

S. 69.

By Senators Rodgers, McAllister and Starr,

An act relating to the use of secure residential recovery facilities for a person charged with a violent felony and found incompetent to stand trial or not guilty by reason of insanity.

To the Committee on Judiciary.

S. 70.

By Senator Rodgers,

An act relating to the sale of raw milk at farmers' markets.

To the Committee on Agriculture.

S. 71.

By Senators Rodgers, McAllister and Starr,

An act relating to expanding prohibitions related to odometer and clock meter readings.

To the Committee on Judiciary.

S. 72.

By Senator Rodgers,

An act relating to expanding eligibility under the new motor vehicle arbitration law.

To the Committee on Judiciary.

S. 73.

By Senators Ashe, Westman, Baruth, Cummings, Flory, Fox, Lyons, Mazza and Mullin,

An act relating to the moratorium on home health agency certificates of need.

To the Committee on Health and Welfare.

S. 74.

By Senator Sears,

An act relating to immunity from liability for volunteer athletic coaches, managers, and officials.

To the Committee on Judiciary.

Bill Referred

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

H. 63.

An act relating to repealing an annual survey of municipalities.

To the Committee on Government Operations.

Senate Resolution Placed on Notice Calendar**S.R. 6.**

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

By the Committee on Rules,

S.R. 6. Senate resolution relating to amending the permanent rules of the Senate.

Resolved by the Senate:

First: In Rule 24, fourth paragraph, after the word “labor” by striking out the following: “, including unemployment and workers’ compensation insurance”

Second: In Rule 24, sixth paragraph, after the word “insurance” by inserting a comma and by striking out the word “and”

Third: In Rule 24, seventh paragraph, after the word “defense” by inserting the following: “; public records and open meetings”

Fourth: In Rule 24, tenth paragraph, after the word “affairs” by inserting the following: “; and motor vehicle and homeowner liability insurance”

Thereupon, pursuant to Rule 34, the resolution was placed on the Calendar for notice the next legislative day.

Bill Amended; Third Reading Ordered**S. 14.**

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

An act relating to payment of agency fees by teachers, school administrators, and municipal employees.

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

* * * State Employees * * *

Sec. 1. 3 V.S.A. § 902 is amended to read:

§ 902. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

* * *

(19) ~~“Collective bargaining service fee”~~ “Fair-share fee” means a fee deducted by an employer from the salary or wages of an employee who is not a member of an employee organization, which is paid to the employee organization which is the exclusive bargaining agent for the bargaining unit of the employee. ~~The collective bargaining service~~ fair-share fee shall not exceed 85 percent of the amount payable as dues by members of the employee organization, and shall be deducted in the same manner as dues are deducted from the salary or wages of members of the employee organization, and shall be used to defray the costs incurred by the employee organization in fulfilling its duty to represent the employees in their employment relations with the state.

Sec. 2. 3 V.S.A. § 903 is amended to read:

§ 903. EMPLOYEES' RIGHTS AND DUTIES; PROHIBITED ACTS

(a) Employees shall have the right to self-organization; to form, join, or assist employee organizations; to bargain collectively through representatives of their own choice, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities, except as provided in ~~subsection (b)~~ subsections (b) and (c) of this section, and to appeal grievances as provided in this chapter.

(b) ~~No~~ A state employee may not strike or recognize a picket line of an employee or labor organization while in the performance of his or her official duties.

(c) An employee who exercises the right not to join the employee organization representing the employee's collective bargaining unit shall pay the fair-share fee to the representative of the bargaining unit in the same manner as employees who pay membership fees to the representative. The employee organization shall indemnify and hold the employer harmless from any and all claims stemming from the implementation or administration of the fair-share fee. Nothing in this section shall require an employer to discharge an employee who does not pay the fair-share fee.

(d) All employers, their officers, agents, and employees or representatives shall exert every reasonable effort to make and maintain agreements

concerning matters allowable under section 904 of this title and to settle all disputes, whether arising out of the application of those agreements; or growing out of any dispute between the employer and the employees thereof.

Sec. 3. 3 V.S.A. § 904 is amended to read:

§ 904. SUBJECTS FOR BARGAINING

(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters which are prescribed or controlled by statute. Such matters appropriate for collective bargaining to the extent they are not prescribed or controlled by statute include ~~but are not limited to:~~

* * *

(9) ~~Rules~~ rules and regulations for personnel administration, except the following: rules and regulations relating to persons exempt from the classified service under section 311 of this title and rules and regulations relating to applicants for employment in state service and employees in an initial probationary status, including any extension or extensions thereof provided such rules and regulations are not discriminatory by reason of an applicant's race, color, creed, sex, or national origin; and

(10) ~~A collective bargaining service fee~~ the manner in which to enforce an employee's obligation to pay the fair-share fee.

* * *

Sec. 4. 3 V.S.A. § 941 is amended to read:

§ 941. UNIT DETERMINATION, CERTIFICATION, AND REPRESENTATION

* * *

(k) Nothing in this chapter requires an individual to seek the assistance of his or her collective bargaining unit or its representative(s) in any grievance proceeding. He or she may represent himself or herself or be represented by counsel of his or her own choice. ~~Employees who are eligible for membership in a collective bargaining unit who exercise their right not to join such unit may upon agreement with the unit representative avail themselves of the services of the unit representative(s) in grievance proceedings upon payment to the unit of a fee established by the unit representative, provided that in the event a collective bargaining service fee is negotiated, the unit representative shall represent nonmember employees in grievance proceedings without charge.~~

Sec. 5. 3 V.S.A. § 962 is amended to read:

§ 962. EMPLOYEES

It shall be an unfair labor practice for an employee organization or its agents:

* * *

(10) ~~To~~ to charge a ~~collective bargaining fee negotiated pursuant to section 904 of this title~~ the fair-share fee unless such employee organization has established and maintained a procedure to provide nonmembers with:

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

(B) an opportunity to object to the amount of the ~~agency fee~~ fair-share fee sought, any amount reasonably in dispute to be placed in escrow;

(C) prompt arbitration by the board to resolve any objection over the amount of the ~~collective bargaining fee~~ fair-share fee.

* * * Judiciary Employees * * *

Sec. 6. 3 V.S.A. § 1011 is amended to read:

§ 1011. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

* * *

(4) ~~“Collective bargaining service fee,”~~ “Fair-share fee” means a fee deducted by an employer from the salary or wages of an employee who is not a member of an employee organization, and that fee is paid to the employee organization that is the exclusive bargaining agent for the bargaining unit of the employee. A ~~collective bargaining service~~ fair-share fee shall not exceed 85 percent of the amount payable as dues by members of the employee organization; shall be deducted in the same manner as dues are deducted from the salary or wages of members of the employee organization; and shall be used to defray the costs incurred by the employee organization in fulfilling its duty to represent the employees in their employment relations with the employer.

* * *

Sec. 7. 3 V.S.A. § 1012 is amended to read:

§ 1012. EMPLOYEES' RIGHTS AND DUTIES; PROHIBITED ACTS

(a) Employees shall have the right to self-organization; to form, join, or assist employee organizations; to bargain collectively through their chosen

representatives; to engage in concerted activities of collective bargaining or other mutual aid or protection; to refrain from any or all those activities, except as provided in ~~subsection (b)~~ subsections (b) and (c) of this section; and to appeal grievances as provided in this chapter.

(b) ~~No~~ An employee may not strike or recognize a picket line of an employee organization while performing the employee's official duties.

(c) An employee who exercises the right not to join the employee organization representing the employee's certified unit pursuant to section 1021 of this title shall pay a fair-share fee to the representative of the bargaining unit in the same manner as employees who pay membership fees to the representative. The employee organization shall indemnify and hold the employer harmless from any and all claims stemming from the implementation or administration of the fair-share fee. Nothing in this section shall require an employer to discharge an employee who does not pay the fair-share fee.

~~(e)~~(d) The employer and employees and the employee's representative shall exert every reasonable effort to make and maintain agreements concerning matters allowable under section 1013 of this title and to settle all disputes, whether arising out of the application of those agreements or growing out of any dispute between the employer and the employees.

Sec. 8. 3 V.S.A. § 1013 is amended to read:

§ 1013. SUBJECTS FOR BARGAINING

All matters relating to the relationship between the employer and employees are subject to collective bargaining, to the extent those matters are not prescribed or controlled by law, including:

* * *

~~(10) A collective bargaining service fee~~ the manner in which to enforce an employee's obligation to pay the fair-share fee.

Sec. 9. 3 V.S.A. § 1027 is amended to read:

§ 1027. EMPLOYEES

It shall be an unfair labor practice for an employee organization or its agents:

* * *

~~(10) To charge a negotiated collective bargaining~~ the fair-share fee unless the employee organization has established and maintained a procedure to provide nonmembers with all the following:

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

(B) ~~An~~ an opportunity to object to the amount of the fair-share fee requested and to place in escrow any amount reasonably in dispute; and

(C) ~~Prompt~~ prompt arbitration by the ~~board~~ Board to resolve any objection over the amount of the ~~collective bargaining fee~~ fair-share fee.

Sec. 10. 3 V.S.A. § 1041 is amended to read:

§ 1041. GRIEVANCES; APPLICANTS AND EXCLUDED PERSONNEL

* * *

(c) Any dispute concerning the amount of ~~a collective bargaining service~~ the fair-share fee may be grieved to the ~~board~~ Board in accordance with the rules of the ~~board~~ Board.

* * * Teachers * * *

Sec. 11. 16 V.S.A. § 1981 is amended to read:

§ 1981. DEFINITIONS

As used in this chapter unless the context requires otherwise:

* * *

(7) ~~“Agency fee”~~ “Fair-share fee” means a fee for representation in collective bargaining, not exceeding teachers’ or administrators’ organization dues, payable to the organization which is the exclusive bargaining agent for teachers or administrators in a bargaining unit, from individuals who are not members of the organization.

* * *

Sec. 12. 16 V.S.A. § 1982 is amended to read:

§ 1982. RIGHTS

(a) Teachers shall have the right to or not to join, assist, or participate in any teachers’ organization of their choosing. However, teachers ~~may be required to pay an agency fee~~ who choose not to join the teachers’ organization, recognized as the exclusive representative pursuant to an agreement negotiated under section 1992 of this chapter shall pay the fair-share fee in the same manner as teachers who choose to join the teachers’ organization pay membership fees. The teachers’ organization shall indemnify and hold the school board harmless from any and all claims stemming from the implementation or administration of the fair-share fee.

(b) Principals, assistant principals, and administrators other than superintendent and assistant superintendent shall have the right to or not to join, assist, or participate in any administrators' organization or as a separate unit of any teachers' organization of their choosing. However, subject to the provisions of subsection (d) of this section, administrators other than the superintendent and assistant superintendent may be required to pay an agency fee who choose not to join the administrators' organization, recognized as the exclusive representative pursuant to an agreement negotiated under section 1992 of this chapter shall pay the fair-share fee in the same manner as administrators who choose to join the administrators' organization pay membership fees. The administrators' organization agrees to indemnify and hold the school harmless from any and all claims stemming from the implementation or administration of the fair-share fee.

(c) ~~Neither the~~ The school board nor or any employee of the school board serving in any capacity, ~~nor or~~ any other person or organization shall not interfere with, restrain, coerce, or discriminate in any way against or for any teacher or administrator engaged in activities protected by this legislation.

(d) A teachers' or administrators' organization shall not charge the fair-share fee unless it has established and maintained a procedure to provide nonmembers with:

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

(2) an opportunity to object to the amount of the fair-share fee sought, and to place in escrow any amount reasonably in dispute;

(3) prompt arbitration by an arbitrator selected jointly by the objecting fee payer and the teachers' or administrators' organization or pursuant to the rules of the American Arbitration Association to resolve any objection over the amount of the fair-share fee. The costs of arbitration shall be paid by the teachers' or administrators' organization.

(e) Nothing in this section shall require an employer to discharge an employee who does not pay the fair-share fee.

Sec. 13. 16 V.S.A. § 2004 is amended to read:

§ 2004. AGENDA

The school board, through its negotiations council, shall, upon request, negotiate with representatives of the teachers' or administrators' organization negotiations council on matters of salary, related economic conditions of employment, ~~an agency service fee~~ the manner in which it will enforce an employee's obligation to pay the fair-share fee, procedures for processing

complaints and grievances relating to employment, and any mutually agreed upon matters not in conflict with the statutes and laws of the ~~state~~ State of Vermont.

* * * Certain Private Sector Employees * * *

Sec. 14. 21 V.S.A. § 1502 is amended to read:

§ 1502. DEFINITIONS

~~In~~ As used in this chapter the following words shall have the following meaning:

* * *

(14) “Fair-share fee” means the portion of an employee organization’s dues attributable to activities stemming from its duty to represent all employees in a collective bargaining unit without regard to membership in the employee organization, to be paid by those employees in a collective bargaining unit who are not members of the employee organization. It includes the cost of all activities germane to collective bargaining, administering and enforcing collective bargaining agreements, representing employees in their employment relations with their employer, professional development, and the employee organization’s governance and administration. It does not include the cost of any political activities, lobbying over matters that are not germane to either collective bargaining or employer-employee relations, or community service activities undertaken by the employee organization.

Sec. 15. 21 V.S.A. § 1503 is amended to read:

§ 1503. RIGHTS OF EMPLOYEES; MUTUAL DUTY TO BARGAIN

(a) Employees shall have the right to self-organization; to form, join, or assist labor organizations; to bargain collectively through representatives of their own choice, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in ~~section~~ subsection 1621(a) of this title. An employee who exercises the right not to join the labor organization representing the employee’s certified unit pursuant to section 1581 of this title shall, subject to subsection (b) of this section, pay the fair-share fee to the representative of the bargaining unit in the same manner as employees who pay membership fees to the representative. The labor organization agrees to indemnify and hold the employer harmless from any and

all claims stemming from the implementation or administration of the fair-share fee.

(b) A labor organization shall not charge the fair-share fee unless it has established and maintained a procedure to provide nonmembers with:

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

(2) an opportunity to object to the amount of the fair-share fee sought, and to place in escrow any amount reasonably in dispute;

(3) prompt arbitration by an arbitrator selected jointly by the objecting fee payer and the teachers' or administrators' organization or pursuant to the rules of the American Arbitration Association to resolve any objection over the amount of the fair-share fee. The costs of arbitration shall be paid by the labor organization.

Sec. 16. 21 V.S.A. § 1621 is amended to read:

§ 1621. UNFAIR LABOR PRACTICES

(a) It shall be an unfair labor practice for an employer:

* * *

(6) Nothing in this chapter or any other statute of this state shall preclude an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this subsection (a) as an unfair labor practice) to require as a condition of employment membership in such labor organization on or after the 30th day following the beginning of such employment or the effective date of such agreement, whichever is the later, (i) if such labor organization is the representative of the employees as provided in section 1583 of this chapter, in the appropriate collective bargaining unit covered by such agreement when made; and (ii) unless following an election held as provided in section 1584 of this chapter within one year preceding the effective date of such agreement, the ~~board~~ Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement. Nothing in this section shall require an employer to discharge an employee in the absence of such an agreement. ~~Ne~~ An employer shall not justify any discrimination against an employee for nonmembership in a labor organization:

(A) ~~If~~ if the employer has reasonable grounds for believing that membership was not available to the employee on the same terms and conditions generally applicable to other members; or

(B) ~~If~~ if the employer has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

* * *

(b) It shall be an unfair labor practice for a labor organization or its agents:

* * *

(5) To require employees covered by a the fair-share fee requirement or other union security agreement authorized under subsection (a) of this section to pay, as a condition precedent to becoming a member of such organization, a fee in an amount which the ~~board~~ Board finds excessive or discriminatory under all the circumstances. In making such a finding, the ~~board~~ Board shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry, and the wages currently paid to the employees affected.

* * *

* * * Municipal Employees * * *

Sec. 17. 21 V.S.A. § 1722 is amended to read:

§ 1722. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

(1) ~~“Agency service fee”~~ “Fair-share fee” means a fee for representation in collective bargaining not exceeding employee organization dues, payable to an employee organization which is the exclusive bargaining agent for employees in a bargaining unit from individuals who are not members of the employee organization

* * *

Sec. 18. 21 V.S.A. § 1726 is amended to read:

§ 1726. UNFAIR LABOR PRACTICES

(a) It shall be an unfair labor practice for an employer:

* * *

(8) ~~Nothing in this chapter or any other statute of this state shall preclude a municipal employer from making an agreement with the exclusive bargaining agent to require an agency service~~ A municipal employer and the exclusive bargaining agent may agree to require the fair-share fee to be paid as a condition of employment, or to require as a condition of employment

membership in such employee organization on or after the 30th day following the beginning of such employment or the effective date of such agreement, whichever is the later. Nothing in this section shall require an employer to discharge an employee in the absence of such an agreement. ~~No~~ A municipal employer shall not discharge or discriminate against any employee for nonpayment of ~~an agency service fee~~ the fair-share fee or for nonmembership in an employee organization:

(A) ~~If~~ if the employer has reasonable grounds for believing that membership was not available to the employee on the same terms and conditions generally applicable to other members; or

(B) ~~If~~ if the employer has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

(b) It shall be an unfair labor practice for an employee organization or its agents:

* * *

(6) ~~To~~ to require employees covered by ~~an agency service fee agreement~~ the fair-share fee requirement or other union security agreement authorized under subsection (a) of this section to pay an initiation fee which the ~~board~~ Board finds excessive or discriminatory under all the circumstances, including the practices and customs of employee organizations representing municipal employees; and the wages paid to the employees affected.

* * *

(12) to charge the fair-share fee unless the employee organization has established and maintained a procedure to provide nonmembers with all the following:

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

(B) an opportunity to object to the amount of the fee requested and to place in escrow any amount reasonably in dispute; and

(C) prompt arbitration by an arbitrator selected jointly by the objecting fee payer and the employee organization or pursuant to the rules of the American Arbitration Association to resolve any objection over the amount of the fair-share fee. The costs of arbitration shall be paid by the employee organization.

Sec. 19. 21 V.S.A. § 1734 is amended to read:

§ 1734. MISCELLANEOUS

(a) Municipal employees and exclusive bargaining agents are authorized to negotiate provisions in a collective bargaining agreement calling for:

(1) ~~Payroll~~ payroll deduction of employee organization dues and initiation fees, ~~or an agency service fee;~~

(2) ~~Binding~~ binding arbitration of grievances involving the interpretation or application of a written collective bargaining agreement. The cost of arbitration shall be shared equally by the parties.

* * *

(d) In the absence of an agreement requiring an employee to be a member of the employee organization, an employee choosing not to be a member of the employee organization shall pay the fair-share fee in the same manner as employees who choose to join the employee organization pay dues. The employee organization shall indemnify and hold the employer harmless from any and all claims stemming from the implementation or administration of the fair-share fee.

* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

This act shall take effect on June 30, 2013 and apply to employees subject to 3 V.S.A. chapters 27 and 28, 16 V.S.A. chapter 57, and 21 V.S.A. chapters 19 and 22 on the date following the expiration date stated in the collective bargaining agreement, if any, then in effect, but in no event shall an employee be required to pay a fair-share fee under this act for any period prior to July 1, 2013 unless an existing collective bargaining agreement requires payment of the fee. In the event that no collective bargaining agreement is in effect on June 30, 2013, this act shall take effect on June 30, 2013 and apply to employees subject to 3 V.S.A. chapters 27 and 28, 16 V.S.A. chapter 57, and 21 V.S.A. chapters 19 and 22 on July 1, 2013.

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

An act relating to payment of fair-share fees.

And that when so amended the bill ought to pass.

Senator Baruth, for the Committee on Education, 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 pending the question, Shall the bill be amended as recommended

by the Committee of Economic Development, Housing and General Affairs?, Senator Nitka moved to amend the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs by striking out Secs. 17, 18 and 19.

Thereupon, pending the question, Shall the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs be amended by striking out Secs. 17, 18, and 19? Senator Sears, pursuant to Rule 53 of the Permanent Rules of the Vermont Senate, requested the amendment be reduced to writing. Thereupon, the President required the motion be reduced to writing.

Thereupon, the recurring question, Shall the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs be amended by striking out sections 17, 18 and 19, was disagreed to on a roll call, Yeas 4, Nays 25.

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

Roll Call

Those Senators who voted in the affirmative were: Flory, McAllister, Nitka, Westman.

Those Senators who voted in the negative were: Ashe, Ayer, Baruth, Benning, Bray, Campbell, Collins, Cummings, Doyle, Fox, French, Galbraith, Hartwell, Kitchel, MacDonald, Mazza, McCormack, Mullin, Pollina, Rodgers, Sears, Snelling, Starr, White, Zuckerman.

The Senator absent and not voting was: Lyons.

Thereupon, the recommendation of amendment was agreed to on a roll call, Yeas 26, Nays 3.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Bray, Campbell, Collins, Cummings, Doyle, Fox, French, Galbraith, Hartwell, Kitchel, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

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

The Senator absent and not voting was: Lyons.

