initiate rule-making proceedings before ~~that board~~ the Board. The ~~public service board~~ Public Service Board, with respect to any matter within its jurisdiction, may issue orders on its own motion and may initiate rule-making proceedings.

(d) In any proceeding where the ~~decommissioning fund~~ Decommissioning Fund for the Vermont Yankee nuclear facility is involved, the ~~department~~ Department shall represent the consuming public in a manner that acknowledges that the general public interest requires that the consuming public, rather than either the ~~state's~~ State's future consumers who never obtain benefits from the facility or the ~~state's~~ State's taxpayers, ought to provide for all costs of decommissioning. The ~~department~~ Department shall seek to have the ~~decommissioning fund~~ Decommissioning Fund be based on all reasonably expected costs.

(e) In performing its duties under this section, the Department shall affirmatively represent the interests of ratepayer classes who are not independently represented parties in proceedings before the Board, including residential, low-income, and small business consumers.

Sec. 2. DEPARTMENT OF PUBLIC SERVICE; REPORT ON CONSUMER REPRESENTATION

On or before July 1, 2014, the Commissioner shall submit a report to the General Assembly which includes an analysis of how the Department, in performing its duties under 30 V.S.A. § 2, determines the interests of the consuming public and of the State and ensures adequate representation of the interests of those consumers whose interests might not otherwise be adequately represented in matters before the Board, including residential, low income, and small business consumers. The report shall include a description of how the Department assesses whether the interests of different ratepayer classes – such as residential, low income, and small business – are in conflict and, if so, how such conflicts are resolved. In addition, the Commissioner shall evaluate how representation of the interests of residential, low income, and small business consumers has occurred in past proceedings and describe ways in which the Department might more effectively represent those interests in future proceedings. The report also shall describe improvements in the Department's processes related to the integration of the roles and responsibilities of the Director for Public Advocacy and the Director for Consumer Protection and Education, particularly with respect to representation of the consuming public and the interests of the State. In conducting this analysis, the Commissioner shall consult with residential and small business ratepayers, advocacy groups for low income, residential, and small business ratepayers, and any other person or entity as determined by the Commissioner.

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.

Message from the House No. 24

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

Mr. President:

I am directed to inform the Senate that:

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

S. 2. An act relating to sentence calculations.

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

Adjournment

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

FRIDAY, MARCH 1, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Neil Carr of Brookfield.

Message from the House No. 25

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 House concurrent resolutions of the following titles:

H.C.R. 39. House concurrent resolution honoring Charles Rivers for 50 years of public service on behalf of the towns of Pittsford and Brandon.

H.C.R. 40. House concurrent resolution in memory of Representative Greg Clark.

H.C.R. 41. House concurrent resolution honoring the Vermont state employees for their exemplary public service during, and in the aftermath of, Tropical Storm Irene.

H.C.R. 42. House concurrent resolution commemorating the sestercentennial anniversary of the town of Milton.

H.C.R. 43. House concurrent resolution honoring Robert K. Allen for his public service in the town of Reading.

H.C.R. 44. House concurrent resolution designating February 27, 2013 Afterschool & Summer Learning Day at the State House.

H.C.R. 45. House concurrent resolution commemorating the 70th anniversary of the heroic sacrifice of George Lansing Fox, one of the Four Immortal Chaplains.

H.C.R. 46. House concurrent resolution congratulating the Londonderry Volunteer Rescue Squad on a half-century of exemplary community service.

H.C.R. 47. House concurrent resolution in memory of Joan Mulhern.

H.C.R. 48. House concurrent resolution congratulating the town of Whiting on its sestercentennial anniversary.

H.C.R. 49. House concurrent resolution congratulating the 2013 Mt. Anthony Union High School Patriots Berkshire Swim League championship boys' and girls' teams.

H.C.R. 50. House concurrent resolution honoring Art Bradley, Kelly James, and Bob Warner as founding members of the Weybridge Volunteer Fire Department.

H.C.R. 51. House concurrent resolution honoring Tom Charbonneau.

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

Joint Resolution Placed on Calendar

J.R.S. 17.

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

By Senator Nitka,

J.R.S. 17. Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

Whereas, declarations have been submitted by the following seven Superior Judges that they be retained for another six-year term, Judge William D. Cohen, Judge James R. Crucitti, Judge Robert Gerety, Jr., Judge Kevin William Griffin, Judge M. Kathleen Manley, Judge Timothy B. Tomasi, Judge Thomas Zonay and one Magistrate that she be retained for another six year term, Magistrate Barbara Zander, and

Whereas, the procedures of the Joint Committee on Judicial Retention require at least one public hearing and the review of information provided by each candidate and the comments of members of the Vermont bar and the public, and

Whereas, the Committee was unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the candidates seeking to be retained in office by March 14, 2012, the date specified in subsection 608(e) of Title 4, and for a vote in Joint Assembly to be held on March 21, 2013, the date specified in subsection 10(b) of Title 2, and

Whereas, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of judges to a subsequent Joint Assembly when the Committee is not able to make a timely recommendation, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 28, 2013, at ten o'clock and thirty minutes in the forenoon to vote on the retention of seven Superior Judges and one Magistrate. In case the vote to retain said Judges and Magistrate shall not be made on that day, the two Houses shall meet in Joint Assembly at nine o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

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

Bills Introduced

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

S. 145.

By Senators Pollina, Cummings and Doyle,

An act relating to the tethering and sheltering of dogs.

To the Committee on Judiciary.

S. 146.

By Senator Mullin,

An act relating to requiring a notice of intent to file a claim for medical malpractice cases.

To the Committee on Judiciary.

Bill Passed

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

S. 25. An act relating to public advocacy in utility matters.

Proposals of Amendment; Bill Passed in Concurrence with Proposals of Amendment

H. 41.

House bill entitled:

An act relating to civil forfeiture of retirement payments to public officials convicted of certain crimes.

Was taken up.

Thereupon, pending third reading of the bill, Senator French, moved that the Senate propose to the House to amend the bill as follows:

In Sec. 1, 32 V.S.A. § 625, in subsection (b), in the second sentence, by inserting after "any court of competent jurisdiction" and before the comma, the following: that relates to the crime related to public office of which the member was convicted

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Sears, moved that the Senate further propose to the House to amend the bill as follows:

In Sec. 1, 32 V.S.A. § 623, by inserting a new subsection (h) to read:

(h) If the Court determines that a member's retirement benefits should be forfeited to any degree, the maximum value of the benefits ordered forfeited shall not be greater than ten times the amount of monetary loss suffered by the

State, a county, a municipality, or by any other person as a result of the crime related to public office.

And by relettering the existing subsection (h) and the remaining subsection to be alphabetically correct.

Which was agreed to.

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

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 Representatives Shaw and Carr,

By Senators Flory, French and Mullin,

H.C.R. 39.

House concurrent resolution honoring Charles Rivers for 50 years of public service on behalf of the towns of Pittsford and Brandon.

By All Members of the House,

By All Members of the Senate,

H.C.R. 40.

House concurrent resolution in memory of Representative Greg Clark.

By Representative Davis and others,

By Senators Doyle and McCormack,

H.C.R. 41.

House concurrent resolution honoring the Vermont state employees for their exemplary public service during, and in the aftermath of, Tropical Storm Irene.

By Representative Turner and others,

H.C.R. 42.

House concurrent resolution commemorating the sestercentennial anniversary of the town of Milton.

By Representative Clarkson,

By Senators Campbell, McCormack and Nitka,

H.C.R. 43.

House concurrent resolution honoring Robert K. Allen for his public service in the town of Reading.

By Representative Mrowicki and others,

H.C.R. 44.

House concurrent resolution designating February 27, 2013 Afterschool & Summer Learning Day at the State House.

By Representative Quimby,

H.C.R. 45.

House concurrent resolution commemorating the 70th anniversary of the heroic sacrifice of George Lansing Fox, one of the Four Immortal Chaplains.

By Representative Goodwin and others,

By Senators Campbell, Galbraith, Hartwell, McCormack, Nitka, Sears and White,

H.C.R. 46.

House concurrent resolution congratulating the Londonderry Volunteer Rescue Squad on a half-century of exemplary community service.

By Representative McCormack and others,

By Senators Doyle, Fox, MacDonald, McCormack and Pollina,

H.C.R. 47.

House concurrent resolution in memory of Joan Mulhern.

By Representative Stevens,

By Senators Ayer and Bray,

H.C.R. 48.

House concurrent resolution congratulating the town of Whiting on its sestercentennial anniversary.

By Representative Campion and others,

By Senators Hartwell and Sears,

H.C.R. 49.

House concurrent resolution congratulating the 2013 Mt. Anthony Union High School Patriots Berkshire Swim League championship boys' and girls' teams.

By Representative Smith,

By Senators Ayer and Bray,

H.C.R. 50.

House concurrent resolution honoring Art Bradley, Kelly James, and Bob Warner as founding members of the Weybridge Volunteer Fire Department.

By Representative Smith,

By Senators Ayer and Bray,

H.C.R. 51.

House concurrent resolution honoring Tom Charbonneau.

Adjournment

On motion of Senator Baruth, the Senate adjourned, to reconvene on Tuesday, March 12, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 4.

TUESDAY, MARCH 12, 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.

Bill Referred to Committee on Appropriations

S. 30.

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 siting of electric generation plants.

Bill Referred to Committee on Finance

S. 61.

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

An act relating to the shipment of malt beverages.

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:

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

To the Committee on Agriculture.

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

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

DeVos, Cheryl of North Ferrisburgh - Member of the Vermont Housing and Conservation Board, - from February 27, 2013, to January 31, 2016.

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

Noonan, Annie of Montpelier - Chair of the Employment Security Board - from March 1, 2013, to February 28, 2015.

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

MacKay, Noelle of Burlington - Commissioner of Economic, Housing and Community Development, - from March 1, 2013, to February 28, 2015.

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

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

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

Weinberger, Stacy of Burlington - Member of State Board of Education - from March 1, 2013, to February 28, 2019.

To the Committee on Education.

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

To the Committee on Finance.

Reardon, James of Essex Junction – Commissioner, Department of Finance and Management - from March 1, 2013, to February 28, 2015.

To the Committee on Government Operations.

Donegan, Susan of Montpelier – Commissioner, Department of Financial Regulations - from March 1, 2013, to February 28, 2015.

To the Committee on Finance.

Peterson, Mary of Williston – Commissioner, Department of Taxes - from March 1, 2013, to February 28, 2015.

To the Committee on Finance.

Duffy, Kate of Williston – Commissioner, Department of Human Resources - from March 1, 2013, to February 28, 2015.

To the Committee on Government Operations.

Spaulding, George (Jeb) of Montpelier – Secretary, Agency of Administration - from March 1, 2013, to February 28, 2015.

To the Committee on Government Operations.

Boes, Richard of Montpelier – Commissioner, Department of Information and Innovation - from March 1, 2013, to February 28, 2015.

To the Committee on Government Operations.

Yacovone, David of Morrisville – Commissioner, Department of Children and Families - from March 1, 2013, to February 28, 2015.

To the Committee on Health and Welfare.

Wehry, Susan of Burlington – Commissioner, Department of Aging and Disabilities - from March 1, 2013, to February 28, 2015.

To the Committee on Health and Welfare.

Racine, Douglas of Richmond – Secretary, Agency of Human Services - from March 1, 2013, to February 28, 2015.

To the Committee on Health and Welfare.

Mouton, Mary of Moretown – Commissioner, Department of Mental Health - from March 1, 2013, to February 28, 2015.

To the Committee on Health and Welfare.

Larson, Mark of Burlington - Commissioner, Department of Vermont Health Access - from March 1, 2013, to February 28, 2015.

To the Committee on Health and Welfare.

Chen, Harry of Mendon – Commissioner, Department of Health - from March 1, 2013, to February 28, 2015.

To the Committee on Health and Welfare.

Dengler, Wayne of Saxtons River - Alternative Member of Parole Board - from March 1, 2013, to February 29, 2016.

To the Committee on Institutions.

Ozarowski, Peter of South Burlington - Member of Parole Board - from March 1, 2013, to February 29, 2016.

To the Committee on Institutions.

Pettengill, William of Guilford - Member of Parole Board - from March 1, 2013, to February 29, 2016.

To the Committee on Institutions.

Pallito, Andrew of Jericho – Commissioner, Department of Corrections - from March 1, 2013, to January 15, 2015.

To the Committee on Institutions.

Obuchowski, Michael of Montpelier – Commissioner, Department of Buildings and General Services - from March 1, 2013, to February 28, 2015.

To the Committee on Institutions.

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

To the Committee on Judiciary.

Berry, Patrick of Middlebury – Commissioner, Department of Fish and Wildlife - from March 1, 2013, to February 28, 2015.

To the Committee on Natural Resources and Energy.

Markowitz, Deborah of Montpelier – Secretary, Agency of Natural Resources - from March 1, 2013, to February 28, 2015.

To the Committee on Natural Resources and Energy.

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

To the Committee on Natural Resources and Energy.

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

To the Committee on Natural Resources and Energy.

Elmer, Theresa of Northfield - Member of Fish and Wildlife Board - from March 1, 2013, to February 28, 2019.

To the Committee on Natural Resources and Energy.

Lawrence, Kevin of Newbury - Member of Fish and Wildlife Board - from March 1, 2013, to February 28, 2019.

To the Committee on Natural Resources and Energy.

Allard, Peter of Swanton - Member of Fish and Wildlife Board - from March 1, 2013, to February 28, 2019.

To the Committee on Natural Resources and Energy.

Searles, Brian of Burlington – Secretary, Agency of Transportation - from March 1, 2013, to February 28, 2015.

To the Committee on Transportation.

Ide, Robert of Peacham – Commissioner, Department of Motor Vehicles - from March 1, 2013, to February 28, 2015.

To the Committee on Transportation.

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. 18. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

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

Bill Introduced

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

S. 147.

By Senator Mullin,

An act relating to access to medication prescribed by a health care professional.

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. 148.

By the Committee on Judiciary,

An act relating to criminal investigation records and the Vermont Public Records Act.

Bill Introduced

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

S. 149.

By Senator White,

An act relating to funding the management and taxing the storage of spent nuclear fuel.

To the Committee on Finance.

Third Reading Ordered

S. 144.

Senate committee bill entitled:

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

Having appeared on the Calendar for notice for one day, was taken up.

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

Joint Resolution Adopted on the Part of the Senate

J.R.S. 17.

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

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

Message from the House No. 26

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. 71. An act relating to tobacco products.

H. 205. An act relating to professions and occupations regulated by the Office of Professional Regulation.

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

The House has adopted joint resolution of the following title:

J.R.H. 7. Joint resolution relating to the reliability of rural telephone service.

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, March 13, 2013.

WEDNESDAY, MARCH 13, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Joint Resolution Referred

J.R.H. 7.

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

Joint resolution relating to the reliability of rural telephone service.

Whereas, business, government, school, and residential telephone customers are entitled to high-quality 21st century service, but long distance telephone service to many rural areas has fallen below this expected level of technical performance, and

Whereas, the cause of this service deterioration appears to be the financially based decisions, referred to as least cost routing, of national retail long distance carriers (interexchange carriers) in selecting the routes and intermediate connecting carriers used to transmit a telephone call or fax to a local rural carrier, and

Whereas, a recent story in the *Addison Independent* brought the problem close to home, describing the difficulties customers of the Shoreham Telephone Company are encountering and reporting on the customers' experiencing serious public safety and economic implications if this situation is not remedied, and

Whereas, in July 2011, the National Association of Regulatory Utility Commissioners (NARUC) adopted a resolution urging state utility commissions and the Federal Communications Commission (FCC) to take necessary action to stop the interexchange carriers from making routing decisions that impact the quality of long distance telephone service to rural carriers and their customers, and

Whereas, on February 6, 2012, the Wireline Competition Bureau (the bureau) of the FCC issued a declaratory ruling (the declaratory ruling) in which the bureau found evidence of "a pattern of call completion and service quality problems on long distance calls to certain rural areas," and local incumbent exchange carriers "have reported a sharp increase in complaints that long distance calls and faxes are not reaching their customers," and

Whereas, in the declaratory ruling, the bureau emphasized the FCC's "longstanding prohibition on carriers blocking, choking, reducing or otherwise restricting traffic" and noted that several state regulatory authorities and trade associations representing rural carriers have stated that this problem is a threat to "the public safety, homeland security, consumer welfare, and economic well-being in rural America," and

Whereas, the declaratory ruling also warned the interexchange carriers that the practices being complained about may constitute a violation of certain FCC rules, and

Whereas, despite this declaratory ruling, the NARUC Board of Directors felt compelled to adopt a second resolution on July 25, 2012 that, while commending the declaratory ruling that detailed continuing problems in long distance service to rural carriers and their customers, called upon the FCC to "take appropriate and swift action consistent with the penalties set forth in the February 6, 2012, Declaratory Ruling," and

Whereas, on September 26, 2012, John Burke, Chair of the NARUC Communications Committee, wrote to Julius Genachowski, Chairman of the FCC, about the persisting problems and again asked for appropriate swift action against interexchange carriers providing inferior service to rural areas, and

Whereas, on December 3, 2012, 36 U.S. Senators, including both Senators Leahy and Sanders, wrote a joint letter to FCC Commissioner Julius Genachowski stating, "Should the Commission suspect an originating provider is violating its Declaratory Ruling, we urge the Commission to expedite its investigation," and further stating that if the FCC suspects a provider is not properly delivering long distance calls to rural areas that the FCC should inquire if least call routing is being used to transmit the call, and

Whereas, on January 25, 2013, a meeting was held between officials representing the NARUC and senior FCC staff on the continuing problems consumers are encountering in placing long distance calls to rural carriers and their customers, and

Whereas, the FCC has now recognized that despite the issuance of the February 6, 2012 declaratory ruling, delivery of long distance calls to rural carriers and customers remains unsatisfactory, and

Whereas, consequently, on February 4, 2013, the FCC adopted a Notice of Proposed Rulemaking (NPRM) in which the FCC "seek(s) comment on rules to help address problems in the completion of long-distance telephone calls to rural customers," and

Whereas, in this new federal regulatory action, the FCC is not limiting the discussion to just interexchange carriers but is also looking at wireless providers, cable companies, local exchange carriers, and Voice over Internet Protocol services and their use of intermediate providers for long distance call transmission, and

Whereas, in its introductory statement, the FCC acknowledged that rural carriers "are reporting an alarming increase in complaints from their customers stating that long-distance calls and faxes are not reaching them or that call quality is poor," and

Whereas, the FCC proposes to adopt rules that require:

1) facilities-based originating long distance providers to measure the call answer rate for each telephone number to which 100 or more calls in designated categories were attempted during a calendar month;

2) providers to record information for each long-distance call attempt they handle;

3) if the originating provider is not facilities based, the various data collection and preservation requirements to apply to the first facilities-based provider in a transmission link;

4) categorization of long-distance call attempts according to call source type and terminating provider type; and

5) the use of a call answer rate as the basic measure of call completion performance, and

Whereas, the FCC notice allows for public comment on various aspects of the proposal, and

Whereas, the issuance of the NPRM is an important, although hardly final, step for the FCC in solving the problems of inadequate long distance telephone service to rural carriers and their customers, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the Federal Communications Commission to follow through on its Notice of Proposed Rule Making to ensure that long distance telephone service to rural carriers and customers meets 21st century technical standards, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Julius Genachowski, Chairman of the FCC, and to 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 Finance.

Committee Bills Introduced

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

S. 150.

By the Committee on Transportation,

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

S. 151.

By the Committee on Transportation,

An act relating to miscellaneous changes to the laws governing commercial motor vehicle licensing and operation.

S. 152.

By the Committee on Finance,

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

Bills Referred

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

H. 71.

An act relating to tobacco products.

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

H. 205.

An act relating to professions and occupations regulated by the Office of Professional Regulation.

To the Committee on Government Operations.

Bill Amended; Third Reading Ordered

S. 5.

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

An act relating to issuance of a fraudulent arrest warrant by the parole board.

Reported recommending that the bill be amended in Sec. 1, 28 V.S.A. § 551, by striking out subsection (f) in its entirety and inserting in lieu thereof the following:

(f) Issuance of a fraudulent warrant. The board shall not issue a warrant unless specifically authorized to do so pursuant to this chapter.

And that when so amended the bill ought to pass.

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

House Proposal of Amendment Concurred In

S. 2.

House proposal of amendment to Senate bill entitled:

An act relating to sentence calculations.

Was taken up.

The House proposes to the Senate to amend the bill in Sec. 3 (Effective Date), by striking out the following: "on July 1, 2013" and inserting in lieu thereof the following: upon passage

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Bill Passed

S. 144.

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

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

Consideration Postponed

House bill entitled:

H. 63.

An act relating to repealing an annual survey of municipalities.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until tomorrow.

Third Reading Ordered

J.R.H. 3.

Senator Doyle, for the Committee on Economic Development, Housing and General Affairs, to which was referred joint House resolution entitled:

Joint resolution supporting the Coalition for Captive Insurance Clarity.

Reported that the joint resolution ought to be adopted in concurrence.

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.

Bill Amended; Third Reading Ordered

S. 4.

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

An act relating to concussions and school athletic activities.

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

Sec. 1. FINDINGS

The General Assembly finds:

(1) According to the Centers for Disease Control and Prevention:

(A) Each year, emergency departments (EDs) in the United States treat an estimated 173,285 persons 19 years old and younger for sports and recreation-related traumatic brain injuries (TBI), including concussions, 70% of which were suffered by young people 10–19 years of age.

(B) From 2001 to 2009, the number of annual sports and recreation-related ED visits for TBI among persons 19 years old and younger increased 62%, from 153,375 per year to 248,418 per year.

(C) For males 10–19 years of age, TBIs most commonly occur while playing football. For females 10–19 years of age, TBIs most commonly occur while playing soccer or bicycling.

(2) According to a study in the American Journal of Sports Medicine, many high school athletes do not report when they suffer concussions despite the increased awareness of and focus on the seriousness of such injuries and the potential for catastrophic outcomes, particularly from multiple concussions.

(3) Without a clear action plan describing the steps a youth athlete must take in order to return to play after suffering a concussion, the youth is more

likely to hide the concussion and continue to play without receiving the necessary treatment.

Sec. 2. 12 V.S.A. § 1043 is added to read:

§ 1043. LIABILITY FOR AND PREVENTION OF CONCUSSIONS AND OTHER HEAD INJURIES

(a) Definitions. As used in this subchapter:

(1) "Coach" means a person who instructs or trains students on a school athletic team.

(2) "Collision sport" means football, hockey, lacrosse, or wrestling.

(3) "Contact sport" means a sport, other than football, hockey, lacrosse, or wrestling, defined as a contact sport by the American Academy of Pediatrics.

(4) "Health care provider" means an athletic trainer or health care provider licensed pursuant to Title 26 who has within the preceding five years been specifically trained in the evaluation and management of concussions and other head injuries.

(5) "School athletic team" means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.

(6) "Youth athlete" means an elementary or secondary student who is a member of a school athletic team.

(b) Guidelines and other information. The Secretary of Education or designee, assisted by members of the Vermont Principals' Association selected by that Association, shall develop statewide guidelines, forms, and other materials, and update them when necessary, that are designed to educate coaches, youth athletes, and the parents and guardians of youth athletes regarding:

(1) the nature and risks of concussions and other head injuries;

(2) the risks of premature participation in athletic activities after receiving a concussion or other head injury;

(3) the importance of obtaining a medical evaluation of a suspected concussion or other head injury and receiving treatment when necessary;

(4) effective methods to reduce the risk of concussions from occurring during athletic activities; and

(5) protocols and standards for clearing a youth athlete to return to play following a concussion or other head injury, including treatment plans for such athletes.

(c) Notice and training. The principal or headmaster of each public and approved independent school in the State, or a designee, shall ensure that:

(1) the information developed pursuant to subsection (b) of this section is provided annually to each youth athlete and the athlete's parents or guardians;

(2) each youth athlete and a parent or guardian of the athlete annually sign a form acknowledging receipt of the information provided pursuant to subdivision (1) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team;

(3)(A) each coach of a school athletic team receive training not less than every two years on how to recognize the symptoms of a concussion or other head injury, how to reduce the risk of concussions during athletic activities, and how to teach athletes the proper techniques for avoiding concussions; and

(B) each coach who is new to coaching at the school receive training prior to beginning his or her first coaching assignment for the school; and

(4) each referee of a contest involving a high school athletic team participating in a collision sport receive training not less than every two years on how to recognize concussions when they occur during athletic activities.

(d) Participation in athletic activity.

(1) A coach or health care provider shall not permit a youth athlete to continue to participate in any training session or competition associated with a school athletic team if the coach or health care provider knows or should know that the athlete has sustained a concussion or other head injury during the training session or competition.

(2) A coach or health care provider shall not permit a youth athlete who has been prohibited from training or competing pursuant to subdivision (1) of this subsection to train or compete with a school athletic team until the athlete has been examined by and received written permission to participate in athletic activities from a health care provider.

(e) Action plan.

(1) The principal or headmaster of each public and approved independent school in the State, or a designee, shall ensure that each school has a concussion management action plan that describes the procedures the school

will take when a student athlete suffers a concussion. The action plan shall include policies on:

(A) who makes the initial decision to remove a student athlete from play when it is suspected that the athlete has suffered a concussion;

(B) what steps the student athlete must take in order to return to any athletic or learning activity; and

(C) who makes the final decision that a student athlete may return to athletic activity.

(2) The action plan required by subdivision (1) of this subsection shall be provided annually to each youth athlete and the athlete's parents or guardians.

(3) Each youth athlete and a parent or guardian of the athlete shall annually sign a form acknowledging receipt of the information provided pursuant to subdivision (2) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team.

(f) Health care providers; presence at athletic events.

(1) The home team shall ensure that a health care provider is present at any athletic event in which a high school athletic team participates in a collision sport. If an athlete on the visiting team suffers a serious injury during the athletic event, the health care provider shall notify the visiting team's athletic director within 48 hours after the injury occurs.

(2) Home teams are strongly encouraged to ensure that a health care provider is present at any athletic event in which a high school athletic team participates in a contact sport.

Sec. 3. REPEAL

16 V.S.A. § 1431 (concussions and other head injuries) is repealed.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2013, except that 12 V.S.A. § 1043(f) (presence of health care provider at school sports activities) shall take effect on July 1, 2014.

And that when so amended the bill ought to pass.

Senator Zuckerman, for the Committee on Education, to which the bill was referred, reported recommending that the recommendation of the Committee on Judiciary be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds:

(1) According to the Centers for Disease Control and Prevention:

(A) Each year, emergency departments (EDs) in the United States treat an estimated 173,285 persons 19 years old and younger for sports and recreation-related traumatic brain injuries (TBI), including concussions, 70 percent of which were suffered by young people 10–19 years of age.

(B) From 2001 to 2009, the number of annual sports and recreation-related ED visits for TBI among persons 19 years old and younger increased 62 percent, from 153,375 per year to 248,418 per year.

(C) For males 10–19 years of age, TBIs most commonly occur while playing football. For females 10–19 years of age, TBIs most commonly occur while playing soccer or bicycling.

(2) According to a study in the American Journal of Sports Medicine, many high school athletes do not report when they suffer concussions despite the increased awareness of and focus on the seriousness of such injuries and the potential for catastrophic outcomes, particularly from multiple concussions.

(3) Without a clear action plan describing the steps a youth athlete must take in order to return to play after suffering a concussion, the youth is more likely to hide the concussion and continue to play without receiving the necessary treatment.

Sec. 2. 12 V.S.A. § 1043 is added to read:

§ 1043. LIABILITY FOR AND PREVENTION OF CONCUSSIONS AND OTHER HEAD INJURIES

(a) Definitions. As used in this subchapter:

(1) "Coach" means a person who instructs or trains students on a school athletic team.

(2) "Collision sport" means football, hockey, lacrosse, or wrestling.

(3) "Contact sport" means a sport, other than football, hockey, lacrosse, or wrestling, defined as a contact sport by the American Academy of Pediatrics.

(4) "Health care provider" means an athletic trainer, or other health care provider, licensed pursuant to Title 26 who has within the preceding five years been specifically trained in the evaluation and management of concussions and other head injuries. Training pursuant to this subdivision shall include training

materials and guidelines for practicing physicians provided by the Centers for Disease Control and Prevention, if available.

