 1898. POWERS SUPPLEMENTAL; CONSTRUCTION

(a) The powers conferred by this subchapter are supplemental and alternative to other powers conferred by law, and this subchapter is intended as an independent and comprehensive conferral of powers to accomplish the purposes set forth herein.

(b) A municipality shall have power to issue from time to time general obligation bonds, revenue bonds, or revenue bonds also backed by the municipality's full faith and credit in its discretion to finance the undertaking of any improvements wholly or partly within such district. If revenue bonds are issued, such bonds shall be made payable, as to both principal and interest, solely from the income proceeds, revenues, tax increments, and funds of the municipality derived from, or held in connection with its undertaking and carrying out of improvements under this chapter. ~~So long as any such bonds of a municipality are outstanding the local governing body may deduct, in any one or more years from any net increase in the aggregate taxable valuation of land and improvements in all areas covered by their district the amount necessary to produce tax revenues equal to the current debt service on such bonds, assuming the previous year's total tax rate and full collection. Only the balance, if any, of such net increase shall be taken into account in computing the sums which may be appropriated for other purposes under applicable tax rate limits. But all the taxable property in all areas covered by the district, including the whole of such net increase, shall be subject to the same total tax rate as other taxable property, except as may be otherwise provided by law. Such net increase shall be computed each year by subtracting, from the current aggregate valuation of the land and improvements in all areas covered by the district, the sum of the aggregate valuations of land and improvements in each such area on the date the district was approved under this section. An area shall be deemed to be covered as a district until the date all the indebtedness incurred by the municipality to finance the applicable improvements have been paid. Notwithstanding any provisions in this chapter to the contrary, any provision of a municipal charter of any municipality which specifies a different debt limit, or which requires a greater vote to authorize bonds, or which prescribes a different computation of appropriations under tax rate limits, or which is otherwise inconsistent with this subsection, shall apply.~~

(c) Bonds issued under the provisions of this chapter are declared to be issued for an essential public and governmental purpose.

(d) Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such

denomination or denominations, be in registered form, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium or payment, at such place or places, and be subject to such terms of redemption, such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

(e) ~~Prior to the resolution or ordinance of the local governing body authorizing financing under this section, the legislative body of the municipality shall hold one or more public hearings, after public notice, on a financial plan for the proposed improvements and related costs to be funded, including a statement of costs and sources of revenue, the estimates of assessed values within the district, the portion of those assessed values to be applied to the proposed improvements, the resulting tax increments in each year of the financial plan, the amount of bonded indebtedness or other financing to be incurred, other sources of financing and anticipated revenues, and the duration of the financial plan. A municipality that has approved the creation of a district under this chapter may designate a coordinating agency to administer the district to ensure compliance with this chapter and any other statutory or other requirements.~~ [Repealed.]

(f) Such bonds may be sold at not less than par at public or private sales held after notice published prior to such sale in a newspaper having a general circulation ~~in the area of operation and in such other medium of publication as the municipality may determine or may be on the basis of par~~ in the municipality.

(g) In case any of the public officials of the municipality whose signatures appear on any bonds or coupons issued under this chapter shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

(h) In any suit, action, or proceeding involving the validity or enforceability of any bond issued under this chapter or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an improvement, as herein defined, shall be conclusively deemed to have been issued for such purpose and such improvement shall be conclusively deemed to have been planned, located, and carried out in accordance with the provisions of this chapter.

(i) [Repealed.]

Sec. 9. 24 V.S.A. § 1900 is amended to read:

§ 1900. DISTRIBUTION

In addition to all other provisions of this ~~chapter~~ subchapter, with respect to any tax increment financing district, of the municipal and education tax increments received in any tax year that exceed the amounts ~~pledged~~ committed for the payment of the financing for improvements and related costs in the district, ~~an~~ equal ~~portion~~ portions of each increment may be ~~used for~~ retained for the following purposes: prepayment of principal and interest on the financing, ~~placed in escrow~~ placed in a special account required by section 1896 of this subchapter and used for future financing ~~payment~~ payments, or ~~otherwise~~ used for defeasance of the financing~~; and any~~. Any remaining portion of the excess municipal tax increment shall be distributed to the city, town, or village budget, in proportion that each budget bears to the combined total of the budgets unless otherwise negotiated by the city, town, or village; and any remaining portion of the excess education tax increment shall be distributed to the ~~education fund~~ Education Fund.

Sec. 10. 24 V.S.A. § 1901 is amended to read:

§ 1901. INFORMATION REPORTING

Every municipality with an active tax increment financing district shall:

~~(1) On or before December 1 of each year, report to the Vermont economic progress council (VEPC) and the tax department all information described in 32 V.S.A. § 5404a(i), in the form prescribed by VEPC.~~

~~(2) Report its tax increment financing actual investment, bond or other financing repayments, escrow status, and "related cost" accounting to the Vermont economic progress council according to the municipal audit cycle prescribed in section 1681 of this title.~~ Develop a system, segregated for the tax increment financing district, to identify, collect, and maintain all data and information necessary to fulfill the reporting requirements of this section, including performance indicators.

(2) Throughout the year, as required by events:

(A) provide notification to the Vermont Economic Progress Council and the Department of Taxes regarding any tax increment financing debt obligations, public votes, or votes by the municipal legislative body immediately following such obligation or vote on a form prescribed by the Council, including copies of public notices, agendas, minutes, vote tally, and a copy of the information provided to the public in accordance with subsection 1894(i) of this subchapter;

(B) submit any proposed substantial changes to be made to the approved tax increment district plan and approved financing plan to the Council for review, only after receiving approval for the substantial change through a vote of the municipal legislative body;

(3) Annually:

(A) include in the municipal audit cycle prescribed in section 1681 of this title a report of finances of the tax increment financing district, including the original taxable value and annual and total municipal and education tax increments generated, annual and total expenditures on improvements and related costs, all indebtedness of the district, including the initial debt, interest rate, terms, and annual and total principal and interest payments, an accounting of revenue sources other than property tax revenue by type and dollar amount, and an accounting of the special account required by section 1896 of this subchapter, including revenue, expenditures for debt and related costs, and current balance;

(B) on or before January 15 of each year, on a form prescribed by the Council, submit an annual report to the Vermont Economic Progress Council and the Department of Taxes, including the information required by subdivision (2) of this section if not already submitted during the year, all information required by subdivision (A) of this subdivision (3), and the information required by 32 V.S.A. § 5404a(i), including performance indicators and any other information required by the Council or the Department of Taxes.