Thereupon, 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:

Gallagher, Thomas of St. Albans - Member, Liquor Control Board – July 3, 2012, to January 31, 2015.

Clark, Edward of Guildhall - Member, State Labor Relations Board – December 18, 2012, to June 30, 2018.

Williams, Robert of Poultney - Member, Electricians' Licensing Board – August 15, 2012, to June 30, 2015.

Sbardella, Julian of Fair Haven - Member, Liquor Control Board – July 12, 2012, to January 31, 2013.

Mazza, Melissa of Essex Junction - Member, Liquor Control Board – June 14, 2012, to January 31, 2017.

Watkins, Timothy of Colchester - Member, Electricians' Licensing Board – August 15, 2012, to June 30, 2015.

Larocque, Leo of Whiting - Member, Electricians' Licensing Board – October 23, 2012, to June 30, 2015.

Sartorelli, Ugo of Barre - Member, State Police Advisory Commission – August 15, 2012, to June 30, 2016.

Pallito, Patti of Richmond - Member, State Police Advisory Commission – August 15, 2012, to June 30, 2013.

Crowley, Thomas of South Burlington - Member, State Police Advisory Commission – July 20, 2012, to June 30, 2016.

Willard, Alan of Woodstock - Member, State Labor Relations Board – December 28, 2012, to June 30, 2018.

Senate Concurrent Resolution Adopted

Senate concurrent resolution of the following title was offered, read and adopted on the part of the Senate:

By Senator McCormack,

S.C.R. 12. Senate concurrent resolution honoring Amelia Boynton Robinson, the Matriarch of the Voting Rights Movement.

Whereas, Amelia Boynton Robinson was a true hero in the long struggle leading to passage of the Voting Rights Act of 1965, Pub. L. 89-110, and

Whereas, she first participated in a voter registration drive when she assisted her mother in registering women to vote following the ratification of the 19th Amendment to the U.S. Constitution, a process completed on her ninth birthday, August 18, 1920, and

Whereas, in 1933, Amelia Boynton Robinson cofounded the Dallas County Voters League in Selma, Alabama for the purpose of registering African-American voters in Dallas County, and

Whereas, African-Americans in Alabama had been effectively disenfranchised since the adoption of a state constitutional amendment in 1901, and her task, which she performed with great dedication, proved extremely difficult as she was facing continuous pressure to halt her efforts, and

Whereas, in 1964, after the City of Selma adopted an ordinance effectively ending the voter registration efforts of the Student Nonviolent Coordinating Committee, Amelia Boynton Robinson wrote to the Rev. Dr. Martin Luther King requesting the assistance of the Southern Christian Leadership Conference (SCLC), and

Whereas, the SCLC sent a team to assist in the voting rights effort, and when Dr. King went to Selma on January 2, 1965 to address a mass meeting, Amelia Boynton Robinson was manhandled and arrested, and

Whereas, on March 7, 1965, at the start of the famous voting rights march from Selma to Montgomery, Alabama, state troopers viciously attacked the marchers crossing the Edmund Pettus Bridge in Selma, and Amelia Boynton Robinson was left for dead, and

Whereas, she recovered, and President Lyndon Johnson invited her to the signing ceremony for the 1965 Voting Rights Act, and

Whereas, in 2013, at the age of 101, Amelia Boynton Robinson remains politically involved as a fighter for social justice and has established the Village of Hope organization to educate young persons about her life's work, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly honors Amelia Boynton Robinson, the Matriarch of the Voting Rights Movement, for her pioneering efforts to ensure universal voting rights, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Amelia Boynton Robinson in Tuskegee, Alabama.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, February 5, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 9.

TUESDAY, FEBRUARY 5, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Mark Pitton of Montpelier.

Pledge of Allegiance

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

Bills Introduced

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

S. 75.

By Senator Mullin,

An act relating to the sale of a contract liquor agency.

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

S. 76.

By Senators McCormack and Zuckerman,

An act relating to prohibiting unnecessary idling by motor vehicles.

To the Committee on Transportation.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 77.

By the Committee on Health and Welfare,

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

Bill Introduced

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

S. 78.

By Senators Baruth, Collins, Doyle, McCormack and Zuckerman,
An act relating to tuition payments for early college programs.
To the Committee on Education.

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. 13. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 8, 2013, it be to meet again no later than Tuesday, February 12, 2013.

Rules Suspended; Bill Committed**S. 77.**

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

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

Was taken up for immediate consideration.

Thereupon, pending second reading of the bill, on motion of Senator Ayer, the bill was committed to the Committee on Judiciary.

Consideration Postponed

Senate bill entitled:

S. 14.

An act relating to payment of agency fees by teachers, school administrators, and municipal employees.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative 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 Webb and others,

By Senator Lyons,

H.C.R. 16.

House concurrent resolution in memory of Margaret Munt of Williston.

By Representatives Deen and Mrowicki,

By Senators Galbraith and White,

H.C.R. 17.

House concurrent resolution honoring former Representative Randolph and Beverly Major for their civic and community service in the town of Westminster.

By Representatives Deen and Mrowicki,

By Senators Galbraith and White,

H.C.R. 18.

House concurrent resolution honoring Winifred Vogt on her receipt of a 2012 Successful Aging Award from Senior Solutions.

By Representative Gallivan and others,

H.C.R. 19.

House concurrent resolution designating January as National Mentoring Month in Vermont.

By Representative Lanpher and others,

By Senators Ayer and Bray,

H.C.R. 20.

House concurrent resolution congratulating *The Wake-up Crew with Bruce & Hobbes* radio show on receipt of the Alan P. Noyes Community Service Award from the Vermont Association of Broadcasters.

By Representatives Stevens and Ellis,

H.C.R. 21.

House concurrent resolution recognizing the invaluable community contribution of ReBuild Waterbury to the post-Tropical Storm Irene recovery.

By Representative Clarkson and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 22.

House concurrent resolution honoring former Woodstock Union High School teacher and athletic director and retiring football coach Jim McLaughlin.

By Representative Potter and others,

By Senators Flory, French and Mullin,

H.C.R. 23.

House concurrent resolution in memory of former Representative and Senator Sanborn Partridge of Proctor.

By Representative Ram and others,

By Senators Lyons, Ashe, Ayer, Benning, Bray, Campbell, Cummings, Flory, Fox, Galbraith, Hartwell, Kitchel, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, White and Zuckerman,

H.C.R. 24.

House concurrent resolution designating February 1, 2013 as Wear Red Day.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, February 6, 2013.

WEDNESDAY, FEBRUARY 6, 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. 12

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 resolutions originating in the Senate of the following titles:

J.R.S. 10. Joint resolution providing for a Joint Assembly for the election of a Sergeant at Arms, an Adjutant and Inspector General, and three Trustees of the University of Vermont and State Agricultural College.

J.R.S. 11. Joint resolution establishing a procedure for the conduct of the election of UVM trustees by plurality vote by the General Assembly in 2013.

J.R.S. 12. Joint resolution supporting the return of the Battle of Winchester Memorial to its original battlefield location.

And has adopted the same in concurrence.

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

H.C.R. 16. House concurrent resolution in memory of Margaret Munt of Williston.

H.C.R. 17. House concurrent resolution honoring former Representative Randolph and Beverly Major for their civic and community service in the town of Westminster.

H.C.R. 18. House concurrent resolution honoring Winifred Vogt on her receipt of a 2012 Successful Aging Award from Senior Solutions.

H.C.R. 19. House concurrent resolution designating January as National Mentoring Month in Vermont.

H.C.R. 20. House concurrent resolution congratulating *The Wake-up Crew with Bruce & Hobbes* radio show on receipt of the Alan P. Noyes Community Service Award from the Vermont Association of Broadcasters.

H.C.R. 21. House concurrent resolution recognizing the invaluable community contribution of ReBuild Waterbury to the post-Tropical Storm Irene recovery.

H.C.R. 22. House concurrent resolution honoring former Woodstock Union High School teacher and athletic director and retiring football coach Jim McLaughlin.

H.C.R. 23. House concurrent resolution in memory of former Representative and Senator Sanborn Partridge of Proctor.

H.C.R. 24. House concurrent resolution designating February 1, 2013 as Wear Red Day.

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. 12. Senate concurrent resolution honoring Amelia Boynton Robinson, the Matriarch of the Voting Rights Movement.

And has adopted the same in concurrence.

**Appointment of Senate Members of the Legislative Committee on
Administrative Rules**

Pursuant to the provisions of 3 V.S.A. §817, the President *pro tempore*, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Legislative Committee on Administrative Rules for terms of two years ending February 1, 2015:

Senator MacDonald
Senator Hartwell
Senator Flory
Senator Snelling

Bills Introduced

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

S. 79.

By Senator Fox,

An act relating to the Office of Health Care Consumer Protection.

To the Committee on Health and Welfare.

S. 80.

By Senators Rodgers and Starr,

An act relating to mandatory community notification regarding registered sex offenders.

To the Committee on Judiciary.

S. 81.

By Senators Lyons, Ashe, Campbell, Fox, Galbraith, MacDonald, McCormack, Mullin, Pollina and Zuckerman,

An act relating to the regulation of octaBDE, pentaBDE, decaBDE, and flame retardant known as Tris in consumer products.

To the Committee on Health and Welfare.

S. 82.

By Senators White, Ayer, Baruth, Kitchel, Lyons, MacDonald, Mazza, McCormack and Starr,

An act relating to campaign finance law.

To the Committee on Government Operations.

S. 83.

By Senator Lyons,

An act relating to excellence in forestry, harvesting guidelines, and outreach, education, and training.

To the Committee on Natural Resources and Energy.

Joint Resolution Referred**J.R.S. 14.**

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

By Committee on Agriculture,

J.R.S. 14. Joint resolution supporting the Agency of Agriculture, Food and Markets' proposal to adopt an administrative rule to implement international maple grading standards in Vermont.

Whereas, maple sugaring is important economically and culturally in Vermont, and

Whereas, the special status in Vermont of maple-flavored products is epitomized in 1 V.S.A. § 510, designating maple from the Vermont sugar maple tree as the state flavor, and

Whereas, the Agency of Agriculture, Food and Markets (the Agency) has estimated that in the year 2000, there were 2,000 maple syrup producers operating one million taps, and the comparable estimates for the year 2012 were 3,000 producers and 3.3 million taps, and

Whereas, the Agency further reported that with new technology, the average tap, over the course of a sugaring season, now yields approximately one-half gallon of maple syrup, double the former standard of one quart per tap, and

Whereas, according to the U.S. Department of Agriculture (USDA), Vermont exceeds any other American state in the production of maple syrup as indicated by the fact that in 2012, 750,000 gallons of maple syrup were produced in the State while the nearest competitors, Maine and New York, each produced 360,000 gallons, and

Whereas, the USDA also indicates that the revenue derived nationally from Vermont maple syrup sales in 2011 was approximately \$39.9 million, representing more than one-third of all sales of maple syrup produced in the United States, and

Whereas, these production and revenue statistics demonstrate the importance to our State's economy of Vermont maple syrup sales beyond the State's borders, and

Whereas, historically, Vermont has used a system of grading unique to this State which is familiar to in-state purchasers of Vermont maple syrup, and

Whereas, although Vermont maple syrup producers are proud of the State's unique maple grading standards, Vermont should adopt the international standards in order to enable our state to remain the nation's leading source for maple syrup, and

Whereas, the Agency is initiating a rule adoption process to adopt the international standards, and

Whereas, the Agency's proposal would preserve important marketing attributes of Vermont maple syrup, including the retention of the existing density requirement which is higher than the standard of any other state or Canadian province and the inclusion of the word Vermont on the label as is presently required; and for sales within Vermont, maple syrup producers would be allowed to list both the international and traditional Vermont grades, and

Whereas, the 1,000-member Vermont Maple Sugar Makers' Association, the Vermont Maple Industry Council, the Franklin County Sugar Makers' Association, and the Vermont Farm Bureau are each supportive of the Agency's adoption of the international maple grading standard, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly supports the Agency of Agriculture, Food and Markets' proposal to adopt an administrative rule to implement international maple grading standards in Vermont, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Chuck Ross, Secretary of Agriculture, Food and Markets, to the Vermont Maple Sugar Makers' Association, to the Franklin County Maple Sugar Makers' Association, to the Vermont Agricultural and Forest Product Development Board, and to the Vermont Farm Bureau.

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

Bill Amended; Bill Passed

S. 14.

Senate bill entitled:

An act relating to payment of agency fees by teachers, school administrators, and municipal employees.

Was taken up.

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

First: In Sec. 4, 3 V.S.A. § 941(k), at the end of the first sentence before the period, by inserting the following: or may avail himself or herself of the unit representative in grievance proceedings

Second: In Sec. 14, 21 V.S.A. § 1502(14), at the end of the subsection by inserting the following: Fair-share fees shall not be commingled with fees or dues collected for political activities, lobbying that is not germane to either collective bargaining or employer-employee relations, or community service activities undertaken by the employee organization.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Benning?, Senator Benning requested that the question be divided, which was agreed to

Thereupon, the question, Shall the bill be amended as recommended in the *first* recommendation of amendment?, was agreed to.

Thereupon, the question, Shall the bill be amended as recommended in the *second* recommendation of amendment?, was disagreed to.

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

First: By striking out the following: Secs. 1, 5, 6, 9, 10, 11, and 17 in their entirety.

Second: In Sec. 2, 3 V.S.A. § 903(c), by striking out the words “fair-share fee” in each instance they occur and inserting in lieu thereof the words collective bargaining service fee

Third: In Sec. 3, 3 V.S.A. § 904(a)(10), by striking out the words “fair-share fee” and inserting in lieu thereof the words collective bargaining service fee

Fourth: In Sec. 7, 3 V.S.A. § 1012(c), by striking out the words “fair-share fee” in each instance they occur and inserting in lieu thereof the words collective bargaining service fee

Fifth: In Sec. 8, 3 V.S.A. § 1013(10), by striking out the words “fair-share fee” and inserting in lieu thereof the words collective bargaining service fee

Sixth: In Sec. 12, 16 V.S.A. § 1982, by striking out the words “fair-share fee” in each instance they occur and inserting in lieu thereof the words agency fee

Seventh: In Sec. 13, 16 V.S.A. § 2004, by striking out the words “fair-share fee” and inserting in lieu thereof the words agency service fee

Eighth: In Sec. 14, 21 V.S.A. § 1502(14), by striking out the words “Fair-share fee” and inserting in lieu thereof the words Agency fee

Ninth: In Sec. 15, 21 V.S.A. § 1503, by striking out the words “fair-share fee” in each instance they occur and inserting in lieu thereof the words agency fee

Tenth: In Sec. 16, 21 V.S.A. § 1621(b)(5), by striking out the words “fair-share fee” and inserting in lieu thereof the words agency fee

Eleventh: In Sec. 18, 21 V.S.A. § 1726, by striking out the words “fair-share fee” in each instance they occur and inserting in lieu thereof the words agency service fee

Twelfth: In Sec. 19, 21 V.S.A. § 1734(d), by striking out the words “fair-share fee” where it twice occurs and inserting in lieu thereof the words agency service fee

Thirteenth: In Sec. 20, EFFECTIVE DATES, by striking out the words “a fair-share fee” and inserting in lieu thereof the words an agency fee

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

Which was agreed to on a roll call, Yeas 15, Nays 14.

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: Ayer, Benning, Bray, Flory, French, Hartwell, Kitchel, MacDonald, Mazza, McAllister, Nitka, Rodgers, Snelling, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Baruth, Collins, Cummings, Doyle, Fox, Galbraith, Lyons, McCormack, Mullin, Pollina, Sears, White, Zuckerman.

The Senator absent or not voting was: Campbell (presiding).

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

First: In Sec. 1, 3 V.S.A. § 902(19), by striking out the following: “85” and inserting in lieu thereof the following 49

Second: In Sec. 6, 3 V.S.A. § 1011(4), by striking out the following: “85” and inserting in lieu thereof the following: 49

Third: In Sec. 11, 16 V.S.A. § 1981(7), after the word “exceeding” by inserting the following: 49 percent of

Fourth: In Sec. 14, 21 V.S.A. § 1502(14), by adding a sentence at the end to read as follows: The fee shall not exceed 49 percent of the amount payable as dues by members of the employee organization.

Fifth: In Sec. 17, 21 V.S.A. § 1722(1), after the word “exceeding” by inserting the following: 49 percent of

Which was disagreed to on a roll call, Yeas 8, Nays 21.

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, Benning, Bray, Flory, Mazza, McAllister, Nitka, Rodgers.

Those Senators who voted in the negative were: Ashe, Baruth, Collins, Cummings, Doyle, Fox, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, McCormack, Mullin, Pollina, Sears, Snelling, Starr, Westman, White, Zuckerman.

The Senator absent or not voting was: Campbell (presiding).

Thereupon, the bill was read the third time and passed on a roll call, Yeas 24, Nays 5.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Collins, Cummings, Doyle, Fox, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

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

The Senator absent or not voting was: Campbell (presiding).

Bill Amended; Third Reading Ordered

S. 1.

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

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

Reported recommending that the bill be amended 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 utility of making the Working Group an ongoing entity within state government which would 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 associate 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.

(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. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a)(1) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, and the risk to self, others, and the community at large presented by the defendant:

~~(1)~~(A) A deferred sentence pursuant to section 7041 of this title.

~~(2)~~(B) Referral to a community reparative board pursuant to 28 V.S.A. chapter 12 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited for referral to a community justice center under 24 V.S.A. § 1967. Referral to a community reparative board pursuant to this subdivision does not require the court to place the offender on probation. The offender shall return to court for further sentencing if the reparative board does not accept the case or if the offender fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board.

~~(3)~~(C) Probation pursuant to 28 V.S.A. § 205.

~~(4)~~(D) Supervised community sentence pursuant to 28 V.S.A. § 352.

~~(5)~~(E) Sentence of imprisonment.

(2)(A) In determining a sentence upon conviction for a nonviolent misdemeanor or a nonviolent felony, in addition to the factors identified in subdivision (a)(1) of this section, the court shall consider the approximate financial cost of available sentences.

(B) The Department of Corrections shall develop and maintain a database on the approximate costs of sentences, including incarceration, probation, deferred sentence, supervised community sentence, participation in the Restorative Justice Program, and any other possible sentence. The

database information shall be made available to the courts for the purposes of this subdivision (a)(2).

(b) When ordering a sentence of probation, the court may require participation in the ~~restorative justice program~~ Restorative Justice Program established by 28 V.S.A. chapter 12 as a condition of the sentence.

Sec. 3. 13 V.S.A. § 15 is added to read:

§ 15. NONVIOLENT MISDEMEANOR AND NONVIOLENT FELONY DEFINED

As used in this title:

(1) “Nonviolent felony” means a felony offense which is not a listed crime as defined in section 5301 of this title or an offense listed in chapter 64 of this title (sexual exploitation of children).

(2) “Nonviolent misdemeanor” means a misdemeanor offense which is not a listed crime as defined in section 5301 of this title or an offense listed in chapter 64 of this title (sexual exploitation of children) or section 1030 of this title (violation of a protection order).

Sec. 4. EFFECTIVE DATES

(a) Sec. 1 of this act and this section shall take effect on passage.

(b) Secs. 2 and 3 of this act shall take effect on March 1, 2014.

And that when so amended the bill ought to pass.

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

Bill Amended; Third Reading Ordered

S. 3.

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

An act relating to allowing participation in out-of-state contests requiring a fee to enter.

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

Sec. 1. 9 V.S.A. § 2481x is added to read:

§ 2481x. ENTRY FEES; GAMES NOT BASED ON CHANCE

Nothing in this chapter shall be construed to prohibit a person from requiring or paying any kind of entry fee, service charge, purchase, or similar consideration in order to enter, or continue to remain eligible for, a game of skill or other promotion that is not based on chance.

Sec. 2. 13 V.S.A. § 2143b is amended to read:

§ 2143b. CONTESTS AND SWEEPSTAKES

Notwithstanding the provisions of this chapter, a person may organize, execute, or participate in a contest or game of chance, including a sweepstakes, provided that persons who enter the contest or game of chance are not required to venture money or other valuable things. The cost of mailing an entry shall not be considered a venture of money or other valuable things. This section shall not be construed to prohibit a person from organizing, executing, or participating in a contest that is not a contest of chance.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

Consideration Postponed

S.R. 6.

Senate resolution entitled:

Senate resolution relating to amending the permanent rules of the Senate.

Was taken up.

Thereupon, without objection consideration of the resolution was postponed until the next legislative day.

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Thursday, February 7, 2013.

THURSDAY, FEBRUARY 7, 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

Devotional exercises were conducted by the Reverend Paul Chandler of East Hardwick.

Message from the House No. 13

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. 13. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bills Introduced

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

S. 84.

By Senators Mullin, Baruth, Collins, Doyle, Lyons, McCormack and Zuckerman,

An act relating to providing access to publicly funded prekindergarten education.

To the Committee on Education.