(5) "School athletic team" means an interscholastic athletic team or club sponsored by a public or approved independent school for elementary or secondary students.

(6) "Youth athlete" means an elementary or secondary student who is a member of a school athletic team.

(b) Guidelines and other information. The Secretary of Education or designee, assisted by members of the Vermont Principals' Association selected by that Association, members of the Vermont School Board Insurance Trust, and others as the Secretary deems appropriate, shall develop statewide guidelines, forms, and other materials, and update them when necessary, that are designed to educate coaches, youth athletes, and the parents and guardians of youth athletes regarding:

(1) the nature and risks of concussions and other head injuries;

(2) the risks of premature participation in athletic activities after receiving a concussion or other head injury;

(3) the importance of obtaining a medical evaluation of a suspected concussion or other head injury and receiving treatment when necessary;

(4) effective methods to reduce the risk of concussions from occurring during athletic activities; and

(5) protocols and standards for clearing a youth athlete to return to play following a concussion or other head injury, including treatment plans for such athletes.

(c) Notice and training. The principal or headmaster of each public and approved independent school in the State, or a designee, shall ensure that:

(1) the information developed pursuant to subsection (b) of this section is provided annually to each youth athlete and the athlete's parents or guardians;

(2) each youth athlete and a parent or guardian of the athlete annually sign a form acknowledging receipt of the information provided pursuant to subdivision (1) of this subsection and return it to the school prior to the athlete's participation in training or competition associated with a school athletic team;

(3)(A) each coach of a school athletic team receive training not less than every two years on how to recognize the symptoms of a concussion or other

head injury, how to reduce the risk of concussions during athletic activities, and how to teach athletes the proper techniques for avoiding concussions; and

(B) each coach who is new to coaching at the school receive training prior to beginning his or her first coaching assignment for the school; and

(4) each referee of a contest involving a high school athletic team participating in a collision sport receive training not less than every two years on how to recognize concussions when they occur during athletic activities.

(d) Participation in athletic activity.

(1) A coach or health care provider shall not permit a youth athlete to continue to participate in any training session or competition associated with a school athletic team if the coach or health care provider knows or should know that the athlete has sustained a concussion or other head injury during the training session or competition.

(2) A coach or health care provider shall not permit a youth athlete who has been prohibited from training or competing pursuant to subdivision (1) of this subsection to train or compete with a school athletic team until the athlete has been examined by and received written permission to participate in athletic activities from a health care provider.

(e) Action plan.

(1) The principal or headmaster of each public and approved independent school in the State, or a designee, shall ensure that each school has a concussion management action plan that describes the procedures the school will take when a student athlete suffers a concussion. The action plan shall include policies on:

(A) who makes the initial decision to remove a student athlete from play when it is suspected that the athlete has suffered a concussion;

(B) what steps the student athlete must take in order to return to any athletic or learning activity; and

(C) who makes the final decision that a student athlete may return to athletic activity.

(2) The action plan required by subdivision (1) of this subsection shall be provided annually to each youth athlete and the athlete's parents or guardians.

(3) Each youth athlete and a parent or guardian of the athlete shall annually sign a form acknowledging receipt of the information provided pursuant to subdivision (2) of this subsection and return it to the school prior to

the athlete's participation in training or competition associated with a school athletic team.

(f) Health care providers; presence at athletic events.

(1) The home team shall ensure that a health care provider is present at any athletic event in which a high school athletic team participates in a collision sport. If an athlete on the visiting team suffers a concussion during the athletic event, the health care provider shall notify the visiting team's athletic director within 48 hours after the injury occurs.

(2) Home teams are strongly encouraged to ensure that a health care provider is present at any athletic event in which a high school athletic team participates in a contact sport.

Sec. 3. REPORT

To the extent permitted by applicable state and federal law, the Vermont Traumatic Brain Injury Advisory Board (the Board) shall obtain information necessary to create an annual report on the incidences of concussions sustained by student athletes in Vermont in the previous school year. To the extent such information is available, the report shall include the number of concussions sustained by student athletes in Vermont, the sport the student athlete was playing when he or she sustained the concussion, the number of Vermont student athletes treated in emergency rooms for concussions received while participating in school athletics, and who made the decision that a student athlete was able to return to play. For purposes of the report, the Board shall consult with the Vermont Principals' Association and the Vermont Association of Athletic Trainers. If the Board obtains information sufficient to create the report, it shall report on or before December 15 of each year starting in 2014 to the Senate and House Committees on Judiciary and on Education.

Sec. 4. REPEAL

16 V.S.A. § 1431 (concussions and other head injuries) is repealed.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2013, except that 12 V.S.A. § 1043(f) (presence of health care provider at school sports activities) shall take effect on July 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, and the recommendation of amendment of the Committee on Judiciary was amended as recommended by the Committee on Education.

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

Thereupon, third reading of the bill was ordered, on a roll call, Yeas 26, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Ayer, Galbraith, McAllister, White.

Bill Amended; Third Reading Ordered

S. 74.

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

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

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

Sec. 1. 12 V.S.A. § 5784 is added to read:

§ 5784. VOLUNTEER ATHLETIC OFFICIALS

(a) A person providing services or assistance without compensation, except for reimbursement of expenses, in connection with the person's duties as an athletic coach, manager, or official for a sports team that is organized pursuant to a nonprofit or similar charter, or which is a member team in a league organized by or affiliated with a county or municipal recreation department, shall not be held personally liable for damages to a player, participant, or spectator incurred as a result of the services or assistance provided. This section shall apply to acts and omissions made during sports competitions, practices, and instruction.

(b) This section shall not protect a person from liability for damages resulting from reckless or intentional conduct, or the negligent operation of a motor vehicle.

(c) Nothing in this section shall be construed to affect the liability of any nonprofit or governmental entity with respect to harm caused to any person.

(d) Any sports team organized as described in subsection (a) of this section shall be liable for the acts and omissions of its volunteer athletic coaches, managers, and officials to the same extent as an employer is liable for the acts and omissions of its employees.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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.

Message from the House No. 27

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. 401. An act relating to municipal and regional planning and flood resilience.

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

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

J.R.S. 18. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Adjournment

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

THURSDAY, MARCH 14, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Referred to Committee on Appropriations

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

S. 11. An act relating to the Austine School.

S. 152. An act relating to the Green Mountain Care Board's rate review authority.

Message from the Governor
Appointment Referred

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

Flynn, Keith of Derby Line - Commissioner of Public Safety, Department of - from 3/1/2013, to 2/28/2019.

To the Committee on Transportation.

Bill Introduced

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

S. 153.

By Senators Flory, Snelling and Campbell,

An act relating to unemployment compensation and newspaper carriers.

To the Committee on Finance.

Bill Referred

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

H. 401.

An act relating to municipal and regional planning and flood resilience.

To the Committee on Natural Resources and Energy.

Third Reading Ordered

H. 63.

Senator McAllister, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to repealing an annual survey of municipalities.

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; Bill Passed

S. 4.

Senate bill entitled:

An act relating to concussions and school athletic activities.

Was taken up.

Thereupon, pending third reading of the bill, Senators Flory, French, and Mullin moved to amend the bill as follows:

First: In Sec. 2, 12 V.S.A. § 1043, in subsection (e), subdivision (1), subdivision (B), at the end of the subdivision, by striking "and"

Second: In Sec. 2, 12 V.S.A. § 1043, in subsection (e), subdivision (1), subdivision (C), by striking the period and inserting in lieu thereof; and

Third: In Sec. 2, 12 V.S.A. § 1043, in subsection (e), subdivision (1), by adding a subdivision (D) to read as follows:

(D) who has the responsibility to inform a parent or guardian when a student on that school's athletic team suffers a concussion.

Fourth: In Sec. 2, 12 V.S.A. § 1043, in subsection (f), by adding a subdivision (3) to read as follows:

(3) A school shall notify a parent or guardian within 24 hours when a student participating on that school's athletic team suffers a concussion.

Which was agreed to.

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

Bill Passed

S. 5.

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

An act relating to issuance of a fraudulent arrest warrant by the parole board.

Bill Amended; Bill Passed

S. 74.

Senate bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the bill in Sec. 1, 12 V.S.A. § 5784(a) by striking out the following: "pursuant to a nonprofit or similar charter" and inserting in lieu thereof the following: as a nonprofit corporation

Which was agreed to.

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

Joint Resolution Adopted

J.R.H. 3.

Joint House resolution of the following title was read the third time and adopted in concurrence:

Joint resolution supporting the Coalition for Captive Insurance Clarity.

Consideration Postponed

Senate bill entitled:

S. 148.

An act relating to criminal investigation records and the Vermont Public Records Act.

Was taken up.

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

Bill Amended; Third Reading Ordered

S. 59.

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

An act relating to independent direct support providers.

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

Sec. 1. 21 V.S.A. chapter 20 is added to read:

CHAPTER 20. INDEPENDENT DIRECT SUPPORT PROVIDERS

§ 1631. DEFINITIONS

As used in this chapter:

(1) "Board" means the State Labor Relations Board established by 3 V.S.A. § 921.

(2) "Collective bargaining" or "bargaining collectively" means the process by which the State and the exclusive representative of the independent direct support providers negotiate terms or conditions as defined in section 1633 of this title with the intent to arrive at an agreement which, when reached, shall be legally binding on all parties.

(3) "Grievance" means an independent direct support provider's or the exclusive representative's formal written complaint regarding the improper application of one or more terms of the collective bargaining agreement, which has not been resolved to a satisfactory result through informal discussion with the State.

(4) "Service recipient" means a person who receives home- and community-based services under the Choice for Care Medicaid waiver, the Attendant Services Program (ASP), the Children's Personal Care Service Program, the Developmental Disabilities Services Program, or any successor program or similar program subsequently established.

(5) "Exclusive representative" means a labor organization that has been elected and certified under this chapter and has the right to represent independent direct support providers for the purpose of collective bargaining.

(6) "Independent direct support provider" means any individual who provides home- and community-based services to a service recipient and is employed by the service recipient, shared living provider, or surrogate.

(7) "Shared living provider" means a person who operates under a contract with a developmental disabilities service agency and provides individualized home support for one or two people who live in his or her home.

(8) "Surrogate" means a service recipient's authorized family member, legal guardian, or a person identified in a written agreement as having responsibility for the care of a service recipient.

§ 1632. RIGHTS OF INDEPENDENT DIRECT SUPPORT PROVIDERS

Independent direct support providers shall have the right to:

(1) organize, form, join, or assist a union or labor organization for the purposes of collective bargaining without interference, restraint, or coercion;

(2) bargain collectively through their chosen representatives;

(3) engage in concerted activities for the purpose of supporting or engaging in collective bargaining;

(4) pursue grievances as provided in this chapter; and

(5) refrain from any or all such activities.

§ 1633. ESTABLISHMENT OF LIMITED COLLECTIVE BARGAINING; SCOPE OF BARGAINING

(a) Independent direct support providers, through their exclusive representative, shall have the right to bargain collectively with the State, through the Governor's designee, under this chapter.

(b) The scope of collective bargaining for independent direct support providers under this section shall include:

(1) compensation terms, including workforce benefits, and payment methods and procedures;

(2) professional development and training; however, nothing in this subdivision requires the state to create or conduct any professional development and training programs;

(3) the collection and disbursement of dues or fees to the exclusive representative;

(4) procedures for resolving grievances against the State;

(5) issues relating to the recruitment, retention, or referral of qualified independent direct support providers; and

(6) any other matters relating to the role of the State and its contractors in regulating, subsidizing, and enhancing the quality of home- and community-based services within the State.

(c) For the purpose of this chapter, the obligation to bargain collectively is the performance of the mutual obligation of the State and the exclusive representative of the independent direct support providers to meet at reasonable times and confer in good faith with respect to all matters bargainable under the provisions of this chapter; but the failure or refusal of either party to agree to a proposal, or to change or withdraw a lawful proposal, or to make a concession shall not constitute, or be evidence direct or indirect, of a breach of this obligation. Nothing in this chapter shall be construed to require either party during collective bargaining to accede to any proposal or proposals of the other party.

§ 1634. ELECTION; BARGAINING UNIT

(a) Petitions and elections shall be conducted pursuant to the procedures provided in 3 V.S.A. chapter 27 to the extent that they do not conflict with this chapter.

(b) A representation election for independent direct support providers conducted by the Board pursuant to 3 V.S.A. chapter 27 shall be by mail ballot.

(c) The bargaining unit for purposes of collective bargaining pursuant to this chapter shall be a statewide unit of independent direct support providers. Eligible independent direct support providers shall have the right to participate in a representation election but shall not have the right to vote on or otherwise determine the collective bargaining unit. Eligible independent direct support providers shall all be independent direct support providers who have been paid for providing home- and community-based services within the previous six months.

(d) The State shall, upon request, provide within seven days to any organization which has as one of its primary purposes the collective bargaining representation of independent direct support providers in their relations with state or other public entities the most recent list of independent direct support providers in its possession.

§ 1635. MEDIATION; FACT-FINDING; LAST BEST OFFER

(a) If, after a reasonable period of negotiation, the representative of the collective bargaining unit and the State reach an impasse, the Board, upon petition of either party, may authorize the parties to submit their differences to mediation. Within five days after receipt of the petition, the Board shall appoint a mediator who shall communicate with the parties and attempt to mediate an amicable settlement. A mediator shall be of high standing.

(b) If, after a minimum of 15 days after the appointment of a mediator, the impasse is not resolved, the mediator shall certify to the Board that the impasse continues.

(c) Upon the request of either party, the Board shall appoint a fact finder who has been mutually agreed upon by the parties. If the parties fail to agree on a fact finder within five days, the board shall appoint a fact finder who shall be a person of high standing. A member of the Board or any individual who has actively participated in mediation proceedings for which fact-finding has been called shall not be eligible to serve as a fact finder under this section, unless agreed upon by the parties.

(d) The fact finder shall conduct hearings pursuant to rules of the Board. Upon request of either party or of the fact finder, the Board may issue subpoenas of persons and documents for the hearings and the fact finder may require that testimony be given under oath and may administer oaths.

(e) Nothing in this section shall prohibit the fact finder from mediating the dispute at any time prior to issuing recommendations.

(f) The fact finder shall consider factors related to the scope of bargaining contained in this chapter in making a recommendation.

(g) Upon completion of the hearings provided in subsection (d) of this section, the fact finder shall file written findings and recommendations with both parties.

(h) The costs of witnesses and other expenses incurred by either party in fact-finding proceedings shall be paid directly by the parties incurring them, and the costs and expenses of the fact finder shall be paid equally by the parties. The fact finder shall be paid a rate mutually agreed upon by the parties for each day or any part of a day while performing fact-finding duties and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of his or her duties. A statement of fact-finding per diem and expenses shall be certified by the fact finder and submitted to the Board for approval. The Board shall provide a copy of approved fact-finding costs to each party with its order apportioning half of the total to each party for payment. Each party shall pay its half of the total within 15 days after receipt of the order. Approval by the Board of fact-finding and the fact finder's costs and expenses and its order for payment shall be final as to the parties.

(i) If the dispute remains unresolved 15 days after transmittal of findings and recommendations, each party shall submit to the Board its last best offer on all disputed issues as a single package. Each party's last best offer shall be certified to the Board by the fact finder. The board may hold hearings and consider the recommendations of the fact finder. Within 30 days of the

certifications, the Board shall select between the last best offers of the parties, considered in their entirety without amendment, and shall determine its cost. The Board shall not issue an order under this subsection that is in conflict with any law or rule or that relates to an issue that is not subject to bargaining. The Board shall recommend its choice to the General Assembly as the agreement which shall become effective subject to the appropriations by the General Assembly pursuant to section 1637 of this title.

§ 1636. GENERAL DUTIES AND PROHIBITED CONDUCT

(a) The State and the independent direct support providers and their representatives shall make every reasonable effort to make and maintain agreements concerning matters allowed under this chapter and to settle all disputes, whether arising out of the application of those agreements or disputes concerning the agreements. All disputes shall, upon request of either party, be considered within 15 days of the request or at such times as may be mutually agreed to and if possible settled with all expedition in conference between representatives designated and authorized to confer by the State or the independent direct support providers. This obligation does not compel either party to make any agreements or concessions.

(b) The State shall not:

(1) Interfere with, restrain, or coerce independent direct support providers in the exercise of their rights under this chapter or by any law, rule, or regulation.

(2) Discriminate against an independent direct support provider because of the provider's affiliation with a labor organization or because a provider has filed charges or complaints or given testimony under this chapter.

(3) Take negative action against an independent direct support provider because the provider has taken actions demonstrating his or her support for a labor organization, including signing a petition, grievance, or affidavit.

(4) Refuse to bargain collectively in good faith with the exclusive representative or fail to abide by any agreement reached.

(5) Discriminate against an independent direct support provider based on race, color, creed, religion, age, disability, gender, sexual orientation, gender identity, or national origin.

(c) The employee organization shall not:

(1) Restrain or coerce independent direct support providers in the exercise of the rights guaranteed them by law, rule, or regulation. However, a labor organization may prescribe its own rules with respect to the acquisition or retention of membership, provided such rules are not discriminatory.

(2) Refuse to bargain collectively in good faith with the State.

(d) Complaints related to this section shall be made and resolved in accordance with the procedures set forth in 3 V.S.A. § 965.

§ 1637. COST ITEMS SUBMITTED TO GENERAL ASSEMBLY

(a) Any agreement reached between the parties shall be subject to approval by the General Assembly solely for the purpose of securing sufficient funding pursuant to 3 V.S.A. § 982. Nothing shall prevent the parties from agreeing to and effecting those provisions of an agreement which do not require action by the General Assembly.

(b) Cost items agreed upon in collective bargaining between the parties shall be submitted to the Governor who shall request funds from the General Assembly to implement the agreement. If the General Assembly rejects any of the cost items submitted to it, all the cost items shall be returned to the parties to the agreement for further bargaining. If the General Assembly appropriates sufficient funds, the agreement shall become effective at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated and the new agreement shall become effective at the beginning of the next fiscal year.

§ 1638. RIGHTS UNALTERED

(a) A collective bargaining agreement or award under this chapter shall not infringe upon any rights of service recipients or their surrogates to hire, direct, supervise, or discontinue the employment of any particular independent direct support provider.

(b) Nothing in this section shall alter the rights and obligations of private sector employers and employees under the National Labor Relations Act, 29 U.S.C. § 151 et seq.

(c) A direct support provider shall not strike.

(d) Except as provided in 33 V.S.A. § 6321(f), independent direct support providers shall not be considered State employees by virtue of bargaining under this chapter.

(e) No provision of this chapter shall constitute a waiver of sovereign immunity of the state. The state shall not be liable for any claim arising out of the employment relationship between a service recipient and an independent direct service provider, even if the independent direct service provider was included on a referral directory or referred to a service recipient or the service recipient's surrogate.

§ 1639. APPEAL

(a) Any person aggrieved by an order or decision of the Board issued under the authority of this chapter may appeal on questions of law to the Supreme Court.

(b) An order of the Board shall not automatically be stayed pending appeal. A stay must first be requested from the Board. The Board may stay the order or any part of it. If the Board denies a stay, then a stay may be requested from the Supreme Court. The Supreme Court or a single justice may stay the order or any part of it and may order additional interim relief.

§ 1640. ENFORCEMENT

Orders of the Board issued under this chapter may be enforced by any party or by the Board by filing a petition with the Civil Division of the Superior Court of Washington County or in the Civil Division of the Superior Court in the county in which the action before the Board originated. The petition shall be served on the adverse party as provided for service of process under the Vermont Rules of Civil Procedure. If, after hearing, the court determines that the Board had jurisdiction over the matter and that a timely appeal was not filed or that an appeal was timely filed and a stay of the Board order or any part of it was not granted or that a Board order was affirmed on appeal in pertinent part by the Supreme Court, the court shall incorporate the order of the Board as a judgment of the court. There is no appeal from that judgment except that a judgment reversing a Board decision on jurisdiction may be appealed to the Supreme Court.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Cummings, on behalf of the Committee on Economic Development, Housing and General Affairs, moved to substitute an amendment for the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs as follows:

Sec. 1. 21 V.S.A. chapter 20 is added to read:

CHAPTER 20. INDEPENDENT DIRECT SUPPORT PROVIDERS

§ 1631. DEFINITIONS

As used in this chapter:

(1) "Board" means the State Labor Relations Board established by 3 V.S.A. § 921.

(2) "Collective bargaining" or "bargaining collectively" means the process by which the State and the exclusive representative of the independent direct support providers negotiate mandatory subjects of bargaining identified in subsection 1634(b) of this chapter with the intent to arrive at an agreement which, when reached, shall be legally binding on all parties.

(3) "Grievance" means the exclusive representative's formal written complaint regarding the improper application of one or more terms of the collective bargaining agreement or the failure to abide by any agreement reached, which has not been resolved to a satisfactory result through informal discussion with the State.

(4) "Service recipient" means a person who receives home- and community-based services under the Choice for Care Medicaid waiver, the Attendant Services Program (ASP), the Children's Personal Care Service Program, the Developmental Disabilities Services Program, or any successor program or similar program subsequently established.

(5) "Exclusive representative" means the labor organization that has been certified under this chapter and has the right to represent independent direct support providers for the purpose of collective bargaining.

(6) "Independent direct support provider" means any individual who provides home- and community-based services to a service recipient and is employed by the service recipient, shared living provider, or surrogate.

(7) "Shared living provider" means a person who operates under a contract with a developmental disabilities service agency and provides individualized home support for one or two people who live in his or her home.

(8) "Surrogate" means a service recipient's authorized family member, legal guardian, or a person identified in a written agreement as having responsibility for the care of a service recipient.

§ 1632. RIGHTS OF INDEPENDENT DIRECT SUPPORT PROVIDERS

Independent direct support providers shall have the right to:

(1) organize, form, join, or assist a union or labor organization for the purposes of collective bargaining without interference, restraint, or coercion;

(2) bargain collectively through their chosen representatives;

(3) engage in concerted activities for the purpose of supporting or engaging in collective bargaining;

(4) pursue grievances through the exclusive representative as provided in this chapter; and

(5) refrain from any or all such activities, subject to the requirements of subsection 1634(b)(3) of this chapter.

§ 1633. RIGHTS OF THE STATE

Nothing in this chapter shall be construed to interfere with the right of the State to:

(1) take necessary actions to carry out the mission of the Agency of Human Services;

(2) comply with federal and state laws and regulations;

(3) enforce regulations and regulatory processes;

(4) develop regulations and regulatory processes that do not impair existing contracts, subject to the rulemaking authority of the General Assembly and the Human Services Board;

(5) establish and administer quality standards under the Step Ahead Recognition system;

(6) solicit and accept for use any grant of money, services, or property from the federal government, the State, or any political subdivision or agency of the State, including federal matching funds, and to cooperate with the federal government or any political subdivision or agency of the State in making an application for any grant; and

(7) refuse to take any action that would diminish the quantity or quality of services provided under existing law.

§ 1634. ESTABLISHMENT OF LIMITED COLLECTIVE BARGAINING; SCOPE OF BARGAINING

(a) Independent direct support providers, through their exclusive representative, shall have the right to bargain collectively with the State, through the Governor's designee, under this chapter.

(b) Mandatory subjects of bargaining under this section shall be limited to:

(1) compensation rates, workforce benefits, and payment methods and procedures, except that independent direct support providers shall not be eligible to participate in the State's retirement system or the Vermont state employee health plan solely by virtue of bargaining under this chapter;

(2) professional development and training; however, nothing in this subdivision requires the State to create or conduct any professional development and training programs;

(3) the collection and disbursement of dues or fees to the exclusive representative;

(4) procedures for resolving grievances against the State; and

(5) issues relating to the creation and administration of a referral registry system; however, the State and its employees shall not be liable in tort for any act or omission in connection with the creation or administration of a registry or any referrals made pursuant to a registry.

(c) For the purpose of this chapter, the obligation to bargain collectively is the performance of the mutual obligation of the State and the exclusive representative of the independent direct support providers to meet at reasonable times and confer in good faith with respect to all matters bargainable under the provisions of this chapter; but the failure or refusal of either party to agree to a proposal or to change or withdraw a lawful proposal or to make a concession shall not constitute or be evidence, direct or indirect, of a breach of this obligation. Nothing in this chapter shall be construed to require either party during collective bargaining to accede to any proposal or proposals of the other party.

§ 1635. ELECTION; BARGAINING UNIT

(a) Petitions and elections shall be conducted pursuant to the procedures provided in 3 V.S.A. §§ 941 and 942, except that only one bargaining unit shall exist for independent direct support providers and the exclusive representative shall be the exclusive representative for the purpose of grievances.

(b) A representation election for independent direct support providers conducted by the Board shall be by mail ballot.

(c) The bargaining unit for purposes of collective bargaining pursuant to this chapter shall be one statewide unit of independent direct support providers. Eligible independent direct support providers shall have the right to participate in a representation election but shall not have the right to vote on or otherwise determine the collective bargaining unit. Eligible independent direct support providers shall all be independent direct support providers who have been paid for providing home- and community-based services within the previous 180 days.

(d) At least quarterly the State shall compile and maintain a list of names and addresses of all independent direct support providers who have been paid for providing service to service recipients within the previous 180 days. The list shall not include the names of any recipient or indicate that an independent direct support provider is a relative of a recipient or has the same address as a recipient. The State shall, upon request, provide within seven days to any organization which has as one of its primary purposes the collective bargaining representation of independent direct support providers in their relations with

state or other public entities the most recent list of independent direct support providers in its possession.

§ 1636. MEDIATION; FACT-FINDING; LAST BEST OFFER

(a) If, after a reasonable period of negotiation, the representative of the collective bargaining unit and the State reach an impasse, the Board, upon petition of either party, may authorize the parties to submit their differences to mediation. Within five days after receipt of the petition, the Board shall appoint a mediator who shall communicate with the parties and attempt to mediate an amicable settlement. A mediator shall be of high standing and not actively connected with labor or management.

(b) If, after a reasonable period of time, not less than 15 days after the appointment of a mediator, the impasse is not resolved, the mediator shall certify to the Board that the impasse continues.

(c) The Board shall appoint a fact finder who has been mutually agreed upon by the parties. If the parties fail to agree on a fact finder within five days, the Board shall appoint a neutral third party to act as a fact finder pursuant to rules adopted by the Board. A member of the Board or any individual who has actively participated in mediation proceedings for which fact-finding has been called shall not be eligible to serve as a fact finder under this section, unless agreed upon by the parties.

(d) The fact finder shall conduct hearings pursuant to rules of the Board. Upon request of either party or of the fact finder, the Board may issue subpoenas of persons and documents for the hearings and the fact finder may require that testimony be given under oath and may administer oaths.

(e) Nothing in this section shall prohibit the fact finder from endeavoring to mediate the dispute at any time prior to issuing recommendations.

(f) The fact finder shall consider the following factors in making a recommendation:

(1) the needs and welfare of consumers, including their interest in greater access to quality services;

(2) the nature and needs of the personal care assistance program;

(3) the interest and welfare of independent direct support providers;

(4) the history of negotiation between the parties, including those leading to the proceedings; and

(5) changes in the cost of living.

(g) Upon completion of the hearings provided in subsection (d) of this section, the fact finder shall file written findings and recommendations with both parties.

(h) The costs of witnesses and other expenses incurred by either party in fact-finding proceedings shall be divided directly by the parties incurring them, and the costs and expenses of the fact finder shall be paid equally by the parties. The fact finder shall be paid a rate mutually agreed upon by the parties for each day or any part of a day while performing fact-finding duties and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of his or her duties. A statement of fact-finding per diem and expenses shall be certified by the fact finder and submitted to the Board for approval. The Board shall provide a copy of approved fact-finding costs to each party with its order apportioning half of the total to each party for payment. Each party shall pay its half of the total within 15 days after receipt of the order. Approval by the Board of fact-finding and the fact finder's costs and expenses and its order for payment shall be final as to the parties.