Sec. 11. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this chapter:

* * *

(10) "Nonresidential property" means all property except:

* * *

(E) The excess valuation of property subject to tax increment financing in a tax increment financing district established under 24 V.S.A. chapter 53, subchapter 5 to the extent that the taxes generated on ~~the excess property valuation are pledged and appropriated for interest and principal repayment on bonded debt or prefunding future~~ such excess valuation of property are committed under 24 V.S.A. § 1894 to finance tax increment financing district debt ~~and to the extent approved for this purpose by the Vermont economic progress council upon application by the district under procedures established for approval of tax stabilization agreements under~~

~~section 5404a of this title, and that any such action shall be included in the annual authorization limits provided in subdivision 5930a(d)(1) of this title;~~ provided that any increment in excess of the amounts committed shall be distributed in accordance with 24 V.S.A. § 1900.

* * *

Sec. 12. 32 V.S.A. § 5404a(g) is amended to read:

(g) Any ~~utilization~~ use of education property tax increment approved under subsection (f) of this section shall be in addition to any other payments to the municipality under 16 V.S.A. chapter 133~~. Tax increment utilizations approved pursuant to subsection (f) of this section shall affect the education property tax grand list and the municipal grand list of the municipality under this chapter beginning April 1 of the year following approval~~ and shall remain available to the municipality for the full period authorized under 24 V.S.A. § 1894~~,~~ and shall be restricted only to the extent that the real property development giving rise to the increased value to the grand list fails to occur within the authorized period or by the enforcement provided by subsection (j) of this section.

Sec. 13. 32 V.S.A. § 5404a(i) is amended to read:

(i) The Vermont ~~economic progress council~~ Economic Progress Council and the ~~department of taxes~~ 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~~ Senate Committees on Economic Development, Housing and General Affairs and on Finance and the House Committees on Commerce and Economic Development and on Ways and Means of the ~~general assembly~~ General Assembly on or before ~~January 15~~ April 1. 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, the tax increment, and the annual amount of tax increments utilized~~ date of creation, a profile of the district, a map of the district, the original taxable value, the scope and value of projected and actual improvements and developments, projected and actual incremental revenue amounts and division of the increment revenue between district debt, the Education Fund, the special account required by 24 V.S.A. § 1896 and the municipal general fund, projected and actual financing, and a set of performance indicators developed by the Vermont Economic Progress Council, which shall include the number of jobs created in the district, what sectors experienced job growth, and the amount of infrastructure work performed by Vermont firms.

Sec. 14. 32 V.S.A. § 5404a(j) is amended to read:

(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~~ Tax increment financing district rulemaking, oversight, and enforcement.

(1) Authority to adopt rules. The Vermont Economic Progress Council is hereby granted authority to adopt rules in accordance with 3 V.S.A. chapter 25 for the purpose of providing clarification and detail for administering the provisions of 24 V.S.A. chapter 53, subchapter 5 and the tax increment financing district provisions of this section. A single rule shall be adopted for all tax increment financing districts that will provide further clarification for statutory construction and include a process whereby a municipality may distribute excess increment to the Education Fund as allowed under 24 V.S.A. § 1900. From the date the rules are adopted, the municipalities with districts in existence prior to 2006 are required to abide by the governing rule and any other provisions of the law in force; provided, however, that the rule shall indicate which specific provisions are not applicable to those districts in existence prior to January 2006.

(2) Authority to issue decisions.

(A) The Secretary of Commerce and Community Development, after reasonable notice to a municipality and an opportunity for a hearing, is authorized to issue decisions to a municipality regarding questions and inquiries about the administration of tax increment financing districts, statutes, rules, noncompliance with 24 V.S.A. chapter 53, subchapter 5, and any instances of noncompliance identified in audit reports conducted pursuant to subsection (l) of this section.

(B) The Vermont Economic Progress Council shall prepare recommendations for the Secretary prior to the issuance of a decision. As appropriate, the Council may prepare such recommendations in consultation with the Commissioner of Taxes, the Attorney General, and the State Treasurer. In preparing recommendations, the Council shall provide a municipality with a reasonable opportunity to submit written information in support of its position. The Secretary shall review the recommendations of the Council and issue a final decision on each matter within 60 days of the recommendation. However, pursuant to subdivision (5) of this subsection (j), the Secretary may permit an appeal to be taken by any party to a Superior Court for determination of questions of law in the same manner as the Supreme

Court may by rule provide for appeals before final judgment from a Superior Court before issuing a final decision.

(3) Remedy for noncompliance. If the Secretary issues a decision under subdivision (2) of this subsection that includes a finding of noncompliance and that noncompliance has resulted in the improper reduction in the amount due the Education Fund, the Secretary, unless and until he or she is satisfied that there is no longer any such failure to comply, shall request that the State Treasurer bill the municipality for the total identified underpayment. The amount of the underpayment shall be due from the municipality upon receipt of the bill. If the municipality does not pay the underpayment amount within 60 days, the amount may be withheld from any funds otherwise payable by the State to the municipality or a school district in the municipality or of which the municipality is a member.

(4) In lieu of or in addition to any action authorized in subdivision (3) of this subsection, the Secretary of Commerce and Community Development or the State Treasurer may refer the matter to the Office of the Attorney General with a recommendation that an appropriate civil action be initiated.

(5) A municipality that is aggrieved by the final determination or decision of the Secretary of Commerce and Community Development may appeal to a Superior Court under Rule 74 of the Vermont Rules of Civil Procedure for a review on the record. However, the Secretary, before final determination or decision, may permit an appeal to be taken by any party to a Superior Court for determination of questions of law in the same manner as the Supreme Court may by rule provide for appeals before final judgment from a Superior Court. Notwithstanding the provisions of the Vermont Rules of Civil Procedure or the Vermont Rules of Appellate Procedure, neither the time for filing a notice of appeal nor the filing of a notice of appeal, as provided in this section, shall operate as a stay of enforcement of a determination or decision of the Secretary unless the Secretary or a superior court grants a stay.

Sec. 15. 32 V.S.A. § 5404a(k) is amended to read:

(k) The Vermont ~~economic incentive review board~~ Economic Progress Council 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~~ Council to pay the actual cost of the analysis.