S. 85.

By Senators Ashe, Ayer, Baruth, Bray, Campbell, Fox, Galbraith, Hartwell, Kitchel, Lyons, McCormack, Mullin, Pollina, Rodgers, Sears, White and Zuckerman,

An act relating to workers' compensation for firefighters and rescue or ambulance workers.

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

S. 86.

By Senator White,

An act relating to miscellaneous changes to election laws.

To the Committee on Government Operations.

S. 87.

By Senators Sears, Mullin, Ashe and Baruth,

An act relating to prohibiting a merchant from imposing a surcharge for payment with a credit card.

To the Committee on Judiciary.

Senate Concurrent Resolution Adopted

Senate concurrent resolution of the following title was offered, read and adopted in concurrence:

By All Members of the Senate,

By All Members of the House,

S.C.R. 13. Senate concurrent resolution in memory of former Representative and Senator Edgar May of Springfield.

Whereas, Edgar May was a proud immigrant to the United States who epitomized his mother's thought that "anything is possible in America," and

Whereas, he and his sister, the future Vermont Governor Madeleine May Kunin, arrived with their mother in New York in June 1940 on the S.S. Manhattan as refugees fleeing the Nazi threat to European Jewry, and

Whereas, Edgar May graduated from the Medill School of Journalism at Northwestern University and was a U.S. military veteran, and

Whereas, his first full-time position as a journalist was at the *Bellows Falls Times*, and his career path led to the *Buffalo Evening News*, for which he wrote a 14-part series entitled "Our Costly Dilemma" that exposed problems with the New York welfare system and that earned him a Pulitzer Prize, and the articles were subsequently compiled into a book, and

Whereas, this book attracted the attention of Sargent Shriver, who appointed Edgar May to senior positions in the federal War on Poverty, and

Whereas, in 1974, Edgar May successfully stood for election to the Vermont House of Representatives from his hometown of Springfield, and his eight-year tenure included three terms as chair of the House Health and Welfare Committee, with his prior work serving as a valuable resource, and

Whereas, in 1982, Edgar May sought a seat in the Vermont Senate, and beginning in 1985 served as the Senate Appropriations Committee Chair, earning bipartisan respect, and

Whereas, after leaving Vermont elected politics, Edgar May served as chief operating officer of Special Olympics in Washington, D.C., and

Whereas, on returning to Springfield, he spearheaded the effort to construct a new health and recreation center in a former Jones & Lamson machine tool building, and upon completion, this new facility, which is available to individuals of all income levels, was named in his honor, and

Whereas, Edgar May died at the age of 83, leaving as survivors his sister and many nieces and nephews, and his many friends and admirers in Springfield and elsewhere will retain fond memories of this extraordinary man, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its sincere condolences to the family of former Representative and Senator Edgar May of Springfield, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to former Governor Madeleine May Kunin and to the Edgar May Health and Recreation Center in Springfield.

Senate Resolution Adopted

S.R. 6.

Senate resolution entitled:

Senate resolution relating to amending the permanent rules of the Senate

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

Bills Passed

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

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

S. 3. An act relating to allowing participation in out-of-state contests requiring a fee to enter.

Adjournment

On motion of Senator Mazza, the Senate adjourned until nine o'clock in the morning.

FRIDAY, FEBRUARY 8, 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.

Bills Introduced

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

S. 88.

By Senators Lyons, Ashe, Baruth, Bray, Collins, Fox, McCormack, Mullin, Pollina and Zuckerman,

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

To the Committee on Health and Welfare.

S. 89.

By Senators Zuckerman, Baruth, Ashe, Fox, French, Galbraith, Lyons, McCormack, Pollina, Rodgers and White,

An act relating to food produced with genetic engineering.

To the Committee on Agriculture.

S. 90.

By Senators McCormack, Sears and Zuckerman,

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

To the Committee on Finance.

S. 91.

By Senators McCormack, Collins, Sears and Zuckerman,

An act relating to public funding of some approved independent schools.

To the Committee on Education.

Proposal of Amendment; Third Reading Ordered**H. 47.**

Senator Kitchel, for the Committee on Appropriations, to which was referred House bill entitled:

An act relating to fiscal year 2013 budget adjustment.

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. Sec. B.106 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.106 Libraries		
Personal services	1,887,486	1,887,486
Operating expenses	<u>1,479,724</u>	1,645,575
Grants	<u>69,118</u>	<u>69,118</u>
Total	<u>3,436,328</u>	3,602,179
Source of funds		
General fund	<u>2,391,244</u>	2,557,095
Special funds	126,425	126,425
Federal funds	815,264	815,264
Interdepartmental transfers	<u>103,395</u>	<u>103,395</u>
Total	<u>3,436,328</u>	3,602,179

Sec. 2. Sec. B.107 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.107 Tax - administration/collection		
Personal services	12,420,214	12,420,214
Operating expenses	<u>3,056,262</u>	<u>3,177,523</u>
Total	<u>15,476,476</u>	15,597,737
Source of funds		
General fund	<u>13,973,154</u>	14,094,415
Special funds	1,390,600	1,390,600
Interdepartmental transfers	<u>112,722</u>	<u>112,722</u>
Total	<u>15,476,476</u>	15,597,737

Sec. 3. Sec. B.130 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.130 Auditor of accounts		
Personal services	<u>3,435,521</u>	3,535,521
Operating expenses	<u>142,405</u>	<u>142,405</u>
Total	<u>3,577,926</u>	3,677,926
Source of funds		
General fund	<u>379,580</u>	479,580
Special funds	53,099	53,099
Internal service funds	<u>3,145,247</u>	<u>3,145,247</u>
Total	<u>3,577,926</u>	3,677,926

Sec. 4. Sec. B.137 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.137 Homeowner rebate		
Grants	<u>14,545,808</u>	<u>13,175,000</u>

Total	14,545,808	13,175,000
Source of funds		
General fund	<u>14,545,808</u>	<u>13,175,000</u>
Total	14,545,808	13,175,000

Sec. 5. Sec. B.138 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.138 Renter rebate		
Grants	<u>9,623,000</u>	<u>8,600,000</u>
Total	9,623,000	8,600,000
Source of funds		
General fund	2,886,900	2,580,000
Education fund	<u>6,736,100</u>	<u>6,020,000</u>
Total	9,623,000	8,600,000

Sec. 6. Sec. B.139 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.139 Tax department - reappraisal and listing payments		
Grants	<u>3,243,196</u>	<u>3,393,196</u>
Total	3,243,196	3,393,196
Source of funds		
Education fund	<u>3,243,196</u>	<u>3,393,196</u>
Total	3,243,196	3,393,196

Sec. 7. Sec. B.145 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.145 Total general government	199,135,983	197,279,287
Source of funds		
General fund	66,637,340	65,346,744
Transportation fund	3,638,110	3,638,110
Special funds	10,089,099	10,089,099
Education fund	9,979,296	9,413,196
Federal funds	815,264	815,264
Internal service funds	57,402,851	57,402,851
Interdepartmental transfers	6,303,947	6,303,947
Enterprise funds	3,129,401	3,129,401
Pension trust funds	40,108,954	40,108,954
Private purpose trust funds	<u>1,031,721</u>	<u>1,031,721</u>
Total	199,135,983	197,279,287

Sec. 8. Sec. B.200 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.200 Attorney general		
Personal services	7,518,981	7,660,981
Operating expenses	<u>977,285</u>	<u>977,285</u>
Total	8,496,266	8,638,266
Source of funds		
General fund	3,801,997	3,943,997
Special funds	1,278,455	1,278,455
Tobacco fund	459,000	459,000
Federal funds	745,364	745,364
Interdepartmental transfers	<u>2,211,450</u>	<u>2,211,450</u>
Total	8,496,266	8,638,266

Sec. 9. Sec. B.204 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.204 Judiciary		
Personal services	28,807,441	28,782,441
Operating expenses	<u>8,192,875</u>	10,192,875
Grants	<u>70,000</u>	<u>70,000</u>
Total	37,070,316	39,045,316
Source of funds		
General fund	31,030,271	33,030,271
Special funds	2,967,507	2,967,507
Tobacco fund	39,871	39,871
Federal funds	888,205	888,205
Interdepartmental transfers	<u>2,144,462</u>	<u>2,119,462</u>
Total	37,070,316	39,045,316

Sec. 10. Sec. B.205 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.205 State's attorneys		
Personal services	9,365,417	9,390,417
Operating expenses	<u>1,413,992</u>	<u>1,413,992</u>
Total	10,779,409	10,804,409
Source of funds		
General fund	8,382,669	8,407,669
Special funds	16,884	16,884
Federal funds	31,000	31,000
Interdepartmental transfers	<u>2,348,856</u>	<u>2,348,856</u>
Total	10,779,409	10,804,409

Sec. 11. Sec. B.209 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.209 Public safety - state police		
Personal services	44,109,260	44,109,260
Operating expenses		7,868,093
Grants	<u>6,860,000</u>	<u>6,860,000</u>
Total	58,012,353	58,837,353
Source of funds		
General fund	20,087,245	20,912,245
Transportation fund	25,238,498	25,238,498
Special funds	2,585,518	2,585,518
Federal funds	9,011,627	9,011,627
Interdepartmental transfers	<u>1,089,465</u>	<u>1,089,465</u>
Total	58,012,353	58,837,353

Sec. 12. Sec. B.219 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.219 Military – veterans’ affairs		
Personal services	501,009	513,714
Operating expenses	125,246	125,246
Grants	<u>205,000</u>	<u>205,000</u>
Total	831,255	843,960
Source of funds		
General fund	677,808	690,513
Special funds	71,041	71,041
Federal funds	<u>82,406</u>	<u>82,406</u>
Total	831,255	843,960

Sec. 12.1. Sec. B.220 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.220 Center for crime victims’ services		
Personal services	1,590,567	1,601,067
Operating expenses	321,278	321,278
Grants	<u>9,289,817</u>	<u>9,279,317</u>
Total	11,201,662	11,201,662
Source of funds		
General fund	1,164,892	1,164,892
Special funds	5,996,342	5,996,342
Federal funds	<u>4,040,428</u>	<u>4,040,428</u>
Total	11,201,662	11,201,662

Sec. 13. Sec. B.222 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.222 Agriculture, food and markets - administration		
Personal services	876,873	936,873
Operating expenses	378,386	390,886
Grants	<u>388,910</u>	<u>388,910</u>
Total	1,644,169	1,716,669
Source of funds		
General fund	1,130,085	1,202,585
Special funds	254,851	254,851
Federal funds	160,961	160,961
Global commitment fund	56,272	56,272
Interdepartmental transfers	<u>42,000</u>	<u>42,000</u>
Total	1,644,169	1,716,669

Sec. 14. Sec. B.225 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.225 Agriculture, food and markets - laboratories, agricultural resource management and environmental stewardship		
Personal services	3,114,267	3,114,267
Operating expenses	751,280	769,276
Grants	<u>933,674</u>	<u>933,674</u>
Total	4,799,221	4,817,217
Source of funds		
General fund	1,844,046	1,900,923
Special funds	1,947,242	1,947,242
Federal funds	754,469	754,469
Interdepartmental transfers	<u>253,464</u>	<u>214,583</u>
Total	4,799,221	4,817,217

Sec. 15. Sec. B.240 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.240 Total protection to persons and property		
	279,853,984	282,924,185
Source of funds		
General fund	106,194,812	109,328,894
Transportation fund	25,238,498	25,238,498
Special funds	67,957,274	67,957,274
Tobacco fund	790,816	790,816
Federal funds	58,191,789	58,191,789
ARRA funds	5,160,681	5,160,681
Global commitment fund	1,138,944	1,138,944

Interdepartmental transfers	8,765,826	8,701,945
Enterprise funds	<u>6,415,344</u>	<u>6,415,344</u>
Total	<u>279,853,984</u>	282,924,185

Sec. 16. Sec. B.300 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.300 Human services - agency of human services – secretary’s office		
Personal services	8,968,380	9,207,935
Operating expenses	<u>3,216,136</u>	2,716,815
Grants	<u>5,235,805</u>	<u>5,235,805</u>
Total	<u>17,420,321</u>	17,160,555

Source of funds

General fund	5,048,148	5,057,818
Special funds	7,517	7,517
Tobacco fund	291,330	291,330
Federal funds	<u>9,307,818</u>	8,440,189
Global commitment fund	415,000	415,000
Interdepartmental transfers	<u>2,350,508</u>	<u>2,948,701</u>
Total	<u>17,420,321</u>	17,160,555

Sec. 17. Sec. B.301 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.301 Secretary’s office - global commitment

Grants	<u>1,170,904,293</u>	<u>1,177,987,070</u>
Total	<u>1,170,904,293</u>	<u>1,177,987,070</u>

Source of funds

General fund	<u>176,116,234</u>	175,314,567
Special funds	<u>19,753,040</u>	20,654,806
Tobacco fund	31,343,693	31,343,693
State health care resources fund	<u>266,423,947</u>	273,304,700
Federal funds	<u>676,579,244</u>	677,329,304
Interdepartmental transfers	<u>688,135</u>	<u>40,000</u>
Total	<u>1,170,904,293</u>	<u>1,177,987,070</u>

Sec. 18. Sec. B.306 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.306 Department of Vermont health access - administration

Personal services	<u>104,339,779</u>	105,564,779
Operating expenses	<u>3,063,851</u>	3,136,041
Grants	<u>24,260,263</u>	<u>24,260,263</u>
Total	<u>131,663,893</u>	132,961,083

Source of funds

General fund	941,059	941,059
--------------	---------	---------

Special funds	1,552,963	1,552,963
Federal funds	79,787,828	79,787,828
ARRA funds	76,790	76,790
Global commitment fund	45,228,136	46,525,326
Interdepartmental transfers	<u>4,077,117</u>	<u>4,077,117</u>
Total	131,663,893	132,961,083

Sec. 19. Sec. B.307 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Grants	672,639,153	<u>619,102,791</u>
Total	672,639,153	619,102,791
Source of funds		
Global commitment fund	672,639,153	<u>619,102,791</u>
Total	672,639,153	619,102,791

Sec. 20. Sec. B.308 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.308 Department of Vermont health access - Medicaid program - long term care waiver

Grants	201,240,298	<u>202,394,858</u>
Total	201,240,298	202,394,858
Source of funds		
General fund	87,683,279	86,302,669
Federal funds	<u>113,557,019</u>	<u>116,092,189</u>
Total	<u>201,240,298</u>	202,394,858

Sec. 21. Sec. B.309 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.309 Department of Vermont health access - Medicaid program - state only

Grants	29,191,562	<u>24,101,428</u>
Total	29,191,562	24,101,428
Source of funds		
General fund	27,776,633	17,198,861
Global commitment fund	<u>1,414,929</u>	<u>6,902,567</u>
Total	<u>29,191,562</u>	24,101,428

Sec. 22. Sec. B.310 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.310 Department of Vermont health access - Medicaid non-waiver matched

Grants	<u>44,440,781</u>	43,201,507
Total	<u>44,440,781</u>	43,201,507
Source of funds		
General fund	18,573,485	18,453,598
Federal funds	<u>25,867,296</u>	<u>24,747,909</u>
Total	<u>44,440,781</u>	43,201,507

Sec. 23. Sec. B.311 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.311 Health - administration and support

Personal services	5,668,858	5,668,858
Operating expenses	<u>1,946,031</u>	2,074,004
Grants	<u>3,370,200</u>	<u>3,370,200</u>
Total	<u>10,985,089</u>	11,113,062
Source of funds		
General fund	<u>1,039,062</u>	1,046,539
Special funds	579,063	579,063
Federal funds	<u>5,642,395</u>	5,473,351
ARRA funds	35,000	35,000
Global commitment fund	<u>3,689,569</u>	<u>3,979,109</u>
Total	<u>10,985,089</u>	11,113,062

Sec. 24. Sec. B.312 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.312 Health - public health

Personal services	<u>31,255,732</u>	31,276,200
Operating expenses	<u>5,670,400</u>	5,785,900
Grants	<u>33,940,880</u>	<u>35,879,174</u>
Total	<u>70,867,012</u>	72,941,274
Source of funds		
General fund	<u>6,851,240</u>	6,908,311
Special funds	10,345,713	10,345,713
Tobacco fund	1,594,000	1,594,000
Federal funds	<u>34,079,848</u>	34,054,848
ARRA funds	110,000	110,000
Global commitment fund	<u>16,771,971</u>	18,814,162
Interdepartmental transfers	1,104,240	1,104,240

Dedicated trust funds	<u>10,000</u>	<u>10,000</u>
Total	70,867,012	72,941,274

Sec. 25. Sec. B.313 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.313 Health - alcohol and drug abuse programs		
Personal services	2,791,666	2,791,666
Operating expenses	327,258	327,258
Grants	<u>27,804,134</u>	<u>27,879,134</u>
Total	<u>30,923,058</u>	30,998,058

Source of funds

General fund	3,296,756	3,271,756
Special funds	363,884	363,884
Tobacco fund	1,386,234	1,386,234
Federal funds	5,858,397	5,858,397
Global commitment fund	19,667,787	19,767,787
Interdepartmental transfers	<u>350,000</u>	<u>350,000</u>
Total	<u>30,923,058</u>	30,998,058

Sec. 26. Sec. B.314 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.314 Mental health - mental health		
Personal services	7,560,273	18,339,252
Operating expenses	1,028,785	2,044,907
Grants	<u>165,312,253</u>	<u>173,900,606</u>
Total	<u>173,901,311</u>	194,284,765

Source of funds

General fund	1,477,732	3,408,498
Special funds	6,836	6,836
Federal funds	6,713,296	6,673,274
Global commitment fund	165,683,447	183,821,285
Interdepartmental transfers	<u>20,000</u>	<u>374,872</u>
Total	<u>173,901,311</u>	194,284,765

Sec. 27. Sec. B.316 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.316 Department for children and families - administration & support services

Personal services	37,308,143	37,614,875
Operating expenses	6,637,625	7,046,181
Grants	<u>1,506,996</u>	<u>1,456,996</u>
Total	<u>45,452,764</u>	46,118,052

Source of funds

General fund	15,331,675	15,464,633
Special funds	250,000	250,000
Federal funds	14,167,492	13,995,672
Global commitment fund	15,442,598	16,176,825
Interdepartmental transfers	<u>260,999</u>	<u>230,922</u>
Total	45,452,764	46,118,052

Sec. 28. Sec. B.317 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.317 Department for children and families - family services

Personal services	23,343,490	23,343,490
Operating expenses	3,251,569	3,250,403
Grants	<u>60,440,303</u>	<u>61,818,760</u>
Total	87,035,362	88,412,653

Source of funds

General fund	21,282,433	21,828,840
Special funds	1,691,637	1,691,637
Federal funds	26,652,367	27,213,953
Global commitment fund	37,244,871	37,515,335
Interdepartmental transfers	<u>164,054</u>	<u>162,888</u>
Total	87,035,362	88,412,653

Sec. 29. Sec. B.318 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.318 Department for children and families - child development

Personal services	3,292,420	3,292,420
Operating expenses	367,946	367,946
Grants	<u>61,380,763</u>	<u>63,824,058</u>
Total	65,041,129	67,484,424

Source of funds

General fund	26,506,976	29,741,540
Special funds	1,820,000	1,820,000
Federal funds	27,902,282	26,778,427
Global commitment fund	8,805,419	9,144,457
Interdepartmental transfers	<u>6,452</u>	<u>0</u>
Total	65,041,129	67,484,424

Sec. 30. Sec. B.320 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.320 Department for children and families - aid to aged, blind and disabled

Personal services	1,827,113	1,827,113
Grants	<u>11,382,054</u>	<u>11,484,093</u>

Total	13,209,167	13,311,206
Source of funds		
General fund	9,459,167	9,561,206
Global commitment fund	3,750,000	<u>3,750,000</u>
Total	13,209,167	13,311,206

Sec. 31. Sec. B.321 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.321 Department for children and families - general assistance

Grants	6,649,371	<u>8,815,504</u>
Total	6,649,371	8,815,504
Source of funds		
General fund	4,845,580	7,011,713
Federal funds	1,111,320	1,111,320
Global commitment fund	692,471	<u>692,471</u>
Total	6,649,371	8,815,504

Sec. 32. Sec. B.322 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.322 Department for children and families - 3SquaresVT

Grants	24,860,290	<u>26,813,146</u>
Total	24,860,290	26,813,146
Source of funds		
Federal funds	24,860,290	<u>26,813,146</u>
Total	24,860,290	26,813,146

Sec. 33. Sec. B.323 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.323 Department for children and families - reach up

Grants	47,930,572	<u>52,859,436</u>
Total	47,930,572	52,859,436
Source of funds		
General fund	18,256,509	22,935,373
Special funds	19,916,856	19,916,856
Federal funds	7,882,807	7,882,807
Global commitment fund	1,874,400	<u>2,124,400</u>
Total	47,930,572	52,859,436

Sec. 34. Sec. B.325 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.325 Department for children and families - office of economic opportunity