(i) If the dispute remains unresolved 20 days after transmittal of findings and recommendations, each party shall submit to the Board its last best offer on all disputed issues as a single package. Each party's last best offer shall be certified to the Board by the fact finder. The board may hold hearings and consider the recommendations of the fact finder. Within 30 days of the certifications, the Board shall select between the last best offers of the parties, considered in their entirety without amendment, and shall determine its cost. The Board shall not issue an order under this subsection that is in conflict with any law or rule or that relates to an issue that is not subject to bargaining. The Board shall determine the cost of the agreement selected and recommend to the General Assembly its choice with a request for appropriation. If the General Assembly appropriates sufficient funds, the agreement shall become effective and legally binding at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly, and the agreement with the negotiated changes shall become effective and binding at the beginning of the next fiscal year. No portion of any agreement shall become effective separately without the mutual consent of the parties.

§ 1637. GENERAL DUTIES AND PROHIBITED CONDUCT

(a) The State and the independent direct support providers and their representatives shall make every reasonable effort to make and maintain agreements concerning matters allowed under this chapter and to settle all disputes, whether arising out of the application of those agreements or disputes

concerning the agreements. All disputes shall, upon request of either party, be considered within 15 days of the request or at such times as may be mutually agreed to and if possible settled with all expedition in conference between representatives designated and authorized to confer by the State or the independent direct support providers. This obligation does not compel either party to make any agreements or concessions.

(b) It shall be an unfair labor practice for the State to:

(1) Interfere with, restrain, or coerce independent direct support providers in the exercise of their rights under this chapter or by any law, rule, or regulation.

(2) Discriminate against an independent direct support provider because of the provider's affiliation with a labor organization or because a provider has filed charges or complaints or given testimony under this chapter.

(3) Take negative action against an independent direct support provider because the provider has taken actions demonstrating his or her support for a labor organization, including signing a petition, grievance, or affidavit.

(4) Refuse to bargain collectively in good faith with the exclusive representative.

(5) Discriminate against an independent direct support provider based on race, color, creed, religion, age, disability, gender, sexual orientation, gender identity, or national origin.

(c) It shall be an unfair labor practice for the exclusive representative to:

(1) Restrain or coerce independent direct support providers in the exercise of the rights guaranteed them by law, rule, or regulation. However, a labor organization may prescribe its own rules with respect to the acquisition or retention of membership, provided such rules are not discriminatory.

(2) Refuse to bargain collectively in good faith with the State.

(3) Cause or attempt to cause the State to discriminate against an independent direct support provider.

(4) Threaten to or cause a provider to strike or curtail the provider's services in recognition of a picket line of any employee or labor organization.

(d) An independent direct support provider shall not strike or curtail his or her services in recognition of a picket line of any employee or labor organization.

(e) Complaints related to this section shall be made and resolved in accordance with the procedures set forth in 3 V.S.A. § 965.

§ 1638. NEGOTIATED AGREEMENT; FUNDING

If the State and the exclusive representative reach an agreement the Governor shall request from the General Assembly an appropriation sufficient to fund the agreement in the next operating budget. If the General Assembly appropriates sufficient funds, the negotiated agreement shall become effective and binding at the beginning of the next fiscal year. If the General Assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated by the General Assembly and shall become effective and legally binding in the next fiscal year.

§ 1639. RIGHTS UNALTERED

(a) A collective bargaining agreement shall not infringe upon any rights of service recipients or their surrogates to hire, direct, supervise, or discontinue the employment of any particular independent direct support provider.

(b) Nothing in this section shall alter the rights and obligations of private sector employers and employees under the National Labor Relations Act, 29 U.S.C. § 151 et seq.

(c) Independent direct support providers shall not be considered state employees for purposes other than collective bargaining, including for purposes of joint or vicarious liability in tort or the limitation on liability in subsection (d) of this section. Independent direct support providers shall not be eligible for participation in the state employee retirement system or health care plan solely by virtue of bargaining under this chapter. Nothing in this chapter shall require the State to alter its current practice with respect to independent direct support providers of making payments regarding social security and Medicare taxes, federal or state unemployment contributions, or workers' compensation insurance.

(d) Nothing in this chapter shall infringe upon the right of the Judiciary and the General Assembly to make programmatic modifications to the delivery of state services through subsidy or other programs.

(e) The State and its employees shall not be liable for any act or omission by an independent direct support provider or any claim arising out of the employment relationship between a service recipient and an independent direct service provider, even if the independent direct service provider was included on a referral directory or referred to a service recipient or the service recipient's surrogate.

§ 1640. APPEAL

(a) Any person aggrieved by an order or decision of the Board issued under the authority of this chapter may appeal on questions of law to the Supreme Court.

(b) An order of the Board shall not automatically be stayed pending appeal. A stay must first be requested from the Board. The Board may stay the order or any part of it. If the Board denies a stay, then a stay may be requested from the Supreme Court. The Supreme Court or a single justice may stay the order or any part of it and may order additional interim relief.

§ 1641. ENFORCEMENT

Orders of the Board issued under this chapter may be enforced by any party or by the Board by filing a petition with the Civil Division of the Superior Court of Washington County or with the Civil Division of the Superior Court in the county in which the action before the Board originated. The petition shall be served on the adverse party as provided for service of process under the Vermont Rules of Civil Procedure. If, after hearing, the court determines that the Board had jurisdiction over the matter and that a timely appeal was not filed or that an appeal was timely filed and a stay of the Board order or any part of it was not granted or that a Board order was affirmed on appeal in pertinent part by the Supreme Court, the court shall incorporate the order of the Board as a judgment of the court. There is no appeal from that judgment except that a judgment reversing a Board decision on jurisdiction may be appealed to the Supreme Court.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Which was agreed to.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with an amendment as follows:

By adding a new section to be numbered Sec. 2 to read as follows:

Sec. 2. NEGOTIATIONS; INDEPENDENT DIRECT SUPPORT PROVIDERS

The costs of negotiating an agreement pursuant to 21 V.S.A. chapter 20 shall be borne by the State out of existing appropriations made to it by the General Assembly.

And by renumbering the remaining section to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs, as substituted was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as substituted and as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Appointment of Senate Member to Art in State Buildings Advisory Panel

Pursuant to the provisions of 29 V.S.A. §47, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Art in State Buildings Advisory Panel during this biennium:

Senator Flory

Appointment of Senate Member to Vermont Economic Progress Council

Pursuant to the provisions of 32 V.S.A. §5930a, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Vermont Economic Progress Council for a term of two years:

Senator Bray

Appointment of Senate Member to Commission on Alzheimer's Disease and Related Disorders

Pursuant to the provisions of 3 V.S.A. §3085b, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator to serve on the Commission on Alzheimer's Disease and Related Disorders for the current biennium:

Senator Pollina

Appointment of Senate Member to the Criminal Justice Cabinet (successor to Criminal Justice Council)

Pursuant to the provisions of Executive Order No. 13-1, issued on July 22, 1992, by Governor Howard B. Dean, the President, on behalf of the Committee on Committees, announced the appointment of the following Senator as a member of the Criminal Justice Cabinet during this biennium:

Senator Sears

Appointment of Senate Members to the Legislative Advisory Committee on the State House

Pursuant to the provisions of 2 V.S.A. §651, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Legislative Advisory Committee on the State House for terms of two years:

Senator Campbell
Senator Flory
Senator Mazza

Appointment of Senate Members to Legislative Committee on Judicial Rules

Pursuant to the provisions of 12 V.S.A. §3, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Legislative Committee on Judicial Rules for terms of two (2) years ending February 1, 2015: (chairman of Judiciary and three members)

Senator Sears, *ex officio*
Senator Bray
Senator Campbell
Senator Benning

Appointment of Senate Members to the Joint Legislative Corrections Oversight Committee

Pursuant to the provisions of Sec. 170d of No. 142 of Acts of 2002, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Joint Legislative Corrections Oversight Committee for terms of two years:

Senator Sears
Senator Ashe
Senator Fox
Senator Snelling
Senator Flory

Message from the House No. 28

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. 14. An act relating to the law enforcement authority of liquor control investigators.

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

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

J.R.S. 17. Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

And has adopted the same in concurrence.

Adjournment

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

FRIDAY, MARCH 15, 2013

The Senate was called to order by the President.

Devotional Exercises

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

Bills Referred to Committee on Appropriations

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

S. 82. An act relating to campaign finance law.

S. 132. An act relating to sheriffs, deputy sheriffs, and the service of process.

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. 154.

By the Committee on Judiciary,

An act relating to classification of crimes.

Bill Introduced

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

S. 155.

By Senators Bray, Ayer, Baruth, Benning, Campbell, Collins, Cummings, Doyle, Flory, French, Lyons, MacDonald, McAllister, Mullin and Starr,

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

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. 156.

By the Committee on Health and Welfare,

An act relating to home visiting standards.

Bill Referred

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

H. 14.

An act relating to the law enforcement authority of liquor control investigators.

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

Third Reading Ordered

S. 148.

Senate committee bill entitled:

An act relating to criminal investigation records and the Vermont Public Records Act.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senators

Sears, Benning, Nitka, White and Ashe moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) records dealing with the detection and investigation of crime, ~~including those maintained on any individual or compiled in the course of a criminal or disciplinary investigation by any police or professional licensing agency;~~ but only to the extent that the production of such records:

(i) could reasonably be expected to interfere with enforcement proceedings;

(ii) would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecution if such disclosure could reasonably be expected to risk circumvention of the law;

(vi) could reasonably be expected to endanger the life or physical safety of any individual;

(B) Notwithstanding subdivision (A) of this subdivision (5), a public entity shall not reveal information that could be used to facilitate the commission of a crime or the name of a private individual who is a witness to or victim of a crime, unless withholding the name or information would conceal government wrongdoing;

(C) ~~provided, however, that~~ Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public;

(D) It is the intent of the General Assembly that in construing subdivision (A) of this subdivision (5), the courts of this State will be guided by the construction of similar terms contained in 5 U.S.C. § 552(b)(7) (Freedom of Information Act) by the courts of the United States;

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Bill Passed

S. 59.

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

An act relating to independent direct support providers

Bill Passed in Concurrence

H. 63.

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

An act relating to repealing an annual survey of municipalities.

Third Reading Ordered

S. 130.

Senate committee bill entitled:

An act relating to encouraging flexible pathways to secondary school completion.

Having appeared on the Calendar for notice for one day, was taken up.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator Baruth moved to amend the bill as follows:

First: In Sec. 1, 16 V.S.A. § 944(f)(2), by striking out "subdivision (1)" the second time it appears and inserting in lieu thereof the following: subdivision (1)(A)

Second: In Sec. 1, 16 V.S.A. § 944(f), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3) If it agrees to the terms of subsection (c) of this section, an accredited private postsecondary institution in Vermont approved pursuant to section 176 of this title shall receive tuition pursuant to subdivisions (1) and (2) of this subsection (f) for each eligible student it enrolls in a college-level course under this section.

Third: In Sec. 1, 16 V.S.A. § 944(h), before the final period, by inserting the following: ; provided, however, that payment under subdivision (f)(2) of this section shall not be made for more than two courses per eligible student

Fourth: In Sec. 9, by striking out the citation "16 V.S.A. § 944(f)" and inserting in lieu thereof the citation 16 V.S.A. § 944(f)(2) and also in Sec. 9, after the year "2015" by inserting the following: under subdivision (f)(1)(A)

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 85.

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

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

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

Sec. 1. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

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

* * *

(11) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(H)(i) In the case of firefighters and members of a rescue or an ambulance squad, disability or death resulting from lung disease or an infectious disease caused by aerosolized airborne infectious agents or blood-borne pathogens and acquired after a documented occupational exposure in the line of duty to a person with an illness shall be presumed to be compensable, unless it is shown by a preponderance of the evidence that the disease was caused by nonservice-connected risk factors or nonservice-connected exposure. The presumption of compensability shall not be available if the employer offers a vaccine that is refused by the firefighter or rescue or ambulance worker and the firefighter or rescue or ambulance worker is subsequently diagnosed with the particular disease for which the vaccine was offered, unless the firefighter or rescue or ambulance worker's physician deems that the vaccine is not medically safe or appropriate for the firefighter or rescue or ambulance worker.

(ii) In the case of lung disease the presumption of compensability shall not apply to any firefighter or rescue or ambulance worker who has used tobacco products at any time within 10 years of the date of diagnosis.

(iii) A firefighter or rescue or ambulance worker shall have been diagnosed within 10 years of the last active date of employment as a firefighter or rescue or ambulance worker.

(iv) As used in this subdivision, "exposure" means contact with infectious agents such as bodily fluids through inhalation, percutaneous inoculation, or contact with an open wound, nonintact skin, or mucous membranes, or other potentially infectious materials that may result from the performance of an employee's duties. Exposure includes:

(I) Percutaneous exposure. Percutaneous exposure occurs when blood or bodily fluid is introduced into the body through the skin, including by needle sticks, cuts, abrasions, broken cuticles, and chapped skin.

(II) Mucocutaneous exposure. Mucocutaneous exposure occurs when blood or bodily fluids come in contact with a mucous membrane.

(III) Airborne exposure. Airborne exposure means contact with an individual with a suspected or confirmed case of airborne disease or contact with air containing aerosolized airborne disease.

* * *

(28) "Aerosolized airborne infectious agents" means microbial aerosols that can enter the human body, usually through the respiratory tract, and cause disease, including mycobacterium tuberculosis, meningococcal meningitis, varicella zoster virus, diphtheria, mumps, pertussis, pneumonic plague, rubella, severe acute respiratory syndrome, anthrax, and novel influenza.

(29) "Blood-borne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans, including anthrax, hepatitis B virus (HBV), hepatitis C virus (HCV), human immunodeficiency virus (HIV), rabies, vaccinia, viral hemorrhagic fevers, and methicillin-resistant straphylococcus aureus.

(30) "Bodily fluids" means blood and bodily fluids containing blood or other potentially infectious materials as defined in the Vermont Occupational Safety and Health Administration Bloodborne Pathogen Standard (1910.1030). Bodily fluids also include respiratory, salivary, and sinus fluids, including droplets, sputum and saliva, mucus, and other fluids through which infectious airborne organisms can be transmitted between persons.

Sec. 2. EDUCATION AND TRAINING

To the extent that resources are available the Department of Health and the Vermont Fire Academy shall provide education and training on an annual basis to firefighters, first responders, emergency medical technicians, and paramedics on the requirements of the Occupational Safety and Health Administration standards 1910.134 (respiratory protection) and 1910.1030 (bloodborne pathogens).

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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.

Message from the House No. 29

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. 182. An act relating to search and rescue.

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

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

H. 41. An act relating to civil forfeiture of retirement payments to public officials convicted of certain crimes.

And has severally concurred therein.

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

H.C.R. 52. House concurrent resolution commemorating the sestercentennial anniversary of the town of Orwell.

H.C.R. 53. House concurrent resolution commemorating the bicentennial anniversary of the Old Round Church in Richmond and the 40th anniversary of the Richmond Historical Society.

H.C.R. 54. House concurrent resolution honoring Dennis McCarthy for his exemplary municipal public service career.

H.C.R. 55. House concurrent resolution honoring Jamaica Village School principal Janet Hamilton.

H.C.R. 56. House concurrent resolution commending the heroic rescue efforts and sacrifice of Alton Lombard Sr. and also the Vermont State Police for its continuing search for his remains in Lake Champlain.

H.C.R. 57. House concurrent resolution commemorating the sestercentennial anniversary of the town of Bolton.

H.C.R. 58. House concurrent resolution congratulating the town of Colchester on its sestercentennnial anniversary.

H.C.R. 59. House concurrent resolution commemorating the 250th anniversary of the Town of Jericho.

H.C.R. 60. House concurrent resolution commemorating the sestercentennial anniversary of the Town of Underhill.

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

House Concurrent Resolutions

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

By Representative Stevens,

By Senators Ayer and Bray,

H.C.R. 52.

House concurrent resolution commemorating the sestercentennial anniversary of the town of Orwell.

By Representative O'Brien,

H.C.R. 53.

House concurrent resolution commemorating the bicentennial anniversary of the Old Round Church in Richmond and the 40th anniversary of the Richmond Historical Society.

By Representatives Goodwin and Miller,

By Senators Hartwell, Sears and White,

H.C.R. 54.

House concurrent resolution honoring Dennis McCarthy for his exemplary municipal public service career.

By Representatives Goodwin and Miller,

By Senators Galbraith and White,

H.C.R. 55.

House concurrent resolution honoring Jamaica Village School principal Janet Hamilton.

By Representatives Turner and Hubert,

H.C.R. 56.

House concurrent resolution commending the heroic rescue efforts and sacrifice of Alton Lombard Sr. and also the Vermont State Police for its continuing search for his remains in Lake Champlain.

By Representative Stevens and others,

H.C.R. 57.

House concurrent resolution commemorating the sestercentennial anniversary of the town of Bolton.

By Representative Brennan and others,

By Senator Mazza,

H.C.R. 58.

House concurrent resolution congratulating the town of Colchester on its sestercentennnial anniversary.

By Representatives Till and Frank,

H.C.R. 59.

House concurrent resolution commemorating the 250th anniversary of the Town of Jericho.

By Representatives Frank and Till,

H.C.R. 60.

House concurrent resolution commemorating the sestercentennial anniversary of the Town of Underhill.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, March 19, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 18.

TUESDAY, MARCH 19, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Deadra Ashton of Tunbridge.

Pledge of Allegiance

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

Rules Suspended; Bill Committed

S. 55.

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

An act relating to increasing efficiency in state government finance and lending operations.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Government Operations, Senator White 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 Government Operations *intact*,

Which was agreed to.

Bill Referred to Committee on Finance

S. 27.

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

An act relating to respectful language in the Vermont Statutes Annotated.

Bills Referred to Committee on Appropriations

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

S. 40. An act relating to establishing an interim committee that will develop policies to restore the 1980 ratio of state funding to student tuition at Vermont State Colleges and to make higher education more affordable.

S. 119. An act relating to amending perpetual conservation easements.

S. 154. An act relating to classification of crimes.

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. 20. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 22, 2013, it be to meet again no later than Tuesday, March 26, 2013.

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. 157.

By the Committee on Agriculture,

An act relating to modifying the requirements for hemp production in the State of Vermont.

Bill Introduced

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

S. 158.

By Senator Cummings,

An act relating to creating an employer-assisted housing fund.

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. 159.

By the Committee on Natural Resources and Energy,

An act relating to various amendments to Vermont's land use control law and related statutes.

Bill Introduced

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

S. 160.

By Senators White and Benning,

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

To the Committee on Judiciary.

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. 161.

By the Committee on Judiciary,

An act relating to mitigation of traffic fines and approval of a DLS Diversion Program contract.

Bill Introduced

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

S. 162.

By Senators Starr, French, McAllister, Rodgers and Westman,

An act relating to agricultural facility fraud.

To the Committee on Agriculture.

Bill Referred

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

H. 182.

An act relating to search and rescue.

To the Committee on Government Operations.

Third Readings Ordered

S. 150.

Senate committee bill entitled:

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

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time? Senator Campbell moved that the bill be amended by inserting after Sec. 23 the following four new sections to be Secs. 24–27:

* * * Vehicular Moving Violation * * *

Sec. 24. 23 V.S.A. § 1002 is amended to read:

§ 1002. ~~Repealed.~~ A person who violates any provision of this title while operating a motor vehicle on a public highway commits a traffic violation and shall be subject to a fine of not more than $1,000.00. However, a person adjudicated of a violation of this section shall not be assessed points under chapter 25 of this title.

* * * Waiver of Assessment of Points* * *

Sec. 25. 23 V.S.A. § 2501 is amended to read:

§ 2501. MOTOR VEHICLE POINT SYSTEM

For the purpose of identifying habitually reckless or negligent drivers and frequent violators of traffic regulations governing the movement of vehicles, a uniform system is established assigning demerit points for convictions of violations of this title or of ordinances adopted by local authorities regulating the operation of motor vehicles. Notice of each assessment of points may be given. No points shall be assessed for violating 23 V.S.A. § 1002 or a provision of a statute or municipal ordinance regulating standing, parking, equipment, size~~,~~ or weight, or if a superior judge or Judicial Bureau hearing officer has waived the assessment of points. The conviction report from the court shall be prima facie evidence of the points assessed. The ~~department is~~ Department also is authorized to suspend the license of a driver when the driver's driving record identifies the driver as an habitual offender under section 673a of this title.

Sec. 26. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) ~~Any~~ Unless the assessment of points is waived by a superior court judge or a Judicial Bureau officer in the interests of justice, or unless a person is convicted of violating 23 V.S.A. § 1002, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

* * *

Sec. 27. 23 V.S.A. § 2505 is amended to read:

§ 2505. SUSPENSION OR REVOCATION OF LICENSE

When a person receives ~~a number of convictions for moving violations sufficient to raise his or her point total to~~ at least 10 points in a two-year period, the ~~commissioner~~ Commissioner shall initiate suspension proceedings pursuant to section 2506 of this title.

And by renumbering the remaining section to be numerically correct.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

S. 151.

Senate committee bill entitled:

An act relating to miscellaneous changes to the laws governing commercial motor vehicle licensing and operation.

Having appeared on the Calendar for notice for one day, was taken up.

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

Proposal of Amendment; Third Reading Ordered

J.R.H. 1.

Senator Cummings, for the Committee on Institutions, to which was referred joint House resolution entitled:

Joint resolution relating to the history and legacy of the Vermont State Hospital and the preservation of its cemetery.

Reported recommending that the Senate propose to the House to amend the joint resolution by striking out all after the title and inserting in lieu thereof the following:

Whereas, in 1888, the trustees of the Vermont Asylum for the Insane in Brattleboro (renamed the Brattleboro Retreat in 1892 to avoid confusion with the Waterbury facility) reported that the facility was beyond its designed capacity, and Dr. Don D. Grout, the member from Stowe and a future superintendent of the Vermont State Asylum for the Insane (renamed the Vermont State Hospital for the Insane in 1898), introduced legislation that became Act 94, "An act providing for the care, custody and treatment of the insane poor and insane criminals of the state," and

Whereas, the state purchased 500 acres of land in Waterbury for the new facility, and after initial construction, the first 25 patients arrived by train from Brattleboro on August 8, 1891, and

Whereas, during its 120 years of service, the Vermont State Hospital played a powerful role in the lives of many Vermonters, including many patients and staff, and

Whereas, from early on, the Vermont State Hospital confronted a continuing struggle to secure sufficient financing to provide the best quality of care, and in recent decades, it had been recognized that the facilities in Waterbury no longer allowed for state-of-the-art care, and the existing hospital needed to be closed, and

Whereas, in November 1927, and again at the end of August 2011, the staff and patients at the Vermont State Hospital undertook extraordinary measures to respond to devastating floods, and

Whereas, the severe damage that the Vermont State Hospital sustained in Tropical Storm Irene required an immediate relocation or replacement of services previously provided at the Vermont State Hospital, and

Whereas, as a new chapter in mental health care in Vermont begins, it should be one that integrates mental health care with other health care services, focuses on community supports and treatment close to home, avoids unnecessary hospitalization, and never abandons those with mental health needs, and

Whereas, with the closure of the historic Vermont State Hospital Waterbury campus, it is important to remember those individuals buried at the hospital's cemetery in use from the hospital's inception until 1912 and which includes a memorial stone with an inscription that reads:

> This beautiful knoll overlooking the grounds of the Vermont State Hospital is matched in splendor only by the twenty or so residents of the Hospital who were buried here between 1891 and 1912. May their spirits soar, you are remembered, and

Whereas, the preservation of this cemetery and of the memory of those individuals is of lasting importance, and

Whereas, the names of those buried there have been gathered in the past, and may still be able to be located and preserved so that these individuals will not be left unknown, and

Whereas, there is evidence that at least two and perhaps more patients from the Vermont State Hospital were buried at different locations on the grounds in unmarked graves that are likely to never be identified which would be a grievous indication of past indifference to the lives of these individuals, a practice that should never again be permitted to occur in this state, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly observes the powerful role that the Vermont State Hospital played in the history of mental health treatment in Vermont and requests the State to maintain and preserve perpetually the hospital's cemetery, and be it further

Resolved: That the Department of Mental Health is requested to seek to identify from past records those individuals who were buried at different locations, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Mental Health, to the Commissioner of Buildings and General Services, and to the Commissioner of Forests, Parks and Recreation.

And that the joint resolution ought to be adopted in concurrence with such proposal of amendment.

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

Bills Passed

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

S. 85. An act relating to workers' compensation for firefighters and rescue or ambulance workers.

S. 130. An act relating to encouraging flexible pathways to secondary school completion.

Bill Passed

S. 148.

Senate bill of the following title:

An act relating to criminal investigation records and the Vermont Public Records Act

Was taken up.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 29, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Zuckerman.

Consideration Postponed

S. 41.

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

An act relating to water and sewer service.

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

Sec. 1. 24 V.S.A. § 5143 is amended to read:

§ 5143. DISCONNECTION OF SERVICE

* * *

(c) The tenant of a rental dwelling noticed for disconnection due to the delinquency of the ratepayer shall have the right to request and pay for continued service from the utility or reconnection of water and sewer service for the rental dwelling, which the utility shall provide. The tenant may deduct the cost of any water and sewer service charges or fees from his or her rent pursuant to 9 V.S.A. § 4459. Under such circumstances, the utility shall not require the tenant to pay any arrearage.

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, and pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, on motion of Senator Sears consideration of the bill was postponed until Friday, March 22, 2013.

Bill Amended; Third Reading Ordered

S. 70.

Senator French, for the Committee on Agriculture, to which was referred Senate bill entitled:

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

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

Sec. 1. 6 V.S.A. § 2776 is amended to read:

§ 2776. DEFINITIONS

In this chapter:

(1) "Consumer" means a customer who purchases, barters for, receives delivery of, or otherwise acquires unpasteurized milk ~~from the farm or delivered from the farm~~ according to the requirements of this chapter.

* * *

Sec. 2. 6 V.S.A. § 2777 is amended to read:

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW) MILK

(a) Unpasteurized milk shall be sold directly from the producer to the consumer for personal consumption only and shall not be resold.

(b) Unpasteurized milk shall be sold only from the farm on which it was produced except when delivery is arranged in conformance with section 2778 of this chapter. Unpasteurized milk shall not be sold or offered as free samples at any location other than on the farm on which the milk was produced.

(c) Unpasteurized milk operations shall conform to reasonable sanitary standards, including:

(1) Unpasteurized milk shall be derived from healthy animals which are subject to appropriate veterinary care, including tuberculosis and brucellosis testing and rabies vaccination, according to accepted testing and vaccinations standards as established by the agency. Test results and verification of vaccinations shall be posted on the farm in a prominent place and be easily visible to customers.

(2) The animal's udders and teats shall be cleaned and sanitized prior to milking.

(3) The animals shall be housed in a clean, dry environment.

(4) Milking equipment shall be of sanitary construction, cleaned after each milking, and sanitized prior to the next milking.

(5) Milking shall be conducted in a clean environment appropriate for maintaining cleanliness.

(6) The farm shall have a potable water supply which is sampled for bacteriological examination according to agency standards every three years and whenever any alteration or repair of the water supply has been made.

(7) If an animal is treated with antibiotics, that animal's milk shall be tested for and found free of antibiotics before its milk is offered for sale.

(d) Unpasteurized milk shall conform to the following production and marketing standards:

(1) Record keeping and reporting.

(A) A producer shall collect one composite sample of unpasteurized milk each day and keep the previous 14 days' samples frozen. The producer shall provide samples to the ~~agency~~ Agency if requested.

(B) A producer shall maintain a current list of all customers, including addresses, telephone numbers, and email addresses when available.

(C) The producer shall maintain a list of transactions for at least one year which shall include customer names, the date of each purchase, and the amount purchased.

(D) A producer shall register with the Agency of Agriculture, Food and Markets on a form provided by the Agency.

(2) Labeling. Unpasteurized (raw) milk shall be labeled as such, and the label shall contain:

(A) The date the milk was obtained from the animal.

(B) The name, address, zip code, and telephone number of the producer.

(C) The common name of the type of animal producing the milk (e.g. cattle, goat, sheep) or an image of the animal.

(D) The words "Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated." on the container's principal display panel, and these words shall be clearly readable in letters at least one-eighth inch in height and prominently displayed.