Sec. 16. 32 V.S.A. § 5404a(l) is amended to read:

(l) The ~~state auditor of accounts~~ State Auditor of Accounts shall ~~review and~~ conduct ~~an audit~~ performance audits of all ~~active~~ tax increment financing districts ~~every four years and bill back to the municipality the charge for the audit. The amount paid by the municipality for the audit shall be considered a "related cost" as defined in 24 V.S.A. § 1891(6). Any audit conducted by the state auditor of accounts under this subsection shall include a validation of the portion of the tax increment retained by the municipality and the portion directed to the education fund~~ according to a schedule, which will be arrived at in consultation with the Vermont Economic Progress Council. The cost of conducting each audit shall be considered a "related cost" as defined in 24 V.S.A. § 1891(6) and shall be billed back to the municipality. Audits conducted pursuant to this subsection shall include a review of a municipality's adherence to relevant statutes and rules adopted by the Vermont Economic Progress Council pursuant to subsection (j) of this section, an assessment of record keeping related to revenues and expenditures, and a validation of the portion of the tax increment retained by the municipality and used for debt repayment and the portion directed to the Education Fund.

(1) For municipalities with a district created prior to January 1, 2006 and a debt repayment schedule that anticipates retention of education increment beyond fiscal year 2016, an audit shall be conducted when approximately three-quarters of the period for retention of education increment has elapsed, and at the end of that same period, an audit shall be conducted for the final one-quarter period for retention of education increment.

(2) For municipalities with a district created after January 1, 2006 and approved by the Vermont Economic Progress Council, an audit shall be conducted at the end of the 10-year period in which debt can be incurred and again approximately halfway through the 20-year period for retention of education increment; provided, however, that an audit shall occur no more than one time in a five-year period. A final audit will be conducted at the end of the period for retention of education increment.

Sec. 17. TAX INCREMENT FINANCING DISTRICT APPROVAL; CITY OF SOUTH BURLINGTON

Notwithstanding 24 V.S.A. § 1892(d) and any other provision of law, the Vermont Economic Progress Council is authorized to approve a tax increment financing district in the City of South Burlington if approval is granted by December 31, 2013.

Sec. 18. BURLINGTON WATERFRONT TIF

The authority of the City of Burlington to incur indebtedness for its waterfront tax increment financing district is hereby extended for five years beginning January 1, 2015. This extension does not extend any period that municipal or education tax increment may be retained.

Sec. 19. 3 V.S.A. § 816(a) is amended to read:

(a) Sections 809–813 of this title shall not apply to:

* * *

(4) Acts, decisions, findings, or determinations by the Vermont Economic Progress Council of the Agency of Commerce and Community Development or the Secretary of Commerce and Community Development or his or her, its, or their duly authorized agents as to any and all procedures or hearings before and by the Vermont Economic Progress Council, the Agency, or their designees arising out of or with respect to 24 V.S.A. chapter 53, subchapter 5 and 32 V.S.A. chapter 135.

Sec. 20. 2011 AND 2012 AUDITOR'S REPORTS; PAYMENT

The State Treasurer is authorized to bill an audited municipality in an amount not to exceed $15,000.00 to offset costs associated with conducting the 2011 and 2012 audits of tax increment financing districts. A municipality shall remit payment to the Treasurer no more than 60 days after receiving the bill. The Treasurer shall distribute any amounts collected from a municipality to the State Auditor of Accounts.

Sec. 21. REPEAL

Pursuant to Sec. 17 of this act, the 2006 Acts and Resolves No. 184, Sec. 2i, as amended by 2008 Acts and Resolves No. 190, Sec. 67 (tax increment financing districts, cap), is repealed to clarify that the Vermont Economic Progress Council shall not approve any additional tax increment financing districts.

Sec. 22. EFFECTIVE DATES

(a) Secs. 1, 6(b), 10, 13–21, and this section shall take effect on passage. Sec. 6(b) (repeal of adjustment upon reappraisal) shall be effective retroactive to July 2006.

(b) Secs. 2 through 9 (except Sec. 6(b)), 11, and 12 (clarification of ambiguous statutes) of this act shall apply to any tax increment retained for all taxes assessed on the April 1, 2013 grand list.

(c) Sec. 6(c) (creation of taxes for special purposes) shall take effect on July 1, 2013.

And that after passage the title of the bill be amended to read:

An act relating to tax increment financing districts.

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.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 1.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. CRIMINAL JUSTICE CONSENSUS COST-BENEFIT WORKING GROUP

(a)(1) A Criminal Justice Consensus Cost-Benefit Working Group is established to develop collaboratively a criminal and juvenile justice cost-benefit model for Vermont for the purpose of providing policymakers with the information necessary to weigh the pros and cons of various strategies and programs, and enable them to identify options that are not only cost-effective, but also have the greatest net social benefit. The model will be used to estimate the costs related to the arrest, prosecution, defense, adjudication, and correction of criminal and juvenile defendants, and victimization of citizens by defendants.

(2) The Working Group shall:

(A) develop estimates of costs associated with the arrest, prosecution, defense, adjudication, and correction of criminal and juvenile defendants in Vermont by using the cost-benefit methodology developed by the Washington State Institute for Public Policy and currently used collaboratively by the Joint Fiscal Office and the PEW Charitable Trust for the Vermont Results First Project;

(B) estimate costs incurred by citizens who are the victims of crime by using data from the Vermont Center of Crime Victim Services, supplemented where necessary with national survey data;

(C) assess the quality of justice data collection systems and make recommendations for improved data integration, data capture, and data quality as appropriate;

(D) develop a throughput model of the Vermont criminal and juvenile justice systems which will serve as the basic matrix for calculating the cost and benefit of Vermont justice system programs and policies;

(E) investigate the need for and most appropriate entity within state government to be responsible for:

(i) revising the statewide cost benefit model in light of legislative or policy changes, or both, in the criminal or juvenile justice systems;

(ii) updating cost estimates; and

(iii) updating throughput data for the model.

(3) The Working Group shall be convened and staffed by the Vermont Center for Justice Research.

(4) The costs associated with staffing the Working Group shall be underwritten through December 31, 2013 by funding previously obtained by the Vermont Center for Justice Research from the Bureau of Justice Statistics, U.S. Department of Justice.