Personal services	268,987	382,602
Operating expenses	66,265	66,265
Grants	<u>4,976,859</u>	<u>4,976,859</u>
Total	<u>5,312,111</u>	<u>5,425,726</u>
Source of funds		
General fund	1,304,908	1,418,523
Special funds	57,990	57,990
Federal funds	3,746,725	3,746,725
Global commitment fund	<u>202,488</u>	<u>202,488</u>
Total	<u>5,312,111</u>	<u>5,425,726</u>

Sec. 35. Sec. B.327 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.327 Department for children and families - Woodside rehabilitation center

Personal services	3,695,668	3,857,149
Operating expenses	<u>575,294</u>	<u>418,763</u>
Total	<u>4,270,962</u>	<u>4,275,912</u>
Source of funds		
General fund	791,852	677,402
Global commitment fund	3,424,218	3,550,173
Interdepartmental transfers	<u>54,892</u>	<u>48,337</u>
Total	<u>4,270,962</u>	<u>4,275,912</u>

Sec. 36. Sec. B.329 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.329 Disabilities, aging, and independent living - administration & support

Personal services	24,854,382	24,854,382
Operating expenses	<u>3,344,406</u>	<u>3,391,336</u>
Total	<u>28,198,788</u>	<u>28,245,718</u>
Source of funds		
General fund	6,808,267	6,835,401
Special funds	1,281,646	1,281,646
Federal funds	<u>11,735,745</u>	<u>11,743,541</u>
Global commitment fund	<u>5,887,278</u>	<u>5,899,278</u>
Interdepartmental transfers	<u>2,485,852</u>	<u>2,485,852</u>
Total	<u>28,198,788</u>	<u>28,245,718</u>

Sec. 37. Sec. B.330 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.330 Disabilities, aging, and independent living - advocacy and independent living grants

Grants	<u>21,051,422</u>	22,023,584
Total	21,051,422	22,023,584
Source of funds		
General fund	8,361,703	8,373,268
Federal funds	7,640,264	7,640,264
Global commitment fund	4,411,955	5,372,552
Interdepartmental transfers	<u>637,500</u>	<u>637,500</u>
Total	21,051,422	22,023,584

Sec. 38. Sec. B.333 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.333 Disabilities, aging, and independent living - developmental services

Grants	<u>157,203,376</u>	160,979,130
Total	157,203,376	160,979,130
Source of funds		
General fund	155,125	155,125
Special funds	15,463	15,463
Federal funds	359,857	359,857
Global commitment fund	<u>156,672,931</u>	<u>160,448,685</u>
Total	157,203,376	160,979,130

Sec. 39. Sec. B.338 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.338 Corrections - correctional services

Personal services	<u>98,971,228</u>	99,871,228
Operating expenses	<u>17,406,483</u>	17,460,685
Grants	<u>7,445,709</u>	<u>8,115,734</u>
Total	123,823,420	125,447,647
Source of funds		
General fund	118,338,441	118,314,564
Special funds	483,963	483,963
Federal funds	470,962	470,962
Global commitment fund	<u>4,133,739</u>	5,781,843
Interdepartmental transfers	<u>396,315</u>	<u>396,315</u>
Total	123,823,420	125,447,647

Sec. 40. Sec. B.346 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.346 Total human services	3,285,777,614	3,278,020,698
Source of funds		
General fund	578,852,411	578,827,411
Special funds	78,645,386	79,547,152
Tobacco fund	34,615,257	34,615,257
State health care resources fund	266,423,947	273,304,700
Education fund	4,337,051	4,337,051
Federal funds	1,122,392,323	1,124,683,034
ARRA funds	221,790	221,790
Global Commitment fund	1,177,114,510	1,159,048,684
Internal service funds	1,460,617	1,460,617
Interdepartmental transfers	21,704,322	21,965,002
Permanent trust funds	10,000	10,000
Total	3,285,777,614	3,278,020,698

Sec. 41. Sec. B.401 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.401 Labor - programs		
Personal services	24,050,596	24,125,596
Operating expenses	5,544,657	5,544,657
Grants	1,873,000	1,873,000
Total	31,468,253	31,543,253
Source of funds		
General fund	2,894,425	2,969,425
Special funds	3,363,869	3,363,869
Federal funds	23,751,533	23,751,533
Interdepartmental transfers	1,458,426	1,458,426
Total	31,468,253	31,543,253

Sec. 42. Sec. B.402 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.402 Total labor	31,468,253	31,543,253
Source of funds		
General fund	2,894,425	2,969,425
Special funds	3,363,869	3,363,869
Federal funds	23,751,533	23,751,533
Interdepartmental transfers	1,458,426	1,458,426
Total	31,468,253	31,543,253

Sec. 43. Sec. B.702 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.702 Fish and wildlife - support and field services		
Personal services	13,553,595	13,553,595
Operating expenses	5,095,830	5,524,412
Grants	<u>731,517</u>	<u>731,517</u>
Total	19,380,942	19,809,524
Source of funds		
General fund	2,301,129	2,729,711
Special funds	20,000	20,000
Fish and wildlife fund	16,877,322	16,877,322
Interdepartmental transfers	<u>182,491</u>	<u>182,491</u>
Total	19,380,942	19,809,524

Sec. 44. Sec. B.704 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.704 Forests, parks and recreation - forestry		
Personal services	4,550,319	4,550,319
Operating expenses	562,277	584,277
Grants	<u>501,000</u>	<u>501,000</u>
Total	5,613,596	5,635,596
Source of funds		
General fund	3,096,073	3,118,073
Special funds	975,069	975,069
Federal funds	1,412,454	1,412,454
Interdepartmental transfers	<u>130,000</u>	<u>130,000</u>
Total	5,613,596	5,635,596

Sec. 45. Sec. B.710 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.710 Environmental conservation - air and waste management		
Personal services	9,671,663	9,691,663
Operating expenses	6,666,655	6,666,655
Grants	<u>2,419,500</u>	<u>2,419,500</u>
Total	18,757,818	18,777,818
Source of funds		
General fund	646,287	646,287
Special funds	14,493,478	14,513,478
Federal funds	3,313,053	3,313,053
Interdepartmental transfers	<u>305,000</u>	<u>305,000</u>
Total	18,757,818	18,777,818

Sec. 46. Sec. B.711 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.711 Environmental conservation - office of water programs		
Personal services	13,686,115	13,726,115
Operating expenses	1,786,364	1,786,364
Grants	<u>2,637,546</u>	<u>2,637,546</u>
Total	18,110,025	18,150,025
Source of funds		
General fund	5,361,698	5,361,698
Special funds	5,565,217	5,605,217
Federal funds	6,518,985	6,518,985
Interdepartmental transfers	<u>664,125</u>	<u>664,125</u>
Total	18,110,025	18,150,025

Sec. 47. Sec. B.714 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.714 Total natural resources	89,303,696	89,814,278
Source of funds		
General fund	20,450,654	20,901,236
Special funds	34,355,116	34,415,116
Fish and wildlife fund	16,877,322	16,877,322
Federal funds	15,010,161	15,010,161
Interdepartmental transfers	<u>2,610,443</u>	<u>2,610,443</u>
Total	89,303,696	89,814,278

Sec. 48. Sec. B.800 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.800 Commerce and community development - agency of commerce and community development - administration

Personal services	1,952,092	1,952,092
Operating expenses	602,833	634,873
Grants	<u>1,404,570</u>	<u>1,404,570</u>
Total	3,959,495	3,991,535
Source of funds		
General fund	2,834,495	2,866,535
Federal funds	1,100,000	1,100,000
Interdepartmental transfers	<u>25,000</u>	<u>25,000</u>
Total	3,959,495	3,991,535

Sec. 49. Sec. B.801 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.801 Economic, housing, and community development		
Personal services	7,994,679	8,394,679
Operating expenses	1,480,643	1,480,643
Grants	<u>6,994,833</u>	<u>7,144,833</u>
Total	16,470,155	17,020,155
Source of funds		
General fund	6,046,558	6,596,558
Special funds	3,971,206	3,971,206
Federal funds	6,422,391	6,422,391
Interdepartmental transfers	<u>30,000</u>	<u>30,000</u>
Total	16,470,155	17,020,155

Sec. 50. Sec. B.805 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.805 Tourism and marketing		
Personal services	1,194,596	1,194,596
Operating expenses	1,657,545	1,837,545
Grants	<u>143,500</u>	<u>243,500</u>
Total	2,995,641	3,275,641
Source of funds		
General fund	2,995,641	<u>3,275,641</u>
Total	2,995,641	3,275,641

Sec. 51. Sec. B.812 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.812 Total commerce and community development		
	65,814,829	66,676,869
Source of funds		
General fund	13,478,486	14,340,526
Special funds	18,361,760	18,361,760
Federal funds	33,146,530	33,146,530
Interdepartmental transfers	55,000	55,000
Enterprise funds	<u>773,053</u>	<u>773,053</u>
Total	65,814,829	66,676,869

Sec. 51.1. Sec. B.903 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.903 Transportation - program development		
Personal services	36,309,069	36,309,069
Operating expenses	247,244,191	247,904,463

Grants	<u>37,369,326</u>	<u>37,369,326</u>
Total	320,922,586	321,582,858
Source of funds		
Transportation fund	32,466,313	34,178,585
TIB fund	16,673,911	16,673,911
Federal funds	257,640,181	256,588,181
Interdepartmental transfers	3,770,000	3,770,000
Transportation local fund	<u>1,372,181</u>	<u>1,372,181</u>
Total	311,922,586	312,582,858

Sec. 51.2. Sec. B.910 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.910 Department of motor vehicles		
Personal services	16,717,817	16,717,817
Operating expenses	8,960,544	8,760,544
Grants	<u>50,000</u>	<u>50,000</u>
Total	25,728,361	25,528,361
Source of funds		
Transportation fund	22,630,649	22,430,649
Federal funds	<u>3,097,712</u>	<u>3,097,712</u>
Total	25,728,361	25,528,361

Sec. 51.3. Sec. B.917 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.917 Transportation - town highway: state aid for nonfederal disasters		
Grants	1,150,000	<u>708,000</u>
Total	1,150,000	708,000
Source of funds		
Transportation fund	1,150,000	<u>708,000</u>
Total	1,150,000	708,000

Sec. 51.4. Sec. B.921 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.921 Total transportation	658,074,852	658,093,124
Source of funds		
Transportation fund	200,555,081	201,625,353
TIB fund	21,291,382	21,291,382
Special funds	3,500,000	3,500,000
Federal funds	390,536,639	389,484,639
ARRA funds	6,301,953	6,301,953
Internal service funds	18,653,244	18,653,244
Interdepartmental transfers	4,317,197	4,317,197

Local match	2,919,356	2,919,356
TIB proceeds fund	<u>10,000,000</u>	<u>10,000,000</u>
Total	<u>658,074,852</u>	<u>658,093,124</u>

Sec. 52. FISCAL YEAR 2013 APPROPRIATION REDUCTIONS DUE TO BENEFIT PLAN PREMIUM ADJUSTMENTS

(a) To reflect adjustments to budgets due to benefit plan premium adjustments, the Secretary of Administration is authorized to reduce personal services appropriations by \$5,835,750 in General Funds.

Sec. 53. Sec. B.1108 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is added to read:

Sec. B.1108 ONE-TIME VERMONT ELECTRIC ENERGY GENERATION TAX APPEAL LEGAL EXPENSES APPROPRIATIONS

(a) In fiscal year 2013, there is appropriated to the Attorney General for legal expenses incurred related to Entergy appeal of Vermont's electric energy generating tax:

General fund \$80,021

(b) In fiscal year 2013, there is appropriated to the Attorney General for estimated legal expenses related to Entergy appeal of Vermont's electric energy generating tax.

General fund \$110,000

Sec. 53.1. Sec. B.1109 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is added to read:

Sec. B.1109 ONE-TIME VERMONT VETERANS' HOME MANAGEMENT REVIEW APPROPRIATION

(a) The Secretary of Administration shall contract for an independent review of the management and operations of the Vermont Veterans' Home established in accordance with 20 V.S.A chapter 87. The review shall be designed to develop and make recommendations in the following areas: projected medium - and long-term demand for services and the implications for the service mission of the Veterans' Home; fiscal management practices, appropriate levels of staffing, and alternative governance structures. The review shall be completed on or before October 30, 2013. The amount of \$20,000 in general funds is appropriated to the Secretary of Administration for this purpose. Upon completion, the Secretary of Administration shall submit the review to the Veterans' Home Board of Trustees, the Vermont State Employees' Association (VSEA), and the Joint Fiscal Committee.

Sec. 54. Sec. B.1200(a)(1)(A) of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

(A) General Fund. The amount of ~~\$11,729,056~~ \$12,187,945 is appropriated from the general fund to the secretary of administration for distribution to departments to fund the collective bargaining agreements and the requirements of this act.

Sec. 55. FUND TRANSFERS

(a) Notwithstanding any other provisions of law, in fiscal year 2013:

(1) The following amounts shall be transferred to the General Fund from the funds indicated:

<u>21054 AG - Misc Fines & Penalties</u>	<u>500,000.00</u>
<u>21602 Vital Records</u>	<u>200,000.00</u>
<u>21634 AG - Consumer Fraud Restitution</u>	<u>324,116.00</u>
<u>21638 AG - Fees & Reimbursements - Court Order</u>	<u>4,725,555.00</u>
<u>21672 AF&M-Terminal Mkts Ship Inspection</u>	<u>5,024.55</u>
<u>21991 Vt Clean Energy Development Fund</u>	<u>2,356,439.00</u>
<u>22005 AHS Central Office earned federal receipts</u>	<u>11,386,209.00</u>
<u>50300 Liquor Control Fund</u>	<u>880,066.00</u>
<u>62100 Unclaimed Property Fund</u>	<u>3,124,737.00</u>
<u>Caledonia Fair</u>	<u>5,000.00</u>
<u>North Country Hospital Loan</u>	<u>24,250.00</u>

(2) All or a portion of the unencumbered balances in the Insurance Regulatory and Supervision Fund (Fund Number 21075), the Captive Insurance Regulatory and Supervision Fund (Fund Number 21085), and the Securities Regulatory and Supervision Fund (Fund Number 21080), expected to be approximately \$17,027,770.93 shall be transferred to the General Fund, provided that on or before July 1, 2013, the Commissioner of Financial Regulation certifies to the Joint Fiscal Committee that the transfer of such balances, or any smaller portion deemed proper by the Commissioner, will not impair the ability of the Department in fiscal year 2014 to provide thorough, competent, fair, and effective regulatory services, or maintain accreditation by the National Association of Insurance Commissioners; and that the Joint Fiscal Committee does not reject such certification.

(3) The following amounts shall be transferred from the General Fund to the funds indicated:

<u>21884</u>	<u>Emergency Personnel Survivors Benefit Special Fund</u>	<u>102,000.00</u>
<u>21911</u>	<u>Sarcoidosis Benefit Trust Fund</u>	<u>92,224.72</u>
<u>21975</u>	<u>Armed Services Scholarship Fund</u>	<u>16,484.00</u>
<u>50700</u>	<u>Federal Surplus Property Fund</u>	<u>250,000.00</u>
<u>56200</u>	<u>State Liability Insurance Fund</u>	<u>1,069,973.00</u>
<u>20105</u>	<u>Transportation Fund</u>	<u>4,370,272.00</u>

(4) The following amount shall be transferred from the Liquor Control Enterprise Fund (50300) to the inter-unit transfers special fund:

<u>21500</u>	<u>Inter-Unit Transfers Fund- Liquor Control (business unit 02300)</u>	<u>215,750.70</u>
--------------	--	-------------------

Sec. 56. REVERSIONS

(a) Notwithstanding any other provisions of law, in fiscal year 2013:

(1) The following amounts shall revert to the General Fund from the accounts indicated:

<u>1105500000</u>	<u>Comm & Info Technology</u>	<u>20,802.00</u>
<u>1140040000</u>	<u>Homeowner Rebates</u>	<u>507,221.00</u>
<u>1140070000</u>	<u>Use Tax Reimbursement Program</u>	<u>57,759.00</u>
<u>1200010000</u>	<u>Governor's Office</u>	<u>56,450.00</u>
<u>1260010000</u>	<u>Office of the Treasurer</u>	<u>306,543.52</u>
<u>22000891001</u>	<u>Farm-to-School, Fairs, VACD</u>	<u>304.63</u>
<u>7110010000</u>	<u>Economic, Housing, and Community Development</u>	<u>9,500.00</u>

(2) The following amounts shall revert to the Education Fund from the accounts indicated:

<u>5100010000</u>	<u>Administration</u>	<u>31,928.00</u>
<u>5100040000</u>	<u>Special Education Formula</u>	<u>3,097,761.38</u>
<u>5100050000</u>	<u>State-Placed Students</u>	<u>723,119.52</u>
<u>5100090000</u>	<u>Education Grant</u>	<u>1,393,236.05</u>
<u>5100120000</u>	<u>Debt Service Aid</u>	<u>1,697.00</u>
<u>5100190000</u>	<u>Essential Early Educ Grant</u>	<u>44,327.51</u>
<u>5100200000</u>	<u>Education-Technical Education</u>	<u>108,158.27</u>

Sec. 57. CARRY FORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the Secretary of Administration, General, Transportation, Transportation Infrastructure Bond, and Education Fund appropriations remaining unexpended on June 30, 2013 in the Executive Branch of state government shall be carried forward and shall be designated for expenditure.

(b) Notwithstanding any other provisions of law, General Fund appropriations remaining unexpended on June 30, 2013 in the Legislative and Judicial Branches of state government shall be carried forward and shall be designated for expenditure.

Sec. 58. GLOBAL COMMITMENT APPROPRIATIONS; TRANSFER; REPORT

(a) In order to facilitate the end-of-year closeout for fiscal year 2013, the Secretary of Human Services, with approval from the Secretary of Administration, may make transfers among the appropriations authorized for Medicaid and Medicaid-waiver program expenses, including Global Commitment appropriations outside the Agency of Human Services. At least three business days prior to any transfer, the Agency shall submit to the Joint Fiscal Office a proposal of transfers to be made pursuant to this section. A final report on all transfers made under this section shall be made to the Joint Fiscal Committee for review at the September 2013 meeting. The purpose of this section is to provide the Agency with limited authority to modify the appropriations to comply with the terms and conditions of the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

Sec. 59. HUMAN SERVICES CASELOAD RESERVE EXPENDITURES

(a) In fiscal year 2013, expenditures pursuant to appropriations from the Human Services Caseload Reserve shall be made notwithstanding 32 V.S.A. § 308b(a).

Sec. 60. Sec. D.109(a) of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

(a) The amount of ~~\$16,240,000~~ \$18,501,929.94 is unreserved and made available for expenditure in fiscal year 2013 from the human services caseload reserve created by 32 V.S.A. § 308b.

Sec. 61. GENERAL FUND BALANCE RESERVE; UNRESERVED FOR APPROPRIATION

(a) Amounts in the General Fund Balance Reserve, also known as the "Rainy Day Reserve," resulting from the transfers from the former Revenue

Shortfall Reserve and from the Human Service Caseload Reserve are hereby unreserved and made available for appropriation in fiscal year 2013.

(b) After the appropriations made in 32 V.S.A. § 308c(a)(2) and (3), and after the appropriations made as a result of subsection (a) of this section, any remaining amount in the General Fund Balance Reserve, also known as the “Rainy Day Reserve,” at the end of fiscal year 2013 is hereby unreserved and made available for appropriation in fiscal year 2013.

Sec. 62. LOCAL COMMUNITY IMPLEMENTATION FUND; USE OF BALANCE

(a) The balance remaining in the Local Community Implementation Fund (21772) is hereby available to the department of environmental conservation - office of water programs for the purpose of addressing stormwater runoff.

Sec. 63. TRANSPORTATION – SUPPLEMENTAL PAVING SPENDING AND MAINTENANCE OF EFFORT

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority approved in the fiscal year 2013 transportation programs, the Secretary of Transportation, with the approval of the Secretary of Administration and subject to the provisions of subsection (b) of this section, may transfer Transportation Fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, to the paving program in program development (8100001100) for the specific purpose of satisfying the federal maintenance of effort determination required by 23 USC § 120(j)(2) and improving the pavement conditions of selected state highways.

(b) If a contemplated transfer of an appropriation would, by itself, have the effect of significantly delaying the planned work schedule of a project which formed the basis of the project’s funding in the fiscal year of the contemplated transfer, the Secretary of Transportation shall submit the proposed transfer for approval by the House and Senate Committees on Transportation when the General Assembly is in session and, when the General Assembly is not in session, by the Joint Transportation Oversight Committee. In all other cases, the Secretary may execute the transfer, giving prompt notice thereof to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session and, when the General Assembly is not in session, to the Joint Transportation Oversight Committee.

(c) This section shall expire on June 30, 2013.

Sec. 64. TRANSPORTATION – SUPPLEMENTAL TROPICAL STORM IRENE SPENDING

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority approved in the fiscal year 2013 transportation programs, the Secretary of Transportation, with the approval of the Secretary of Administration and subject to the provisions of subsection (b) of this section, may transfer up to \$1,500,000.00 in Transportation Fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, to the maintenance state system (8100002000) appropriation for the specific purpose of paying for costs associated with Tropical Storm Irene.