(E) The words "This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, the elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage or fetal death, or death of a newborn." on the container's principal display panel and clearly readable in letters at least one-sixteenth inch in height.

(3) Temperature. Unpasteurized milk shall be cooled to 40 degrees Fahrenheit within two hours of the finish of milking and so maintained until it is obtained by the consumer.

(4) Customer inspection and notification.

(A) Prior to selling milk to a new customer, the producer shall provide the customer with a tour of the farm and any area associated with the milking operation. Customers are encouraged and shall be permitted to return to the farm at a reasonable time and at reasonable intervals to re-inspect any areas associated with the milking operation.

(B) A sign with the words "Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated." and "This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, the elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage or fetal death, or death of a newborn." shall be displayed prominently on the farm in a place where it can be easily seen by customers. The lettering shall be at least one inch in height and shall be clearly readable.

(e) Producers selling 12.5 or fewer gallons (50 quarts) of unpasteurized milk per day shall meet the requirements of subsections (a) through (d) of this section and shall sell unpasteurized milk only from the farm on which it was produced. A producer selling 12.5 or fewer gallons of unpasteurized milk may choose to meet the requirements of subsection (f) of this section, in which case the producer may deliver in accordance with section 2778 of this ~~chapter~~ title.

(f) Producers selling 12.6 to 40 gallons (50.4 to 160 quarts) of unpasteurized milk per day shall meet the requirements of subsections (a) through (d) of this section as well as the following standards:

(1) Inspection. The ~~agency~~ Agency shall annually inspect the producer's facility and determine that the producer is in compliance with the sanitary standards listed in subsection (c) of this section.

(2) Bottling. Unpasteurized milk shall be sold in containers which have been filled by the producer. Containers shall be cleaned by the producer except that the producer may allow customers to clean their own containers only if each customer's container is labeled with the customer's name and address and the customers use their own containers. Producers shall ensure that only clean bottles are filled and distributed.

(3) Testing.

(A) A producer shall have unpasteurized milk tested twice per month by a U.S. Food and Drug Administration accredited laboratory. Milk shall be tested for the following and the results shall be below these limits:

(i) Total bacterial (aerobic) count: 15,000 cfu/ml (cattle and goats);

(ii) Total coliform count: 10 cfu/ml (cattle and goats);

(iii) Somatic cell count: 225,000/ml (cattle); 500,000/ml (goats).

(B) The producer shall assure that all test results are forwarded to the agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

(C) The producer shall keep test results on file for one year and shall post results on the farm in a prominent place that is easily visible to customers. The producer shall provide test results to the farm's customers if requested.

(4) ~~Registration~~ License. Each producer operating under this subsection shall ~~register with~~ be licensed by the ~~agency~~ Agency.

(5) Reporting. On or before March 1 of each year, each producer shall submit to the ~~agency~~ Agency a statement of the total gallons of unpasteurized milk sold in the previous 12 months.

(6) Prearranged delivery. Prearranged delivery of unpasteurized milk is permitted and shall be in compliance with section 2778 of this ~~chapter~~ title.

(g) The sale of more than 40 gallons (160 quarts) of unpasteurized milk in any one day is prohibited.

Sec. 3. 6 V.S.A. § 2778 is amended to read:

§ 2778. DELIVERY OF UNPASTEURIZED (RAW) MILK

(a) Delivery of unpasteurized milk is permitted only within the state of Vermont and only of milk produced by those producers meeting the requirements of subsection 2777(f) of this chapter.

(b) Delivery shall conform to the following requirements:

(1) Delivery shall be to customers who have:

(A) visited the farm as required under subdivision 2777(d)(4) of this title; and

(B) purchased milk in advance either by a one-time payment or through a subscription.

(2) Delivery shall be directly to the customer:

(A) at the customer's home or into a refrigerated unit at the customer's home if such unit is capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit until obtained by the customer;

(B) at a farmers' market, as that term is defined in section 5001 of this title.

(3) During delivery, milk shall be protected from exposure to direct sunlight.

(4) During delivery, milk shall be kept at 40 degrees Fahrenheit or lower at all times. For purposes of delivery of milk at a farmers' market under this section, milk shall be kept in a refrigerated unit capable of maintaining the

unpasteurized milk at 40 degrees Fahrenheit at all times while the milk is stored in the unit.

(c) A producer may contract with another individual to deliver the milk in accordance with this section. The producer shall be jointly and severally liable for the delivery of the milk in accordance with this section.

(d) Prior to delivery at a farmers' market under this section, a producer shall submit to the Agency of Agriculture, Food and Markets, on a form provided by the Agency, notice of intent to deliver unpasteurized milk at a farmers' market. The notice shall:

(1) include the producer's name and license number;

(2) identify the farmers' market or markets where the producer will deliver milk; and

(3) specify the day of the week on which delivery will be made at a farmers' market.

(e) A producer delivering unpasteurized milk at a farmers' market under this section shall:

(1) display the license required under subdivision 2777(f)(4) of this title on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers; and

(2) provide a brochure or handout to consumers receiving delivery of unpasteurized milk that contains the words required for signs under subdivision 2777 (d)(4)(B) of this title in a easily visible and clearly readable manner.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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

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

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.

Adjournment

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

WEDNESDAY, MARCH 20, 2013

Pursuant to the Senate Rules, in the absence of the President, the Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Referred to Committee on Finance

S. 157.

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

An act relating to modifying the requirements for hemp production in the State of Vermont.

Bill Amended; Bill Passed

S. 70.

Senate bill entitled:

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

Was taken up.

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

First: In Sec. 2, 6 V.S.A. § 2777(d)(1) by striking out subparagraph (D) in its entirety.

Second: In Sec. 3, 6 V.S.A. § 2778(b) by striking out subdivision (4) and inserting in lieu thereof a new subdivision (4) to read as follows:

(4) During delivery, milk shall be kept at 40 degrees Fahrenheit or lower at all times. For purposes of delivery of milk at a farmers' market under this section, milk shall be kept in a refrigerated unit that maintains the unpasteurized milk at 40 degrees Fahrenheit or below at all times while the milk is stored in the unit.

Which was agreed to.

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

Bills Passed

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

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

S. 151. An act relating to miscellaneous changes to the laws governing commercial motor vehicle licensing and operation.

Joint Resolution Adopted in Concurrence with Proposal of Amendment

J.R.H. 1

Joint House resolution of the following title was read the third time and adopted in concurrence with proposal of amendment:

Joint resolution relating to the history and legacy of the Vermont State Hospital and the preservation of its cemetery

Third Reading Ordered

S. 156.

Senate committee bill entitled:

An act relating to home visiting standards.

Having appeared on the Calendar for notice for one day, was taken up.

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

Third Reading Ordered

S. 20.

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

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

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.

Bill Amended; Third Reading Ordered

S. 7.

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

An act relating to social networking privacy protection.

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

Sec. 1. SOCIAL NETWORKING PRIVACY PROTECTION STUDY COMMITTEE

(a) A Committee is established to study the issue of prohibiting employers from requiring employees or applicants for employment to disclose a means of accessing the employee's or applicant's social network account.

(b) The Committee shall examine:

(1) existing social networking privacy laws and proposed legislation in other states;

(2) the interplay between state law and existing or proposed federal law on the subject of social networking privacy and employment; and

(3) any other issues relevant to social networking privacy or employment.

(c) The Committee shall make recommendations, including proposed legislation.

(d) The Committee shall consist of the following members:

(1) two representatives of employers, one appointed by the Speaker of the House and one by the Committee on Committees;

(2) two representatives from labor organizations, one appointed by the Speaker and one by the Committee on Committees;

(3) the Attorney General or designee;

(4) the Commissioner of Labor or designee;

(5) the Commissioner of Financial Regulation or designee;

(6) the Commissioner of Human Resources or designee;

(7) the Commissioner of Public Safety or designee;

(8) the Executive Director of the Human Rights Commission or designee; and

(9) a representative of the American Civil Liberties Union of Vermont.

(e) The Committee shall convene its first meeting on or before September 1, 2013. The Commissioner of Labor or designee shall be designated Chair of the Committee and shall convene the first and subsequent meetings.

(f) The Committee shall report its findings and recommendations on or before January 15, 2014 to the House Committee on General, Housing and

Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs.

(g) The Committee shall cease to function upon transmitting its report.

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, and the recommendation of amendment was agreed to on a roll call, Yeas 25, Nays 4.

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

Roll Call

Those Senators who voted in the affirmative were: Ayer, Baruth, Benning, Bray, Collins, Cummings, Doyle, Flory, Fox, French, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Ashe, Galbraith, Hartwell, Sears.

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

Thereupon, third reading of the bill was ordered.

Consideration Postponed

Senate bill entitled:

S. 30.

An act relating to siting of electric generation plants.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy, Senator Snelling moved that consideration of the bill be postponed until March 26, 2013, which was disagreed to on a roll call, Yeas 13, Nays 16.

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

Roll Call

Those Senators who voted in the affirmative were: Ayer, Baruth, Benning, Flory, Galbraith, Hartwell, Kitchel, Mazza, McAllister, Nitka, Rodgers, Snelling, Starr.

Those Senators who voted in the negative were: Ashe, Bray, Collins, Cummings, Doyle, Fox, French, Lyons, MacDonald, McCormack, Mullin, Pollina, Sears, Westman, White, *Zuckerman.

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

*Senator Zuckerman explained his vote as follows:

"I believe we should take action on a date that would allow for all members to be able to participate."

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

Bills Amended; Third Readings Ordered

S. 47.

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

An act relating to protection orders and second degree domestic assault.

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

Sec. 1. 12 V.S.A. § 5135 is amended to read:

§ 5135. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this chapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. Orders against stalking or sexual assault shall be served at the earliest possible time and shall take precedence over other summonses and orders, with the exception of abuse prevention orders issued pursuant to 15 V.S.A. chapter 21. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place that the order was delivered personally to the defendant. A defendant who attends a hearing held under section 5133 or 5134 of this title at which a temporary or final order is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served.

* * *

Sec. 2. 33 V.S.A. § 6935 is amended to read:

§ 6935. FINDINGS AND ORDER

(a) If the court finds that the defendant has abused, neglected, or exploited the vulnerable adult, the court shall make such order as it deems necessary to protect the vulnerable adult. The plaintiff shall have the burden of proving abuse, neglect, or exploitation by a preponderance of the evidence. Relief shall be granted for a fixed period of time, at the expiration of which the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the vulnerable adult from abuse, neglect, or exploitation. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstances. If the motion for extension or modification of the order is made by an interested person, notice shall be provided to the vulnerable adult, and the court shall determine whether the vulnerable adult is capable of expressing his or her wishes with respect to the motion and, if so, whether the vulnerable adult wishes to request an extension or modification. If the court determines the vulnerable adult is capable of expressing his or her wishes and does not wish to pursue the motion, the court shall dismiss the motion.

(b) Every order under this subchapter shall contain the name of the court, the names of the parties, the date of the petition, the date and time of the order, and shall be signed by the judge.

(c) Form complaints and form orders shall be provided by the court administrator and shall be maintained by the clerks of the courts.

(d) Every order issued under this subchapter shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH."

(e) A defendant who attends a hearing under this section at which a protective order is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served with notice of the order.

Sec. 3. 12 V.S.A. § 5136 is amended to read:

§ 5136. PROCEDURE

(a) Except as otherwise specified in this chapter, proceedings commenced under this chapter shall be in accordance with the Vermont Rules of Civil

Procedure and shall be in addition to any other available civil or criminal remedies.

(b) The ~~court administrator~~ Court Administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to superior court. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) The ~~office~~ Office of the ~~court administrator~~ Court Administrator shall ensure that the superior court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an order against stalking or sexual assault proceeding is related to a criminal proceeding.

(d) Notwithstanding any provision of law to the contrary, an order issued pursuant to sections 5133 and 5134 of this title shall not be stayed pending an appeal.

Sec. 4. 15 V.S.A. § 1103 is amended to read:

§ 1103. REQUESTS FOR RELIEF

(a) Any family or household member may seek relief from abuse by another family or household member on behalf of him or herself or his or her children by filing a complaint under this chapter. The plaintiff shall submit an affidavit in support of the order.

* * *

(c)(1) The court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the court finds that the defendant has abused the plaintiff, and:

* * *

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff, his or her children, or both and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the children in person, by phone, or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or children are likely to spend time;

(B) an order that the defendant immediately vacate the household and that the plaintiff be awarded sole possession of a residence;

(C) a temporary award of parental rights and responsibilities in accordance with the criteria in section 665 of this title;

(D) an order for parent-child contact under such conditions as are necessary to protect the child or the plaintiff, or both, from abuse. An order for parent-child contact may if necessary include conditions under which the plaintiff may deny parent-child contact pending further order of the court;

(E) if the court finds that the defendant has a duty to support the plaintiff, an order that the defendant pay the plaintiff's living expenses for a fixed period of time not to exceed three months;

(F) if the court finds that the defendant has a duty to support the child or children, a temporary order of child support pursuant to chapter 5 of this title, for a period not to exceed three months. A support order granted under this section may be extended if the relief from abuse proceeding is consolidated with an action for legal separation, divorce, or parentage;

(G) an order concerning the possession, care, and control of any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household~~.~~;

(H) an order that the defendant return all of the plaintiff's or plaintiff's children's personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards.

* * *

Sec. 5. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the rules of civil procedure, temporary orders under this chapter may be issued ex parte, without notice to defendant, upon motion and findings by the court that defendant has abused plaintiff, his or her children, or both. The plaintiff shall submit an affidavit in support of the order. Relief under this section shall be limited as follows:

(1) ~~upon~~ Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff, his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or a minor child residing in the household; ~~and~~

(B) to refrain from interfering with the plaintiff's personal liberty, the personal liberty of plaintiff's children, or both; and

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, or the plaintiff's residence.

(2) ~~upon~~ Upon a finding that the plaintiff, his or her children, or both have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff~~;~~.

(3) ~~upon~~ Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

* * *

Sec. 6. 15 V.S.A. § 1152 is amended to read:

§ 1152. ADDRESS CONFIDENTIALITY PROGRAM; APPLICATION; CERTIFICATION

* * *

(f) The Civil or Family Division of Washington County Superior Court shall have jurisdiction over petitions for protective orders filed by program participants pursuant to 12 V.S.A. §§ 5133 and 5134, to sections 1103 and 1104 of this title, and to 33 V.S.A. § 6935. A program participant may file a petition for a protective order in the county in which he or she resides or in Washington County to protect the confidentiality of his or her address.

Sec. 7. 13 V.S.A. § 1044 is amended to read:

§ 1044. SECOND DEGREE AGGRAVATED DOMESTIC ASSAULT

(a) A person commits the crime of second degree aggravated domestic assault if the person:

(1) commits the crime of domestic assault and such conduct violates:

(A) specific conditions of a criminal court order in effect at the time of the offense imposed to protect that other person;

(B) a final abuse prevention order issued under ~~section~~ 15 V.S.A. § 1103 ~~of Title 15~~ or a similar order issued in another jurisdiction.

(C) ~~an~~ a final order against stalking or sexual assault issued under ~~chapter 178 of Title~~ 12 V.S.A. § 5133 or a similar order issued in another jurisdiction; or

(D) ~~an~~ a final order against abuse of a vulnerable adult issued under ~~chapter 69 of Title~~ 33 V.S.A. § 6935 or a similar order issued in another jurisdiction.

(2) commits the crime of domestic assault; and

(A) has a prior conviction within the last 10 years for violating an abuse prevention order issued under section 1030 of this title; or

(B) has a prior conviction for domestic assault under section 1042 of this title.

(3) For the purpose of this subsection, the term "issued in another jurisdiction" means issued by a court in any other state, in a federally recognized Indian tribe, territory, or possession of the United States, in the Commonwealth of Puerto Rico, or in the District of Columbia.

* * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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. 73.

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

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

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

Sec. 1. 2010 Acts and Resolves No. 83, Sec. 2 is amended to read:

Sec. 2. CERTIFICATE OF NEED WORK GROUP; MORATORIUM

* * *

(d) Notwithstanding any other provision of law, no CON shall be granted for the offering of home health services, which includes hospice, or for a new home health agency during the period beginning on the effective date of this act and continuing through ~~June 30, 2013~~ January 1, 2017, or until the ~~general assembly~~ General Assembly lifts the moratorium after considering ~~and acting on the work group's recommendations as it deems appropriate~~ a progress report on the Green Mountain Care Board's implementation of its health planning function and how it relates to home health agencies, whichever occurs first; provided, however, that the moratorium established pursuant to this subsection shall not apply to a continuing care retirement community that has been issued a certificate of authority.

(e) Notwithstanding the moratorium established in subsection (d) of this section, a CON application for a new home health agency may be considered and granted during the moratorium if the ~~commissioners of banking, insurance, securities, and health care administration~~ Green Mountain Care Board and ~~of disabilities, aging, and independent living~~ the Commissioner of Disabilities, Aging, and Independent Living have each first certified that a serious and substantial lack of access to home health services exists in a particular county and the agencies presently serving that county have been given notice and a reasonable opportunity to either challenge that certification or remediate the problem.

(f) Nothing in this section shall be construed to prevent existing home health agencies from seeking approval from the ~~department of banking, insurance, securities, and health care administration~~ Green Mountain Care Board or ~~of disabilities, aging, and independent living~~ the Department of Disabilities, Aging, and Independent Living to expand or contract their designated geographical regions or from merging.

(g) Nothing in this section shall be construed to prevent the ~~commissioner of banking, insurance, securities, and health care administration~~ Green Mountain Care Board from granting a certificate of need to a home health agency that had filed a letter of intent or had a certificate of need application pending prior to ~~the effective date of this act~~ April 21, 2010.

Sec. 2. PERIODIC HEALTH PLANNING FUNCTION PROGRESS REPORTS

For as long as the moratorium continues for certificates of need for the offering of home health services, as established in 2010 Acts and Resolves No. 83, Sec. 2, as amended by this act, the Green Mountain Care Board shall provide to the House committees on Health Care and on Human Services and the Senate Committee on Health and Welfare any progress reports the Board generates on its implementation of its health planning function and how it relates to home health agencies.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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. 81.

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

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

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. chapter 80 is amended to read:

CHAPTER 80. FLAME RETARDANTS

§ 2971. ~~BROMINATED FLAME RETARDANTS~~

~~(a) As used in this section:~~

~~(1) "Brominated flame retardant" means any chemical containing the element bromine that is added to plastic, foam, or textile to inhibit flame formation.~~

~~(2) "Congener" means a specific PBDE molecule.~~

~~(3) "DecaBDE" means decabromodiphenyl ether or any technical mixture in which decabromodiphenyl ether is a congener.~~

~~(4) "Flame retardant" means any chemical that is added to a plastic, foam, or textile to inhibit flame formation.~~

~~(5) "Manufacturer" means any person who manufactures a final product containing a regulated brominated flame retardant or any person whose brand name is affixed to a product containing a regulated brominated flame retardant.~~

~~(6) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, and shall include farm tractors and other machinery used in the production, harvesting, and care of farm products.~~

~~(7) "OctaBDE" means octabromodiphenyl ether or any technical mixture in which octabromodiphenyl ether is a congener.~~

~~(8) "PentaBDE" means pentabromodiphenyl ether or any technical mixture in which a pentabromodiphenyl ether is a congener.~~

~~(9) "PBDE" means polybrominated diphenyl ether.~~

~~(10) "Technical mixture" means a PBDE mixture that is sold to a manufacturer. A technical mixture is named for the predominant congener in the mixture, but is not exclusively made up of that congener.~~

~~(b) As of July 1, 2010, no person may offer for sale, distribute for sale, distribute for promotional purposes, or knowingly sell at retail a product containing octaBDE or pentaBDE in a concentration greater than 0.1 percent by weight.~~

~~(c) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2010, manufacture, offer for sale, distribute for sale, or knowingly sell at retail the following products containing decaBDE in a concentration greater than 0.1 percent by weight:~~

~~(1) A mattress or mattress pad; or~~

~~(2) Upholstered furniture.~~

~~(d) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2012, manufacture, offer for sale, distribute for sale, or knowingly sell at retail a television or computer with a plastic housing containing decaBDE in a concentration greater than 0.1 percent by weight.~~

~~(e) This section shall not apply to:~~

~~(1) the sale or resale of used products; or~~

~~(2) motor vehicles or parts for use on motor vehicles.~~

~~(f) As of July 1, 2010, a manufacturer of a product that contains decaBDE and that is prohibited under subsection (c) or (d) of this section shall notify persons that sell the manufacturer's product of the requirements of this section.~~

~~(g) A manufacturer shall not replace decaBDE, pursuant to this section, with a chemical that is:~~

~~(1) Classified as "known to be a human carcinogen" or "reasonably anticipated to be a human carcinogen" in the most recent report on carcinogens by the National Toxicology Program in the U.S. Department of Health and Human Services;~~

~~(2) Classified as "carcinogenic to humans" or "likely to be carcinogenic to humans" in the U.S. Environmental Protection Agency's most recent list of chemicals evaluated for carcinogenic potential; or~~

~~(3) Identified by the U.S. Environmental Protection Agency as causing birth defects, hormone disruption, or harm to reproduction or development.~~

~~(h) A violation of this section shall be deemed a violation of the Consumer Protection Act, chapter 63 of this title. The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title.~~

~~(i) In addition to any other remedies and procedures authorized by this section, the attorney general may request a manufacturer of upholstered furniture, mattresses, mattress pads, computers, or televisions offered for sale or distributed for sale in this state to provide the attorney general with a certificate of compliance with this section with respect to such products. Within 30 days of receipt of the request for a certificate of compliance, the manufacturer shall:~~

~~(1) Provide the attorney general with a certificate declaring that its product complies with the requirements of this section; or~~

~~(2) Notify persons who sell in this state a product of the manufacturer's which does not comply with this section that sale of the product is prohibited, and submit to the attorney general a list of the names and addresses of those notified.~~

~~(j) The attorney general shall consult with retailers and retailer associations in order to assist retailers in complying with the requirements of this section.~~ [Repealed.]

§ 2972. DEFINITIONS

(a) As used in this chapter:

(1) "Brominated flame retardant" means any chemical containing the element bromine that is added to plastic, foam, or textile to inhibit flame formation.

(2) "Children's product" means a consumer product:

(A) marketed for use by children under 12 years of age; or

(B) the substantial use of which by a child under 12 years of age is reasonably foreseeable.

(3) "Congener" means a specific PBDE molecule.

(4) "DecaBDE" means decabromodiphenyl ether or any technical mixture in which decabromodiphenyl ether is a congener.

(5) "Flame retardant" means any chemical that is added to a plastic, foam, or textile to inhibit flame formation.

(6) "Manufacturer" means any person:

(A) who manufactures a final product containing a flame retardant regulated under this chapter; or

(B) whose brand name is affixed to a final product containing a flame retardant regulated under this chapter.

(7) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways and shall include farm tractors and other machinery used in the production, harvesting, and care of farm products.

(8) "OctaBDE" means octabromodiphenyl ether or any technical mixture in which octabromodiphenyl ether is a congener.

(9) "PentaBDE" means pentabromodiphenyl ether or any technical mixture in which pentabromodiphenyl ether is a congener.

(10) "PBDE" means polybrominated diphenyl ether.

(11) "Residential upholstered furniture" means furniture intended for personal use that includes cushioning material covered by fabric or similar material.

(12) "Technical mixture" means a PBDE mixture that is sold to a manufacturer. A technical mixture is named for the predominant congener in the mixture but is not exclusively made up of that congener.

(13) "Tris" means tris(1,3-dichloro-2-propyl) phosphate (TDCPP), chemical abstracts service number 13674-87-8 (as of the effective date of this section); tris(2-chloroethyl) phosphate (TCEP), chemical abstracts service number 115-96-8 (as of the effective date of this section); or tris(2-chloro-1-methylethyl) phosphate (TCPP) chemical abstracts service number 13674-84-5, (as of the effective date of this section).

§ 2973. BROMINATED FLAME RETARDANTS; PROHIBITION

(a) As of July 1, 2010, no person may offer for sale, distribute for sale, distribute for promotional purposes, or knowingly sell at retail a product containing octaBDE or pentaBDE in a concentration greater than 0.1 percent by weight.

(b) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2010, manufacture, offer for sale, distribute for sale, or knowingly sell at retail the following products containing decaBDE in a concentration greater than 0.1 percent by weight:

(1) a mattress or mattress pad; or

(2) upholstered furniture.

(c) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2012, manufacture, offer for sale, distribute for sale, or knowingly sell at retail a television or computer with a plastic housing containing decaBDE in a concentration greater than 0.1 percent by weight.

(d)(1) Except as provided in subdivision (2) of this subsection, beginning July 1, 2013, no person may manufacture, sell or offer for sale, or distribute for

sale or use in the State plastic shipping pallets that contain decaBDE in a concentration greater than 0.1 percent by weight.

(2) Subdivision (1) of this subsection shall not apply to the sale, lease, distribution, or use in the State of:

(A) plastic shipping pallets manufactured prior to January 1, 2011; or

(B) plastic shipping pallets manufactured from recycled shipping pallets that contain decaBDE in a concentration that is no greater than the concentration of decaBDE in the recycled pallets from which the plastic pallets were manufactured.

§ 2974. CHLORINATED FLAME RETARDANTS

(a) Except for inventory manufactured prior to January 1, 2014, no person, other than a retailer, shall, as of January 1, 2014, manufacture, offer for sale, distribute for sale, or knowingly sell in or into this State any children's product or residential upholstered furniture that contains Tris in any product component in an amount greater than 50 parts per million.

(b) A retailer shall not, as of July 1, 2014, knowingly sell or offer for sale in or into this State any children's product or residential upholstered furniture containing Tris in any product component in an amount greater than 50 parts per million.

§ 2975. NOTICE TO RETAILERS; DISCLOSURE OF PRODUCT CONTENT; CONSULTATION

(a) As of July 1, 2010, a manufacturer of a product that contains decaBDE and that is prohibited under subsection 2973(c) or (d) of this chapter shall notify persons that sell the manufacturer's product of the requirements of this chapter.

(b) As of July 1, 2013, a manufacturer of a product that contains Tris and that is prohibited under subsection 2974(a) or (b) of this chapter shall notify persons that sell the manufacturer's product of the requirements of this chapter.

(c) As of March 31, 2014, a person other than a retailer who, since July 1, 2010, has manufactured, distributed, or sold in or into this State any product containing Tris that is prohibited under subsection 2974(a) or (b) of this chapter shall notify persons who sell the manufacturer's product of the fact that the product sold to the person selling the manufacturer's product contains Tris. The notification shall be sent by mail and shall notify the person selling the manufacturer's product of the concentration of Tris in the product sold in parts per million of each product component.

(d) The Attorney General shall consult with retailers and retailer associations to assist retailers in complying with the requirements of this chapter.

§ 2976. REPLACEMENT OF REGULATED FLAME RETARDANTS

A manufacturer shall not replace decaBDE or Tris with a chemical that is:

(1) classified as "known to be a human carcinogen" or "reasonably anticipated to be a human carcinogen" in the most recent report on carcinogens by the National Toxicology Program in the U.S. Department of Health and Human Services;

(2) classified as "carcinogenic to humans" or "likely to be carcinogenic to humans" in the U.S. Environmental Protection Agency's most recent list of chemicals evaluated for carcinogenic potential; or

(3) identified by the U.S. Environmental Protection Agency as causing birth defects, hormone disruption, or harm to reproduction or development.

§ 2977. EXEMPTIONS

The requirements and prohibitions of this chapter shall not apply to:

(1) the sale or resale of used products;

(2) motor vehicles or parts for use on motor vehicles;

(3) building insulation materials;

(4) internal components of personal computers, audio and video equipment, calculators, wireless phones, game consoles, handheld devices incorporating a screen that are used to access interactive software and their associated peripherals, and cables and other similar connecting devices; or

(5) interactive software intended for leisure and entertainment, such as computer games, and their storage media, such as compact disks.

§ 2978. VIOLATIONS; ENFORCEMENT

A violation of this chapter shall be considered a violation of the Consumer Protection Act, chapter 63 of this title. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions and private parties have the same rights and remedies as provided under subchapter 1 of chapter 63 of this title.