(b) The Working Group shall be composed of the following members:

(1) the Administrative Judge or designee;

(2) the Chief Legislative Fiscal Officer or designee;

(3) the Attorney General or designee;

(4) the Commissioner of Corrections or designee;

(5) the Commissioner for Children and Families or designee;

(6) the Executive Director of State's Attorneys and Sheriffs or designee;

(7) the Defender General or designee;

(8) the Commissioner of Public Safety or designee;

(9) the Director of the Vermont Center for Crime Victim Services or designee;

(10) the President of the Chiefs of Police Association of Vermont or designee;

(11) the President of the Vermont Sheriffs' Association or designee; and

(12) the Director of the Vermont Center for Justice Research.

(c) On or before November 15, 2013, the Working Group shall report its preliminary findings to the Senate Committee on Judiciary, the House Committee on Judiciary, and the House Committee on Corrections and Institutions. The Working Group shall issue a final report to the General Assembly on or before January 1, 2014.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment Concurred In

S. 151.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill by inserting a new section to be numbered Sec. 2 to read as follows:

Sec. 2. 23 V.S.A. § 102(d) is amended to read:

(d) The ~~commissioner~~ Commissioner may authorize background investigations for potential employees that may include criminal, traffic, and financial records checks; provided, however, that the potential employee is notified and has the right to withdraw his or her name from application. Additionally, employees who are ~~authorized to manufacture or produce~~ involved in the manufacturing or production of operators' licenses and identification cards, including enhanced licenses, or who have the ability to affect the identity information that appears on a license or identification card, or current employees who will be assigned to such positions, shall be subject to appropriate background checks and shall be provided notice of the background check and the contents of that check. These background checks will include a name-based and fingerprint-based criminal history records check using at a minimum the Federal Bureau of Investigation's National Crime Information Center and the Integrated Automated Fingerprint Identification database and state repository records on each covered employee. Employees may be subject to further appropriate security ~~clearance~~ clearances if required by federal law, including background investigations that may include criminal and traffic~~,~~

records checks~~,~~ and providing proof of United States citizenship. The ~~commissioner~~ Commissioner may, in connection with a formal disciplinary investigation, authorize a criminal or traffic record background investigation of a current employee; provided, however, that the background review is relevant to the issue under disciplinary investigation. Information acquired through the investigation shall be provided to the ~~commissioner~~ Commissioner or designated division director, and must be maintained in a secure manner. If the information acquired is used as a basis for any disciplinary action, it must be given to the employee during any pretermination hearing or contractual grievance hearing to allow the employee an opportunity to respond to or dispute the information. If no disciplinary action is taken against the employee, the information acquired through the background check shall be destroyed.

And by renumbering the remaining section to be numerically correct.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment Concurred In

S. 161.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill by inserting a new section to be numbered Sec. 1a to read as follows:

Sec. 1a. 2012 Acts and Resolves No. 147, Sec. 2(d) is amended to read:

(d) A person with ~~fewer than five~~ violations of 23 V.S.A. § 676 may apply to the DLS ~~diversion program~~ Diversion Program. Upon receipt of an application and determination of eligibility, the ~~diversion program~~ Diversion Program shall send the person a notice to report to the ~~diversion program~~ Diversion Program. The notice to report shall provide that the person is required to meet with diversion staff for the purposes of assessment and to complete all conditions of the diversion contract as provided in subsection (c) of this section.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Proposal of Amendment; Consideration Interrupted by Recess

H. 528.

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

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

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:

* * * Spirituous Liquor * * *

Sec. 1. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax is assessed on the gross revenue on the retail sale of spirituous liquor in the ~~state~~ State of Vermont, including fortified wine, sold by the ~~liquor control board~~ 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~~ current year:

(1) if the gross revenue of the seller is ~~$100,000.00~~ $150,000.00 or lower, the rate of tax is five percent;

(2) if the gross revenue of the seller is between ~~$100,000.00~~ $150,000.00 and ~~$200,000.00~~ $250,000.00, the rate of tax is ~~$15,000.00~~ $7,500.00 plus 15 percent of gross revenues over ~~$100,000.00~~ $150,000.00;

(3) if the gross revenue of the seller is over ~~$200,000.00~~ $250,000.00, the rate of tax is 25 percent.

* * * Health Care/Employer Assessment * * *

Sec. 2. 21 V.S.A. § 2002 is amended to read:

§ 2002. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

* * *

(5) "Uncovered employee" means:

(A) an employee of an employer who does not offer to pay any part of the cost of health care coverage for its employees;

(B) an employee who is not eligible for health care coverage offered by an employer to any other employees; or

(C) an employee who is offered and is eligible for coverage by the employer but elects not to accept the coverage and either:

(i) has no other health care coverage under either a private or public plan; or

(ii) has health insurance coverage purchased through the Vermont Health Benefit Exchange.

* * *

Sec. 3. 21 V.S.A. § 2003 is amended to read:

§ 2003. HEALTH CARE FUND CONTRIBUTION ASSESSMENT

* * *

(b) For any quarter in fiscal years 2007 and 2008, the amount of the ~~health care fund~~ Health Care Fund contribution shall be $ 91.25 for each full-time equivalent employee in excess of eight. For each fiscal year after fiscal year 2008, the number of excluded full-time equivalent employees shall be adjusted in accordance with subsection (a) of this section, and the amount of the ~~health care fund~~ Health Care Fund contribution shall be adjusted by a percentage equal to any percentage change in premiums for ~~Catamount Health for that fiscal year; provided, however, that to the extent that Catamount Health premiums decrease due to changes in benefit design or deductible amounts, the health care fund contribution shall not be decreased by the percentage change attributable to such benefit design or deductible changes~~ the second lowest cost silver-level plan in the Vermont Health Benefit Exchange.

* * *

(d) Revenues from the ~~health care fund~~ Health Care Fund contributions collected shall be deposited into the state ~~health care resources fund~~ Health Care Resources Fund established under 33 V.S.A. § 1901d for the purpose of financing health care coverage under Catamount Health assistance, as provided under 33 V.S.A. chapter 19, subchapter 3a.

Sec. 4. 33 V.S.A. § 1812 is added to read:

§ 1812. EXCHANGE PLAN SURCHARGE

(a) In the event that the revenue projected to be generated by the Employers' Health Care Fund Contribution assessment pursuant to 21 V.S.A. chapter 25 for a given year is insufficient to cover the net operating costs of the Exchange for the same year, the premium for each health benefit plan issued through the Exchange for that year shall include a monthly surcharge to finance the remaining costs associated with the operation of the Exchange.