(b) If a contemplated transfer of an appropriation would, by itself, have the effect of significantly delaying the planned work schedule of a project which formed the basis of the project's funding in the fiscal year of the contemplated transfer, the Secretary of Transportation shall submit the proposed transfer for approval by the House and Senate Committees on Transportation when the General Assembly is in session and, when the General Assembly is not in session, by the Joint Transportation Oversight Committee. In all other cases, the Secretary of Transportation may execute the transfer, giving prompt notice thereof to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session and, when the General Assembly is not in session, to the Joint Transportation Oversight Committee.

(c) This section shall expire on June 30, 2013.

Sec. 65. Sec. 282 of No. 65 of the Acts of 2007, as amended by Sec. C.103 of No. 63 of the Acts of 2011, is further amended to read:

Sec. 282. TAX COMPUTER SYSTEM MODERNIZATION FUND

(a) Creation of fund.

* * *

(2) Balances in the fund shall be administered by the department of taxes and used for the exclusive purposes of funding : A) ancillary development of ~~the ETM system~~ information technology systems necessary for implementation and continued operation of the data warehouse project ~~and in preparation of the transfer of tax types from the current VIRCS system to the VIRCS/ETM system, including modernization of billing capability;~~ B) payments due to the vendor under the data warehouse project contract; C) enhanced compliance costs related to the data warehouse project; ~~and D) phase 1 of the transfer of five tax types, specifically income taxation of individuals, trusts and estates, withholding tax, sales and use tax, meals and rooms tax, and property tax adjustments, from the current VIRCS system to the VIRCS/ETM~~

system planning for an integrated tax system solution, including present-day analysis of business case and business requirements, requests for proposals and due diligence; and E) the next phase of implementation of tax types into the selected integrated tax system solution. All balances in the fund at the end of any fiscal year shall be carried forward and remain part of the fund. Interest earned by the fund shall be deposited into the fund. This fund is established in the state treasury pursuant to ~~subchapter 5 of chapter 7 of Title 32~~ 32 V.S.A. chapter 7, subchapter 5.

* * *

Sec. 66. Sec. C.103.1 of No. 63 of the Acts of 2011 is amended to read:

Sec. 103.1 SPECIAL FUND APPROPRIATION FOR TAX COMPUTER SYSTEMS

(a) \$7,500,000 is appropriated from the tax computer system modernization special fund established pursuant to Sec. 282 of No. 65 of the Acts of 2007, as amended in Sec. C.103 of this act. This appropriation shall carry forward through fiscal year ~~2013~~ 2018. The commissioner shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

Sec. 67. SPECIAL FUND APPROPRIATION FOR TAX COMPUTER SYSTEMS

(a) \$9,022,173 is appropriated from the Tax Computer System Modernization Special Fund established pursuant to Sec. 282 of No. 65 of the Acts of 2007, as amended in Sec. C.103 of No. 63 of the Acts of 2011, and as further amended in Sec. 65 of this act. This appropriation shall carry forward through fiscal year 2018. The Commissioner shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

Sec. 68. Sec. 1(c) of No. 134 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

(c) The general assembly appropriates \$20,000.00 in general funds in fiscal year 2013 to the Vermont Center for Justice Research to support this data collection, analysis, and report.

Sec. 69. Sec. 6 of No. 147 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. 6. DLS DIVERSION ~~SPECIAL~~ FUND

~~There is established the DLS diversion program special fund to be administered by the attorney general. The fund shall be used to fund the requirements of this act. Administrative fees collected pursuant to Sec. 2(h) of this act shall be deposited and credited to this fund. The fund shall be~~

~~available to the attorney general to enter into memorandums of understanding with diversion programs to pay for contractual and operating expenses and project related staffing related to the implementation and continuing operations of the DLS diversion program.~~

The DLS diversion fund is hereby established in the state treasury. All fees collected pursuant to Sec. 2(h) of this act shall be recorded in the fund. Quarterly, the director of each court diversion program shall report to the attorney general in a manner as prescribed by the attorney general's office on all fees paid pursuant to Sec. 2(h) of this act. An independent audit that includes all state funding sources shall be required biennially.

Sec. 70. Sec. B.1106(a) of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

(a) The amount of \$1,175,000 in general funds is appropriated in fiscal year 2013 to the agency of agriculture, food and markets for transfer to the Vermont working lands enterprise special fund established in 6 V.S.A. § 4605 for expenditure by the working lands enterprise board established in 6 V.S.A. § 4606 for direct grants and investments in food and forest systems pursuant to 6 V.S.A. § 4607 and consistent with the funding priorities in Sec. 5 of No. 142 of the 2011 Adj. Sess. (2012), including grants that enable farmers' markets to accept electronic benefit transfer funds and \$175,000 of this amount is to fund two (2) limited service working landscape staff positions in the agency.

Sec. 71. Sec. D.108 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

~~Sec. D.108 FISCAL YEAR 2013 TRANSFERS AND APPROPRIATIONS~~

(a) The following general fund transfers ~~and appropriations~~ are authorized, effective May 1, 2013. Prior to these transfers ~~and appropriations~~, the secretary of administration and the commissioner of finance and management shall make findings that the transfers do not create a projected negative balance in the general fund and reduce the reserve position anticipated for the close of fiscal year 2013.

(1) Transferred ~~and appropriated~~ to the education fund: \$2,100,000.

(2) Transferred to the clean energy development fund: \$3,000,000.

~~(3) Appropriated to the Vermont State Colleges, subject to the approval of the secretary of administration to provide funding for a Brattleboro community college facility. To the extent this appropriation is made, the bond proceeds dedicated for this purpose in H.785 of the 2012 legislative session will be reduced: \$1,475,000.~~

(b) The transfers in subsection (a) of this section can be made prior to May 1, 2013 upon a vote and a determination by the emergency board established under 32 V.S.A. § 131 that sufficient revenues will be available to authorize the transfers.

Sec. 72. 22 V.S.A. § 901 is amended to read:

§ 901. DEPARTMENT OF INFORMATION AND INNOVATION

(a) The department of information and innovation, created in 3 V.S.A. § 2283b, shall have all the responsibilities assigned to it by law, including the following:

* * *

(12) not later than July 1, 2013, to adopt rules requiring the auditing and updating of state websites; ~~and~~

(13) to review and approve in accordance with agency of administration policies all new information technology position requests and new information technology classifications within state government; and

(14) upon request from the general assembly or the judicial branch, to consult with or provide technical support and services to the general assembly or the judicial branch regarding information technology and information security.

(b) As used in this section, "state government" means the agencies of the executive branch of state government.

Sec. 73. 3 V.S.A. § 2222(a)(10) is amended to read:

(10) The ~~secretary~~ Secretary shall annually submit to the ~~general assembly~~ General Assembly a five-year information technology and information security plan which indicates the anticipated information technology activities of the ~~legislative, executive, and judicial branches~~ Executive Branch of state government. For purposes of this section, "information technology activities" shall mean:

* * *

Sec. 74. Sec. E.131 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is added to read:

Sec. E.131 State treasurer

(a) Of this general fund appropriation, \$16,484 shall be deposited into the armed services scholarship fund established in 16 V.S.A. § 2541.

Sec. 75. Sec. E.139 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is added to read:

Sec. E.139 Tax department – reappraisal and listing payments

(a) Of this appropriation, \$150,000 shall be transferred to the department of taxes, division of property valuation and review and used for payment of expenses associated with a reappraisal as of April 1, 2012 of the hydroelectric plants and other property owned by TransCanada Hydro Northeast, Inc. in the State of Vermont. Expenditures for this purpose shall be considered qualified expenditures under 16 V.S.A. § 4025(c).

Sec. 76. Sec. E.219 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. E.219 Military – veterans’ affairs

* * *

(b) The establishment of one (1) new classified position – Veterans’ Service Officer I – is authorized in fiscal year 2013.

Sec. 77. 3 V.S.A. § 117(k) is added to read:

(k) There is hereby created a public records special fund. The fund shall be administered as a special fund pursuant to 32 V.S.A. chapter 7, subchapter 5. The purpose of the fund is to support improved management of public records by state agencies. The fund shall consist of receipts from other government agencies for the provision of records management services by the Vermont state archives and records administration in the office of the secretary of state. The fund shall be available to the office of the secretary of state and shall be expended for the purposes of activities authorized by 3 V.S.A. § 117(g).

Sec. 78. 3 V.S.A. § 118 is added to read:

§ 118. COLLECTION AND DISPOSITION OF REVENUE

(a) There is hereby created a secretary of state services fund. The fund shall be used to provide appropriations for the operations of the office of the secretary of state, with the exception of those operations provided for in subchapter 3 of chapter 5 of this title. The fund shall be administered as a special fund pursuant to 32 V.S.A. chapter 7, subchapter 5. At the end of each fiscal year, the unobligated balance in this fund shall be transferred to the general fund.

(b) All revenues collected by the secretary of state shall be deposited into the secretary of state services fund except for the following revenues:

(1) any revenues collected by the office of professional regulation set forth in 3 V.S.A. chapter 5, subchapter 3; and

(2) any revenues collected pursuant to subsection 117(k) of this title.

Sec. 79. 3 V.S.A. § 839 is amended to read:

§ 839. PUBLICATION OF PROPOSED RULES

* * *

(c) The secretary of state shall arrange for one formal publication, in a consolidated advertisement in newspapers having general circulation in different parts of the state as newspapers of record approved by the secretary of state, of information relating to all proposed rules that includes the following information:

(1) the name of the agency and its Internet address;

(2) the title or subject and a concise summary of the rule; and

(3) the office name, office telephone number, and office mailing address of an agency official able to answer questions and receive comments on the proposal.

(d) The secretary of state shall be reimbursed by agencies making publication in accordance with subsection (c) of this section so that all costs are prorated among agencies publishing at the same time.

Sec. 80. 9 V.S.A. § 5613(b) is amended to read:

(b) There is hereby created a fund to be known as the securities regulation and supervision fund. The fund shall be used for the purpose of providing the commissioner the means to administer the provisions of this chapter, ~~and for the support of the corporate records division and other corporate regulatory activities of the office of the secretary of state.~~ All agent and investment adviser representative fees received pursuant to subsections 5410(b) and (d) of this title, and all examination fees and investigation expenses received pursuant to section 5614 of this title shall be transmitted to the state treasurer and credited to this fund. All payments from the securities regulatory and supervision fund for the maintenance of staff and associated expenses, including contractual services as necessary, shall be disbursed from the state treasury only upon warrants issued by the commissioner of finance and management, after receipt of proper documentation regarding services rendered and expenses incurred. The fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5.

Sec. 81. 11 V.S.A. § 1625 is amended to read:

§ 1625. FEES

(a) A person, copartnership, association, limited liability company, or corporation required by the provisions of this chapter to file a return, shall, at

the time of filing as provided, pay a registration fee of \$50.00 to the secretary of state ~~for the benefit of the state.~~

(b) A person, copartnership, association, limited liability company, or corporation required by the provisions of this chapter to file a certificate of cessation or change of business status or an application to reserve a business name shall, at the time of filing, pay a fee of \$20.00 to the secretary of state ~~for the benefit of the state.~~

Sec. 82. 17 V.S.A. § 2702 is amended to read:

§ 2702. NOMINATING PETITION

The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party if petitions signed by at least 1,000 voters in accordance with sections 2353, 2354, and 2358 of this title are filed with the secretary of state, together with the written consent of the person to the printing of the person's name on the ballot. Petitions shall be filed not later than 5:00 p.m. on the first Monday after the first Tuesday of January preceding the primary election. The petition shall be in a form prescribed by the secretary of state. A person's name shall not be listed as a candidate on the primary ballot of more than one party in the same election. Each petition shall be accompanied by a filing fee of \$2,000.00 to be paid to the secretary of state ~~and deposited by the secretary of state into the general fund.~~ However, if the petition of a candidate is accompanied by the affidavit of the candidate, which shall be available for public inspection, that the candidate and the candidate's campaign committee are without sufficient funds to pay the filing fee, the secretary of state shall waive all but \$300.00 of the payment of the filing fee by that candidate.

Sec. 83. 17 V.S.A. § 2852(a) is amended to read:

(a) A candidate for the office of governor or lieutenant governor who intends to seek Vermont campaign finance grants from the ~~Vermont campaign 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.

Sec. 84. 17 V.S.A. § 2853(b) is amended to read:

(b) A candidate who accepts Vermont campaign finance grants, shall:

* * *

(3) Not later than 40 days after the general election, deposit in the ~~Vermont campaign 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.

Sec. 85. 17 V.S.A. § 2855 is amended to read:

§ 2855. VERMONT CAMPAIGN FINANCE GRANTS; AMOUNTS; TIMING

(a) ~~To the extent funds are available, the~~ The secretary of state shall make grants from the ~~Vermont campaign~~ 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.

* * *

~~(e) If the Vermont campaign fund contains insufficient revenues to provide Vermont campaign finance grants to all candidates under this section, the available funds shall be distributed proportionately among all qualifying candidates. If grants are reduced under this subsection, a candidate may solicit and accept additional contributions equal to the amount of the difference between the amount of the Vermont campaign finance grants authorized and the amount received under this section. Additional contributions authorized under this subsection shall be governed by the provisions of sections 2805 and 2853 of this title.~~

(f) 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.

Sec. 86. 32 V.S.A. § 586 is amended to read:

§ 586. APPLICATION

The provisions of this subchapter shall not apply to funds established to account for proceeds from the sale of bonds, to the general fund, the transportation fund, the fish and wildlife fund, the tobacco litigation settlement fund, or to any federal revenue funds, trust funds, enterprise funds, internal service funds, or agency funds, or to public service enterprise funds established to implement provisions of ~~sections 30 V.S.A. §§ 211 and 212a through 212f of Title 30;~~ the budget stabilization reserves created by sections 308 and 308a of this title; the low-level radioactive waste fund created by ~~section 10 V.S.A. § 7013 of Title 10;~~ the Vermont campaign fund created by ~~section 2856 of Title 17;~~ the lands and facilities trust fund created by ~~section 3 V.S.A. § 2807 of Title 3;~~ the education fund created by ~~section 16 V.S.A. § 4025 of Title 16;~~ or the Vermont housing and conservation trust fund created by ~~section 10 V.S.A. § 312 of Title 10.~~

Sec. 87. REPEALS

(a) 17 V.S.A. § 2856 (Vermont Campaign Fund) is repealed.

(b) Sec. F4 of No. 146 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 6 of No. 116 of the Acts of the 2011 Adj. Sess. (2012) (publication of proposed rules), is repealed.

Sec. 88. TERMINATION OF SPECIAL FUNDS; TRANSITION

(a) Balances in the Vermont Campaign Fund (21602), the Vital Records Fund (21602), and the Rulemaking Fund (21155) shall be transferred to the Secretary of State Services Fund on July 1, 2013.

Sec. 88.1. Sec. E.330 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is added to read:

Sec. E.330 Disabilities, aging, and independent living - advocacy and independent living grants

(a) The department of disabilities, aging, and independent living shall grant \$150,000 of the funds appropriated in Sec. B.330, as amended, to Advancing Excellence – Local Area Network for Excellence for an initiative to reduce the use of antipsychotic drugs in Vermont nursing homes. Performance measures for the initiative shall include:

(1) reduction in inappropriate antipsychotic drug use and reduction of Vermont overall rate of antipsychotic drug use;

(2) reduction in resident-on-resident altercations;

(3) increase in staff confidence and competence in caring for people with dementia.

Sec. 89. Sec. E.333 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is added to read:

Sec. E.333 Disabilities, aging, and independent living – developmental services

(a) The department of disabilities, aging, and independent living shall manage the developmental services program within the amount appropriated in fiscal year 2013, as amended by acts of the 2013 session, and may take appropriate steps to modify the State System of Care Plan during fiscal year 2013 if the funding requests for individuals who meet the funding criteria set forth in the Plan exceed the appropriated amount. No less than 20 business days before implementing a modification pursuant to this section, the commissioner of disabilities, aging, and independent living shall submit the proposed modification to the advisory committee established pursuant to 18 V.S.A. § 8733 for advice and recommendations.

(b) Any modifications to the State System of Care Plan made pursuant to this section shall be consistent with 18 V.S.A. chapter 204A and shall remain in effect until October 1, 2013 or the date a new plan is adopted pursuant to 18 V.S.A. § 8725, whichever occurs first.

Sec. 90. Sec. E.338(b) of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is added to read:

(b) In fiscal year 2013, the secretary of administration may, upon recommendation of the secretary of human services, transfer unexpended funds between the respective appropriations for correctional services and for correctional services – out-of-state beds. At least three days prior to any such transfer being made, the secretary of administration shall report the intended transfer to the joint fiscal office and shall report any completed transfers to the joint fiscal committee at its next scheduled meeting.

Sec. 91. Sec. E.513 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is added to read:

Sec. E.513 Appropriation and transfer to education fund

(a) Pursuant to Sec. B.513, there is appropriated in fiscal year 2013 from the general fund for transfer to the education fund the amount of \$282,317,280.

Sec. 92. Sec. E.710 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is added to read:

Sec. E.710 Environmental conservation – air and waste management

(a) The establishment of one (1) new classified position – Environmental Engineer IV – is authorized in fiscal year 2013.

Sec. 93. Sec. E.711 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is added to read:

Sec. E.711 Environmental conservation – office of water programs

(a) The establishment of two (2) new classified limited service positions - one (1) Environmental Scientist III and one (1) Environmental Analyst III - is authorized in fiscal year 2013.

Sec. 94. 21 V.S.A. § 496a is amended to read:

§ 496a. STATE FUNDS; UNION ORGANIZING

~~On an annual basis, an~~ An employer that is the recipient of a grant of state funds in a single grant of more than ~~\$1,001.00~~ \$1,000.00 shall certify to the state that none of the funds will be used to interfere with or restrain the exercise of an employee's rights with respect to unionization and upon request

shall provide records to the secretary of administration which attest to such certification.

Sec. 95. 32 V.S.A. § 308c(a) is amended to read:

(a) There is hereby created within the general fund a general fund balance reserve, also known as the “rainy day reserve.” After satisfying the requirements of section 308 of this title, and after other reserve requirements have been met, any remaining unreserved and undesignated end of fiscal year general fund surplus shall be reserved in the general fund balance reserve. The general fund balance reserve shall not exceed five percent of the appropriations from the general fund for the prior fiscal year without legislative authorization. Monies from this reserve shall be available for appropriation by the general assembly.

(1) The emergency board shall, at the end of fiscal year 2013, determine at its July meeting the amount of available general funds that is greater than the amount of forecasted available general funds most recently adopted by the board for fiscal year 2013.

(2) Of the amount added to the general fund balance reserve in fiscal year 2013, to the extent available, one-half of the amount identified in subdivision (1) of this subsection is hereby appropriated in the fiscal year just concluded for deposit in the supplemental property tax relief fund established by section 6075 of this title. If the amount added to the general fund balance reserve is insufficient to support both the appropriation in this subdivision and the appropriation in subdivision (3) of this subsection, the appropriation in this subdivision shall take precedence.

(3) Of the amount added to the general fund balance reserve in fiscal year 2013, to the extent available, one-quarter of the amount identified in subdivision (1) of this subsection is hereby appropriated in the fiscal year just concluded to the secretary of administration to be used only upon emergency board action to transfer these funds to appropriations to offset reduced federal funding.

Sec. 96. 32 V.S.A. § 309(a)(1) is amended to read:

(1) Activities proposed for funding by general obligation debt financing shall be restricted to tangible capital investments, but may include the planning ~~and~~, design, and engineering directly associated with a tangible capital investment.

Sec. 97. 32 V.S.A. § 309(a)(1) is amended to read:

(a)(1) Activities proposed for funding by general obligation debt financing shall be restricted to tangible capital investments, but may include the

planning, ~~and design, and engineering~~ directly associated with a tangible capital investment.

Sec. 98. 32 V.S.A. § 994(b)(5) is amended to read:

(5) On its own initiative, at the request of the governor or at the request of the emergency board, the committee may make recommendations to the governor or emergency board concerning assignments or reallocation of any unused portion of the ceiling subsequent to ~~the emergency board's initial~~ an allocation by the emergency board in a given year.

Sec. 99. IRENE RECOVERY SUPPORT; EMERGENCY RELIEF AND ASSISTANCE FUND

(a) Notwithstanding 20 V.S.A. § 45, there is appropriated in fiscal year 2013, \$255,200 from the Emergency Relief and Assistance Fund (ERAF) to the department for children and families, office of economic opportunity, to be granted to the Central Vermont Community Action Council (CVCAC). The CVCAC will hire construction coordinators and volunteer coordinators to continue Irene recovery efforts that have been supported by a department of labor grant.

Sec. 99.1. [DELETED]

Sec. 100. EFFECTIVE DATES

(a) This act shall take effect on passage.

(b) Secs. 77–88 (secretary of state change of funding) shall take effect on July 1, 2013.