§ 2979. PRODUCTION OF INFORMATION

In addition to any other remedies and procedures authorized by this chapter, the Attorney General may request a manufacturer of upholstered furniture, mattresses, mattress pads, computers, televisions, children's products, or

residential upholstered furniture offered for sale or distributed for sale in this State to provide the Attorney General with a certificate of compliance with this chapter with respect to such products. Within 30 days of receipt of the request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate declaring that its product complies with the requirements of this chapter; or

(2) notify persons who sell in this State a product of the manufacturer's which does not comply with this chapter that sale of the product is prohibited and submit to the Attorney General a list of the names and addresses of those notified.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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

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

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. 88.

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

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

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

Sec. 1. TELEMEDICINE PILOT PROJECTS

Notwithstanding 8 V.S.A. chapter 107, subchapter 14, the Department of Vermont Health Access and the Green Mountain Care Board shall consider implementation of one or more pilot projects using telemedicine in order to expand access to health care services in a cost-efficient manner as part of payment and delivery system reform. In designing pilot projects, the Department and Board shall consider the appropriate scope of services that should be provided through telemedicine outside of a health care facility, the potential costs and changes in access to those services relative to current

service delivery, and safeguards to ensure quality of care, patient confidentiality, and information security needed for the pilot projects.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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. 104.

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

An act relating to expedited partner therapy.

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

Sec. 1. 18 V.S.A. § 1095 is added to read:

§ 1095. TREATMENT OF PARTNER OF PATIENT DIAGNOSED WITH A SEXUALLY TRANSMITTED DISEASE

(a) As used in this section:

(1) "Expedited partner treatment" means the practice of treating the sexual partner or partners of a patient diagnosed with a sexually transmitted disease for the sexually transmitted disease by providing a prescription or medication to the patient for the sexual partner or partners without the prescribing or dispensing health care professional examining the sexual partner or partners.

(2) "Health care professional" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a physician's assistant certified to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 31, or a nurse authorized to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 28.

(b) A health care professional may provide expedited partner treatment to a patient's sexual partner or partners for the treatment of chlamydia or gonorrhea and for any other sexually transmitted disease designated by the Commissioner by rule.

(c) A health care professional who prescribes or dispenses prescription drugs for a patient's sexual partner or partners without an examination pursuant to subsection (b) of this section shall do so in accordance with

guidance published by the Centers for Disease Control and Prevention (CDC) and shall include with each prescription and medication dispensed a letter that:

(1) cautions the sexual partner not to take the medication if he or she is allergic to the medication prescribed or dispensed; and

(2) recommends that the sexual partner visit a health care professional for evaluation.

(d) The Commissioner may establish by rule additional treatment standards for expedited partner treatment and authorize expedited partner treatment for additional sexually transmitted diseases provided that expedited partner treatment for those additional diseases conforms to the best practice recommendations of the CDC.

Sec. 2. 18 V.S.A. § 1095 is amended to read:

§ 1095. TREATMENT OF PARTNER OF PATIENT DIAGNOSED WITH A SEXUALLY TRANSMITTED DISEASE

* * *

(b) A health care professional may provide expedited partner treatment to a patient's sexual partner or partners for the treatment of ~~chlamydia or gonorrhea and for any other~~ a sexually transmitted disease designated by the Commissioner by rule.

* * *

(d) The Commissioner ~~may~~ shall establish by rule additional treatment standards for expedited partner treatment and authorize expedited partner treatment for ~~additional~~ any sexually transmitted diseases provided that expedited partner treatment for those ~~additional~~ diseases conforms to the best practice recommendations of the CDC.

Sec. 3. REPEAL

26 V.S.A. § 1369 (treatment of partner of patient diagnosed with chlamydia infection) is repealed.

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 1 (treatment of partner of patient with a sexually transmitted disease) and 3 (repeal) of this act shall take effect on July 1, 2013.

(b) Sec. 2 of this act shall take effect on March 1, 2014, except that the Commissioner of Health may commence rulemaking prior to that date in order to ensure that rules are in place by that date.

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.

Adjournment

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

THURSDAY, MARCH 21, 2013

Pursuant to the Senate Rules, in the absence of the President, the Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by the Senator from Windsor District, Senator Campbell.

Message from the House No. 30

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. 315. An act relating to group health coverage for same-sex spouses.

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

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

J.R.S. 20. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Joint Resolution Placed on Calendar

J.R.S. 19.

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

By Senator Nitka,

J.R.S. 19. Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

Whereas, by virtue of the provisions of 4 V.S.A. § 608 and of J.R.S. 17, the vote on the retention seven Superior Court Judges, and one Magistrate who have submitted declarations seeking retention was deferred until March 28, 2013,

Whereas, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of judges to a subsequent Joint Assembly, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, April 4, 2013, at ten o'clock and thirty minutes in the forenoon to vote on the retention of a seven Superior Court Judges, and one Magistrate. In case the vote to retain said Judges and Magistrate shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

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

Bill Referred

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

H. 315.

An act relating to group health coverage for same-sex spouses.

To the Committee on Finance.

Consideration Postponed

Senate bill entitled:

S. 30.

An act relating to siting of electric generation plants.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy, Senator Snelling moved that consideration of the bill be postponed until Tuesday, March 26, 2013.

Which was agreed to.

Consideration Postponed

S. 58.

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

An act relating to Act 250 and oil pipelines.

Reported recommending that the bill be amended as follows:

First: In Sec. 2, 10 V.S.A. § 6081, in subsection (b), by striking out the last sentence and inserting in lieu thereof the following:

Subsection (a) of this section also shall apply to an oil or petroleum transmission pipeline and associated facilities excepted under this subsection if there is any change to the pipeline or associated facilities, unless the change is solely for the purpose of repair in the usual course of business.

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

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

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

* * *

(g) When applying the criteria of this section to an oil or petroleum transmission pipeline, the district commission shall not consider the safety of the pipeline and shall issue no permit condition that regulates pipeline safety or has an effect on pipeline safety that is not permitted under the Pipeline Safety Act, 49 U.S.C. §§ 60101–60137.

Sec. 4. APPLICATION

Notwithstanding 1 V.S.A. §§ 213 and 214, this act shall apply to any change to an oil or petroleum pipeline and associated facilities that is made after the act's effective date regardless of whether a jurisdictional opinion under 10 V.S.A. chapter 151 (Act 250) was issued prior to that date concerning the applicability of that chapter to the change.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Sears moved that the bill be committed to the Committee on Judiciary. Thereupon, pending the question, Shall the bill be committed to the Committee on Judiciary?, Senator Sears requested and was granted leave to withdraw his motion.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, on motion of Senator Sears, action on the bill was postponed until the next legislative day.

Bill Amended; Third Reading Ordered

S. 128.

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

An act relating to updating mental health judicial proceedings.

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

Sec. 1. 18 V.S.A. chapter 171 is amended to read:

CHAPTER 171. GENERAL PROVISIONS

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

* * *

(4) "Designated hospital" means a public or private hospital, other facility, or part of a hospital or facility designated by the ~~commissioner~~ Commissioner as adequate to provide appropriate care for ~~the mentally ill patient~~ persons with mental illness.

(5) "Elopement" means the leaving of a designated hospital or designated program ~~or training school~~ without lawful authority.

* * *

(9) "Interested party" means a guardian, spouse, parent, adult child, close adult relative, a responsible adult friend, or person who has the individual in his or her charge or care. It also means a mental health professional, a law enforcement officer, or a licensed physician~~, a head of a hospital, a selectman, a town service officer, or a town health officer~~.

* * *

(15) "Patient" means a resident of or person in Vermont ~~qualified under this title for hospitalization or treatment as a mentally ill or mentally retarded individual~~ who is subject to involuntary or voluntary mental health treatment or evaluation.

* * *

(26) "No refusal system" means a system of designated hospitals ~~and~~, intensive residential recovery facilities, secure residential recovery facilities, and residential treatment programs under contract with the ~~department of mental health~~ Department of Mental Health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the ~~commissioner~~ Commissioner in contract.

(27) "Participating hospital" means a designated hospital under contract with the ~~department of mental health~~ Department of Mental Health to participate in the no refusal system.

(28) "Secure," when describing a residential recovery facility, means that the residents can be physically prevented from leaving the facility by means of locking devices or other mechanical or physical mechanisms.

(29) "Secure residential recovery facility" means a residential facility owned and operated by the State and licensed as a therapeutic community residence, as defined in 33 V.S.A. § 7102(11), for an individual who no longer requires acute inpatient care but who remains in need of treatment within a secure setting for an extended period of time or for an individual transferred pursuant to 28 V.S.A. § 705a.

(30) "Successor in interest" means the mental health hospital owned and operated by the ~~state~~ State that provides acute inpatient care and replaces the Vermont State Hospital.

* * *

§ 7104. WRONGFUL ~~HOSPITALIZATION~~ PLACEMENT IN CUSTODY OR DENIAL OF RIGHTS; FRAUD~~; ELOPEMENT~~

Any person who ~~wilfully~~ willfully causes, or conspires with, or assists another to cause any of the following shall be fined not more than $500.00 or imprisoned not more than one year, or both:

(1) the hospitalization of an individual knowing that the individual is not mentally ill or in need of hospitalization or treatment as a ~~mentally ill or mentally retarded individual~~ person with a mental illness; ~~or~~

(2) the denial to any individual of any rights granted to him or her under this part of this title; ~~or~~

(3) the voluntary admission to a hospital of an individual knowing that he or she is not mentally ill or eligible for treatment thereby attempting to defraud the ~~state~~ State; or

(4) the elopement of any patient ~~or student~~ from a hospital ~~or training school,~~ or who knowingly harbors any ~~sick person~~ patient who has eloped from a hospital, or who aids in abducting a patient ~~or student~~ who has been conditionally discharged from the person or persons in whose care and service that patient ~~or student~~ has been legally placed~~; shall be fined not more than $500.00 or imprisoned not more than one year, or both~~.

§ 7105. ~~ARREST~~ APPREHENSION OF ELOPED PERSONS

Any sheriff, deputy sheriff, ~~constable,~~ or officer of ~~state~~ State or local police, and any officer or employee of any designated hospital~~, designated program,~~ or ~~training school~~ a secure residential recovery facility may ~~arrest any~~ take into custody and return to a designated hospital or a secure residential recovery facility a person in the custody of the Commissioner who has eloped ~~from a designated hospital or designated program or training school and return such person~~.

§ 7106. NOTICE OF ~~HOSPITALIZATION~~ CUSTODY AND DISCHARGE

Whenever a patient has been admitted to a designated hospital other than upon his or her own application, the head of the designated hospital shall immediately notify the patient's legal guardian~~, spouse, parent or parents, or nearest known relative or interested party, if known~~ and agent as defined in section 9701 of this title, if any, or if a minor, the patient's parent or legal guardian. If the involuntary hospitalization or admission was without court order, notice shall also be given to the superior court judge for the ~~family division of the superior court~~ Family Division of the Superior Court in the unit wherein the designated hospital is located. If the hospitalization or admission was by order of any court, the head of the designated hospital admitting or discharging ~~an individual~~ the patient shall forthwith make a report thereof to the ~~commissioner~~ Commissioner and to the court which entered the order for hospitalization or admission.

§ 7107. ~~EXTRAMURAL WORK~~

~~Any hospital or training school in the state dealing with mental health may do, or procure to be done, extramural work in the way of prevention, observation, care, and consultation with respect to mental health.~~ [Repealed.]

§ 7108. ~~CANTEENS~~

~~The chief executive officer of the Vermont State Hospital or its successor in interest may conduct a canteen or commissary, which shall be accessible to patients, employees, and visitors of the Vermont State Hospital or its successor in interest at designated hours and shall be operated by employees of the hospital. A revolving fund for this purpose is authorized. The salary of an employee of the hospital shall be charged against the canteen fund. Proceeds~~

~~from sales may be used for operation of the canteen and the benefit of the patients and employees of the hospital under the direction of the chief executive officer and subject to the approval of the commissioner. All balances of such funds remaining at the end of any fiscal year shall remain in such fund for use during the succeeding fiscal year. An annual report of the status of the funds shall be submitted to the commissioner.~~ [Repealed.]

§ 7109. ~~SALE OF ARTICLES; REVOLVING FUND~~

~~(a) The superintendent of a hospital or training school may sell articles made by the patients or students in the handiwork or occupational therapy departments of the institution and the proceeds thereof shall be credited to a revolving fund. When it is for their best interest, the superintendent may, with the consent of the patients or their legal representatives, employ patients or students or permit them to be employed on a day placement basis.~~

~~(b) The consent of the patient or the legal representative of the patient or student shall, in consideration of the undertaking of the superintendent, contain the further agreement that one-half the earnings of the patient or student shall be credited to the personal account of the patient or student so employed at interest for benefit of the patient or student and the balance shall be credited to the fund. The superintendent shall hold and expend the fund for the purchase of equipment and materials for the handicraft or group therapy departments and for the educational and recreational welfare of the patient or student group. He or she shall submit an annual report of the fund to the commissioner. Balances remaining in it at the end of a fiscal year shall be carried forward and be available for the succeeding fiscal year.~~

~~(c) For purposes of this section the legal representative of the patient or student shall be the duly appointed guardian, the spouse, the parents or the next of kin legally responsible for the patient or student. In their absence, the commissioner shall be the legal representative.~~ [Repealed.]

* * *

§ 7111. RIGHT TO LEGAL COUNSEL

In any proceeding before~~,~~ or notice to~~,~~ a court of this ~~state~~ State involving a patient ~~or student,~~ or a proposed patient ~~or student~~, that person shall be afforded counsel, and if the patient ~~or student~~ or proposed patient ~~or student~~ is unable to pay for counsel, compensation shall be paid by the ~~state~~ State to counsel assigned by the court; however, this section shall not apply to a proceeding under section 7505 of this title.

* * *

§ 7113. INDEPENDENT EXAMINATION: PAYMENT

Whenever a court orders an independent examination by a mental health professional ~~or a qualified mental retardation professional~~ pursuant to this title or 13 V.S.A. § 4822, the cost of the initial examination shall be paid by the ~~department of disabilities, aging, and independent living or of health~~ Department of Mental Health. The mental health professional ~~or qualified mental retardation professional~~ may be selected by the court but the ~~commissioner of disabilities, aging, and independent living or the commissioner of mental health~~ Commissioner of Mental Health may adopt a reasonable fee schedule for examination, reports, and testimony.

Sec. 2. 18 V.S.A. § 7205 is amended to read:

§ 7205. SUPERVISION ~~OF INSTITUTIONS~~

(a) The ~~department of mental health~~ Department of Mental Health shall operate the Vermont State Hospital or its successor in interest and a secure residential recovery facility. The Department shall be responsible for patients receiving involuntary treatment.

(b) The ~~commissioner of the department of mental health~~ Commissioner of Mental Health, in consultation with the ~~secretary~~ Secretary, shall appoint a chief executive officer of the Vermont State Hospital or its successor in interest and a facility director of the secure residential recovery facility to oversee the operations of the hospital and the secure residential recovery facility, respectively. The chief executive officer position shall be an exempt position.

Sec. 3. PURPOSE OF THE MENTAL HEALTH CARE OMBUDSMAN

Due to the State's unique role in coordinating and providing services for Vermonters with one or more diagnosed mental health conditions, the General Assembly created the Office of the Mental Health Care Ombudsman, and now finds it necessary to clarify the Office's role, which is to safeguard access to services and those rights and protections that may be at risk. Due to the fact that the Office of the Mental Health Care Ombudsman addresses methods of care that are not as prevalent as among other health conditions, the Office's existence remains consistent with the principles of parity and achieving integration throughout Vermont's health care system.

Sec. 4. 18 V.S.A. chapter 178 is added to read:

CHAPTER 178. MENTAL HEALTH CARE OMBUDSMAN

§ 7451. DEFINITIONS

As used in this chapter:

(1) "Agency" means the organization designated by the Governor as the protection and advocacy system for the State pursuant to 42 U.S.C. § 10801 et seq.

(2) "Department" means the Department of Mental Health.

(3) "Intensive residential recovery facility" shall have the same meaning as in section 7252 of this title.

(4) "Mental Health Care Ombudsman" or "Ombudsman" means an individual providing protection and advocacy services pursuant to this chapter.

(5) "Office" means the Office of the Mental Health Care Ombudsman.

(6) "Secure residential recovery facility" shall have the same meaning as in section 7620 of this title.

(7) "State agency" means any office, department, board, bureau, division, agency, or instrumentality of the State.

§ 7452. OFFICE OF THE MENTAL HEALTH CARE OMBUDSMAN

(a) The Department of Mental Health shall establish the Office of the Mental Health Care Ombudsman within the Agency by executing a memorandum of designation between the Department and the Agency.

(b) The Office shall represent the interests of Vermonters with one or more diagnosed mental health conditions, including individuals receiving services at designated hospitals, emergency rooms, correctional facilities, intensive residential recovery facilities, secure residential recovery facilities, or within a community setting.

(c) The Office shall be directed by an individual, to be known as the Mental Health Care Ombudsman, who shall be selected from among individuals within the Agency executing the memorandum of designation with the Department of Mental Health.

§ 7453. RESPONSIBILITIES OF THE OFFICE

(a) The Office may:

(1) investigate individual cases of abuse, neglect, and other serious violations of individuals in Vermont with diagnosed mental health conditions;

(2) analyze, monitor, and aim to reduce the use of seclusion, restraint, coercion, and involuntary mental health procedures;

(3)(A) review emergency involuntary procedure reports provided by the Department;

(B) confer with the Department at least twice annually regarding any findings or recommendations for improvement made by the Office in response to the emergency involuntary procedure reports;

(4)(A) review any reports provided by the Department of untimely deaths of individuals with a diagnosed mental health condition in designated hospitals, intensive residential recovery facilities, secure residential recovery facilities, or community settings;

(B) confer with the Department regarding any findings or recommendations for improvement made by the Office in response to the untimely death reports;

(5) participate on state panels reviewing the treatment of individuals with a diagnosed mental health condition;

(6) integrate efforts with the Health Care Ombudsman's Office established under 8 V.S.A. chapter 107, subchapter 1A and the Long-Term Care Ombudsman's Office established under 33 V.S.A. chapter 75 to minimize duplication of efforts; and

(7) annually, on or before January 15th, submit a report to the Department and General Assembly detailing all activities performed pursuant to this chapter and recommending improvements to the mental health system.

(b)(1) A person shall not impose any additional duties on the Office in excess of the requirements set forth in subsection (a) of this section or otherwise imposed on agencies under federal law.

(2) Nothing in this chapter shall supersede the authorities or responsibilities granted to the Agency under Protection and Advocacy for Individuals with Mental Illness, 42 U.S.C. §§ 10801–10851.

(3) The General Assembly may at any time allocate funds it deems necessary to supplement federal funding used to maintain the Office.

§ 7454. AUTHORITY OF THE MENTAL HEALTH CARE OMBUDSMAN

In fulfilling the responsibilities of the Office, the Mental Health Care Ombudsman may:

(1) Hire or contract with persons or organizations to fulfill the purposes of this chapter.

(2) Communicate and visit with any individual with a diagnosed mental health condition, provided that the Ombudsman shall discontinue interactions with any individual when requested to do so by that individual. Toward that end, designated hospitals, emergency rooms, correctional facilities, intensive residential recovery facilities, secure residential recovery facilities, and other

community treatment facilities shall provide the Ombudsman access to their facilities and to individuals for whom they provide mental health services. If the individual with a diagnosed mental health condition has a guardian, the Office shall take no formal action without consent of the guardian or a court order, unless an emergency situation arises.

(3) Delegate to employees any part of the Mental Health Care Ombudsman's authority.

(4) Take such further actions as are necessary in order to fulfill the purpose of this chapter.

§ 7455. COOPERATION OF STATE AGENCIES

(a) All state agencies shall comply with requests of the Mental Health Care Ombudsman for information and assistance necessary to carry out the responsibilities of the Office.

(b) The Secretary of Human Services may adopt rules necessary to ensure that departments within the Agency of Human Services cooperate with the Office.

§ 7456. CONFIDENTIALITY

In the absence of written consent by an individual with a diagnosed mental health condition about whom a report has been made, or by his or her guardian or legal representative, or a court order, the Mental Health Care Ombudsman shall not disclose the identity of such person, unless otherwise provided for under Protection and Advocacy for Individuals with Mental Illness, 42 U.S.C. §§ 10801–10851.

§ 7457. IMMUNITY

Civil liability shall not attach to the Mental Health Care Ombudsman or his or her employees for good faith performance of the duties imposed by this chapter.

§ 7458. INTERFERENCE AND RETALIATION

(a) A person who intentionally hinders a representative of the Office acting pursuant to this chapter shall be imprisoned not more than one year or fined not more than $5,000.00, or both.

(b) A person who takes discriminatory, disciplinary, or retaliatory action against an employee, a resident, or a volunteer of a designated hospital, correctional facility, intensive residential recovery facility, secure residential recovery facility, community treatment facility, or state agency for any communication made, or information disclosed, to aid the Office in carrying out its duties and responsibilities shall be imprisoned not more than one year or

fined not more than $5,000.00, or both. An employee, a resident, or a volunteer of such facilities or state agencies may seek damages in superior court against a person who takes an action prohibited by this subsection.

§ 7459. CONFLICT OF INTEREST

The Mental Health Care Ombudsman, an employee of the Ombudsman, or an immediate family member of the Ombudsman or of an employee shall not have any financial interest in or authority over a designated hospital, correctional facility, intensive residential recovery facility, secure residential recovery facility, or community treatment facility and from providing mental health services, which creates a conflict of interest in carrying out the Ombudsman's responsibilities under this chapter.

Sec. 5. 18 V.S.A. § 7505 is amended to read:

§ 7505. WARRANT FOR IMMEDIATE EXAMINATION

(a) In emergency circumstances ~~where a certification by a physician is not available without serious and unreasonable delay, and when personal observation of the conduct of a person constitutes reasonable grounds to believe that the person is a person in need of treatment, and he or she presents an immediate risk of serious injury to himself or herself or others if not restrained~~, a law enforcement officer or mental health professional may make an application~~, not accompanied by a physician's certificate,~~ to any district or superior court judge for a warrant for an immediate examination when:

(A) a certification by a physician is not available without serious and unreasonable delay;

(B) personal observation of the conduct of a person constitutes reasonable grounds to believe that the person is a person in need of treatment; and

(C) the person presents an immediate risk of serious injury to himself or herself or others if not restrained.

(b) The law enforcement officer or mental health professional, or both, may take the person into temporary custody and shall apply to the court without delay for the warrant.

(c) If the judge is satisfied that a physician's certificate is not available without serious and unreasonable delay, and that probable cause exists to believe that the person is in need of an immediate examination pursuant to subsection (a) of this section, ~~he or she~~ the judge may grant the warrant and order the person to submit to an immediate examination at a designated hospital.

(d) ~~If necessary~~ By granting a warrant, the court ~~may order the~~ authorizes a law enforcement officer or mental health professional to transport the person to a designated hospital for an immediate examination.

(e) Upon admission to a designated hospital pursuant to a warrant for immediate examination, the person shall be ~~immediately~~ examined by a licensed physician immediately. If the physician certifies that the person is a person in need of treatment, the person shall be held for an emergency examination in accordance with section 7508 of this title. If the physician does not certify that the person is a person in need of treatment, ~~he or she~~ the physician shall immediately discharge the person and cause him or her to be returned to the place from which he or she was taken, or to such place as the person reasonably directs.

Sec. 6. 18 V.S.A. chapter 181 is amended to read:

CHAPTER 181. JUDICIAL PROCEEDINGS

* * *

§ 7612. APPLICATION FOR INVOLUNTARY TREATMENT

(a) An interested party may, by filing a written application, commence proceedings for the involuntary treatment of an individual by judicial process.

(b) The application shall be filed in the ~~criminal division of the superior court of~~ Family Division of the Superior Court for the district in which the proposed ~~patient's residence~~ patient resides or, in the case of a nonresident, in any ~~district~~ superior court.

(c) If the application is filed under section 7508 or 7620 of this title, it shall be filed in the ~~criminal division of the superior court~~ Family Division of the Superior Court in which the hospital is located.

(d) The application shall contain:

(1) The name and address of the applicant; and

(2) A statement of the current and relevant facts upon which the allegation of mental illness and need for treatment is based. The application shall be signed by the applicant under penalty of perjury.

(e) The application shall be accompanied by:

(1) A certificate of a licensed physician, which shall be executed under penalty of perjury stating that he or she has examined the proposed patient within five days of the date the petition is filed, and is of the opinion that the proposed patient is a person in need of treatment, including the current and relevant facts and circumstances upon which the physician's opinion is based; or

(2) A written statement by the applicant that the proposed patient refused to submit to an examination by a licensed physician.

(f) Before an examining physician completes the certificate of examination, he or she shall consider available alternative forms of care and treatment that might be adequate to provide for the person's needs, without requiring hospitalization.

§ 7613. NOTICE—APPOINTMENT OF COUNSEL

(a) When the application is filed, the court shall appoint counsel for the proposed patient, and transmit a copy of the application, the physician's certificate, if any, and a notice of hearing to the proposed patient, his or her attorney, guardian, ~~or any person having custody and control of the proposed patient,~~ if any, the ~~state's attorney,~~ State's Attorney or the ~~attorney general~~ Attorney General, and any other person the court believes has a concern for the proposed patient's welfare. A copy of the notice of hearing shall also be transmitted to the applicant and certifying physician.

* * *

§ 7617. FINDINGS; ORDER

(a) If the court finds that the proposed patient was not a person in need of treatment at the time of admission or application or is not a patient in need of further treatment at the time of the hearing, the court shall enter a finding to that effect and shall dismiss the application.

(b)(1) If the proposed patient is found to have been a person in need of treatment at the time of admission or application and a patient in need of further treatment at the time of the hearing, the court may order the person:

~~(1)~~(A) hospitalized in a designated hospital;

~~(2)~~(B) hospitalized in any other public or private hospital if he or she and the hospital agree; or

~~(3)~~(C) to undergo a program of treatment other than hospitalization.

(2) If the application for treatment was made in accordance with 28 V.S.A. § 705a and the proposed patient is found to be a person in need of treatment at the time of application and at the time of the hearing, the only order for treatment other than hospitalization that a court may enter is an order of nonhospitalization at a secure residential recovery facility.

(c) Prior to ordering any course of treatment, the court shall determine whether there exists an available program of treatment for the person which is an appropriate alternative to hospitalization. The court shall not order hospitalization without a thorough consideration of available alternatives.

(d) Before making its decision, the court shall order testimony by an appropriate representative of a hospital, a community mental health agency, public or private entity or agency, or a suitable person, who shall assess the availability and appropriateness for the individual of treatment programs other than hospitalization.

* * *

§ 7620. APPLICATION FOR CONTINUED TREATMENT

(a) If, prior to the expiration of any order issued in accordance with section 7623 of this title, the ~~commissioner~~ Commissioner believes that the condition of the patient is such that the patient continues to require treatment, the ~~commissioner~~ Commissioner shall apply to the court for a determination that the patient is a patient in need of further treatment and for an order of continued treatment.

(b) An application for an order authorizing continuing treatment shall contain a statement setting forth the reasons for the ~~commissioner's~~ Commissioner's determination that the patient is a patient in need of further treatment, a statement describing the treatment program provided to the patient, and the results of that course of treatment.

(c) Any order of treatment issued in accordance with section 7623 of this title shall remain in force pending the court's decision on the application.

(d) If the ~~commissioner~~ Commissioner seeks to have the patient receive the further treatment in a secure residential recovery facility, the application for an order authorizing continuing treatment shall expressly state that such treatment is being sought. The application shall contain, in addition to the statements required by subsection (b) of this section, a statement setting forth the reasons for the ~~commissioner's~~ Commissioner's determination that clinically appropriate treatment for the patient's condition can be provided safely only in a secure residential recovery facility.

(e) As used in this chapter~~:~~

~~(1) "Secure," when describing a residential facility, means that the residents can be physically prevented from leaving the facility by means of locking devices or other mechanical or physical mechanisms.~~

~~(2) "Secure residential recovery facility" means a residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual who no longer requires acute inpatient care but who does remain in need of treatment within a secure setting for an extended period of time. A~~, "secure residential recovery facility" shall have the same meaning as in section 7101 of this title. Except as provided in 28 V.S.A.