(b) On or before September 1 of each year, the Department of Vermont Health Access shall project the net operating costs of the Exchange for the following calendar year. On or before the same date, the Department of Vermont Health Access shall, in consultation with the Department of Labor and the Legislative Joint Fiscal Office, project the amount of revenue to be generated by the Health Care Fund Contribution assessment in the following fiscal year. If the projected costs of the Exchange exceed the projected revenue from the assessment, the Department of Vermont Health Access shall, in consultation with the Legislative Joint Fiscal Office, calculate the estimated amount of the shortfall and the amount of the per-member per-month surcharge to be applied to the premium for all plans offered through the Exchange to make up the difference.

(c) The Exchange shall impose and collect the surcharge applied pursuant to this section from purchasers of Exchange plans as part of its monthly or other regular billing process. The Commissioner of Vermont Health Access or designee shall deposit the funds collected pursuant to this section in the State Health Care Resources Fund established by section 1901d of this title.

(d) The Exchange website shall clearly indicate the dollar amount of the premium for each health benefit plan offered through the Exchange that is attributable to a surcharge established by this section.

* * * Local Option Taxes * * *

Sec. 5. 24 V.S.A. § 138(a) is amended to read:

(a) Local option taxes are authorized under this section for the purpose of affording municipalities ~~an alternative~~ a method of raising municipal revenues ~~to facilitate the transition and reduce the dislocations in those municipalities that may be caused by reforms to the method of financing public education under the Equal Educational Opportunity Act of 1997. Accordingly:~~

~~(1) the local option taxes authorized under this section may be imposed by a municipality;~~

~~(2) a municipality opting to impose a local option tax may do so prior to July 1, 1998 to be effective beginning January 1, 1999, and anytime after December 1, 1998 a local option tax shall be effective beginning on the next tax quarter following 90 days' notice to the department of taxes of the imposition; and~~

~~(3) a local option tax may only be adopted by a municipality in which:~~

~~(A) the education property tax rate in 1997 was less than $1.10 per $100.00 of equalized education property value; or~~

~~(B) the equalized grand list value of personal property, business machinery, inventory, and equipment is at least ten percent of the equalized education grand list as reported in the 1998 Annual Report of the Division of Property Valuation and Review; or~~

~~(C) the combined education tax rate of the municipality will increase by 20 percent or more in fiscal year 1999 or in fiscal year 2000 over the rate of the combined education property tax in the previous fiscal year~~. A local option tax shall be effective beginning on the next tax quarter following 90 days' notice to the Department of Taxes of the imposition.

* * * Tax Expenditures * * *

Sec. 6. 32 V.S.A. § 312(d) is added to read:

(d) Every tax expenditure in the tax expenditure report required by this section shall be accompanied in statute by a statutory purpose explaining the policy goal behind the exemption, exclusion, deduction, or credit applicable to the tax. The statutory purpose shall appear as a separate subsection or subdivision in statute and shall bear the title "Statutory Purpose." Notwithstanding any other provision of law, a tax expenditure listed in the tax expenditure report that lacks a statutory purpose in statute shall not be implemented or enforced until a statutory purpose is provided.

Sec. 7. TAX EXPENDITURE PURPOSES

The Joint Fiscal Committee shall draft a statutory purpose for each tax expenditure in the report required by 32 V.S.A. § 312 that explains the policy goal behind the exemption, exclusion, deduction, or credit applicable to the tax. For the purpose of this report, the Committee shall have the assistance of the Department of Taxes, the Joint Fiscal Office, and the Office of Legislative Council. The Committee shall report its findings and recommendations to the Senate Committee on Finance and the House Committee on Ways and Means by January 15, 2014. The report of the Committee shall consist of a written catalogue for Vermont's tax expenditures and draft legislation, in bill form, providing a statutory purpose for each tax expenditure.

* * * Joint Fiscal Office * * *

Sec. 8. 32 V.S.A. § 3102(l) is added to read:

(l) The Commissioner shall provide the Joint Fiscal Office with state return and return information necessary for the Joint Fiscal Office or its agents to perform its duties, including conducting their own statistical studies, forecasts, and fiscal analysis.

* * * Property Taxes * * *

Sec. 9. 32 V.S.A. § 3802(18) is added to read:

(18) Any parcel of land that provides public access to public waters, as defined in 10 V.S.A. § 1422(6), and that is also:

(A) owned by the Town of Hardwick, and located in Greensboro, Vermont, or

(B) owned by the Town of Thetford, and located in Fairlee, Vermont, and West Fairlee, Vermont.

Sec. 10. 32 V.S.A. § 3802a is added to read:

§ 3802a. REQUIREMENT TO PROVIDE INSURANCE INFORMATION

Before April 1 of each year, owners of property exempt from taxation under subdivisions 3802(4)–(6), (9), and (12)–(15) and under subdivisions 5401(10)(D), (F), (G), and (J) of this title shall provide their local assessing officials with information regarding the insurance replacement cost of the exempt property or with a written explanation of why the property is not insured. There is a rebuttable presumption that the insurance replacement value is the value that should be entered in the grand list under subdivision 4152(a)(6) of this title.

Sec. 11. STUDY COMMITTEE ON CERTAIN PROPERTY TAX EXEMPTIONS

(a) Creation of committee. There is created a Property Tax Exemption Study Committee to study issues related to properties that fall within the public, pious, and charitable property tax exemption in 32 V.S.A. § 3802(4). The Committee shall study and make recommendations related to the definition, listing, valuation, and tax treatment of properties within this exemption.

(b) Membership. The Property Tax Exemption Study Committee shall be composed of seven members. Four members of the Committee shall be members of the General Assembly. The Committee on Committees of the Senate shall appoint two members of the Senate, not from the same political party, and the Speaker of the House shall appoint two members of the House, not from the same political party. The Chair and Vice Chair of the Committee shall be legislative members selected by all members of the Committee. Three members of the Committee shall be as follows:

(1) the Director of the Division of Property Valuation and Review;

(2) one member from Vermont's League of Cities and Towns, chosen by its board of directors; and

(3) one member of the Vermont Assessors and Listers Association, chosen by its board of directors.

(c) Powers and duties.

(1) The Committee shall study the definition, listing practices, valuation, and tax treatment of properties within the public, pious, and charitable exemption, including the following:

(A) ways to clarify the definitions of properties that fall within this exemption, including recreational facilities, educational facilities, and publically owned land and facilities;

(B) guidelines to ensure a uniform listing practice of public, pious, and charitable properties in different municipalities;

(C) methods of providing a valuation for properties within this exemption; and

(D) whether the policy justification for these exemptions continues to be warranted and whether a different system of taxation or exemption of these properties may be more appropriate.