(c) Sec. 97 (general obligation debt financing) 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 proposal of amendment was agreed to, and third reading of the bill was ordered.

Message from the House No. 14

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

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. 25. House concurrent resolution congratulating the 2012 Woodstock Union High School Wasps Division III championship football team.

H.C.R. 26. House concurrent resolution congratulating Vermont Works for Women on its 25th anniversary.

H.C.R. 27. House concurrent resolution congratulating Jack Healey on winning his 20th Vermont Sportscaster of the Year award.

H.C.R. 28. House concurrent resolution congratulating the Vergennes Union High School 2012 Division II championship baseball team.

H.C.R. 29. House concurrent resolution honoring Robert Klein for his contributions to land conservation and ecological diversity preservation in Vermont.

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. 13. Senate concurrent resolution in memory of former Representative and Senator Edgar May of Springfield.

S.C.R. 14. Senate concurrent resolution congratulating the 2012 Montpelier High School Division II championship girls' tennis team.

S.C.R. 15. Senate concurrent resolution congratulating Lotus Lake Camp on its 60th anniversary.

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,

By Representatives Hooper and Kitzmiller,

S.C.R. 14.

Senate concurrent resolution congratulating the 2012 Montpelier High School Division II championship girls' tennis team.

By Senators Doyle, Cummings and Pollina,

By Representatives Davis and Winters,

S.C.R. 15.

Senate concurrent resolution congratulating Lotus Lake Camp on its 60th 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 severally adopted in concurrence:

By Representative Clarkson and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 25.

House concurrent resolution congratulating the 2012 Woodstock Union High School Wasps Division III championship football team.

By Representative Wizowaty and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 26.

House concurrent resolution congratulating Vermont Works for Women on its 25th anniversary.

By Representative Burditt and others,

H.C.R. 27.

House concurrent resolution congratulating Jack Healey on winning his 20th Vermont Sportscaster of the Year award.

By Representative Lanpher,

By Senators Ayer and Bray,

H.C.R. 28.

House concurrent resolution congratulating the Vergennes Union High School 2012 Division II championship baseball team.

H.C.R. 29.

House concurrent resolution honoring Robert Klein for his contributions to land conservation and ecological diversity preservation in Vermont.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, February 12, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 13.

TUESDAY, FEBRUARY 12, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Kooperkamp of Barre.

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. 15. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 15, 2013, it be to meet again no later than Tuesday, February 19, 2013.

Bills Introduced

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

S. 92.

By Senator McCormack,

An act relating to first class alcoholic beverage licenses.

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

S. 93.

By Senators Rodgers and Starr,

An act relating to notice of placement at designated residential service homes.

To the Committee on Health and Welfare.

S. 94.

By Senators Sears, Ashe, Benning, Campbell, Hartwell, Kitchel, McAllister, Nitka and Starr,

An act relating to reporting dangerous and mentally ill persons to the National Instant Criminal Background Check System.

To the Committee on Health and Welfare.

S. 95.

By Senator McCormack,

An act relating to negligent storage of a firearm.

To the Committee on Judiciary.

S. 96.

By Senator McCormack,

An act relating to criminal investigation records related to alleged criminal conduct by law enforcement officers.

To the Committee on Government Operations.

S. 97.

By Senators Rodgers, Bray, French, McAllister, Starr and Zuckerman,

An act relating to farm structures.

To the Committee on Government Operations.

S. 98.

By Senators McCormack, Collins and Flory,
An act relating to shared parental rights and responsibilities.
To the Committee on Judiciary.

S. 99.

By Senator Sears,
An act relating to the standard measure of recidivism.
To the Committee on Judiciary.

S. 100.

By Senators Galbraith, Ashe, Ayer, Benning, Campbell, Cummings, Doyle, Fox, French, Hartwell, Kitchel, McCormack, Mullin, Pollina, Sears, Starr, Westman, White and Zuckerman,
An act relating to forest integrity.
To the Committee on Natural Resources and Energy.

Bill Referred

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

H. 51.

An act relating to payment of workers' compensation benefits by electronic payroll card.
To the Committee on Economic Development, Housing and General Affairs.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**H. 47.**

House bill entitled:
An act relating to fiscal year 2013 budget adjustment.
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 adding a new section to be numbered Sec. 99.1 to read as follows:

Sec. 99.1. 2014 LEGISLATOR DRAFTING LIMITATION

(a) Notwithstanding any other provision of law, during the 2014 legislative session individual members of the Vermont House shall request no more than three bills be drafted and individual members of the Vermont Senate shall request no more than five bills be drafted.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Sears?, Senator Sears requested and was granted leave to withdraw the proposal of amendment.

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

Rules Suspended; Committee Report Rejected; Consideration Postponed**S. 77.**

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

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

Was taken up for immediate consideration.

Senator Sears, for the Committee on Judiciary, to which the bill was committed, reported that the bill ought to be rejected.

Thereupon, the question, Shall the bill be rejected?, was disagreed to on a roll call, Yeas 13, Nays 17.

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: Benning, Campbell, Cummings, Doyle, Flory, Kitchel, Mazza, McAllister, Mullin, Nitka, Sears, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Ayer, Baruth, Bray, Collins, Fox, French, Galbraith, *Hartwell, Lyons, MacDonald, McCormack, Pollina, Rodgers, Snelling, White, Zuckerman.

*Senator Hartwell explained his vote as follows:

“I have been a member of the Senate for almost seven years serving on several committees and chairing two; in that time I have been a fervent believer in the greatest possible public participation by Vermonters on the momentous issues affecting their state.”

“It would be highly inconsistent for me to assist to truncate the process at this point; however the bill has flaws which I trust will be rectified between now and end of debate.”

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

Thereupon, the question, Shall the bill be read a third time?, Senator Campbell, moved that consideration of the bill be postpone until Wednesday, February 13, 2013, which was agreed to.

Message from the House No. 15

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 adopted joint resolution of the following title:

J.R.H. 3. Joint resolution supporting the Coalition for Captive Insurance Clarity.

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

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, February 13, 2013.

WEDNESDAY, FEBRUARY 13, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Introduced

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

S. 101.

By Senators McCormack and Collins,

An act relating to granting staff of the Departments of Corrections and for Children and Families ex officio status for notary public services.

To the Committee on Finance.

S. 102.

By Senator Mullin,

An act relating to the immunization rates of students attending public schools.

To the Committee on Health and Welfare.

S. 103.

By Senator Mullin,

An act relating to immunization against pertussis.

To the Committee on Health and Welfare.

Joint Resolution Referred**J.R.H. 3.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution supporting the Coalition for Captive Insurance Clarity.

Whereas, in 2010, Congress enacted the Nonadmitted and Reinsurance Reform Act (NRRA), 15 U.S.C. §§ 8201–8206 as part of the Dodd-Frank Act, Pub. L. No. 111-203, and

Whereas, former U.S. Representative Judy Biggert of Illinois, who during the 112th Congress chaired the Subcommittee on Insurance, Housing and Community Opportunity of the House Committee on Financial Services and who was a supporter of the NRRA, wrote in a December 18, 2012 letter to the Chairman-elect and Ranking Member-elect of the full Committee that the NRRA was “intended to create certainty in the tax treatment and regulation of the surplus lines and in the reinsurance industry,” and stated unequivocally that it was never intended to include the captive insurance industry, and

Whereas, some states are misinterpreting NRRA’s definition of “Nonadmitted” to apply to the captive insurance industry, and

Whereas, the result of this incorrect interpretation is that the captive insurance companies are unsure of how to respond to the new tax requirements from these states, and

Whereas, the captive insurance industry serves an important role in the overall economic system, and it is important that incorrect interpretations of congressional intent not hamper the captive insurance industry, and

Whereas, it is detrimental to the captive insurance industry and the many companies that rely on captive insurance for their insurance needs for this incorrect interpretation of congressional intent to continue, and

Whereas, Vermont is one of more than 30 states that have enacted captive insurance laws, and

Whereas, Vermont has been a leading captive insurance domicile in the country since passage of 1981 VT. Acts and Resolves No. 28, related to captive insurance companies, and more captive insurance companies are domiciled in Vermont than in any other state, and

Whereas, the House and Senate committees with jurisdiction over insurance matters and Governor Peter Shumlin have expressed concern that the confusion over the applicability of the NRRA could be damaging to the captive insurance industry, and

Whereas, in an effort to clarify that the NRRA was not intended to be applicable to captive insurance companies, the Coalition for Captive Insurance Clarity has been formed, and the Vermont Captive Insurance Association has assumed the leadership role in this attempt “to coordinate efforts to amend the law and provide clear and definitive language regarding the captive insurance industry and the NRRA,” which would clarify that the NRRA does not apply to the captive insurance industry, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its support for the effort of the Coalition for Captive Insurance Clarity to persuade Congress to clarify that the Nonadmitted and Reinsurance Reform Act of 2010 is not applicable to the captive insurance industry, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Governor Peter Shumlin and the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Economic Development, Housing and General Affairs.

Recess

On motion of Senator Baruth the Senate recessed until two o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Bill Amended**S. 77.**

Consideration was resumed on Senate bill entitled:

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

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

First: In Sec. 2, 18 V.S.A. § 5281, in subdivision (8)(B), following the word “prognosis” by inserting the following: , including an acknowledgement that the physician’s prediction of the patient’s life expectancy is an estimate based on the physician’s best medical judgment and is not a guarantee of the actual time remaining in the patient’s life.

Second: In Sec. 2, 18 V.S.A. § 5281, in subdivision (12), following the word “who” by inserting the following: is physically capable of self-administrating medication and who

Third: In Sec. 2, 18 V.S.A. § 5283, in subdivision (a)(3), following the word “person” by inserting the following: , verbally and, and by inserting a comma following the word “writing”

Fourth: In Sec. 2, 18 V.S.A. § 5283, in subdivision (a)(8), by striking out the following: “at the end of the 15-day waiting period” and inserting in lieu thereof the following: after the patient’s second oral request

Fifth: In Sec. 2, 18 V.S.A. § 5283, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The patient’s death certificate shall list the underlying terminal disease as the cause of the death and shall list the manner of death as natural.

Sixth: In Sec. 2, 18 V.S.A. § 5291, in subsection (b), by striking out the word “have” following “patients who” and by inserting before the period the following: during the previous year

Seventh: In Sec. 2, 18 V.S.A. § 5294, in subsection (b), by striking out the following: “professional organization or association or” preceding “health care provider” by striking out the following: “censure,” preceding “discipline” and by striking out the following: “loss of membership,” preceding “or other penalty”

Senator Ayer, moved to amend the amendment offered by Senator Ashe in the *first* instance by inserting before the period the following: , and that the patient may live longer than the time predicted, was agreed to.

Thereupon, Senator Ashe requested and was granted leave to withdraw his *fifth* instance of amendment.

Which was agreed to.

Thereupon, the question, Shall the bill be amended as moved by Senator Ashe in the *first* instance of amendment, as amended, and in the *second, third, fourth, sixth* and *seventh* instances of amendment, was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Galbraith and Hartwell moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. IMMUNITY FOR DOUBLE EFFECT LETHAL
MEDICATION

§ 5281. TERMINALLY ILL PATIENTS; DOUBLE EFFECT LETHAL
MEDICATION; IMMUNITY FOR PRESCRIBING OR BEING PRESENT
WHEN TAKEN

(a) As used in this section:

(1) “Double effect medication” means medication prescribed to relieve pain which also has the effect of hastening death or substantially increasing the risk of death.

(2) “Terminal condition” means an incurable and irreversible disease which would, within reasonable medical judgment, result in a death within six months.

(b) A physician who prescribes a double effect medication to a terminally ill person, which, if not taken as prescribed would be lethal, shall not be subject to criminal or civil liability or professional disciplinary action if the physician warns the person about the effects of taking the medication and the person self-administers the medication and dies as a result.

(c) A person shall not be subject to criminal or civil liability solely for being present when a person with a terminal condition takes a lethal dose of medication that has been prescribed by a physician.

Thereupon, pending the question, Shall the bill be amended as moved by Senators Galbraith and Hartwell?, Senator Sears moved to amend the amendment offered by Senators Galbraith and Hartwell in Sec. 1, section 5281, (a)(1) by striking out the word “has” and inserting in lieu thereof the following may have

Which was agreed to.

Thereupon, the question, Shall the bill be amended as moved by Senators Galbraith and Hartwell, as amended?, Senator MacDonald raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senators Galbraith and Hartwell was *not germane* to the bill and therefore could not be considered by the Senate.

The President *overruled* the point of order.

Recess

On motion of Senator Campbell the Senate recessed until 5:10 P.M.

Called to Order

The Senate was called to order by the President.

Bill Amended; Third Reading Ordered

S. 77.

Senate bill entitled:

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

Was taken up.

Thereupon, the question, Shall the bill be amended as moved by Senators Galbraith and Hartwell, as amended?, was agreed to on a roll call, Yeas 16, Nays 15.

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: Benning, Campbell, Cummings, Doyle, Flory, Galbraith, Hartwell, Kitchel, Mazza, McAllister, Mullin, Nitka, Sears, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Ayer, Baruth, Bray, Collins, Fox, French, Lyons, MacDonald, McCormack, Pollina, Rodgers, Snelling, White, Zuckerman.

There being a tie, the Secretary took the casting vote of the President, who voted "Yea".

Thereupon, third reading of the bill was ordered on a roll call, Yeas 21, Nays 9.

Senator Fox 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, Bray, Campbell, Collins, Cummings, Doyle, Flory, French, Galbraith, Hartwell, Kitchel, Lyons, Mazza, McAllister, McCormack, Nitka, Rodgers, Sears, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Baruth, Fox, MacDonald, Mullin, Pollina, Snelling, *White, Zuckerman.

*Senator White explained her vote as follows:

“While I want to see this bill go forward, this bill as it now exists is 180 degrees from the original intent and is such a travesty that I would rather have the other body start anew than try to improve this bill.”

Rules Suspended; Bill Committed

S. 4.

Senate bill entitled:

An act relating to concussions and school athletic activities.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Judiciary, Senator Sears moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Education with the report of the Committee on Judiciary *intact*,

Which was agreed to.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, February 14, 2013.

THURSDAY, FEBRUARY 14, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Lisa Ramson of Barre.

Message from the House No. 16

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. 15. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bills Introduced

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

S. 104.

By Senators Pollina, Ashe, Fox, Lyons and Zuckerman,

An act relating to expedited partner therapy.

To the Committee on Health and Welfare.

S. 105.

By Senators Lyons, Campbell, McCormack, Pollina and Zuckerman,

An act relating to regional planning for renewable electric energy.

To the Committee on Natural Resources and Energy.

S. 106.

By Senator Lyons,

An act relating to low-interest loans for electric vehicle charging stations.

To the Committee on Natural Resources and Energy.

S. 107.

By Senator Sears,

An act relating to branding the titles of flooded motor vehicles.

To the Committee on Transportation.

S. 108.

By Senators Pollina, Ayer, Fox and Lyons,

An act relating to health insurance coverage for persons who are transgender.

To the Committee on Finance.

S. 109.

By Senator Sears,

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

To the Committee on Agriculture.

Third Reading Ordered**J.R.S. 14.**

Senator McAllister, for the Committee on Agriculture, to which was referred joint Senate resolution entitled:

Joint resolution supporting the Agency of Agriculture, Food and Markets' proposal to adopt an administrative rule to implement international maple grading standards in Vermont.

Reported that the joint resolution ought to be adopted.

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

Recommendation of Amendment; Consideration Interrupted by Recess**S. 77.**

Senate bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 112 is added to read:

CHAPTER 112. IMMUNITY FOR DOUBLE EFFECT LETHAL
MEDICATION

§ 5271. TERMINALLY ILL PATIENTS; DOUBLE EFFECT LETHAL
MEDICATION; IMMUNITY FOR PRESCRIBING OR BEING PRESENT
WHEN TAKEN

(a) As used in this section:

(1) “Bona fide physician-patient relationship” means a treating or consulting relationship in the course of which a physician has completed a full assessment of the patient’s medical history and current medical condition, including a personal physical examination.

(2) “Double effect medication” means medication prescribed to relieve pain or suffering, or both, which also may have the effect of hastening death or substantially increasing the risk of death.

(3) “Physician” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33.

(4) “Terminal condition” means an incurable and irreversible disease which would, within reasonable medical judgment, result in a death within six months.

(5) “Terminally ill person” means a person with a terminal condition.

(b) A physician who has a bona fide physician-patient relationship with a terminally ill person and who prescribes a double effect medication to that terminally ill person, which, if not taken as prescribed, would be lethal, shall not be subject to criminal or civil liability or professional disciplinary action if the physician warns the person about the effects of taking the medication and the person self-administers the medication and dies as a result.

(c) A person shall not be subject to criminal or civil liability solely for being present when a person with a terminal condition self-administers a lethal dose of a medication that has been prescribed by a physician.

Sec. 2. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. RIGHTS OF QUALIFIED PATIENTS SUFFERING A
TERMINAL CONDITION

§ 5281. DEFINITIONS

As used in this chapter:

(1) “Attending physician” means the physician whom the patient has designated to have primary responsibility for the care of the patient and who is

willing to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

(2) “Capable” means that in the opinion of a court or in the opinion of the patient’s attending physician, consulting physician, psychiatrist, psychologist, or clinical social worker, a patient has the ability to make and communicate health care decisions to health care providers, including communication through persons familiar with the patient’s manner of communicating if those persons are available.

(3) “Consulting physician” means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient’s illness and who is willing to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

(4) “Counseling” means a consultation between a psychiatrist, psychologist, or clinical social worker licensed in Vermont and a patient for the purpose of confirming that the patient:

(A) is capable; and

(B) is not suffering from a mental disorder or disease, including depression, that causes the patient to have impaired judgment.

(5) “Dispense” means to prepare and deliver pursuant to a lawful order of a physician a prescription drug in a suitable container appropriately labeled for subsequent use by a patient entitled to receive the prescription drug. The term shall not include the actual administration of a prescription drug to the patient.

(6) “Good faith” means objective good faith.

(7) “Health care facility” shall have the same meaning as in section 9432 of this title.

(8) “Health care provider” means a person, partnership, corporation, facility, or institution, licensed or certified or authorized by law to administer health care or dispense medication in the ordinary course of business or practice of a profession.

(9) “Informed decision” means a decision by a patient to request and obtain a prescription for medication to be self-administered to hasten his or her death based on the patient’s understanding and appreciation of the relevant facts and that was made after the patient was fully informed by the attending physician of all the following:

(A) The patient’s medical diagnosis.

(B) The patient's prognosis, including an acknowledgement that the physician's prediction of the patient's life expectancy is an estimate based on the physician's best medical judgment and is not a guarantee of the actual time remaining in the patient's life, and that the patient may live longer than the time predicted.

(C) the range of treatment options appropriate for the patient;

(D) the range of possible results, including potential risks associated with taking the medication to be prescribed;

(E) the probable result of taking the medication to be prescribed; and

(F) all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;

(10) "Palliative care" shall have the same meaning as in section 2 of this title.

(11) "Patient" means a person who is 18 years of age or older, a resident of Vermont, and under the care of a physician.

(12) "Physician" means a physician licensed pursuant to 26 V.S.A. chapters 23 and 33.

(13) "Qualified patient" means a patient who is capable, who is physically able to self-administer medication, and who has satisfied the requirements of this chapter in order to obtain a prescription for medication to hasten his or her death. An individual shall not qualify under the provisions of this chapter solely because of age or disability.

(14) "Terminal condition" means an incurable and irreversible disease which would, within reasonable medical judgment, result in death within six months.

§ 5282. REQUESTS FOR MEDICATION

(a) In order to qualify under this chapter:

(1) A patient who is capable, who has been determined by the attending physician and consulting physician to be suffering from a terminal condition, and who has voluntarily expressed a wish to hasten the dying process may request medication to be self-administered for the purpose of hastening his or her death in accordance with this chapter.

(2) A patient shall have made an oral request and a written request and shall have reaffirmed the oral request to his or her attending physician not less than 15 days after the initial oral request. At the time the patient makes the second oral request, the attending physician shall offer the patient an opportunity to rescind the request.

(b) Oral requests for medication by the patient under this chapter shall be made in the presence of the attending physician.

(c) A written request for medication shall be signed and dated by the patient and witnessed by at least two persons, at least 18 years of age, who, in the presence of the patient, sign and affirm that the patient appeared to understand the nature of the document and to be free from duress or undue influence at the time the request was signed. Neither witness shall be any of the following persons:

(1) the patient's attending physician, consulting physician, or any person who has provided counseling for the patient pursuant to section 5285 of this title;

(2) a person who knows that he or she is a relative of the patient by blood, marriage, civil union, or adoption;

(3) a person who at the time the request is signed knows that he or she would be entitled upon the patient's death to any portion of the estate or assets of the patient under any will or trust, by operation of law, or by contract; or

(4) an owner, operator, or employee of a health care facility, nursing home, or residential care facility where the patient is receiving medical treatment or is a resident.