§ 705a, a secure residential recovery facility shall not be used for any purpose other than the purposes permitted by this section.

§ 7621. HEARING ON APPLICATION FOR CONTINUED TREATMENT; ORDERS

(a) The hearing on the application for continued treatment shall be held in accordance with the procedures set forth in sections 7613, 7614, 7615, and 7616 of this title.

(b) If the court finds that the patient is a patient in need of further treatment ~~and requires hospitalization,~~ it shall order ~~hospitalization~~ continued treatment for up to one year.

* * *

Sec. 7. 18 V.S.A. § 7708 is amended to read:

§ 7708. ~~SURGICAL OPERATIONS~~

~~If the superintendent finds that a patient supported by the state requires a surgical operation or that a surgical operation would promote the possibility of his or her discharge from the hospital, the superintendent, with the consent of the patient, his or her attorney, or his or her legally appointed guardian, if any, or next of kin, if any be known, may make the necessary arrangements with some surgeon and hospital for the operation. The expense of the operation shall be borne by the state in the same proportion as the patient is supported by the state.~~ [Repealed.]

Sec. 8. 18 V.S.A. chapter 189 is amended to read:

CHAPTER 189. RELEASE AND DISCHARGE

§ 8003. PERSONAL NEEDS OF PATIENT

The ~~commissioner~~ Commissioner shall make any necessary arrangements to ensure:

(1) that no patient is discharged ~~or granted a conditional release~~ from a designated hospital without suitable clothing; and

(2) that any indigent patient discharged ~~or granted a conditional release~~ is furnished suitable transportation for his or her return home and an amount of money as may be prescribed by the head of ~~the~~ a designated hospital to enable the patient to meet his or her immediate needs.

* * *

§ 8006. VISITS

(a) ~~The head of a hospital may grant a visit permit of not more than 30 days to any patient under his or her charge.~~ [Repealed.]

(b) The granting and revocation of visits shall be made in accordance with rules and procedures adopted by the head of the designated hospital.

§ 8007. ~~CONDITIONAL DISCHARGES~~

~~(a) The board or the head of a hospital may conditionally discharge from a hospital any patient who may be safely and properly cared for in a place other than the hospital.~~

~~(b) A conditional discharge may extend for a term of six months, but shall not exceed 60 days unless the head of the hospital determines that a longer period will materially improve the availability of a program of treatment which is an alternative to hospitalization.~~

~~(c) Unless sooner revoked or renewed, a conditional discharge shall become absolute at the end of its term.~~

~~(d) A conditional discharge may be granted subject to the patient's agreement to participate in outpatient, after-care, or follow-up treatment programs, and shall be subject to such other conditions and terms as are established by the granting authority.~~

~~(e) Each patient granted a conditional discharge shall be provided, so far as practicable and appropriate, with continuing treatment on an outpatient or partial hospitalization basis.~~

~~(f) Each patient granted a conditional discharge shall be given a written statement of the conditions of his or her release, the violation of which can cause revocation.~~

~~(g) A conditional discharge may be renewed by the granting authority at any time before it becomes absolute if the head of a hospital first determines that such renewal will substantially reduce the risk that the patient will become a person in need of treatment in the near future.~~ [Repealed.]

§ 8008. ~~REVOCATION OF CONDITIONAL DISCHARGE~~

~~(a) The board or the head of the hospital may revoke a conditional discharge at any time before that discharge becomes absolute if the patient fails to comply with the conditions of the discharge.~~

~~(b) A revocation by the board or the head of the hospital shall authorize the return of the patient to the hospital and shall be sufficient warrant for a law enforcement officer or mental health professional to take the patient into~~

~~custody and return him or her to the hospital from which he or she was conditionally discharged.~~

~~(c) Immediately upon his or her return to the hospital, the patient shall be examined by a physician who shall orally explain to the patient the purpose of the examination and the reasons why the patient was returned to the hospital.~~

~~(d) If the examining physician certifies in writing to the head of the hospital that, in his or her opinion, the patient is a person in need of treatment, setting forth the recent and relevant facts supporting this opinion, the revocation shall become effective and the patient shall be readmitted to the hospital. If the examining physician does not so certify, the revocation shall be cancelled and the patient shall be returned to the place from which he or she was taken.~~

~~(e) If the patient is readmitted to the hospital, he or she may apply immediately for a judicial review of his or her admission, and he or she shall be given a written notice of this right and of his or her right to legal counsel.~~ [Repealed.]

§ 8009. ADMINISTRATIVE DISCHARGE

(a) The head of ~~the~~ a designated hospital may at any time discharge a voluntary or judicially hospitalized patient whom he or she deems clinically suitable for discharge.

(b) The head of ~~the~~ a designated hospital shall discharge a judicially hospitalized patient when the patient is no longer a patient in need of further treatment. When a judicially hospitalized patient is discharged, the head of ~~the~~ a designated hospital shall notify the ~~applicant, the certifying physician~~ Commissioner, the ~~family division of the superior court~~ Family Division of the Superior Court, and anyone who was notified at the time the patient was hospitalized.

(c) ~~A person~~ An individual responsible for providing treatment other than hospitalization to ~~an individual~~ a person ordered to undergo a program of alternative treatment, under section 7618 or 7621 of this title, may terminate the alternative treatment to the ~~individual~~ person if the provider of this alternative treatment considers the ~~individual~~ person clinically suitable for termination of treatment. Upon termination of alternative treatment, the ~~family division of the superior court~~ the Commissioner and Family Division of the Superior Court shall be so notified by the provider of the alternative treatment. Upon receipt of the notice, the Court shall vacate the order.

* * *

Sec. 9. 18 V.S.A. chapter 197 is amended to read:

CHAPTER 197. MENTALLY ILL USERS OF ALCOHOL OR DRUGS

* * *

§ 8404. ~~CONDITIONAL DISCHARGE~~

~~The board of mental health, in its discretion, may grant a conditional discharge to a patient admitted under this chapter after the expiration of one month from the date of admission and may revoke any conditional discharge so granted. A revocation of a conditional discharge by the board of mental health at any time prior to the expiration of the original term of hospitalization shall be sufficient warrant for the return of the patient to the hospital from which he or she was discharged, there to remain until a subsequent conditional discharge or the expiration of the full term from the date of the original admission.~~ [Repealed.]

§ 8405. OUTSIDE VISITS

In the discretion of the head of a designated hospital, a patient admitted under this chapter may be permitted to visit a specifically designated place for a period not to exceed five days and return to the same hospital. The visit may be allowed to see a dying relative, to attend the funeral of a relative, to obtain special medical services, to contact prospective employers, or for any compelling reason consistent with the welfare or rehabilitation of the patient.

Sec. 10. 18 V.S.A. § 8847 is added to read:

§ 8847. INDEPENDENT EXAMINATION: PAYMENT

Whenever a court orders an independent examination by a qualified intellectual disabilities professional pursuant to this title or 13 V.S.A. § 4822, the cost of the examination shall be paid by the Department of Disabilities, Aging, and Independent Living. The qualified intellectual disabilities professional may be selected by the court but the Commissioner of Disabilities, Aging, and Independent Living may adopt a reasonable fee schedule for examination, reports, and testimony.

Sec. 11. 18 V.S.A. § 8848 is added to read:

§ 8848. APPREHENSION OF ELOPED PERSONS

Any sheriff, deputy sheriff, or officer of the State or local police and any officer or employee of any designated program may arrest any person who has eloped from a designated program and return such person.

Sec. 12. 28 V.S.A. § 705a is added to read:

§ 705a. TRANSFER TO SECURE RESIDENTIAL RECOVERY FACILITY

(a) If in the discretion of the Commissioner of Mental Health it becomes necessary and appropriate, the Commissioner of Mental Health may file an application, in consultation with the Commissioner of Corrections, in the Family Division of the Superior Court for the involuntary treatment of an incarcerated person pursuant to 18 V.S.A. § 7612 which specifies admission to a secure residential recovery facility as the proposed plan of treatment for the person if it is determined that the person:

(1) has a mental illness as defined in 18 V.S.A. § 7101;

(2) poses a danger to himself or herself or others; and

(3) requires treatment at a secure residential recovery facility.

(b) If the Court finds that the person is in need of treatment pursuant to 18 V.S.A. § 7617(b), the only order of nonhospitalization that a court may order is for a program of treatment at a secure residential recovery facility. This limitation pertains only to applications filed by the Commissioner of Mental Health under this subsection.

(c)(1) When a person is transferred to a secure residential recovery facility pursuant to this section, he or she shall be subject to the supervision of the Commissioner of Mental Health except that the time during which the person is in the custody of the Commissioner of Mental Health shall be computed as part of the term for which he or she was sentenced. He or she shall continue to be eligible for good behavior reductions pursuant to section 811 of this title, and he or she shall continue to be eligible for parole pursuant to chapter 7 of this title.

(2) When the Commissioner of Mental Health determines that a person whose sentence has not expired no longer requires treatment at a secure residential recovery facility, the Commissioner of Mental Health shall return the person to the custody of the Commissioner of Corrections in accordance with 18 V.S.A. chapter 189.

(d) As used in this section, "secure residential recovery facility" shall have the same meaning as in 18 V.S.A. § 7101.

Sec. 13. MENTAL HEALTH LEGISLATIVE WORK GROUP

(a) On or before July 15, 2013, the Commissioner of Mental Health shall convene a work group of stakeholders to examine current Vermont statutes pertaining to judicial proceedings in Title 18, Part 8 and to make recommendations that would more closely align the statutes to the Department

of Mental Health's current practices while respecting the rights of affected individuals. Members of the Work Group shall include:

(1) the Commissioner of Mental Health or designee;

(2) the Commissioner of Corrections or designee;

(3) a representative of the Vermont Association of Hospitals and Health Systems;

(4) the Mental Health Care Ombudsman;

(5) the Administrative Judge or designee;

(6) a representative of Vermont Legal Aid's Mental Health Law Project;

(7) a representative of the law enforcement community;

(8) a representative of a designated agency's emergency response team; and

(9) two representatives of the peer community.

(b) The Work Group shall consider:

(1) the Department's current preadmission practices through the time of hospital admission;

(2) emergency examination procedures, including temporary custody;

(3) immediate examination procedures, including reliable reports of conduct and warrants for entering residences;

(4) time limits for certification and judicial proceedings;

(5) processes for referral to and discharge from the secure residential recovery facility;

(6) manners of reducing wait times in emergency departments, including the use of technology and streamlined processes;

(7) a protocol that the Departments of Corrections and of Mental Health may use in serving individuals diverted from court-ordered inpatient treatment due to lack of available bed space; and

(8) any other topic the Commissioner of Mental Health deems appropriate.

(c) On or before November 15, 2013, the Commissioner shall submit a report containing the Work Group's recommendations for legislation to the Mental Health Oversight Committee, the Senate Committee on Health and Welfare, and the House Committee on Human Services.

Sec. 14. REPEAL

18 V.S.A. § 7259 (mental health care ombudsman) is repealed.

Sec. 15. REDESIGNATION

18 V.S.A. chapters 217 (genetic testing), 219 (health information technology), and 220 (Green Mountain Care Board) shall be redesignated to appear within 18 V.S.A. part 9 (unified health care system).

Sec. 16. 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

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 on Health and Welfare?, Senator Sears moved that the recommendation of amendment of the Committee on Health and Welfare be amended as follows:

In Sec. 12, 28 V.S.A. § 705a, after subsection (c) by inserting a new subsection (d) to read as follows:

(d) If the person's sentence expires while the person is receiving treatment at a secure residential recovery facility and the Commissioner of Mental Health believes that the person continues to meet the criteria in subsection (a) of this section, the Commissioner of Mental Health shall submit an application for continued treatment of the person to the Family Division of the Superior Court pursuant to 18 V.S.A. § 7620.

And by relettering the remaining subsection to be alphabetically correct.

Which was agreed to.

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

Thereupon, third reading of the bill was ordered.

Bill Amended; Bill Passed

S. 7.

Senate bill entitled:

An act relating to social networking privacy protection.

Was taken up.

Thereupon, pending third reading of the bill, Senator Zuckerman moved to amend the bill striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) A Committee is established to study how to create statutory language to prohibit employers from requiring employees or applicants for employment to disclose a means of accessing the employee's or applicant's social network account.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Galbraith, Nitka, Hartwell, and Benning moved to amend the bill by adding a new section to be numbered Sec. 2 to read as follows:

Sec. 2. 21 V.S.A. § 495j is added to read:

§ 495j. PRIVACY PROTECTION

An employer shall not require or request that an employee disclose a means for accessing the employee's personal computer, e-mail account, or telephone, or require or request access to an employee's personal documents, files, personal letters, or diaries created prior to employment.

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

Which was agreed to.

Senator Galbraith moved to amend the bill in Sec. 2 by designating, 21 V.S.A. § 495j as subsection (a) and by adding a new subsection (b) to read as follows:

(b) An employer shall not require or request that an employee disclose a means for accessing the employee's personal computer, e-mail account, or telephone, or require or request access to an employee's personal documents, files, personal letters, or diaries created prior to employment.

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

Thereupon, pending third reading of the bill, Senator Galbraith moved to amend the bill in Sec. 2 by designating, 21 V.S.A. § 495j as subsection (a) and by adding a new subsection (b) to read as follows:

(b) An employer shall not require or request that an employee disclose a means for accessing the employee's personal computer, e-mail account, or telephone created prior to employment.

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

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

Bill Passed

S. 20.

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

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

Bill Amended; Bill Passed

S. 47.

Senate bill entitled:

An act relating to protection orders and second degree domestic assault.

Was taken up.

Thereupon, pending third reading of the bill, Senator Flory moved to amend the bill in Sec. 4, 15 V.S.A. § 1103(c)(2), by striking out subparagraph (H) in its entirety and inserting in lieu thereof the following:

(H) an order that the defendant return any personal documentation in his or her possession, including immigration documentation, birth certificates, and identification cards:

(i) pertaining to the plaintiff; or

(ii) pertaining to the plaintiff's children if relief is sought for the children or for good cause shown.

Which was agreed to.

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

Bills Passed

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

S. 73. An act relating to the moratorium on home health agency certificates of need.

S. 88. An act relating to telemedicine services delivered outside a health care facility.

S. 104. An act relating to expedited partner therapy.

Bill Amended; Bill Passed

S. 156.

Senate bill entitled:

An act relating to home visiting standards.

Was taken up.

Thereupon, pending third reading of the bill, Senator Ayer moved to amend the bill in Sec. 2, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The Department for Children and Families and the Department of Health in consultation with the Secretary of Human Services, the Home Visiting Alliance, and other stakeholders shall adopt rules on or before July 1, 2014, establishing consistent standards for the delivery of home visiting services throughout Vermont.

Which was agreed to.

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

Third Readings Ordered

S. 159.

Senate committee bill entitled:

An act relating to various amendments to Vermont's land use control law and related statutes.

Having appeared on the Calendar for notice for one day, was taken up.

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

S. 161.

Senate committee bill entitled:

An act relating to mitigation of traffic fines and approval of a DLS Diversion Program contract.

Having appeared on the Calendar for notice for one day, was taken up.

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

Adjournment

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

FRIDAY, MARCH 22, 2013

Pursuant to the Senate Rules, in the absence of the President, 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. 31

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. 2. An act relating to the Governor's Snowmobile Council.

H. 99. An act relating to equal pay.

H. 107. An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange.

H. 136. An act relating to cost-sharing for preventive services.

H. 299. An act relating to enhancing consumer protection provisions for propane refunds, unsolicited demands for payment, and failure to comply with civil investigations.

H. 431. An act relating to mediation in foreclosure actions.

H. 511. An act relating to "zappers" and automated sales suppression devices.

H. 515. An act relating to miscellaneous agricultural subjects.

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

Rules Suspended; Committee Relieved; Bill Committed

S. 119.

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

An act relating to amending perpetual conservation easements

Thereupon, pending entry on the Calendar for notice, Senator Kitchel 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.

Bill Referred to Committee on Appropriations

S. 55.

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 increasing efficiency in state government finance and lending operations.

Bills Referred

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

H. 2.

An act relating to the Governor's Snowmobile Council.

To the Committee on Transportation.

H. 99.

An act relating to equal pay.

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

H. 107.

An act relating to health insurance, Medicaid, and the Vermont Health Benefit Exchange.

To the Committee on Health and Welfare.

H. 136.

An act relating to cost-sharing for preventive services.

To the Committee on Health and Welfare.

H. 299.

An act relating to enhancing consumer protection provisions for propane refunds, unsolicited demands for payment, and failure to comply with civil investigations.

To the Committee on Judiciary.

H. 431.

An act relating to mediation in foreclosure actions.

To the Committee on Judiciary.

H. 511.

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

To the Committee on Judiciary.

H. 515.

An act relating to miscellaneous agricultural subjects.

To the Committee on Agriculture.

Joint Resolution Referred

J.R.S. 19.

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

Having been placed on the Calendar for action, was taken up and pending the question, Shall the joint Senate resolution be adopted on the part of the Senate?, on motion of Senator Baruth, the joint resolution was referred to the Committee on Judiciary.

Consideration Resumed; Bill Amended; Third Reading Ordered

S. 41.

Consideration was resumed on Senate bill entitled:

An act relating to water and sewer service.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations? Senators Pollina, White, Ayer, French, and McAllister moved that the proposal of amendment of the Committee on Government Operations be amended in Sec. 1, 24 V.S.A. § 5143, in subsection (c), by striking out the second sentence in its entirety and inserting in lieu thereof a new sentence to read as follows: <u>If any water and sewer charges or fees are included in the tenant's rent, the tenant may deduct the cost of any water and sewer service charges or fees from his or her rent pursuant to 9 V.S.A. § 4459.</u>

Which was agreed to.

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

Thereupon, third reading of the bill was ordered.

Consideration Resumed; Bill Amended; Third Reading Ordered

S. 58.

Consideration was resumed on Senate bill entitled:

An act relating to Act 250 and oil pipelines.

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

Thereupon, pending the question, Shall the bill be read the third time? Senators Sears, Ashe, Benning, Nitka, and White moved that the bill be amended as follows:

First: In Sec. 2, 10 V.S.A. § 6081, in subsection (b), by striking out the last sentence and inserting in lieu thereof:

Subsection (a) of this section also shall apply to an oil or petroleum transmission pipeline and associated facilities excepted under this subsection if there is a cognizable physical change to the pipeline or associated facilities, unless the change is solely for the purpose of repair in the usual course of business.

Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. APPLICATION

Notwithstanding 1 V.S.A. §§ 213 and 214, this act shall apply to any cognizable physical change to an oil or petroleum pipeline and associated facilities that is made after the act's effective date regardless of whether a jurisdictional opinion under 10 V.S.A. chapter 151 (Act 250) was issued prior to that date concerning the applicability of that chapter to the change.

Which was agreed to.

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

Second Reading; Consideration Postponed

S. 129.

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

An act relating to workers' compensation liens.

Reported recommending that the bill be amended as follows:

First: By striking out Sec. 1 in its entirety

Second: In Sec. 2, 21 V.S.A. § 643a, after the sentence that reads: "The extension shall be specific as to the number of days needed and the reason for the extension and must be received by the Commissioner prior to the end of the 21-day limit." by inserting a new sentence to read as follows: No extension approved by the Commissioner shall exceed 21 days.

And by renumbering the remaining sections to be numerically correct.

And that when so amended the bill ought to pass.

Senator MacDonald, on behalf of the Committee on Finance, moved to substitute an amendment for the recommendation of amendment of the Committee on Finance as follows:

First: In Sec. 1, 21 V.S.A. § 624, in subdivision (e)(2), in the first sentence, after the words "limited liability insurance or other cause" by inserting the following: , except comparative fault

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

Sec. 2. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the ~~commissioner~~ Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the ~~commissioner~~ Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice. The liability for the payments shall continue for ~~seven~~ 14 days after the notice is received by the ~~commissioner~~ Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of the 14-day limit. The Commissioner may grant an extension up to 21 days. The request for an extension shall be specific as to the number of days needed and the reason for the extension and must be received by the Commissioner prior to the end of the 14-day limit. A copy of the request for an extension shall be provided to the

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

And that when so amended the bill ought to pass.

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

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Finance, as substituted? Senator Mullin requested the question be divided

Thereupon pending the question, Shall the bill be amended as recommended by the Committee on Finance, as substitution? consideration of the bill was postponed until the next legislative day.

Bill Amended; Action Postponed

S. 81.

Senate bill entitled:

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

Was taken up.

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

First: In Sec. 1, 9 V.S.A. § 2974, by striking out "50 parts per million" where it appears in subsections (a) and (b) and inserting in lieu thereof 1,000 parts per million

Second: In Sec. 1, 9 V.S.A. § 2975, by striking out the year "2010" where it appears in subsection (c) and inserting in lieu thereof the year 2013

Third: In Sec. 1, by striking out 9 V.S.A. § 2977 in its entirety and inserting in lieu thereof the following:

§ 2977. EXEMPTIONS

(a) The requirements and prohibitions of this chapter shall not apply to:

(1) the sale or resale of used products;

(2) motor vehicles or parts for use on motor vehicles; and

(3) building insulation materials.

(b) The requirements and prohibitions of this chapter regarding the use of of tris(2-chloro-1-methylethyl) phosphate (TCPP), chemical abstracts service number 13674-84-5, shall not apply to:

(1) personal computers, audio and video equipment, calculators, wireless phones, game consoles, handheld devices incorporating a screen that are used to access interactive software and their associated peripherals, and cables and other similar connecting devices; or

(2) interactive software intended for leisure and entertainment, such as computer games, and their storage media, such as compact disks.

Senator Galbraith demanded pursuant to Rule 67 the *first instance* of the proposal of amendment be divided.

Thereupon the pending question shall the bill be amended as proposed by Senator Lyons in the *first instance* was disagreed to on a roll call, Yeas 13, Nays 15.

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

Roll Call

Those Senators who voted in the affirmative were: Baruth, Collins, Flory, Fox, Lyons, McAllister, McCormack, Mullin, Nitka, Sears, Snelling, Starr, White.

Those Senators who voted in the negative were: Ashe, Ayer, Benning, Bray, Cummings, Doyle, French, Galbraith, Hartwell, Kitchel, MacDonald, Mazza, Pollina, Rodgers, Zuckerman.

Those Senators absent or not voting were: Campbell (presiding), Westman.

Thereupon, pending the question, Shall the bill be amended as moved by Senator Lyons in the *second* and *third instance*, Senator Mazza moved that the rules be suspended and that the action taken on the proposal of amendment of Senator Lyons in the *first instance* be reconsidered, which was agreed to on a roll call, Yeas 27, Nays 1.

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

Roll Call

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

The Senator who voted in the negative was: Galbraith.

Those Senators absent or not voting were: Campbell (presiding), Westman.

Thereupon the pending question, Shall the bill be amended as proposed by Senator Lyons in the *first instance* was agreed to on a roll call, Yeas 22, Nays 6.

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, Baruth, Benning, Bray, Collins, Fox, French, Doyle, Hartwell, Kitchel, Lyons, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, White.

Those Senators who voted in the negative were: Ashe, Cummings, Flory, Galbraith, MacDonald, Zuckerman.

Those Senators absent or not voting were: Campbell (presiding), Westman.

Thereupon, pending the question, Shall the bill be amended as moved by Senator Lyons in the *second* and *third instances*, Senator Sears moved the bill be committed to the Committee on Natural Resources and Energy which was disagreed to on a roll call, Yeas 7, Nays 21.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Doyle, Galbraith, Hartwell, McAllister, Sears, Starr.

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

Those Senators absent or not voting were: Campbell (presiding), Westman.

Thereupon, the pending questions shall the bill be amended as moved by Senator Lyons in the *second* and *third instances*? was agreed to.

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

First: In Sec. 1, 9 V.S.A. § 2972, subsection (a)(13), after the expression "(as of the effective date of this section)" by striking out the ";" where it firstly appears and inserting in lieu thereof the word and

Second: In Sec. 1, 9 V.S.A. § 2972, subsection (a)(13), by striking out "; or tris(2-chloro-1-methylethyl) phosphate (TCPP) chemical abstracts service number 13674-84-5, (as of the effective date of this section)"

Thereupon, pending the question, Shall the bill be amended as moved by Senator Hartwell?, Senator Benning moved that the bill be committed to the Committee on Economic Development, Housing and General Affairs.

Thereupon, pending the question, Shall the bill be committed to the Committee on Economic Development, Housing and General Affairs?, Senator Ayer moved that consideration of the bill be postponed to Friday, March 29, 2013, which was agreed to.

Message from the House No. 32

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. 105. An act relating to adult protective services reporting requirements.

H. 178. An act relating to anatomical gifts.

H. 377. An act relating to neighborhood planning and development for municipalities with designated centers.

H. 405. An act relating to manure management and anaerobic digesters.

H. 406. An act relating to listers and assessors.

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

H. 518. An act relating to miscellaneous amendments to Vermont retirement laws.

H. 523. An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

H. 524. An act relating to making technical amendments to education laws.

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. 61. House concurrent resolution honoring the outstanding efforts of those who care for, educate, and advocate for our young children in Vermont.

H.C.R. 62. House concurrent resolution designating March 11–17 as Multiple Sclerosis Week in Vermont.

H.C.R. 63. House concurrent resolution commemorating Vermont Railway's gift of a 1913 rail car to the City of Rutland.

H.C.R. 64. House concurrent resolution congratulating the winners of the sixth Annual Junior Iron Chef VT statewide youth culinary competition.

H.C.R. 65. House concurrent resolution in memory of Tom Fagan and his role in the establishment of the Rutland Halloween Parade.

H.C.R. 66. House concurrent resolution congratulating the American Veterinary Medical Association on its 150th anniversary.

H.C.R. 67. House concurrent resolution honoring the federal TRIO programs in Vermont.

H.C.R. 68. House concurrent resolution recognizing the creative recreational proposal of Playgrounds for P.E.A.S.E..

H.C.R. 69. House concurrent resolution honoring the Playhouse Cooperative's creative effort to save and operate Randolph's Playhouse Movie Theatre.

H.C.R. 70. House concurrent resolution honoring Cheryl White and the *Valley Voice* newspaper for outstanding community service.

H.C.R. 71. House concurrent resolution in memory of former Representative Daniel H. Deuel of West Rutland.

H.C.R. 72. House concurrent resolution congratulating the 2013 Harwood Union High School Highlanders Division II girls' ice hockey championship team.

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. 17. Senate concurrent resolution congratulating the Beth Jacob Synagogue in Montpelier on its centennial anniversary.

S.C.R. 18. Senate concurrent resolution in memory of former Shrewsbury Selectboard Chair Donald Parrish.

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 adopted on the part of the Senate:

By Senators Doyle, Cummings and Pollina,

S.C.R. 17.

Senate concurrent resolution congratulating the Beth Jacob Synagogue in Montpelier on its centennial anniversary.

By Senators French, Flory and Mullin,

By Representative Burditt and others,

S.C.R. 18.

Senate concurrent resolution in memory of former Shrewsbury Selectboard Chair Donald Parrish.

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 Miller,

H.C.R. 61.

House concurrent resolution honoring the outstanding efforts of those who care for, educate, and advocate for our young children in Vermont.

By Representatives Krebs and Johnson,

H.C.R. 62.

House concurrent resolution designating March 11–17 as Multiple Sclerosis Week in Vermont.

By Representative Russell,

H.C.R. 63.

House concurrent resolution commemorating Vermont Railway's gift of a 1913 rail car to the City of Rutland.

By Representative Stevens and others,

H.C.R. 64.

House concurrent resolution congratulating the winners of the sixth Annual Junior Iron Chef VT statewide youth culinary competition.

By Representative Russell,

H.C.R. 65.

House concurrent resolution in memory of Tom Fagan and his role in the establishment of the Rutland Halloween Parade.

By All Members of the House,

By Senators Ayer, Doyle, Fox, McAllister, Pollina and Zuckerman,

H.C.R. 66.

House concurrent resolution congratulating the American Veterinary Medical Association on its 150th anniversary.