(2) For purposes of its study of these issues, the Committee shall have the assistance of the Joint Fiscal Office, the Office of Legislative Council, and the Department of Taxes.

(d) Report. By January 15, 2014, the Committee shall report to the Senate Committee on Finance and the House Committee on Ways and Means its findings and any recommendations for legislative action.

(e) Number of meetings; term of Committee. The Committee may meet no more than six times, and shall cease to exist on January 16, 2014.

Sec. 12. 2008 Acts and Resolves No. 190, Sec. 40, as amended by 2010 Acts and Resolves No. 160, Sec. 22, as amended by 2011 Acts and Resolves No. 45, Sec. 13f, is further amended to read:

Sec. 40. EDUCATION PROPERTY TAX EXEMPTION FOR ~~SKATINGRINKS~~ SKATING RINKS 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 50 percent of the education property taxes for fiscal ~~year 2012~~ years 2013 and 2014 only.

Sec. 13. 32 V.S.A. § 3850 is added to read:

§ 3850. BLIGHTED PROPERTY IMPROVEMENT PROGRAM

(a) At an annual or special meeting, a municipality may vote to authorize the legislative body of the municipality to exempt from municipal taxes for a period not to exceed five years the value of improvements made to dwelling units certified as blighted. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(b) If a municipality votes to approve the exemption described in subsection (a) of this section, the legislative body of the municipality shall appoint an independent review committee that is authorized to certify dwelling units in the municipality as blighted and exempt the value of improvements made to these dwelling units.

(c) As used in this section, a dwelling unit may be certified as blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

(d) If a dwelling unit is certified as blighted under subsection (b) of this section, the exemption shall take effect on the April 1 following the certification of the dwelling unit.

Sec. 14. 32 V.S.A. § 5410a(i) is amended to read:

(i) An owner filing a new or corrected declaration, or rescinding an erroneous declaration, after ~~September 1~~ October 15 shall not be entitled to a refund resulting from the correct property classification; and any additional property tax and interest which would result from the correct classification shall not be assessed as tax and interest, but shall instead constitute an additional penalty, to be assessed and collected in the same manner as penalties under subsection (g) of this section. Any change in property classification under this subsection shall not be entered on the grand list.

* * * Income Taxes * * *

Sec. 15. 32 V.S.A. § 5811(21) is amended to read:

(21) "Taxable income" means federal taxable income determined without regard to ~~Section 168(k) of the Internal Revenue Code~~ 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations; ~~and~~

(iii) the amount in excess of $5,000.00 of state and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; ~~and~~

(iv) the amount in excess of $12,000.00 of home mortgage interest deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

* * *

Sec. 16. 32 V.S.A. § 5822(a)(6) is added to read

(6) If the federal adjusted gross income of the taxpayer exceeds $125,000.00, then the tax calculated under this subsection shall be the greater of the tax calculated under subdivisions (1)–(5) of this subsection or three percent of the taxpayer's federal adjusted gross income.

Sec. 17. 32 V.S.A. § 5825a(a) is amended to read:

(a) A taxpayer of this ~~state~~ State with taxable income of less than $150,000.00, including each spouse filing a joint return, shall be eligible for a nonrefundable credit against the tax imposed under section 5822 of this title of 10 percent of the first $2,500.00 per beneficiary, contributed by the taxpayer during the taxable year to a Vermont higher education investment plan account under 16 V.S.A. chapter 87, subchapter 7 ~~of chapter 87 of Title 16~~.

* * * Estate Taxes * * *

Sec. 18. 32 V.S.A. § 7402(14) is amended to read:

(14) "Vermont taxable estate" means ~~the value of the Vermont gross estate, reduced by the proportion of the deductions and exemptions from the value of the federal gross estate allowable under the laws of the United States, which the value of the Vermont gross estate bears to the value of the federal gross estate~~ federal taxable estate plus the federal taxable gifts of the decedent with no deduction under 26 U.S.C. § 2058.

Sec. 19. 32 V.S.A. § 7442a is amended to read:

§ 7442a. IMPOSITION OF A VERMONT ESTATE TAX AND RATE OF TAX

(a) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was a resident of this state. The base amount of this tax shall be ~~a sum equal to the~~

~~amount of the credit for state death taxes allowable to a decedent's estate under Section 2011 of the Internal Revenue Code as in effect on January 1, 2001.~~ calculated as follows:

(1) there shall be no tax owed for Vermont taxable estates with a value of $2,750,000.00 or less;

(2) for estates with a Vermont taxable estate value of over $2,750,000.00 but equal to or less than the annual indexed basic exclusion amount under 26 U.S.C. § 2010(c)(3), the rate of tax shall be 10 percent of the Vermont taxable estate over $2,750,000.00; and

(3) for estates with a Vermont taxable estate value greater than the annual indexed basic exclusion amount under 26 U.S.C. § 2010(c)(3), the tax shall be the tax calculated under subdivision (2) of this subsection, plus 16 percent of the Vermont taxable estate over the annual indexed amount of the federal applicable exclusion.

(b) ~~This~~ The base amount calculated under subsection (a) of this section shall be reduced by the lesser of the following:

(1) ~~The~~ the total amount of all constitutionally valid state death taxes actually paid to other states; or

(2) ~~A~~ a sum equal to the proportion of the ~~credit~~ base amount in subsection (a) which the value of the property taxed by other states bears to the value of the decedent's total gross estate for federal estate tax purposes.

~~(b)~~(c) A tax is hereby imposed on the transfer of the ~~Vermont estate~~ Vermont real and tangible personal property within the State of every decedent dying on or after January 1, 2002, who, at the time of death, was not a resident of this ~~state~~ State. The amount of this tax shall be a sum equal to the proportion of the base amount of tax under ~~subsection (a)~~ subsections (a) and (b) of this section which the value of Vermont real and tangible personal property taxed in this ~~state~~ State bears to the value of the decedent's total gross estate for federal estate tax purposes.

~~(c) The Vermont estate tax shall not exceed the amount of the tax imposed by 26 U.S.C. § 2001 calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were $2,750,000.00, and with no deduction under 26 U.S.C. § 2058.~~

(d) All values shall be as finally determined for federal estate tax purposes.