(d) A person who knowingly fails to comply with the requirements in subsection (c) of this section is subject to prosecution under 13 V.S.A. § 2004.

(e) The written request shall be completed only after the patient has been examined by a consulting physician as required under section 5284 of this title.

(f)(1) Under no circumstances shall a guardian or conservator be permitted to act on behalf of a ward for purposes of this chapter.

(2) Under no circumstances shall an agent under an advance directive be permitted to act on behalf of a principal for purposes of this chapter.

§ 5283. ATTENDING PHYSICIAN; DUTIES

The attending physician shall perform all the following:

(1) make the initial determination of whether a patient:

(A) is suffering a terminal condition;

(B) is capable; and

(C) has made a voluntary request for medication to hasten his or her death;

(2) require proof of Vermont residency, which may be shown by:

-
- (A) a Vermont driver's license or photo identification card;
 - (B) proof of Vermont voter's registration;
 - (C) evidence of property ownership or a lease of residential premises in Vermont; or
 - (D) a Vermont personal income tax return for the most recent tax year;
- (3) inform the patient in person, verbally and in writing, of all the following:
- (A) the patient's medical diagnosis;
 - (B) the patient's prognosis;
 - (C) the range of treatment options appropriate for the patient;
 - (D) the range of possible results, including potential risks associated with taking the medication to be prescribed;
 - (E) the probable result of taking the medication to be prescribed; and
 - (F) all feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control;
- (4) refer the patient to a consulting physician for medical confirmation of the diagnosis, prognosis, and a determination that the patient is capable and is acting voluntarily;
- (5) refer the patient for counseling, if applicable, under section 5285 of this chapter;
- (6) refer the patient for a palliative care consultation, if applicable, under section 5286 of this chapter;
- (7) with the patient's consent, consult with the patient's primary care physician, if the patient has one;
- (8) recommend that the patient notify the next of kin or someone with whom the patient has a significant relationship and advise the patient of the physician's duty to notify the patient's next of kin if the patient does not do so;
- (9) counsel the patient about the importance of ensuring that another individual is present when the patient takes the medication prescribed pursuant to this chapter and the importance of not taking the medication in a public place;
- (10) inform the patient that the patient has an opportunity to rescind the request at any time and in any manner and offer the patient an opportunity to rescind after the patient's second oral request;

(11) verify, immediately prior to writing the prescription for medication under this chapter, that the patient is making an informed decision;

(12) fulfill the medical record documentation requirements of section 5291 of this title;

(13) ensure that all required steps are carried out in accordance with this chapter prior to writing a prescription for medication to hasten death; and

(14)(A) dispense medication directly, including ancillary medication intended to facilitate the desired effect to minimize the patient's discomfort, provided the attending physician is licensed to dispense medication in Vermont, has a current Drug Enforcement Administration certificate, and complies with any applicable administrative rules; or

(B) with the patient's written consent:

(i) contact a pharmacist and inform the pharmacist of the prescription; and

(ii) deliver the written prescription personally or by mail or facsimile to the pharmacist, who will dispense the medication to the patient, the attending physician, or an expressly identified agent of the patient.

§ 5284. MEDICAL CONSULTATION REQUIRED

Before a patient is qualified in accordance with this chapter, a consulting physician shall physically examine the patient, review the patient's relevant medical records, and confirm in writing the attending physician's diagnosis that the patient is suffering from a terminal condition and verify that the patient is capable, is acting voluntarily, and has made an informed decision.

§ 5285. COUNSELING REFERRAL

If, in the opinion of the attending physician or the consulting physician, a patient may be suffering from a mental disorder or disease, including depression, causing impaired judgment, either physician shall refer the patient for counseling. A medication to end the patient's life shall not be prescribed until the person performing the counseling determines that the patient is not suffering from a mental disorder or disease, including depression, that causes the patient to have impaired judgment.

§ 5286. PALLIATIVE CARE CONSULTATION

If a patient is not receiving palliative care or hospice services at the time the written request for medication is made pursuant to this chapter, the patient's attending physician shall refer the patient to a qualified health care provider for a palliative care consultation and shall attest to its completion pursuant to subdivision 5291(a)(5) of this title. For purposes of the palliative care

consultation, a qualified health care provider shall be a health care provider with specialized training in hospice or palliative care, as determined by the Department of Health in consultation with the Hospice and Palliative Care Council of Vermont, the Vermont Board of Medical Practice, and the Vermont State Board of Nursing.

§ 5287. INFORMED DECISION

A person shall not receive a prescription for medication to hasten his or her death unless the patient has made an informed decision. Immediately prior to writing a prescription for medication in accordance with this chapter, the attending physician shall verify that the patient is making an informed decision.

§ 5288. REQUIRED NOTIFICATION

(a) The attending physician shall recommend that the patient notify the patient's next of kin or someone with whom the patient has a significant relationship of the patient's request for medication in accordance with this chapter.

(b) If the patient does not notify his or her next of kin, the attending physician shall, with the patient's consent, make reasonable and good faith efforts to notify the patient's next of kin of the patient's request for medication in accordance with this chapter.

(c) A patient who does not notify his or her next of kin and does not consent to allow the attending physician to notify the next of kin on the patient's behalf shall not be prescribed medication in accordance with this chapter; provided, however, that nothing in this section shall be construed to prohibit a patient with no surviving next of kin from being prescribed medication in accordance with this chapter.

§ 5289. RIGHT TO RESCIND

A patient may rescind the request for medication in accordance with this chapter at any time and in any manner regardless of the patient's mental state. A prescription for medication under this chapter shall not be written without the attending physician's offering the patient an opportunity to rescind the request.

§ 5290. WAITING PERIOD

The attending physician shall write a prescription no less than 48 hours after the last to occur of the following events:

(1) the patient's written request for medication to hasten his or her death;

(2) the patient's second oral request; or

(3) the attending physician's offering the patient an opportunity to rescind the request.

§ 5291. MEDICAL RECORD DOCUMENTATION

(a) The following shall be documented and filed in the patient's medical record:

(1) the date, time, and wording of all oral requests of the patient for medication to hasten his or her death;

(2) all written requests by a patient for medication to hasten his or her death;

(3) the attending physician's diagnosis, prognosis, and basis for the determination that the patient is capable, is acting voluntarily, and has made an informed decision;

(4) the consulting physician's diagnosis, prognosis, and verification, pursuant to section 5284 of this title, that the patient is capable, is acting voluntarily, and has made an informed decision;

(5) if the patient was not receiving palliative care or hospice services at the time of the written request for medication, the attending physician's attestation that the patient received a palliative care consultation;

(6) a report of the outcome and determinations made during any counseling which the patient may have received;

(7) the date, time, and wording of the attending physician's offer to the patient to rescind the request for medication at the time of the patient's second oral request; and

(8) a note by the attending physician indicating that all requirements under this chapter have been satisfied and describing all of the steps taken to carry out the request, including a notation of the medication prescribed.

(b) Medical records compiled pursuant to this chapter shall be subject to discovery only if the court finds that the records are:

(1) necessary to resolve issues of compliance with or limitations on actions under this chapter; or

(2) essential to proving individual cases of civil or criminal liability and are otherwise unavailable.

§ 5292. REPORTING REQUIREMENT

(a) The Department of Health shall require:

(1) that any physician who writes a prescription pursuant to this chapter file a report with the Department covering all the prerequisites for writing a prescription under this chapter; and

(2) physicians to report on an annual basis the number of written requests for medication received pursuant to this chapter, regardless of whether a prescription was actually written in each instance.

(b) The Department shall review annually the medical records of qualified patients who hastened their deaths in accordance with this chapter during the previous year.

(c) The Department shall adopt rules pursuant to 3 V.S.A. chapter 25 to facilitate the collection of information regarding compliance with this chapter. Individually identifiable health information collected under this chapter, as well as reports filed pursuant to subdivision (a)(1) of this section, are confidential and are exempt from public inspection and copying under the Public Records Act.

(d) The Department shall generate and make available to the public an annual statistical report of information collected under subsections (a) and (b) of this section. The report shall include the number of instances in which medication was taken by a qualified patient to hasten death but failed to have the intended effect.

§ 5293. SAFE DISPOSAL OF UNUSED MEDICATIONS

The Department of Health shall adopt rules providing for the safe disposal of unused medications prescribed under this chapter.

(1) The Department initially shall adopt rules under this section as emergency rules pursuant to 3 V.S.A. § 844. The General Assembly determines that adoption of emergency rules pursuant to this subdivision is necessary to address an imminent peril to public health and safety.

(2) Contemporaneously with the initial adoption of emergency rules under subdivision (1) of this section, the Department shall propose permanent rules under this section for adoption pursuant to 3 V.S.A. §§ 836–843. The Department subsequently may revise these rules in accordance with the Vermont Administrative Procedure Act.

§ 5294. PROHIBITIONS; CONTRACT CONSTRUCTION

(a) A provision in a contract, will, trust, or other agreement, whether written or oral, shall not be valid to the extent the provision would affect whether a person may make or rescind a request for medication to hasten his or her death in accordance with this chapter.

(b) The sale, procurement, or issue of any life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the making or rescinding of a request by a person for medication to hasten his or her death in accordance with this chapter or the act by a qualified patient to hasten his or her death pursuant to this chapter. Neither shall a qualified patient's act of ingesting medication to hasten his or her death have an effect on a life, health, or accident insurance or annuity policy.

§ 5295. LIMITATIONS ON ACTIONS

(a) A person shall not be subject to civil or criminal liability or professional disciplinary action for actions taken in good faith reliance on the provisions of this chapter. This includes being present when a qualified patient takes the prescribed medication to hasten his or her death in accordance with this chapter.

(b) A health care provider shall not subject a person to discipline, suspension, loss of license, loss of privileges, or other penalty for actions taken in good faith reliance on the provisions of this chapter or refusals to act under this chapter.

(c) The provision by an attending physician of medication in good faith reliance on the provisions of this chapter shall not constitute patient neglect for any purpose of law.

(d) A request by a patient for medication under this chapter shall not provide the sole basis for the appointment of a guardian or conservator.

(e) A health care provider shall not be under any duty, whether by contract, by statute, or by any other legal requirement, to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter. If a health care provider is unable or unwilling to carry out a patient's request in accordance with this chapter and the patient transfers his or her care to a new health care provider, the previous health care provider, upon request, shall transfer a copy of the patient's relevant medical records to the new health care provider. A decision by a health care provider not to participate in the provision of medication to a qualified patient shall not constitute the abandonment of the patient or unprofessional conduct under 26 V.S.A. § 1354.

§ 5296. HEALTH CARE FACILITY EXCEPTION

Notwithstanding any other provision of law to the contrary, a health care facility may prohibit an attending physician from writing a prescription for medication under this chapter for a patient who is a resident in its facility and intends to use the medication on the facility's premises, provided the facility

has notified the attending physician in writing of its policy with regard to the prescriptions. Notwithstanding subsection 5295(b) of this title, any health care provider who violates a policy established by a health care facility under this section may be subject to sanctions otherwise allowable under law or contract.

§ 5297. LIABILITIES AND PENALTIES

(a) With the exception of the limitations on actions established by section 5295 of this title and with the exception of the provisions of section 5299 of this title, nothing in this chapter shall be construed to limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

(b) With the exception of the limitations on actions established by section 5295 of this title and with the exception of the provisions of section 5299 of this title, nothing in this chapter or in 13 V.S.A. § 2312 shall be construed to limit criminal prosecution under any other provision of law.

(c) A health care provider is subject to review and disciplinary action by the appropriate licensing entity for failing to act in accordance with this chapter, provided such failure is not in good faith.

§ 5298. FORM OF THE WRITTEN REQUEST

A written request for medication as authorized by this chapter shall be substantially in the following form:

REQUEST FOR MEDICATION TO HASTEN MY DEATH

I, _____, am an adult of sound mind.

I am suffering from _____, which my attending physician has determined is a terminal disease and which has been confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible end-of-life services, including palliative care, comfort care, hospice care, and pain control.

I request that my attending physician prescribe medication that will hasten my death.

INITIAL ONE:

_____ I have informed my family or others with whom I have a significant relationship of my decision and taken their opinions into consideration.

_____ I have decided not to inform my family or others with whom I have a significant relationship of my decision.

I have no family or others with whom I have a significant relationship to inform of my decision.

I understand that I have the right to change my mind at any time.

I understand the full import of this request, and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer, and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: _____ Dated: _____

AFFIRMATION OF WITNESSES

We affirm that, to the best of our knowledge and belief:

(1) the person signing this request:

(A) is personally known to us or has provided proof of identity;

(B) signed this request in our presence;

(C) appears to understand the nature of the document and to be free from duress or undue influence at the time the request was signed; and

(2) that neither of us:

(A) is under 18 years of age;

(B) is a relative (by blood, marriage, civil union, or adoption) of the person signing this request;

(C) is the patient's attending physician, consulting physician, or a person who has provided counseling for the patient pursuant to 18 V.S.A. § 5285;

(D) is entitled to any portion of the person's assets or estate upon death; or

(E) owns, operates, or is employed at a health care facility where the person is a patient or resident.

Witness 1/Date _____

Witness 2/Date _____

NOTE: A knowingly false affirmation by a witness may result in criminal penalties.

§ 5299. STATUTORY CONSTRUCTION

Nothing in this chapter shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Action taken in accordance with this chapter shall not be construed for any purpose to constitute suicide, assisted suicide, mercy killing, or homicide under the law.

Sec. 3. 13 V.S.A. § 2312 is added to read:

§ 2312. VIOLATION OF PATIENT CHOICE AND CONTROL AT END OF LIFE ACT

A person who violates 18 V.S.A. chapter 113 with the intent to cause the death of a patient as defined in subdivision 5281(11) of that title may be prosecuted under chapter 53 of this title (homicide).

Sec. 4. 13 V.S.A. § 2004 is added to read:

§ 2004. FALSE WITNESSING

A person who knowingly violates the requirements of 18 V.S.A. § 5282(c) shall be imprisoned for not more than 10 years or fined not more than \$2,000.00, or both.

Sec. 5. QUALIFIED HEALTH CARE PROVIDERS

On or before September 1, 2013, the Department of Health shall publish on its website a list of the specific categories of health care providers qualified to provide palliative care consultations in accordance with 18 V.S.A. § 5286.

Sec. 6. EFFECTIVE DATES

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

(1) 18 V.S.A. § 5293 (rules for safe disposal of unused medications) of this act shall take effect on passage. The Department of Health shall ensure that emergency rules adopted under Sec. 2 of this act, 18 V.S.A. § 5293, are in effect on or before September 1, 2013.

(2) Sec. 5 (qualified health care providers) of this act shall take effect on passage.

Thereupon, pending the question, Shall the bill be amended as moved by Senator Rodgers?, Senator Sears raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Rodgers was *not germane* to the bill and therefore could not be considered by the Senate.

The President *overruled* the point of order.

Recess

On motion of Senator Baruth the Senate recessed until 2:40 P.M.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Bill Amended; Bill Passed**S. 77.**

Consideration was resumed on Senate bill entitled:

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

Thereupon, pending the question, Shall the bill be amended as moved by Senator Rodgers?, Senator Cummings moved to substitute a recommendation of amendment as follows:

Sec. 1. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. IMMUNITY FOR TERMINALLY ILL PATIENT'S USE
OF PRESCRIPTION MEDICATION

§ 5281. TERMINALLY ILL PATIENTS; IMMUNITY FOR PRESCRIBING
OR BEING PRESENT WHEN MEDICATION IS TAKEN

(a) As used in this section:

(1) "Bona fide health care professional-patient relationship" means a treating or consulting relationship in the course of which a health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination.

(2) "Health care professional" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33.

(3) "Terminal condition" means an incurable and irreversible disease which would, within reasonable medical judgment, result in death within six months.

(b) A health care professional who has a bona fide health care professional-patient relationship with a patient with a terminal condition and who prescribes medication to that patient for the relief of symptoms associated with or caused by the terminal condition shall not be subject to criminal or civil liability or professional disciplinary action if the patient self-administers more than a prescribed dosage of the medication and dies as a result.

(c) A person shall not be subject to criminal or civil liability solely for being present when a patient self-administers a lethal dose of a medication that has been prescribed for that patient by a health care professional.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

Which was agreed to on a roll call, Yeas 16, Nays 15.

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: Benning, Campbell, Cummings, Doyle, Flory, Galbraith, Hartwell, Kitchel, Mazza, McAllister, Mullin, Nitka, Sears, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Ayer, Baruth, Bray, Collins, Fox, French, Lyons, MacDonald, McCormack, Pollina, Rodgers, Snelling, White, Zuckerman.

There being a tie, the Secretary took the casting vote of the President, who voted "Yea".

Thereupon the question, Shall the bill be amended as moved by Senator Rodgers, as substituted?, was agreed to.

Thereupon, the bill was read the third time and passed, on a roll call, Yeas 22, Nays 8.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Benning, Bray, Campbell, Collins, Cummings, Doyle, Flory, French, Galbraith, Hartwell, Kitchel, *Lyons, Mazza, McAllister, McCormack, Mullin, Nitka, Sears, Starr, Westman.

Those Senators who voted in the negative were: Baruth, Fox, MacDonald, Pollina, Rodgers, Snelling, White, Zuckerman.

*Senator Lyons explained her vote as follows:

"As I indicated previously I don't believe that this bill offers reassurance or protection for terminally ill patients with six months to live when they choose to hasten their deaths. I voted "Yes" to move the bill forward and look for improvements to be made."

Message from the House No. 17

A message was received from the House of Representatives by Mr. William M. McGill, 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. 67. An act relating to the transport of election ballots by town clerks after a recount.

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

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, FEBRUARY 15, 2013

The Senate was called to order by the President.

Devotional Exercises

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

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.

Sophie Basescu of Putney
Stefan Brecher of Waterbury Center
Abigail Brewer of Berlin
Adam Isaacs-Falbel of Montpelier
Sadie Jones of South Burlington
McKenzie Lattimore of Middlesex
Emma Murray-Clasen of Montpelier
Araceli Rebmann of East Montpelier
Leah Sagan-Dworsky of Montpelier
Gianna Somorriba of Barre City

Message from the House No. 18

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. 240. An act relating to Executive Branch fees.

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. 30. House concurrent resolution commemorating the 20th anniversary of the federal Family and Medical Leave Act of 1993.

H.C.R. 31. House concurrent resolution honoring Vermont State Police Sergeant Todd A. Protzman.

H.C.R. 32. House concurrent resolution honoring the 2012 class of Vermont Boy Scouts awarded the rank of Eagle.

H.C.R. 33. House concurrent resolution designating February 14 as One Billion Rising Day in Vermont.

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. 16. Senate concurrent resolution congratulating Fabian Earth Moving, Inc. and Edward A. Fabian on the company's 75th anniversary.

And has adopted the same in concurrence.

Bills Introduced

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

S. 110.

By Senator Benning,

An act relating to amending the Open Meeting Law.

To the Committee on Government Operations.

S. 111.

By Senator Mullin,

An act relating to trespass for skiing off designated trails.

To the Committee on Judiciary.

S. 112.

By Senators Lyons, Zuckerman and Campbell,

An act relating to Lyme disease and other tick-borne illnesses.

To the Committee on Health and Welfare.

S. 113.

By Senators Sears and Hartwell,

An act relating to employee rights to certain inventions.

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

Bills Referred

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

H. 67.

An act relating to the transport of election ballots by town clerks after a recount.

To the Committee on Government Operations.

H. 131.

An act relating to harvesting guidelines and procurement standards.

To the Committee on Natural Resources and Energy.

H. 240.

An act relating to Executive Branch fees.

To the Committee on Finance.

Joint Resolution Adopted on the Part of the Senate**J.R.S. 14.**

Joint Senate resolution of the following title was read the third time and adopted on the part of the Senate:

Joint resolution supporting the Agency of Agriculture, Food and Markets' proposal to adopt an administrative rule to implement international maple grading standards in Vermont.

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 Senators Mullin, Flory, French, Baruth, Benning, Collins, Cummings, Doyle, Kitchel, Mazza, McCormack and Pollina,

S.C.R. 16.

Senate concurrent resolution congratulating Fabian Earth Moving, Inc. and Edward A. Fabian on the company's 75th 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 severally adopted in concurrence:

By Representative Ram and others,

By Senators Ashe, Ayer, Baruth, Campbell, Cummings, Fox, Lyons, Pollina, Snelling, White and Zuckerman,

H.C.R. 30.

House concurrent resolution commemorating the 20th anniversary of the federal Family and Medical Leave Act of 1993.

By Representatives South and Masland,

H.C.R. 31.

House concurrent resolution honoring Vermont State Police Sergeant Todd A. Protzman.

By Representative Koch and others,

By Senators Benning, Cummings, Doyle, Flory, French, Galbraith, Kitchel, Mazza, Mullin, Nitka and Pollina,

H.C.R. 32.

House concurrent resolution honoring the 2012 class of Vermont Boy Scouts awarded the rank of Eagle.

By Representative Hooper and others,

H.C.R. 33.