By Representative Jerman and others,

By Senators Baruth, Benning, Cummings, Doyle, Fox, McCormack and White,

H.C.R. 67.

House concurrent resolution honoring the federal TRIO programs in Vermont.

By Representative Ram and others,

H.C.R. 68.

House concurrent resolution recognizing the creative recreational proposal of Playgrounds for P.E.A.S.E..

By Representative Townsend and others,

By Senator MacDonald,

H.C.R. 69.

House concurrent resolution honoring the Playhouse Cooperative's creative effort to save and operate Randolph's Playhouse Movie Theatre.

By Representative Smith and others,

By Senators Ayer and Bray,

H.C.R. 70.

House concurrent resolution honoring Cheryl White and the *Valley Voice* newspaper for outstanding community service.

By Representative Potter and others,

H.C.R. 71.

House concurrent resolution in memory of former Representative Daniel H. Deuel of West Rutland.

By Representative Stevens and others,

H.C.R. 72.

House concurrent resolution congratulating the 2013 Harwood Union High School Highlanders Division II girls' ice hockey championship team.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, March 26, 2013, at nine o'clock in the forenoon pursuant to J.R.S. 20.

TUESDAY, MARCH 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.

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. 21. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 29, 2013, it be to meet again no later than Tuesday, April 2, 2013.

Joint Senate Resolution Adopted on the Part of the Senate; Joint Resolution Messaged

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

By Senator Nitka,

J.R.S. 22. Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

Whereas, by virtue of the provisions of 4 V.S.A. § 608 and of J.R.S. 17, the vote on the retention seven Superior Court Judges, and one Magistrate who have submitted declarations seeking retention was deferred until March 28, 2013,

Whereas, the General Assembly desires to schedule the Joint Assembly earlier, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Wednesday, March 27, 2013, at nine o'clock in the forenoon to vote on the retention of seven Superior Court Judges, and one Magistrate. In case the vote to retain said Judges and Magistrate shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the joint resolution was ordered messaged to the House forthwith.

Bills Referred

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

H. 105.

An act relating to adult protective services reporting requirements.

To the Committee on Health and Welfare.

H. 178.

An act relating to anatomical gifts.

To the Committee on Health and Welfare.

H. 377.

An act relating to neighborhood planning and development for municipalities with designated centers.

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

H. 405.

An act relating to manure management and anaerobic digesters.

To the Committee on Finance.

H. 406.

An act relating to listers and assessors.

To the Committee on Government Operations.

H. 510.

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

To the Committee on Transportation.

H. 518.

An act relating to miscellaneous amendments to Vermont retirement laws.

To the Committee on Government Operations.

H. 523.

An act relating to jury questionnaires, the filing of foreign child custody determinations, court fees, and judicial record keeping.

To the Committee on Judiciary.

H. 524.

An act relating to making technical amendments to education laws.

To the Committee on Education.

Bill Amended; Third Reading Ordered

S. 30.

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

An act relating to siting of electric generation plants.

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

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Climate change from the emission of greenhouse gases such as carbon dioxide (CO_2) is one of the most serious issues facing Vermont today. In this State, the change in climate already has resulted in significant damage from increased heavy rain events and flooding and in fundamental alterations to average annual temperatures and the length and characteristics of the seasons. As climate change accelerates, the hazards to human health and safety and the environment in Vermont will rise, including an increased frequency of violent storm events, heat waves, and one- to two-month droughts; threats to the productivity of cold-weather crops and dairy cows and to cold-water fish and wildlife species; reduced seasons for skiing, snowmobiling, and sugaring; and increasing risks to infrastructure such as roads and bridges near streams and rivers.

(2) Vermont currently encourages the in-state siting of renewable electric generation projects in order to contribute to reductions in global climate change caused by greenhouse gas emissions. Yet significant controversy exists over whether in-state development of renewable energy actually reduces Vermont's greenhouse gas emissions, since these projects typically sell renewable energy credits to utilities in other states, and those credits are netted against the greenhouse gas emissions of those states.

(3) Vermont's electric energy consumption does not contribute significantly to the State's carbon footprint. In 2010, CO_2 and equivalent emissions from Vermont energy consumption totaled approximately eight million metric tons ($MMTCO_2$). Of this total, transportation fuel use accounted for approximately 3.5, nonelectric fuel use by homes and businesses

for approximately 2.5 and, in contrast, electric energy use for approximately 0.04 $MMTCO_2$.

(4) The in-state siting of renewable electric generation projects carries the potential for significant adverse impacts. For example, in Vermont, developers site industrial wind generation projects and wind meteorological stations on ridgelines, which often contain sensitive habitat and important natural areas. Vermont's ridgelines also define and enhance the State's natural and scenic beauty. Vermont has invested substantial time and effort to develop regulatory policy and programs to protect its ridgelines.

(5) Ridgeline wind generation plants have potential impacts on natural resources, scenic beauty, and quality of life, including effects on endangered and threatened species, wildlife habitat, and aesthetics and impacts from blasting and turbine noise. Residents near installed wind generation plants have raised concerns about health impacts, including sleep loss. Significant controversy has arisen over whether the Public Service Board review process adequately protects the public and the environment from the negative impacts caused by these and other electric generation projects.

(6) Vermont has a long history of supporting community-based land use planning. Under 24 V.S.A. chapter 117, Vermont's 11 regional planning commissions and its municipal planning commissions are enabled and encouraged to adopt plans to guide development, including energy and utility facilities. These plans are adopted through a public hearing and comment process after substantial effort by the regions and the municipalities, often with extensive involvement of citizens in the affected communities. Yet under current law, the Public Service Board when reviewing an electric generation project may set aside the results of this planning process for any reason the Board considers to affect the general good of the State, even if the project is not needed for reliability of the electric system.

(7) No statewide analysis and planning is performed to address the environmental, land use, and health impacts of siting wind generation projects in Vermont. Instead, the Public Service Board examines the impacts on a case-by-case basis only.

(8) The current case-by-case system of regulating electric generation projects must be revised to ensure the best possible siting of these projects. To achieve this goal, the siting of electric generation projects must be directed by community-based land use planning. Each electric generation project must comply with the same environmental and land use criteria as other development projects unless the generation project is for the purpose of system reliability. A statewide assessment must be made and a process must be developed that integrates and strengthens the role of community-based land

use planning and supports effective review and optimal siting of all electric generation projects. This assessment also must evaluate whether encouraging in-state siting of renewable electric generation is the most appropriate means at Vermont's disposal to reduce its carbon footprint.

* * * Assessment; Report * * *

Sec. 2. ELECTRIC GENERATION SITING; ASSESSMENT; REPORT

(a) Charge. On or before November 15, 2013, the Department of Public Service, in consultation with and assisted by the Agencies of Commerce and Community Development and of Natural Resources, the Natural Resources Board, and the state's regional planning commissions, shall conduct and complete the assessment and submit the report to the General Assembly required by this section.

(b) Definitions. In this section:

(1) "ACCD" means the Agency of Commerce and Community Development.

(2) "ANR" means the Agency of Natural Resources.

(3) "Board" means the Natural Resources Board.

(4) "Department" means the Department of Public Service.

(5) "Electric generation plant" means a plant that produces electricity and has a plant capacity that exceeds 500 kilowatts.

(6) "Plant" and "plant capacity" shall have the same meaning as in 30 V.S.A. § 8002, except that they shall not be limited to renewable energy.

(7) "Regional planning commission" shall have the meaning as in 24 V.S.A. § 4303.

(8) "Wind generation plant" means an electric generation plant that captures the energy of the wind and converts it into electricity. The term includes all associated facilities and infrastructure such as wind turbines, towers, guy wires, power lines, roads, and substations.

(9) "Wind meteorological station" means any tower, and associated guy wires and attached instrumentation, constructed to collect and record wind speed, wind direction, and atmospheric conditions.

(c) Governor's Siting Policy Commission. In performing its tasks under this section, the Department shall use the information and data collected by the Governor's Energy Siting Policy Commission (the Siting Policy Commission) created by Executive Order No. 10-12 dated October 2, 2012 (the Executive Order) and shall consider the recommendations of that Commission.

(d) Assessment. The Department, assisted by ACCD, ANR, the Board, and the regional planning commissions, shall assess each of the following:

(1) the appropriateness and economic efficiency of investing or encouraging investment in renewable electric generation plants to reduce Vermont's greenhouse gas emissions in comparison to other measures to reduce those emissions such as transportation fuel efficiency and thermal energy efficiency;

(2) the current policy and practice of selling renewable energy credits from renewable electric generation plants in Vermont to utilities in other jurisdictions and the effect of this policy and practice on reducing Vermont's greenhouse gas emissions;

(3) methods to integrate state energy planning and local and regional land use planning as they apply to electric generation plants;

(4) methods to strengthen the role of local and regional plans in the siting review process for electric generation plants and to assure that the siting review process reflects the outcome of the local and regional planning processes;

(5) methods to fund intervenors in the siting review process for electric generation projects; and

(6) with respect to wind generation plants and wind meteorological stations:

(A) health impacts of plants and stations located in and outside Vermont;

(B) sound and infrasound emitted from plants and stations located in and outside Vermont as they affect public health and quality of life;

(C) setback requirements on such plants and stations adopted by other jurisdictions in and outside the United States;

(D) the impacts on the environment, natural resources, and quality of life of the plants and stations in Vermont in existence or under construction as of the effective date of this section; and

(E) the economic and environmental costs and benefits of such plants and stations, including the value of any ecosystem services affected by them.

(e) Report; proposed legislation. On or before November 15, 2013, the Department, assisted by ACCD, ANR, the Board, and the regional planning commissions, shall submit a report to the House and Senate Committees on Natural Resources and Energy and the Electric Generation Oversight

Committee created under subsection (g) of this section that contains each of the following:

(1) The results of each assessment to be conducted under subsection (d) of this section.

(2) Recommendations and proposed legislation to:

(A) establish a comprehensive planning process for the siting of electric generation plants that integrates state energy and local and regional land use planning;

(B) ensure that the outcome of this integrated planning process directs the siting review process for electric generation plants and that local and regional land use plans have a determinative role in this siting review process;

(C) establish a method to fund intervenors participating in the siting review process for electric generation plants;

(D) maximize the reductions in Vermont's greenhouse gas emissions supported by revenues raised from Vermont taxpayers and ratepayers;

(E) establish standards applicable to all wind generation plants and wind meteorological stations to address their impacts on the public health, environment, land use, and quality of life, including standards to protect natural areas and wildlife habitat and to establish noise limits and setback requirements applicable to such plants and stations; and

(F) establish a procedure to measure a property owner's loss of value, if any, due to proximity to a wind generation plant and to propose a method to compensate the property owner for the loss in value, including a determination of who shall pay for such loss.

(f) Public notice and participation.

(1) The Department shall give widespread public notice of the assessment and report required by this section and shall maintain on its website a prominent page concerning this process that provides notice of all public meetings held and posts relevant information and documents.

(2) In performing the assessment and developing the report required by this section, the Department shall provide an opportunity for local legislative bodies, local planning commissions, affected businesses and organizations, and members of the public to submit relevant factual information, analysis, and comment. This opportunity shall include meetings conducted by the DPS at locations that are geographically distributed around the State to receive such information, analysis, and comment.

(g) Oversight committee. There is created the Electric Generation Oversight Committee (the Committee). The purpose of the Committee shall be to perform legislative oversight of the conduct of the assessment and report required by this section and to discuss potential legislation on planning for and siting of electric generation plants.

(1) Membership. The Committee shall be composed of six members who shall be appointed within 30 days of this section's effective date. Three of the members shall be members of the Senate Committee on Natural Resources and Energy appointed by the Committee on Committees of the Senate. Three of the members shall be members of the House Committee on Natural Resources and Energy appointed by the Speaker of the House.

(2) Meetings. During adjournment of the General Assembly, the Committee shall be authorized to conduct up to three meetings. at which meetings the Committee may:

(A) direct the Department, ACCD, ANR, the Board, and one or more regional planning commissions to appear and provide progress reports on the assessment and report required by this section and discuss proposals of draft legislation on planning for and siting of electric generation plants; and

(B) direct members of the Siting Policy Commission to appear and provide information and testimony related to the Commission's report and recommendations issued pursuant to the Executive Order and to the siting of electric generation plants in Vermont. This authority shall continue for the duration of the Committee's term whether or not the Siting Policy Commission ceases to exist prior to the end of the Committee's term.

(3) Reimbursement. For attendance at authorized meetings during adjournment of the General Assembly, members of the Committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

(4) For the purpose of its tasks under this subsection, the Committee shall have the administrative and legal assistance of the Office of Legislative Council.

(5) Term of committee. The Committee shall cease to exist on February 1, 2014.

Sec. 3. APPROPRIATION

For fiscal year 2014, the sum of $75,000.00 is appropriated to the Department of Public Service from the General Fund for the purpose of Sec. 2 of this act (electric generation siting; assessment; report).

* * * Regional Planning for Electric Generation Plants * * *

Sec. 4. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include ~~but need not be limited to~~ the following:

* * *

(3) An energy element, which:

(A) may include an analysis of energy resources, needs, scarcities, costs, and problems within the region, a statement of policy on the conservation of energy and the development of renewable energy resources, and a statement of policy on patterns and densities of land use and control devices likely to result in conservation of energy; and

(B) shall include the electric energy siting plan under section 4348c of this title;

* * *

Sec. 5. 24 V.S.A. § 4348c is added to read:

§ 4348c. ELECTRIC ENERGY SITING PLAN

(a) In this section:

(1) "Electric generation plant" means a plant that produces electricity and has a plant capacity that exceeds 500 kilowatts.

(2) "Plant" and "plant capacity" shall have the same meaning as in 30 V.S.A. § 8002, except that they shall not be limited to renewable energy.

(b) Each regional planning commission shall adopt a plan concerning the siting of electric generation plants within the region. This plan shall be adopted as part of or an amendment to the regional plan.

(c) The plan shall state the region's specific policies on the siting of electric generation plants and identify the appropriate locations within the region, if any, for the siting of electric generation plants.

(d) In developing the siting plan, the regional planning commission shall apply the resource maps developed by the Secretary of Natural Resources under 10 V.S.A. § 127, protect the resources under 10 V.S.A. § 6086(a), and consider the energy policy set forth in 30 V.S.A. §§ 202a and 8001 and the state energy plans adopted under 30 V.S.A. §§ 202 and 202b.

(e) Notwithstanding section 4350 of this title, the plan for a municipality shall not be considered incompatible with the regional plan for the reason that

the municipal plan prohibits the siting of an electric generation plant that the regional plan would allow within the municipality.

Sec. 6. IMPLEMENTATION

On or before December 15, 2014, each regional planning commission shall adopt a renewable electric energy siting plan under Sec. 5 of this act, 24 V.S.A. § 4348c.

* * * Municipal Officers; Ethics Disclosure * * *

Sec. 7. 24 V.S.A. § 873 is added to read:

§ 873. DISCLOSURE; FINANCIAL INTEREST; WIND GENERATION PLANTS

A member of a municipality's legislative body or other municipal officer shall not participate in any meeting or proceeding or take any official action concerning a wind generation plant proposed to be located within the municipality the member or officer may have in the construction or operation of the plant, including the retention of the member or officer by the plant developer an agreement under which the plant developer will compensate the member or officer for potential impacts to land of the member or officer.

(1) In this section, a financial interest of a member or officer shall include a financial interest in the construction or operation of the plant of any natural person to which the member or officer is related within the fourth degree of consanguinity or affinity or of any corporation of which an officer, director, trustee, or agent is related to the member or officer within such degree.

(2) This section shall not require disclosure of a financial interest shared generally by the residents of the municipality such as the municipality's receipt of property taxes or other payments from the plant.

Sec. 8. 24 V.S.A. § 4461 is amended to read:

§ 4461. DEVELOPMENT REVIEW PROCEDURES

(a) Meetings; rules of procedure and ethics. An appropriate municipal panel shall elect its own officers and adopt rules of procedure, subject to this section and other applicable state statutes, and shall adopt rules of ethics with respect to conflicts of interest.

(1) Meetings of any appropriate municipal panel shall be held at the call of the chairperson and at such times as the panel may determine. The officers of the panel may administer oaths and compel the attendance of witnesses and the production of material germane to any issue under review. All meetings of the panel, except for deliberative and executive sessions, shall be open to the

public. The panel shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the clerk of the municipality as a public record. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of the members of the panel, and any action of the panel shall be taken by the concurrence of a majority of the panel.

(2) The provisions of section 873 of this title (disclosure; financial interest; wind generation plant) shall apply to each member of an appropriate municipal panel.

* * *

* * * Electric Generation Siting Jurisdiction; Public Service Board * * *

Sec. 9. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

(A) In any way purchase electric capacity or energy from outside the ~~state~~ State:

(i) for a period exceeding five years, that represents more than three percent of its historic peak demand, unless the purchase is from a plant as defined in subdivision 8002(14) of this title that produces electricity from renewable energy as defined under subdivision 8002(17); or

(ii) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant as defined in subdivision 8002(14) of this title that produces electricity from renewable energy as defined under subdivision 8002(17); or

(B) invest in an electric generation or transmission facility located outside this ~~state~~ State unless the ~~public service board~~ Public Service Board first finds that the same will promote the general good of the ~~state~~ State and issues a certificate to that effect.

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility

within the ~~state~~ State which is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, unless the ~~public service board~~ Public Service Board first finds that the same will promote the general good of the ~~state~~ State and issues a certificate to that effect.

* * *

(b) Before the ~~public service board~~ Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1)(A) with respect to an in-state electric generation facility exceeding 500 kilowatts, will be in conformance with the duly adopted plans under 24 V.S.A. chapter 117 for the municipality and region in which the facility is located, and due consideration has been given to the land conservation measures contained in the plan of any other affected municipality. Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (1)(A) is met. However, this subdivision (1)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;

(B) with respect to ~~an~~ any other in-state facility subject to this section, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However, with respect to a natural gas transmission line subject to board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the ~~board~~ Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located;

* * *

(5) with respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety~~, with~~ and:

(A) with respect to an in-state electric generation facility exceeding 500 kilowatts, will comply with the criteria of 10 V.S.A. § 6086(a)(1)–(9)(L). Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (5)(A) is met. However, this subdivision (5)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;

(B) with respect to any other in-state facility subject to this section, due consideration ~~having~~ has been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K) and greenhouse gas impacts.

* * *

(q) When reviewing a facility under this section pursuant to the criteria of 10 V.S.A. § 6086(a), the Public Service Board shall consider the relevant precedents of the former Environmental Board and of the Environmental Division of the Superior Court and shall apply the relevant precedents of the Vermont Supreme Court.

Sec. 10. RETROACTIVE APPLICATION

Notwithstanding 1 V.S.A. §§ 213 and 214, Sec. 9 (new gas and electric purchases, investments, and facilities; certificate of public good) of this act shall apply to applications that are filed on and after March 1, 2013 and are pending as of this section's effective date.

* * * State Lands * * *

Sec. 11. 10 V.S.A. chapter 88 is added to read:

CHAPTER 88. PROHIBITION; COMMERCIAL CONSTRUCTION; CERTAIN PUBLIC LANDS

§ 2801. POLICY

Vermont's state parks, state forests, natural areas, wilderness areas, wildlife management areas, and wildlife refuges are intended to remain in a natural or wild state forever and shall be protected and managed accordingly.

§ 2802. PROHIBITION

(a) Construction for any commercial purpose, including the generation of electric power, shall not be permitted within any state park or forest, wilderness area designated by law, or natural area designated under section 2607 of this title.

(b) This section shall not prohibit:

(1) the construction of a concession or other structure for the use of visitors to state parks or forests;

(2) a modification or improvement to a dam in existence as of the effective date of this section, if the modification or improvement is:

(A) to ensure public safety; or

(B) to allow the dam's use for the generation of electricity, and the construction of any power lines and facilities necessary for such use;

(3) the construction of telecommunications facilities, as defined in 30 V.S.A. § 248a(b) (certificate of public good; communications facilities), in accordance with all other applicable state law;

(4) a temporary structure or road for forestry purposes as may be permitted on a state land;

(5) tapping of maple trees and associated activities on state forestland authorized under a license pursuant to section 2606b of this title; or

(6) construction on state land that is permitted under a lease or license that was in existence on this act's effective date and, in the case of a ski area, the renewal of such a lease or license or its modification to allow expansion of the ski area.

Sec. 12. REPEAL

10 V.S.A. § 2606(c) (state forests; parks; leases for mining or quarrying) is repealed.

* * * Effective Date * * *

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage, except Sec. 3 (appropriation) of this act shall take effect on July 1, 2013.

And that when so amended the bill ought to pass.

Senator Snelling moved to substitute a recommendation of amendment for the recommendation of amendment of the Committee on Natural Resources and Energy as follows:

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

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds:

(1) Vermont currently encourages the in-state siting of renewable electric generation projects. As with other land uses such as ski resorts or mountainside condominiums, the development of renewable electric generation projects brings both benefits and costs, which must be considered according to statutory criteria for development and siting review.

(2) To address concerns raised regarding the siting processes for electric generation projects and related recommendations in the 2011 Comprehensive Energy Plan, the Governor signed Executive Order No. 10-12 (the Executive Order) creating the Governor's Energy Generation Siting Policy Commission (the Commission). The Commission's charge is to survey best practices for siting approval of electric generation projects, except for net metering systems, and for public participation and representation in the siting review process, and to recommend modifications or improvements to be made to the process through legislation.

(3) In accordance with the Executive Order, the General Assembly anticipates receiving the report and recommendations from the Commission on or before April 30, 2013 and therefore establishes a process for further assessments of issues related to electric generation siting and to consider the report and recommendations in advance of the 2014 legislative session.

* * * Joint Energy Committee * * *

Sec. 2. 2 V.S.A. § 601 is amended to read:

§ 601. CREATION OF COMMITTEE

* * *

(b) The ~~committee~~ Committee shall elect a chair, ~~vice-chair~~ vice chair, and clerk and shall adopt rules of procedure. The ~~chair~~ Chair shall rotate biennially between the house and the senate members. The ~~committee~~ Committee may meet during a session of the ~~general assembl~~y General Assembly at the call of the ~~chair~~ Chair or a majority of the members of the ~~committee~~ Committee. The ~~committee~~ Committee may meet no more than six times during adjournment ~~subject to approval of the speaker of the house and the president pro tempore of the senate~~, except that the Speaker of the House and the President Pro Tempore of the Senate may approve one or more additional meetings of the Committee during adjournment. A majority of the membership shall constitute a quorum.

* * * Electric Generation Siting; Assessment; Report * * *

Sec. 3. DEFINITIONS

In Secs. 3 through 5 of this act:

(1) "ACCD" means the Agency of Commerce and Community Development.

(2) "ANR" means the Agency of Natural Resources.

(3) "Board" means the Natural Resources Board.

(4) "Department" means the Department of Public Service.

(5) "Electric generation plant" means a plant that produces electricity and has a plant capacity that exceeds 500 kilowatts.

(6) "Executive Order" means Executive Order No. 10-12 dated October 2, 2012 creating the Siting Policy Commission.

(7) "Joint Energy Committee" means the Joint Energy Committee created under 2 V.S.A. chapter 17.

(8) "Plant" and "plant capacity" shall have the same meaning as in 30 V.S.A. § 8002, except that they shall not be limited to renewable energy.

(9) "Regional planning commission" shall have the meaning as in 24 V.S.A. § 4303.

(10) "Siting Policy Commission" means the Governor's Energy Siting Policy Commission created by Executive Order No. 10-12 dated October 2, 2012 .

(11) "VDH" means the Department of Health.

(12) "Wind generation plant" means an electric generation plant that captures the energy of the wind and converts it into electricity. The term includes all associated facilities and infrastructure such as wind turbines, towers, guy wires, power lines, roads, and substations.

(13) "Wind meteorological station" means any tower, and associated guy wires and attached instrumentation, constructed to collect and record wind speed, wind direction, and atmospheric conditions.

Sec. 4. DEPARTMENT; ELECTRIC GENERATION SITING; ASSESSMENT; REPORT

(a) Charge. On or before November 15, 2013, the Department, in consultation with and assisted by the ACCD, ANR, the Board, the Department of Taxes, VDH, and the regional planning commissions, shall conduct and complete each assessment and submit the report and recommendations required by this section.

(b) Governor's Siting Policy Commission. In performing its tasks under this section, the Department shall use the information and data collected by and consider the report and recommendations of the Siting Policy Commission.

(c) Assessment. The Department, assisted by ACCD, ANR, the Board, the Department of Taxes, VDH, and the regional planning commissions, shall complete a written assessment of each of the following:

(1) the appropriateness and economic efficiency of investing or encouraging investment in renewable electric generation plants to reduce Vermont's greenhouse gas emissions in comparison to other measures to reduce those emissions such as transportation fuel efficiency and thermal and electric energy efficiency;

(2) the current policy and practice of selling renewable energy credits from renewable electric generation plants in Vermont to utilities in other jurisdictions and the effect of this policy and practice on reducing Vermont's greenhouse gas emissions;

(3) methods to integrate state energy planning and local and regional land use planning as they apply to electric generation plants;

(4) methods to strengthen the role of local and regional plans in the siting review process for electric generation plants and to assure that the siting review process reflects the outcome of the local and regional planning processes;

(5) methods to fund intervenors in the siting review process for electric generation plants; and

(6) with respect to wind generation plants and wind meteorological stations:

(A) health impacts of plants and stations located in and outside Vermont;

(B) sound and infrasound emitted from plants and stations located in and outside Vermont as they affect public health and quality of life;

(C) setback requirements on such plants and stations adopted by other jurisdictions in and outside the United States;

(D) the impacts on the environment, natural resources, and quality of life of the plants and stations in Vermont in existence or under construction as of the effective date of this section; and

(E) the economic and environmental costs and benefits of such plants and stations, including the value of any ecosystem services affected by them.

(d) Report; proposed legislation. On or before November 15, 2013, the Department, assisted by ACCD, ANR, the Board, the Department of Taxes, VDH, and the regional planning commissions, shall submit a report to the House and Senate Committees on Natural Resources and Energy, the Senate

Committee on Finance, the House Committee on Commerce and Economic Development, and the Joint Energy Committee that contains each of the following:

(1) The results of each assessment to be conducted under subsection (c) of this section.

(2) Recommendations and proposed legislation to:

(A) establish a comprehensive planning process for the siting of electric generation plants that integrates state energy and local and regional land use planning;

(B) ensure that the outcome of this integrated planning process directs the siting review process for electric generation plants and that local and regional land use plans have a determinative role in this siting review process;

(C) establish a method to fund intervenors participating in the siting review process for electric generation plants;

(D) maximize the reductions in Vermont's greenhouse gas emissions supported by revenues raised from Vermont taxpayers and ratepayers;

(E) establish standards applicable to all wind generation plants and wind meteorological stations to address their impacts on the public health, environment, land use, and quality of life, including standards to protect natural areas and wildlife habitat and to establish noise limits and setback requirements applicable to such plants and stations; and

(F) establish a procedure to measure a property owner's loss of value, if any, due to proximity to a wind generation plant and to propose a method to compensate the property owner for the loss in value, including a determination of who shall pay for such loss.

(e) Public notice and participation.

(1) The Department shall give widespread public notice of the assessment and report required by this section and shall maintain on its website a prominent page concerning this process that provides notice of all public meetings held and posts relevant information and documents.

(2) In performing the assessment and developing the report required by this section, the Department shall provide an opportunity for local legislative bodies, local planning commissions, affected businesses and organizations, and members of the public to submit relevant factual information, analysis, and comment. This opportunity shall include meetings conducted by the

Department at locations that are geographically distributed around the State to receive such information, analysis, and comment.

(f) Joint Energy Committee. During adjournment between the 2013 and 2014 sessions, the Joint Energy Committee (the Committee) shall review the conduct and content of the assessment and report required by this section and the report and recommendations of the Siting Policy Commission and discuss potential legislation on planning for and siting of electric generation plants. To this end, the Committee may:

(1) direct the Department, ACCD, ANR, the Board, the Department of Taxes, VDH, and one or more regional planning commissions to appear and provide progress reports on the assessment and report required by this section and discuss proposals of draft legislation on planning for and siting of electric generation plants; and

(2) direct members of the Siting Policy Commission to appear and provide information and testimony related to the Commission's report and recommendations issued pursuant to the Executive Order and to the siting of electric generation plants in Vermont. This authority shall continue until the General Assembly reconvenes in 2014 whether or not the Siting Policy Commission ceases to exist prior to that date.