Sec. 20. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States, relating to federal estate and gift taxes as in effect on ~~December 31, 2011~~ December 31, 2012, are hereby adopted for the purpose of computing the tax liability under this chapter~~, except:~~

~~(1) the credit for state death taxes shall remain as provided for under 26 U.S.C. §§ 2011 and 2604 as in effect on January 1, 2001;~~

~~(2) the applicable credit amount under 26 U.S.C. § 2010 shall not apply; and the tax imposed under section 7442a of this chapter shall be calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were $2,750.000.00; and~~

~~(3) the deduction for state death taxes under 26 U.S.C. § 2058 shall not apply~~ except that elections under 26 U.S.C. § 2056(b)(7) and under 26 U.S.C. § 2056A(a)(3) may be made for state estate tax purposes only if such an election is not made for federal estate tax purposes. The value of the Vermont estate shall include the value of any property in which the decedent had a qualifying income interest for life for which an election was made under this section.

* * * Uniform Capacity Tax * * *

Sec. 21. 32 V.S.A. § 8701(d) is added to read:

(d) The existence of a renewable energy plant subject to tax under subsection (b) of this section shall not alter the exempt status of any underlying property under 32 V.S.A. § 3802 or 5401(10)(F).

* * * Sales and Use Taxes * * *

Sec. 22. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

* * *

(31) Food and food ingredients: means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages ~~or~~, tobacco, or bottled water.

* * *

(48)(A) "Bottled water" means water that is placed in a safety-sealed container or package for human consumption. Bottled water is calorie-free and does not contain sweeteners or other additives except that it may contain:

(i) antimicrobial agents;

(ii) fluoride;

(iii) carbonation;

(iv) vitamins, minerals, and electrolytes;

(v) oxygen;

(vi) preservatives; and

(vii) only those flavors, extracts, or essences derived from a spice or fruit.

(B) "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

Sec. 23. 32 V.S.A. § 9741(13) is amended to read:

(13) Sales of ~~food, food stamps, purchases made with food stamps, food products and beverages,~~ food and food ingredients sold for human consumption off the premises where sold and sales of eligible foods that are purchased with benefits under the Supplemental Nutrition Assistance Program or any successor program. When a purchase is made with a combination of benefits under the Supplemental Nutrition Assistance Program or any successor program and cash, check, or similar payment, the cash, check, or similar payment must be applied first to food and food ingredients exempt under this subdivision.

* * * Satellite Programming Tax * * *

Sec. 24. 32 V.S.A. chapter 242 is added to read:

CHAPTER 242. TAX ON SATELLITE TELEVISION PROGRAMMING

§ 10401. DEFINITIONS

As used in this chapter:

(1) "Commissioner" means the Commissioner of Taxes.

(2) "Distributor" means any person engaged in the business of making satellite programming available for purchase by subscribers.

(3) "Satellite programming" means radio and television audio and video programming services where the programming is distributed or broadcast by satellite directly to the subscriber's receiving equipment located at an end user subscribers' or end user customers' premises.

(4) "Subscriber" means a person who purchases programming taxable under this chapter.

§ 10402. TAX IMPOSED

(a) There is imposed a tax on provision of satellite programming to a subscriber located in this State. The tax shall be at the rate of three percent of all gross receipts derived by the distributor from the provision of satellite programming in this State.

(b) The tax together with a return in a form prescribed by the Commissioner shall be paid to the Commissioner quarterly on or before the 25th day of the month following the last day of each quarter of the taxpayer's taxable year under the Internal Revenue Code. The Commissioner shall deposit the payments collected into the General Fund.

(c) To the extent they are not explicitly in conflict with the provisions of this chapter, the provisions of chapter 103 and subchapters 6, 7, 8, and 9 of chapter 151 of this title shall apply to the tax imposed by this section.

§ 10403. EXEMPTIONS

(a) The following transactions are not covered by the tax in this chapter:

(1) transactions that are not within the taxing power of this State;

(2) the provision of satellite programming to a person for resale; and

(3) the first $30.00 of monthly charges paid by each subscriber for the provision of satellite programming which shall not be counted as gross receipts.

(b) The following organizations are not covered by the tax in this chapter:

(1) the State of Vermont or any of its agencies, instrumentalities, public authorities, or political subdivisions; and

(2) the United States of America or any of its agencies and instrumentalities.

Sec. 25. 32 V.S.A. § 10402(a) is amended to read:

(a) There is imposed a tax on provision of satellite programming to a subscriber located in this State. The tax shall be at the rate of ~~three percent~~ four percent of all gross receipts derived by the distributor from the provision of satellite programming in this State.

Sec. 26. 32 V.S.A. § 10403(a) is amended to read:

(a) The following transactions are not covered by the tax in this chapter:

(1) transactions that are not within the taxing power of this State; and

(2) the provision of satellite programming to a person for resale~~;~~

~~(3) the first $30.00 of monthly charges paid by each subscriber for the provision of satellite programming shall not be counted as gross receipts.~~

Sec. 27. 32 V.S.A. § 10402(a) is amended to read:

(a) There is imposed a tax on provision of satellite programming to a subscriber located in this State. The tax shall be at the rate of ~~four percent~~ five percent of all gross receipts derived by the distributor from the provision of satellite programming in this State.

* * * Break-Open Tickets * * *

Sec. 28. 32 V.S.A. chapter 245 is added to read:

CHAPTER 245. BREAK-OPEN TICKET TAX

§ 10501. DEFINITIONS

As used in this chapter:

(1) "Break-open ticket" shall have the same meaning as in 7 V.S.A. chapter 26, § 901(1).

(2) "Commissioner" means the Commissioner of Taxes.

(3) "Distributor" shall have the same meaning as in 7 V.S.A. chapter 26, § 901(3).

§ 10502. TAX ON DISTRIBUTOR SALES

(a) In addition to the annual licensing fee as provided in 7 V.S.A. § 904, there is levied upon each break-open ticket sold by a seller's agent in this State a tax to be paid by the distributor in the amount of three percent of the retail sales value of the ticket. For purposes of this section, "retail sale value" means the retail price stated on the ticket or, if no price is stated on the ticket, the price at which that type of ticket is generally sold.

(b) The tax together with a return in a form prescribed by the Commissioner shall be paid to the Commissioner of Taxes monthly on or before the 25th day of the month with respect to tickets sold in the month ending prior to the month in which the payment is due and shall be deposited into the Education Fund.

(c) The administrative provisions of chapters 103 and 233 of this title shall apply to the tax imposed by this section.