House concurrent resolution designating February 14 as One Billion Rising Day in Vermont.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, February 19, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 13.

TUESDAY, FEBRUARY 19, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Nancy McHugh of Waitsfield.

Pledge of Allegiance

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

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. 16. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 22, 2013, it be to meet again no later than Tuesday, February 26, 2013.

**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:

Longhi, Andrew of Hanover - Member of the Children and Family Council for Prevention Programs, - from February 12, 2013, to February 28, 2014.

To the Committee on Health and Welfare.

Huling, Krista of Jeffersonville - Member of the State Board of Education, - from February 13, 2013, to February 28, 2015.

To the Committee on Education.

MacLean, Margaret of Peacham - Member of the State Board of Education, - from February 5, 2013, to February 28, 2015.

To the Committee on Education.

Feinberg, Caryn of Shelburne - Member of the Vermont State Housing Authority, - from March 1, 2013, to February 28, 2018.

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

Richardson, Cory of East Montpelier - Member of the Vermont State Housing Authority, - from March 1, 2013, to February 28, 2018.

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

Sbardella, Julian of Fair Haven - Member of the Liquor Control Board, - from February 12, 2013, to January 31, 2018.

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

Dwyer, Carolyn of Montpelier - Member of the University of Vermont and Agricultural College Board of Trustees, - from March 1, 2013, to February 28, 2019.

To the Committee on Education.

Bills Introduced

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

S. 114.

By Senators Fox, Ayer and Pollina,

An act relating to the Office of the Mental Health Care Ombudsman.

To the Committee on Health and Welfare.

S. 115.

By Senator Westman,

An act relating to the revenue brackets for the spirituous liquor tax.

To the Committee on Finance.

S. 116.

By Senator Westman,

An act relating to alcoholic beverage tastings.

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

S. 117.

By Senators Lyons, Ashe, McCormack, Pollina and Zuckerman,
An act relating to the regulation of toxic substances.
To the Committee on Natural Resources and Energy.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, February 20, 2013.

WEDNESDAY, FEBRUARY 20, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend David Johnson of Websterville.

Message from the House No. 19

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. 39. An act relating to the Public Service Board and the Department of Public Service.

H. 41. An act relating to civil forfeiture of retirement payments to public officials convicted of certain crimes.

H. 57. An act relating to self-employment assistance.

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

Committee Relieved of Further Consideration; Bill Committed

S. 79.

On motion of Senator Ayer, the Committee on Health and Welfare was relieved of further consideration of Senate bill entitled:

An act relating to the Office of Health Care Consumer Protection,
and the bill was committed to the Committee on Finance.

Bill Referred to Committee on Appropriations**S. 59.**

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 independent direct support providers.

Bills Introduced

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

S. 118.

By Senator Ayer,

An act relating to modifying record retention and related requirements for pawnbrokers and precious metal dealers.

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

S. 119.

By Senator Hartwell,

An act relating to amending perpetual conservation easements.

To the Committee on Natural Resources and Energy.

S. 120.

By Senator Westman,

An act relating to winter tires on rental cars.

To the Committee on Transportation.

S. 121.

By Senator Zuckerman,

An act relating to the waiver of insurance deductibles.

To the Committee on Finance.

S. 122.

By Senators Doyle, Cummings, Ashe and Pollina,

An act relating to reduced alcoholic beverage license fees for small restaurants.

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

S. 123.

By Senators Zuckerman and Pollina,

An act relating to safe patient handling.

To the Committee on Health and Welfare.

Bills Referred

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

H. 39.

An act relating to the Public Service Board and the Department of Public Service.

To the Committee on Finance.

H. 41.

An act relating to civil forfeiture of retirement payments to public officials convicted of certain crimes.

To the Committee on Government Operations.

H. 57.

An act relating to self-employment assistance.

To the Committee on Finance.

Appointment Confirmed

The following Gubernatorial appointment was confirmed separately by the Senate, upon full report given by the Committee to which it was referred:

The nomination of

KEVIN WILLIAM GRIFFIN

Norwich, VT as Superior Judge, for a term from and including January 4, 2013, to March 31, 2013, and until his successor is appointed and has qualified

Was confirmed by the Senate.

Message from the House No. 20

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. 47. An act relating to fiscal year 2013 budget adjustment.

And has concurred in the Senate proposal of amendment with further proposal of amendment thereto, 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. 16. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Campbell, the Senate adjourned until ten o'clock and twenty minutes in the forenoon on Thursday, February 21, 2013.

THURSDAY, FEBRUARY 21, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Introduced

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

S. 124.

By Senator Rodgers,

An act relating to state authority to regulate firearms possessed or manufactured in Vermont.

To the Committee on Judiciary.

S. 125.

By Senators Ashe and Sears,

An act relating to prohibiting legislators from serving as members of the Boards of Trustees of the Vermont State Colleges and the University of Vermont and of the Board of Directors of the Vermont Student Assistance Corporation.

To the Committee on Education.

S. 126.

By Senators White, Ashe, Ayer, Cummings, Flory, Fox and Hartwell,

An act relating to the requirement that certain surgical procedures on dogs be performed by a licensed veterinarian with appropriate anesthesia and analgesia.

To the Committee on Judiciary.

Joint Assembly

At ten o'clock and thirty minutes in the morning, the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

J.R.S. 10. Joint resolution providing for a Joint Assembly for the election of a Sergeant at Arms, an Adjutant and Inspector General, and three Trustees of the University of Vermont and State Agricultural College.

The Senate repaired to the hall of the House.

Having returned therefrom, at twelve o'clock and thirty minutes in the afternoon, the President assumed the Chair.

Rules Suspended; Bill Committed

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

S. 13. An act relating to nonschool recreational use of public school property.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Education, Senator McCormack moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Judiciary with the report of the Committee on Education *intact*,

Which was agreed to.

Adjournment

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

FRIDAY, FEBRUARY 22, 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

Devotional exercises were conducted by the Reverend Carl Durham of Berlin.

Message from the House No. 21

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. 265. An act relating to the education property tax rates and base education amount for fiscal year 2014.

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. 34. House concurrent resolution congratulating the 2012 Black River High School Presidents' Division IV girls' championship soccer team.

H.C.R. 35. House concurrent resolution commending watershed organizations for their role in river and lake cleanup activities in Vermont.

H.C.R. 36. House concurrent resolution congratulating the Vermont Historical Society on its 175th anniversary.

H.C.R. 37. House concurrent resolution honoring Arthur A. Ristau of Barre.

H.C.R. 38. House concurrent resolution congratulating the Vermont Housing and Conservation Board on its 25th anniversary.

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

Bill Referred to Committee on Appropriations**S. 26.**

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 providing state financial support for school meals for children of low-income households.

Bills Introduced

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

S. 127.

By Senators Ashe, Baruth, Pollina and Zuckerman,
An act relating to public inspection and copying of records of animal care.
To the Committee on Government Operations.

S. 128.

By Senator Ayer,
An act relating to updating mental health judicial proceedings.
To the Committee on Health and Welfare.

S. 129.

By Senators Sears, Baruth, Doyle, Galbraith, MacDonald and White,
An act relating to workers' compensation liens.
To the Committee on Finance.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 130.

By the Committee on Education,
An act relating to encouraging flexible pathways to secondary school completion.

Bill Referred

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

H. 265.

An act relating to the education property tax rates and base education amount for fiscal year 2014.
To the Committee on Finance.

Third Reading Ordered**S. 99.**

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

An act relating to the standard measure of recidivism.

Reported that the bill ought to pass.

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

Bills Amended; Third Readings Ordered**S. 19.**

Senator Benning, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to prohibiting intentionally accessing child pornography through the Internet.

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

Sec. 1. 13 V.S.A. § 2827 is amended to read:

§ 2827. POSSESSION OF CHILD PORNOGRAPHY

(a) No person shall, with knowledge of the character and content, knowingly possess with intent to view or access with intent to view any photograph, film, or visual depiction, including any depiction which is stored electronically, of sexual conduct by a child or of a clearly lewd exhibition of a child's genitals or anus.

* * *

(c) In any prosecution arising under this section, the defendant may raise any of the following affirmative defenses, which shall be proven by a preponderance of the evidence:

(1) ~~that~~ That the defendant in good faith had a reasonable basis to conclude that the child in fact had attained the age of 16 when the depiction was made;

(2) ~~that~~ That the defendant possessed or accessed depictions of child pornography and promptly and in good faith:

(A) took reasonable steps, whether successful or not, to destroy or eliminate the ~~depiction~~ depictions; or

(B) reported the matter to a law enforcement agency and afforded the agency access to the depictions.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

S. 31.

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

An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding.

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

Sec. 1. 15 V.S.A. § 751 is amended to read:

§ 751. PROPERTY SETTLEMENT

* * *

(c)(1) Notwithstanding any provision of subsection (b) of this section to the contrary, in making a property settlement the court shall not consider the parties' interests in revocable estate planning instruments, including interests that pass at death by operation of law or by contract, unless the interest is vested and not capable of modification or divestment.

(2) This subsection shall not apply to estate planning instruments created by the parties of the divorce proceeding.

(3) A person shall not cause marital property to be placed in an estate planning instrument for the purpose of excluding it from a property settlement. A court may order a party to produce evidence related to an estate planning instrument if it appears that marital property may be included in the instrument.

(4) A person who is not party to the divorce may be subjected to discovery or compelled to testify on the subject of his or her own last will and testament, on any revocable trust of which he or she is settlor or, in conjunction with any of these instruments, on his or her assets if the court finds

that a party has acted in bad faith regarding his or her opportunity to acquire capital assets and income in the future.

(5) The court may impose all applicable sanctions, including an award of attorney's fees, upon finding that a party acted in bad faith pursuant to this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

And that when so amended the bill ought to pass.

Senator Baruth Assumes the Chair

Senator Campbell Resumes the Chair

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 to Senate Proposal of Amendment
Concurred In**

H. 47.

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to fiscal year 2013 budget adjustment.

Were taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: By striking out Sec. 11 (state police; budget) in its entirety and inserting in lieu thereof the following:

Sec. 11. Sec. B.209 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.209 Public safety - state police

Personal services	44,109,260	44,109,260
Operating expenses		7,777,093
Grants	<u>6,860,000</u>	<u>6,860,000</u>
Total	<u>58,012,353</u>	58,746,353
Source of funds		
General fund	<u>20,087,245</u>	20,821,245
Transportation fund	25,238,498	25,238,498

Special funds	2,585,518	2,585,518
Federal funds	9,011,627	9,011,627
Interdepartmental transfers	<u>1,089,465</u>	<u>1,089,465</u>
Total	<u>58,012,353</u>	58,746,353

Second: By striking out Sec. 15 (protection function total) in its entirety and inserting in lieu thereof the following:

Sec. 15. Sec. B.240 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) is amended to read:

Sec. B.240 Total protection to persons and property

~~279,853,984~~ 282,833,185

Source of funds

General fund	106,194,812	109,237,894
Transportation fund	25,238,498	25,238,498
Special funds	67,957,274	67,957,274
Tobacco fund	790,816	790,816
Federal funds	58,191,789	58,191,789
ARRA funds	5,160,681	5,160,681
Global commitment fund	1,138,944	1,138,944
Interdepartmental transfers	8,765,826	8,701,945
Enterprise funds	<u>6,415,344</u>	<u>6,415,344</u>
Total	279,853,984	282,833,185

Third: In Sec. 89 (developmental services) by striking out subsection (b) of Sec. E.333 of No. 162 of the Acts of the 2011 Adj. Sess. (2012) in its entirety and inserting in lieu thereof the following:

(b) Any modifications to the State System of Care Plan made pursuant to this section shall be consistent with 18 V.S.A. chapter 204A and shall remain in effect until an annual revision or a new three-year plan is adopted pursuant to 18 V.S.A. § 8725, whichever occurs first.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposal of amendment?, was decided in the affirmative.

House 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 Devereux,

By Senators Nitka, Campbell and McCormack,

H.C.R. 34.

House concurrent resolution congratulating the 2012 Black River High School Presidents' Division IV girls' championship soccer team.

By Representatives Townsend and Deen,

H.C.R. 35.

House concurrent resolution commending watershed organizations for their role in river and lake cleanup activities in Vermont.

By Representative Jerman and others,

By Senators Cummings, Doyle and Pollina,

H.C.R. 36.

House concurrent resolution congratulating the Vermont Historical Society on its 175th anniversary.

By Representatives Poirier and Taylor,

H.C.R. 37.

House concurrent resolution honoring Arthur A. Ristau of Barre.

By Representative Head and others,

H.C.R. 38.

House concurrent resolution congratulating the Vermont Housing and Conservation Board on its 25th anniversary.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, February 26, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 16.

TUESDAY, FEBRUARY 26, 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.

Committee Relieved of Further Consideration; Bill Committed**S. 97.**

On motion of Senator White, the Committee on Government Operations was relieved of further consideration of Senate bill entitled:

An act relating to farm structures,
and the bill was committed to the Committee on Agriculture.

Bill Referred to Committee on Appropriations**S. 130.**

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 encouraging flexible pathways to secondary school completion.

Bills Introduced

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

S. 131.

By Senators Zuckerman, Lyons, McCormack and Pollina,

An act relating to divesting state retirement funds from companies that extract, produce, or refine fossil fuels.

To the Committee on Government Operations.

S. 132.

By Senators Sears and White,

An act relating to sheriffs, deputy sheriffs, and the service of process.

To the Committee on Government Operations.

S. 133.

By Senators Mullin and McAllister,

An act relating to consolidation of supervisory unions.

To the Committee on Education.

S. 134.

By Senators McCormack and Zuckerman,

An act relating to the repeal of the delinquent property tax penalty.

To the Committee on Government Operations.

S. 135.

By Senators Baruth, Ashe, Collins, French, McCormack and Zuckerman,

An act relating to passing and yielding to vulnerable users.

To the Committee on Transportation.

S. 136.

By Senator McAllister,

An act relating to registration of bicycles.

To the Committee on Transportation.

S. 137.

By Senator White,

An act relating to commitment and involuntary medication hearings.

To the Committee on Health and Welfare.

S. 138.

By Senators MacDonald, Ayer, Bray, Collins, Lyons and Zuckerman,

An act relating to compliance testing of tobacco licensees.

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

S. 139.

By Senator Westman,

An act relating to supporting manufacturing and industry.

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

S. 140.

By Senator White,

An act relating to a grace period for expired licenses.

To the Committee on Transportation.

Bill Passed

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

S. 19. An act relating to prohibiting intentionally accessing child pornography through the Internet.

Bill Amended; Bill Passed**S. 31.**

Senate bill entitled:

An act relating to prohibiting a court from consideration of interests in revocable trusts or wills when making a property settlement in a divorce proceeding.

Was taken up.

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

First: In Sec. 1, 15 V.S.A. § 751(c)(4), by striking out the following: “acted in bad faith regarding” and inserting in lieu thereof fraudulently represented

Second: In Sec. 1, 15 V.S.A. § 751(c)(5), by striking out the following: “acted in bad faith” and inserting in lieu thereof the following: fraudulently represented his or her opportunity to acquire capital assets and income in the future

Which was agreed to.

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

Bill Passed

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

S. 99. An act relating to the standard measure of recidivism.

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o’clock and thirty minutes in the afternoon on Wednesday, February 27, 2013.

WEDNESDAY, FEBRUARY 27, 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. 22

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. 13. An act relating to statutory revision.

H. 18. An act relating to granting staff of the Departments of Corrections and for Children and Families ex officio status for notary public services.

H. 295. An act relating to technical tax changes.

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

Bills Introduced

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

S. 141.

By Senator Mullin,

An act relating to choice of providers for vision and eye care services.

To the Committee on Health and Welfare.

S. 142.

By Senator Mullin,

An act relating to the administration of immunizations by pharmacists.

To the Committee on Health and Welfare.

S. 143.

By Senators Cummings and Doyle,

An act relating to fee schedules for noncovered dental services.

To the Committee on Finance.

Bills Referred

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

H. 13.

An act relating to statutory revision.

To the Committee on Government Operations.

H. 18.

An act relating to granting staff of the Departments of Corrections and for Children and Families ex officio status for notary public services.

To the Committee on Finance.

H. 295.

An act relating to technical tax changes.

To the Committee on Finance.

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:

Francis, Lachlan of Putney - Student Member, Board of Education – July 1, 2012 to June 30, 2014.

Huling, Krista of Jeffersonville - Member, State Board of Education – February 13, 2013 to February 28, 2015.

MacIlwaine, Andy of Burlington - Member, Community High School of Vermont Board – August 30, 2012 to February 28, 2015.

Wengroff, Ariel of Burlington - Member, Board of Libraries – March 1, 2013 to February 28, 2017.

Appointments Confirmed

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

Vilaseca, Armando of Westford - Secretary, Agency of Education – January 2, 2013 to February 28, 2015.

Moulton, Mary of Moretown - Commissioner, Department of Mental Health – December 1, 2012 to February 28, 2013.

Message from the House No. 23

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 adopted joint resolution of the following title:

J.R.H. 6. Joint resolution relating to the Sandy Hook shootings and the public education environment in Vermont.

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

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Thursday, February 28, 2013.

THURSDAY, FEBRUARY 28, 2013

The Senate was called to order by the President.

Devotional Exercises

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

Rules Suspended; Bill Committed**S. 30.**

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

An act relating to siting of electric generation plants.

Was taken up for immediate consideration.

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

Which was agreed to.

Committee Relieved of Further Consideration; Bill Committed**S. 123.**

On motion of Senator Ayer, the Committee on Health and Welfare was relieved of further consideration of Senate bill entitled:

An act relating to safe patient handling,

and the bill was committed to the Committee on Economic Development, Housing and General Affairs.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 144.

By the Committee on Institutions,

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

Joint Resolution Referred**J.R.H. 6.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to the Sandy Hook shootings and the public education environment in Vermont

Whereas, following the mass shootings at the Sandy Hook Elementary School in Newtown, Connecticut, we, as a nation, have had time to reflect collectively on who we are and how best to respond to the slaughter of the innocents, and

Whereas, the General Assembly rejects the singular response of meeting force with force, and

Whereas, alternatively, the General Assembly embraces a Vermont commitment that the mental, physical, and nutritional health of our students and their caregivers is addressed with the same level of attention and concern as is our students' academic and cognitive achievement, and

Whereas, Vermont schools must offer a learning environment that encourages all students to attain mastery of academic content, to practice generosity, to experience belonging, and to realize independence in their daily lives, now therefore be it

Resolved by the Senate and House of Representatives:

That the tears of Sandy Hook and our nation will not fall on fallow ground but will give rise to a rededication to our goal of maintaining safe and healthy schools, and be it further

Resolved: That the General Assembly declares Vermont to be a state in which equity, caring, and safety, both emotional and physical, are evident in all of our schools' practices.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Education.

Third Reading Ordered

H. 41.

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

An act relating to civil forfeiture of retirement payments to public officials convicted of certain crimes.

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. 25.

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

An act relating to public advocacy in utility matters.

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

Sec. 1. 30 V.S.A. § 2 is amended to read:

§ 2. DEPARTMENT OF PUBLIC SERVICE; POWERS

(a) The ~~department of public service~~ Department of Public Service shall supervise and direct the execution of all laws relating to public service corporations and firms and individuals engaged in such business, including the:

(1) ~~Formation~~ formation, organization, ownership, and acquisition of facilities of public service corporations under chapter 3 of this title;

(2) ~~Participation~~ participation in planning for proper utility service as provided in section 202 of this title through the ~~director for regulated utility planning~~ Director for Regulated Utility Planning;

(3) ~~Supervision~~ supervision and evaluation under chapters 5 and 77 of this title of the quality of service of public utility companies;

(4) ~~Interconnection~~ interconnection and interchange of facilities of electric companies under sections 210, 213, and 214 of this title;

(5) ~~Representation~~ representation of the ~~state~~ State in the negotiations and proceedings for the procurement of electric energy from any source outside of this ~~state~~ State and from any generation facility inside the ~~state~~ State under sections 211 and 212 of this title;

(6) ~~Review~~ review of proposed changes in rate schedules and petition to the ~~public service board~~ Public Service Board, and representation of the interests of the consuming public in proceedings to change rate schedules of public service companies under chapter 5 of this title;

(7) ~~Siting~~ siting of electric generation and transmission facilities under section 248 of this title;

(8) ~~Consolidations~~ consolidations and mergers of public service corporations under chapter 7 of this title;

(9) ~~Supervision~~ supervision and regulation of cable television systems under chapter 13 of this title;

(10) ~~Supervision~~ supervision and regulation of telegraph and telephone companies under chapters 71, 73, and 75 of this title;

(11) ~~Supervision~~ supervision and regulation of the organization and operation of municipal plants under chapter 79 of this title;

(12) ~~Supervision~~ supervision and regulation of the organization and operation of electric cooperatives under chapter 81 of this title.

(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.

(c) The ~~department~~ Department may bring proceedings on its own motion before the ~~public service board~~ Public Service Board, with respect to any matter within the jurisdiction of the ~~public service board~~ Board, and may