* * * Fuel Gross Receipts Tax * * *

Sec. 29. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of 0.5 percent on the retail sale of the following types of fuel ~~by sellers receiving more than $10,000.00 annually for the sale of such fuels~~:

(1) heating oil, kerosene, and other dyed diesel fuel delivered to a residence or business;

(2) propane;

(3) natural gas;

(4) electricity;

(5) coal.

* * *

Sec. 30. BANK FRANCHISE TAX STUDY

(a) Creation of committee. There is created a Bank Franchise Tax Study Committee to examine the taxation of financial institutions in Vermont.

(b) Membership. The Bank Franchise Tax Study Committee shall be composed of nine members. The Chair and Vice Chair of the Committee shall be legislative members selected by all the members of the Committee. Four members of the Committee shall be members of the General Assembly. The Committee on Committees of the Senate shall appoint two members of the Senate, not from the same political party; and the Speaker of the House shall appoint two members of the House, not from the same political party. Five members of the Committee shall be as follows:

(1) the Secretary of Administration or designee;

(2) the Commissioner of Financial Regulation or designee;

(3) the Commissioner of Taxes; and

(4) two persons appointed by the Vermont Banker's Association.

(c) Powers and duties.

(1) The Committee shall study the taxation of financial institutions in Vermont, including:

(A) the policy considerations for a bank franchise tax versus a corporate tax on financial institutions;

(B) an examination of the tax burden on financial institutions;

(C) the history of the rates and base of the bank franchise tax; and

(D) recommendations for setting the rate of the bank franchise tax in an equitable manner.

(2) For purposes of its study of these issues, the Committee shall have the administrative assistance of the Agency of Administration and the legal and fiscal support of the Department of Financial Regulation and the Department of Taxes.

(d) Report. On or before January 15, 2014, the Committee shall report to the Senate Committee on Finance and the House Committee on Ways and Means its findings and any recommendations for legislative action.

(e) Number of meetings; term of Committee. The Committee may meet no more than six times, and shall cease to exist on January 15, 2014.

Sec. 31. STUDY COMMITTEE ON BARRIERS TO THE WORKFORCE

(a) Creation of committee. There is created a Committee on Workforce Barriers to study how the totality of agency programs, tax credits, and subsidies affects the incentives for joining and remaining in the workforce.

(b) Membership. The Chair and Vice Chair of the Committee shall be legislative members selected by all the members of the Committee. The Committee on Workforce Barriers shall be composed of seven members as follows:

(1) the chairs of the Senate and House Committees on Appropriations;

(2) the chairs of the Senate Committee on Finance and House Committee on Ways and Means;

(3) the Secretary of Administration or designee;

(4) the Secretary of Human Services or designee; and

(5) the Commissioner of Labor or designee.

(c) Powers and duties.

(1) The Committee shall evaluate the totality of agency programs, tax credits, and subsidies that Vermont extends to low and moderate income Vermonters to determine if, collectively, they create financial incentives and mitigate social barriers to entering and remaining in the workforce. The Committee shall report any recommended policy changes that reduce financial or other barriers to entering the workforce, remaining in the workforce, or increasing an individual's participation in the workforce.

(2) For purposes of its study of these issues, the Committee shall have the administrative assistance of the Agency of Administration and the

technical, legal, and fiscal assistance of the Agency of Human Services, the Department of Labor, and the Department of Taxes.

(d) Report. By January 15, 2014, the Committee shall report to the General Assembly its findings and any recommendations for legislative action.

(e) Number of meetings; term of committee. The Committee may meet no more than six times, and shall cease to exist on January 16, 2014.

* * * Repeals and Effective Dates * * *

Sec. 32. REPEAL

The following are repealed:

(1) 2011 Acts and Resolves No. 45, Sec. 13a (wastewater permits).

(2) 2012 Acts and Resolves No. 143, Secs. 41 through 43 (wastewater permits).

Sec. 33. EFFECTIVE DATES

(a) This section and Sec. 12 (skating rinks) shall take effect on passage.

(b) Secs. 1 (spirituous liquors), 4 (exchange plan surcharge), 5 (local option taxes), 6 (tax expenditures), 7 (joint fiscal committee report), 8 (joint fiscal office), 11 (Exempt Property Study Committee), 13 (blighted property), 17 (Vermont higher education tax credit), 21 (uniform capacity tax), 22 (sales tax definitions), 23 (sales tax exemptions), 24 (satellite programming tax), 28 (taxation of break-open tickets), 29 (fuel gross receipts tax), 30 (bank franchise study), 31 (workforce barriers study), and 32 (repeals) of this act shall take effect on July 1, 2013.

(c) Secs. 2 (employer assessment definition), 3 (employer assessment fund) and 9 (water access land) of this act shall take effect on January 1, 2014.

(d) Sec. 10 (insurance values) of this act shall take effect on July 1, 2014.

(e) Sec. 14 (homestead filing) of this act shall take effect on January 1, 2014 and apply to homestead declarations filed after that date.

(f) Secs. 15 (definition of taxable income) and 16 (minimum payment) of this act shall apply retroactively to January 1, 2013 and apply to taxable year 2013 and after.

(g) Secs. 18, 19, and 20 (estate taxes) shall take effect on January 1, 2014 and apply to decedents dying after that date.

(h) Secs. 25 (satellite tax rate) and 26 (satellite tax exemption) shall take effect on July 1, 2014.

(i) Sec. 27 (satellite tax rate) shall take effect on July 1, 2015.

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.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, Senator Campbell, moved that the Senate recess until one o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator French the Senate recessed until 2:00 P.M.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 528.

Consideration was resumed on House bill entitled:

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

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, was agreed to.

Thereupon, third reading of the bill was ordered.

Committees Relieved of Further Consideration; Bills Committed

H. 54.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to Public Records Act exemptions,

and the bill was committed to the Committee on Government Operations.

H. 403.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to community supports for persons with serious functional impairments,

and the bill was committed to the Committee on Health and Welfare.

H. 450.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to expanding the powers of regional planning commissions,

and the bill was committed to the Committee on Government Operations.

H. 536.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to the Adjutant and Inspector General and the Vermont National Guard,

and the bill was committed to the Committee on Government Operations.

H. 538.

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bill entitled:

An act relating to making miscellaneous amendments to education funding laws,

and the bill was committed to the Committee on Finance.

Rules Suspended; Bill Committed

H. 522.

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

An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse.

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 Appropriations with the report of the Committee on Health and Welfare *intact*,

Which was agreed to.