Sec. 5. APPROPRIATION

For fiscal year 2014, the sum of $75,000.00 is appropriated to the Department of Public Service from Special Fund No. 21698 (Department of Public Service; Energy and Regulation Fund) for the purpose of Sec. 4 of this act (electric generation siting; assessment; report).

* * * Electric Generation Siting Jurisdiction; Public Service Board * * *

Sec. 6. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

(A) In any way purchase electric capacity or energy from outside the ~~state~~ State:

(i) for a period exceeding five years, that represents more than three percent of its historic peak demand, unless the purchase is from a plant as defined in subdivision 8002(14) of this title that produces electricity from renewable energy as defined under subdivision 8002(17); or

(ii) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant as defined

in subdivision 8002(14) of this title that produces electricity from renewable energy as defined under subdivision 8002(17); or

(B) invest in an electric generation or transmission facility located outside this ~~state~~ State unless the ~~public service board~~ Public Service Board first finds that the same will promote the general good of the ~~state~~ State and issues a certificate to that effect.

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility within the ~~state~~ State which is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, unless the ~~public service board~~ Public Service Board first finds that the same will promote the general good of the ~~state~~ State and issues a certificate to that effect.

* * *

(b) Before the ~~public service board~~ Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1)(A) with respect to an in-state electric generation facility exceeding 2.2 megawatts, will be in conformance with the duly adopted plans under 24 V.S.A. chapter 117 for the municipality and region in which the facility is located, and due consideration has been given to the land conservation measures contained in the plan of any other affected municipality. Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (1)(A) is met. However, this subdivision (1)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;

(B) with respect to ~~an~~ any other in-state facility subject to this section, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the

municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However, with respect to a natural gas transmission line subject to board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the ~~board~~ Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located;

* * *

(5) with respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety~~, with~~ and:

(A) with respect to an in-state electric generation facility exceeding 2.2 megawatts, will comply with the criteria of 10 V.S.A. § 6086(a)(1)–(9)(L). Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (5)(A) is met. However, this subdivision (5)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;

(B) with respect to any other in-state facility subject to this section, due consideration ~~having~~ has been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K) and greenhouse gas impacts.

* * *

(q) When reviewing a facility under this section pursuant to the criteria of 10 V.S.A. § 6086(a), the Public Service Board shall consider the relevant precedents of the former Environmental Board and of the Environmental Division of the Superior Court and shall apply the relevant precedents of the Vermont Supreme Court.

Sec. 7. RETROACTIVE APPLICATION

Notwithstanding 1 V.S.A. §§ 213 and 214, Sec. 6 (new gas and electric purchases, investments, and facilities; certificate of public good) of this act shall apply retroactively to applications that are filed on and after March 1, 2013 and are pending as of this section's effective date.

Sec. 8. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

* * *

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1)~~(A) with respect to an in-state electric generation facility exceeding 2.2 megawatts, will be in conformance with the duly adopted plans under 24 V.S.A. chapter 117 for the municipality and region in which the facility is located, and due consideration has been given to the land conservation measures contained in the plan of any other affected municipality. Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that this subdivision (1)(A) is met. However, this subdivision (1)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;~~

~~(B)~~ with respect to ~~any other~~ an in-state facility ~~subject to this section~~, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However, with respect to a natural gas transmission line subject to board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the ~~board~~ Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located;

* * *

(5) with respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety ~~and:~~

~~(A) with respect to an in-state electric generation facility exceeding 2.2 megawatts, will comply with the criteria of 10 V.S.A. § 6086(a)(1) (9)(L). Notwithstanding subsection (a) of this section, the Board shall not issue a certificate under this section for such an in-state facility without finding that~~

~~this subdivision (5)(A) is met. However, this subdivision (5)(A) shall not apply to an electric generation facility the principal effect of which, if approved, would be to remediate a constraint in the electric transmission or distribution system;~~

~~(B) with respect to any other in-state facility subject to this section,~~ with due consideration ~~has~~ having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K) and greenhouse gas impacts.

* * *

(q) ~~When reviewing a facility under this section pursuant to the criteria of 10 V.S.A. § 6086(a), the Public Service Board shall consider the relevant precedents of the former Environmental Board and of the Environmental Division of the Superior Court and shall apply the relevant precedents of the Vermont Supreme Court.~~ [Repealed.]

* * * State Lands * * *

Sec. 9. 10 V.S.A. chapter 88 is added to read:

CHAPTER 88. PROHIBITION; COMMERCIAL CONSTRUCTION; CERTAIN PUBLIC LANDS

§ 2801. POLICY

Vermont's state parks, state forests, natural areas, wilderness areas, wildlife management areas, and wildlife refuges are intended to remain in a natural or wild state forever and shall be protected and managed accordingly.

§ 2802. PROHIBITION

(a) Construction for any commercial purpose, including the generation of electric power, shall not be permitted within any state park or forest, wilderness area designated by law, or natural area designated under section 2607 of this title.

(b) This section shall not prohibit:

(1) the construction of a concession or other structure for the use of visitors to state parks or forests;

(2) a modification or improvement to a dam in existence as of the effective date of this section, if the modification or improvement is:

(A) to ensure public safety; or

(B) to allow the dam's use for the generation of electricity, and the construction of any power lines and facilities necessary for such use;

(3) the construction of telecommunications facilities, as defined in 30 V.S.A. § 248a(b) (certificate of public good; communications facilities), in accordance with all other applicable state law;

(4) a structure, road, or landing for forestry purposes as may be permitted on a state land;

(5) tapping of maple trees and associated activities on state forestland authorized under a license pursuant to section 2606b of this title; or

(6) construction on state land that is permitted under a lease or license that was in existence on this act's effective date and, in the case of a ski area, the renewal of such a lease or license or its modification to allow expansion of the ski area.

Sec. 10. REPEAL

10 V.S.A. § 2606(c) (state forests; parks; leases for mining or quarrying) is repealed.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 5 (appropriation) of this act shall take effect on July 1, 2013; and

(2) Sec. 8 (new gas and electric purchases, investments, and facilities; certificate of public good) of this act shall take effect on July 1, 2014.

Which was agreed to.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported the same without recommendation.

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

In Sec. 3 (appropriation) by striking out the words "the General Fund" and inserting in lieu thereof: Special Fund No. 21698 (Department of Public Service; Energy and Regulation Fund)

And that when so amended the bill ought to pass.

Thereupon, pending the question, Shall the recommendation of amendment of the Committee on Natural Resources and Energy be amended as recommended by the Committee on Appropriations?, Senator Starr requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Natural Resources and Energy, as substituted, was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Zuckerman moved to strike out Secs. 6, 7, 8, and 11 subdivision (2) of the bill which was disagreed to on a roll call, Yeas 15, Nays 16.

Senator Snelling 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, Cummings, Doyle, Fox, Lyons, MacDonald, Mazza, McCormack, Pollina, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Campbell, Collins, Flory, French, Galbraith, Hartwell, Kitchel, McAllister, Mullin, Nitka, Rodgers, Sears, Snelling, Starr.

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

Thereupon, pending the question, Shall the bill be read a third time?, Senator Sears moved that the rules be suspended and that the action taken on the motion of Senator Zuckerman be reconsidered, which was agreed to.

Thereupon, the question, Shall the Senate strike out Secs. 6, 7, 8 and 11 subdivision (2) of the bill, was agreed to on a roll call, Yeas 16, Nays 14.

Senator Snelling 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, Cummings, Doyle, Fox, Lyons, MacDonald, Mazza, McCormack, Pollina, Sears, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Campbell, Collins, Flory, French, Galbraith, Hartwell, Kitchel, McAllister, Mullin, Nitka, Rodgers, Snelling, Starr.

Thereupon, third reading of the bill was ordered on a roll call Yeas 24, Nays 6.

Senator Lyons 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, Cummings, Doyle, Flory, Fox, French, Galbraith, Hartwell, Kitchel, MacDonald, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, *Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Baruth, Campbell, Collins, Lyons, Mazza, McAllister.

*Senator Snelling explained her vote as follows:

"I'm voting yes to move the legislation forward because the heart of the heart remains and I hope that we can pass this bill to the other Chamber."

Message from the House No. 33

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. 65. An act relating to limited immunity from liability for reporting a drug or alcohol overdose.

H. 95. An act relating to unclaimed life insurance benefits.

H. 280. An act relating to payment of wages.

H. 513. An act relating to the Department of Financial Regulation.

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

H. 522. An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse.

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

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

J.R.S. 22. Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Campbell, the Senate adjourned until eight o'clock and fifty-five minutes in the morning.

WEDNESDAY, MARCH 27, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Referred to Committee on Appropriations

S. 155.

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 creating a strategic workforce development needs assessment and strategic plan.

Bills Referred

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

H. 65.

An act relating to limited immunity from liability for reporting a drug or alcohol overdose.

To the Committee on Judiciary.

H. 95.

An act relating to unclaimed life insurance benefits.

To the Committee on Finance.

H. 280.

An act relating to payment of wages.

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

H. 513.

An act relating to the Department of Financial Regulation.

To the Committee on Finance.

H. 520.

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

To the Committee on Natural Resources and Energy.

H. 522.

An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse.

To the Committee on Health and Welfare.

Joint Assembly

At nine o'clock in the morning, the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

J.R.S. 22. Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

The Senate repaired to the hall of the House.

Having returned therefrom, at ten o'clock and forty minutes in the morning, the President assumed the Chair.

Bill Amended; Third Reading Ordered

S. 11.

Senator Rodgers, for the Committee on Institutions, to which was referred Senate bill entitled:

An act relating to the Austine School.

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

Sec. 1. PROPERTY TRANSACTION; AUSTINE SCHOOL

(a) Notwithstanding 16 V.S.A. § 3823, on or before July 1, 2016, the Vermont Center for the Deaf and Hard of Hearing is authorized to sell a total of up to 15 acres of undeveloped land associated with the Austine School for the Deaf with no obligation to repay any state capital appropriations made to or for the benefit of the Austine School.

(b) Notwithstanding any sale of undeveloped land pursuant to subsection (a) of this section, the first priority lien created under 16 V.S.A. § 3823(b) in favor of the State for all capital appropriations made to or for the benefit of the Austine School for the Deaf shall remain for the full obligation that is owed to the State.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

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

Bill Amended; Third Reading Ordered

S. 40.

Senator McCormack, for the Committee on Education, to which was referred Senate bill entitled:

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

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

Sec. 1. FINDINGS

The General Assembly finds that:

(1) In 1980, 51 percent of the revenue supporting our Vermont State Colleges came from state appropriations and 49 percent came from student tuition. Now, after decades of underfunding, state appropriations provide less than 20 percent of the Vermont State Colleges' revenue and over 80 percent comes from student tuition. This is a huge cost shift onto students and families, many of whom simply cannot afford it.

(2) On a per-capita basis, Vermont now provides less state support to its public colleges than almost any other state.

(3) In FY 2011–2012, Vermont ranked 49th among the states, next to last, in state appropriations per $1,000.00 of personal income.

(4) In the 21 years between 1990 and 2011, the state appropriation per full-time Vermont student at Vermont State Colleges fell from $3,342.00 to $3,231.00.

(5) Eighty-one percent of the students at Vermont State Colleges are from Vermont, and 54 percent of these students are the first in their families to

attend college. Eighty-four percent of Vermont State College graduates stay in Vermont.

Sec. 2. INTERIM STUDY OF HIGHER EDUCATION FUNDING

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

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

(1) one faculty member of the University of Vermont to be appointed by United Professions American Federation of Teachers Vermont;

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

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

(c) Powers and duties.

(1) The higher education subcommittee shall develop policies to:

(A) lower student and family costs and debt so that Vermont colleges are more affordable for Vermonters; and

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

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

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

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

(C) administrative as compared to instructional costs;

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

(E) any information available from the state colleges and universities regarding the impact of Vermont State College graduates on Vermont's economy and on job creation and retention.

(d) On or before November 15, 2013, the subcommittee shall report to the General Assembly on its findings and any recommendations for legislative action.

(e) The subcommittee may meet no more than six times between July 1, 2013 and November 15, 2013 for the purposes of this interim study. For attendance at meetings during adjournment of the General Assembly, legislative members of the subcommittee shall be entitled to compensation and reimbursement for expenses under 2 V.S.A. § 406, and other members of the subcommittee who are not employees of the State of Vermont shall be reimbursed at the per diem rate under 32 V.S.A. § 1010.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

And that when so amended the bill ought to pass.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Education?, Senator McCormack moved to amend the recommendation of amendment of the Committee on Education as follows:

First: In Sec. 2(c)(2)(E) after the words "Vermont State College" by inserting the words and University of Vermont

Second: In Sec. 2(e) after the words "State of Vermont" by striking out the word "shall" and inserting in lieu thereof the word may

Third: In Sec. 2(e) after "32 V.S.A. § 1010" by inserting the words if not otherwise compensated or benefited

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Education, as amended?, was agreed to.

Thereupon, third reading of the bill was ordered.

Bill Passed

S. 128.

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

An act relating to updating mental health judicial proceedings

Bill Amended; Bill Passed

S. 159.

Senate Committee bill entitled:

An act relating to various amendments to Vermont's land use control law and related statutes.

Was taken up.

Thereupon, pending third reading of the bill, Senator MacDonald moved to amend the bill in Sec. 9, 10 V.S.A. § 6021 (Natural Resources Board) in subdivision (a)(1), by striking out the first sentence in its entirety and inserting in lieu thereof the following:

The ~~board~~ Board shall consist of ~~nine~~ five members appointed by the ~~governor~~ Governor, with the advice and consent of the ~~senate~~ Senate, so that one appointment ~~on each panel~~ expires in each ~~odd-numbered~~ year.

Which was agreed to.

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

Bill Passed

S. 161.

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

An act relating to mitigation of traffic fines and approval of a DLS Diversion Program contract

Third Reading Ordered

S. 26.

Senator Collins, for the Committee on Education, to which was referred Senate bill entitled:

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

Reported that the bill ought to pass.

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

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

Bill Amended; Third Reading Ordered

S. 61.

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

An act relating to the shipment of malt beverages.

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

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

§ 2. DEFINITIONS

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

* * *

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

* * *

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

farmers' market license is valid for all dates of operation for a specific farmers' market location.

* * *

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

* * *

Sec. 2. 7 V.S.A. § 66 is amended to read:

§ 66. MALT AND VINOUS BEVERAGE SHIPPING LICENSE; IN STATE; OUT OF STATE; PROHIBITIONS; PENALTIES

(a) A manufacturer or rectifier of vinous beverages or malt beverages licensed in Vermont may be granted an in-state consumer shipping license by filing with the ~~department of liquor control~~ Department of Liquor Control an application in a form required by the ~~department~~ Department accompanied by a copy of the applicant's current Vermont manufacturer's license and the fee as required by subdivision 231(7)(A) of this title. This consumer shipping license may be renewed annually by filing the renewal fee as required by subdivision 231(7)(A) of this title accompanied by a copy of the licensee's current Vermont manufacturer's license.

(b) A manufacturer or rectifier of vinous beverages or malt beverages licensed in another state that operates a winery or brewery in the United States and holds valid state and federal permits and licenses may be granted an out-of-state consumer shipping license by filing with the ~~department of liquor control~~ Department an application in a form required by the ~~department~~ Department accompanied by copies of the applicant's current out-of-state manufacturer's license and the fee as required by subdivision 231(7)(B) of this title. This consumer shipping license may be renewed annually by filing the renewal fee as required by subdivision 231(7)(B) of this title accompanied by

the licensee's current out-of-state manufacturer's license. For the purposes of this subsection and subsection (c) of this section, "out-of-state" means any state other than Vermont, any territory or possession of the United States, and does not include a foreign country.

* * *

(d) Pursuant to a consumer shipping license granted under subsection (a) or (b) of this section, the licensee may ship vinous beverages or malt beverages produced by the licensee:

(1) Only to private residents for personal use and not for resale.

(2) No more than 12 cases containing no more than 29 gallons of vinous beverages or no more than 12 cases of malt beverages containing no more than 36 gallons of malt beverages to any one Vermont resident in any calendar year.

(3) Only by common carrier certified by the ~~department~~ Department. The common carrier shall comply with all the following:

(A) ~~Deliver~~ deliver ~~vinous~~ beverages pursuant to an invoice that includes the name of the licensee and the name and address of the purchaser~~.~~;

(B) ~~On~~ on delivery, require a valid form of photographic identification from a recipient who appears to be under ~~the~~ age ~~of~~ 30~~.~~;

(C) ~~Require~~ require the recipient to sign an electronic or paper form or other acknowledgement of receipt.

(e) A holder of any shipping license granted pursuant to this section shall:

(1) ~~Ensure~~ ensure that all containers of alcoholic beverages shipped under this section are clearly labeled: "contains alcohol; signature of individual age 21 or older required for ~~delivery."~~ delivery";

(2) ~~Not~~ not ship to any address in a municipality that the ~~department~~ Department identified as having voted to be ~~"dry."~~ dry";

(3) ~~Retain~~ retain a copy of each record of sale for a minimum of five years from the date of shipping~~.~~;

(4) ~~Report~~ report at least twice a year to the ~~department of liquor control~~ Department of Liquor Control if the holder of a direct consumer shipping license and once a year if the holder of a retail shipping license in a manner and form required by the ~~department~~ Department all the following information:

(A) ~~The~~ the total amount of vinous beverages or malt beverages shipped into or within the ~~state~~ State for the preceding six months if a holder of a direct consumer shipping license or every 12 months if a holder of a retail shipping license~~.~~;

(B) ~~The~~ the names and addresses of the purchasers to whom the ~~vinous~~ beverages were shipped~~.~~;

(C) ~~The~~ the date purchased, if appropriate, the name of the common carrier used to make each delivery, and the quantity and value of each shipment.

(5) ~~Pay~~ pay directly to the ~~commissioner of taxes~~ Commissioner of Taxes the amount of tax on the vinous beverages or malt beverages shipped under this section pursuant to subsection 421(a) of this title, and comply with the provisions of 32 V.S.A. chapter 233, 24 V.S.A. § 138, and any other legally authorized local sales taxes. Delivery in this ~~state~~ State shall be deemed to constitute a sale in this ~~state~~ State at the place of delivery and shall be subject to all appropriate taxes levied by the ~~state~~ State of Vermont~~.~~;

(6) ~~Permit the state treasurer~~ permit the State Treasurer, the ~~department of liquor control~~ Department of Liquor Control, and the ~~department of taxes~~ Department of Taxes, separately or jointly, upon request, to perform an audit of its records~~.~~;

(7) ~~If~~ if an out-of-state license holder, be deemed to have consented to the jurisdiction of the ~~department of liquor control~~ Department of Liquor Control or any other state agency and the Vermont state courts concerning enforcement of this or other applicable laws and regulations~~.~~;

(8) ~~Not~~ not have any direct or indirect financial interest in a Vermont wholesale dealer or retail dealer, including a first, second, or third class license~~.~~;

(9) ~~Comply~~ comply with all ~~liquor control board~~ Liquor Control Board laws and regulations; and

(10) comply with the beverage container deposit redemption system pursuant to 10 V.S.A. chapter 53.

(f) A common carrier shall not deliver vinous beverages or malt beverages until it has complied with the training provisions in subsections 239(a) and (b) of this title and been certified by the ~~department of liquor control~~ Department of Liquor Control. No employee of a certified common carrier may deliver vinous beverages or malt beverages until that employee completes the training provisions in subsection 239(c) of this title. A common carrier shall deliver only vinous beverages or malt beverages that have been shipped by the holder of a license issued under this section or a vinous beverage storage license issued under section 68 of this title.

(g) The ~~department of liquor control and the department of taxes~~ Departments of Liquor Control and of Taxes may adopt rules and forms necessary to implement this section.

(h) Direct shipments of vinous beverages or malt beverages are prohibited if the shipment is not specifically authorized and in compliance with this section. Any person who knowingly makes, participates in, imports, or receives a direct shipment of vinous beverages or malt beverages from a person who is not licensed or certified as required by this section may be fined not more than $1,000.00 or imprisoned not more than one year, or both.

(i) A licensee under this section or a common carrier that ships vinous beverages or malt beverages to an individual under 21 years of age shall be fined not less than $1,000.00 or more than $3,000.00 or imprisoned not more than two years, or both.

(j) For any violation of this section, the ~~liquor control board~~ Liquor Control Board may suspend or revoke a license issued under this section, among all other remedies available to the board.

Sec. 3. 7 V.S.A. § 232 is amended to read:

§ 232. TERMS OF ~~PERMITS AND~~ LICENSES

All ~~permits and~~ licenses shall expire at midnight, April 30, ~~of each year and, upon~~ of each year, except that annual licenses issued beginning July 1, 2013 shall expire at midnight one year from the date of issuance, and six month licenses shall expire at midnight six months from the date of issuance. Upon the payment of a new fee, licenses may be renewed by the ~~control commissioners~~ Control Commissioners with the approval of the ~~liquor control board as provided in section 222 of this title~~ Liquor Control Board, provided the licensee is entitled thereto.

Sec. 4. 7 V.S.A. § 239 is amended to read:

§ 239. LICENSEE EDUCATION

(a) ~~No new first or second class license~~ A new first class, second class, third class, fourth class, or farmer's market license shall not be granted until the applicant has met with a liquor control investigator or training specialist for the purpose of being informed of the Vermont liquor laws, rules, and regulations pertaining to the purchase, storage, and sale of alcohol beverages. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection.

(b) Every ~~first and second class licensee~~ first class, second class, third class, fourth class, or farmer's market licensee and every holder of a manufacturer's license shall complete the ~~department of liquor control~~

Department of Liquor Control licensee ~~enforcement~~ training seminar at least once every ~~three~~ two years. A corporation, partnership, or association shall designate a director, partner, or manager who shall comply with the terms of this subsection. ~~No first or second class license~~ A first class, second class, third class, fourth class, or farmer's market license or manufacturer's license shall not be renewed unless the records of the ~~department of liquor control~~ Department of Liquor Control show that the licensee has complied with the terms of this subsection.

(c) Each licensee shall ensure that every employee who is involved in the sale or serving of alcohol beverages completes a training program approved by the ~~department of liquor control~~ Department of Liquor Control before the employee begins serving or selling alcoholic beverages and at least once every 24 months thereafter. Each licensee shall maintain written documentation, signed by each employee trained, of each training program conducted. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished or approved by the ~~department of liquor control~~ Department of Liquor Control. A licensee who fails to comply with the requirements of this subsection shall be subject to a suspension of no less than one day of the license issued under this title.

Sec. 5. 7 V.S.A. § 602 is amended to read:

§ 602. EXHIBITION OF CARD

An individual shall exhibit "a valid authorized form of identification," which means a valid photographic operator's license, enhanced driver's license, or valid photographic nondriver identification card issued by Vermont or another state or foreign jurisdiction, a United States military identification card, or a valid passport or passport card bearing the photograph and signature of the individual upon demand of a licensee, an employee of a licensee, or a law enforcement officer. On the failure of an individual to produce and exhibit a valid authorized form of identification upon demand of a licensee, the licensee shall be entitled to refuse to sell the individual any alcoholic beverage. Sale or furnishing of any alcoholic beverages by a licensee to an individual exhibiting a valid authorized form of identification shall be prima facie evidence of the licensee's compliance with the law prohibiting the sale or furnishing of alcoholic beverages to minors.

Sec. 6. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax is assessed on the gross revenue on the retail sale of spirituous liquor in the ~~state~~ State of Vermont, including fortified wine, sold by the ~~liquor~~

~~control board~~ Liquor Control Board or sold by a manufacturer or rectifier of spirituous liquor in accordance with the provisions of this title. The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the previous year:

(1) if the gross revenue of the seller is ~~$100,000.00~~ $200,000.00 or lower, the rate of tax is five percent;

(2) if the gross revenue of the seller is between ~~$100,000.00~~ $200,000.00 and ~~$200,000.00~~ $400,000.00, the rate of tax is ~~$15,000.00~~ $10,000.00 plus 15 percent of gross revenues over ~~$100,000.00~~ $200,000.00;

(3) if the gross revenue of the seller is over ~~$200,000.00~~ $400,000.00, the rate of tax is 25 percent.

Sec. 7. REPEAL

The following sections of 2011 Acts and Resolves No. 17 (An act relating to powers and immunities of the liquor control investigators) are repealed:

(1) Sec. 3 (amending 7 V.S.A. § 561(a), effective July 1, 2013);

(2) Sec. 4 (amending 23 V.S.A. § 4(11), effective July 1, 2013); and

(3) Sec. 5(b) (effective date of Secs. 3 and 4).

Sec. 8. EFFECTIVE DATE

This section and Sec. 7 shall take effect on passage. All other sections shall take effect on July 1, 2013.

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

An act relating to alcoholic beverages.

And that when so amended the bill ought to pass.

Senator Mullin, for the Committee on Finance, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 3 to read as follows:

Sec. 3. 7 V.S.A. § 232 is amended to read:

§ 232. TERMS OF ~~PERMITS AND~~ LICENSES

All ~~permits and~~ licenses shall expire at midnight, April 30, ~~of each year and, upon~~ of each year. A person acquiring a new license in the first quarter of the license period shall pay the full amount of the license; a person acquiring a

new license in the second quarter of the licensing period shall pay 75 percent of the license fee; a person acquiring a new license in the third quarter of the licensing period shall pay 50 percent of the license fee; and a person acquiring a new license in the final quarter of the licensing period shall pay 25 percent of the license fee. Six-month licenses issued to third class licensees beginning July 1, 2013 shall expire at midnight six months from the date of issuance. Upon the payment of a new fee, licenses may be renewed by the ~~control commissioners~~ Control Commissioners with the approval of the ~~liquor control board as provided in section 222 of this title~~ Liquor Control Board, provided the licensee is entitled thereto.

Second: By striking out Sec. 6 in its entirety.

Third: In Sec 8, EFFECTIVE DATE, by striking out "Sec. 7" and inserting in lieu thereof Sec. 6

And by renumbering the remaining sections to be numerically correct.

And that when so amended the bill ought to pass.

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

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, Senator Galbraith moved to amend the recommendation of the Committee on Economic Development, Housing and General Affairs, as amended, in Sec. 1, 7 V.S.A. § 2, (definitions) in subdivision (32), by striking out the last sentence in its entirety and inserting in lieu thereof a new sentence to read: As used in this section, "art gallery" means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; and "bookstore" means a fixed establishment whose primary purpose is to offer books for sale.

Which was agreed to.

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

Thereupon, third reading of the bill was ordered.

Bills Passed

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

S. 41. An act relating to water and sewer service

S. 58. An act relating to Act 250 and oil pipelines.

Recess

On motion of Senator Campbell the Senate recessed until five o'clock in the evening.

Called to Order

The Senate was called to order by the President.

Bill Amended; Third Reading Ordered

S. 18.

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

An act relating to automated license plate recognition systems.

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

Sec. 1. 23 V.S.A. § 1607 is added to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) "Active data" is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose.

(2) "Automated license plate recognition system" (ALPR) means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) "Historical data" means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system shall be considered collected for a legitimate law enforcement purpose. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(4) "Law enforcement officer" means a state police officer, municipal police officer, motor vehicle inspector, capitol police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as having satisfactorily completed the approved training programs required to

meet the minimum training standards applicable to that person under 20 V.S.A. § 2358.

(5) "Legitimate law enforcement purpose" applies to access to active or historical data and means crime investigation, detection, and analysis or operation of AMBER alerts or missing or endangered person searches.

(6) "Vermont Information and Analysis Center Analyst" means any sworn or civilian employee who through his or her employment with the Vermont Information and Analysis Center (VTIAC) has access to secure databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.

(c) Confidentiality and access to ALPR data.

(1)(A) Active ALPR data may only be accessed by a law enforcement officer operating the ALPR system who has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Deployment of ALPR equipment is intended to provide access to stolen and wanted files and to further legitimate law enforcement purposes. Use of ALPR systems and access to active data are restricted to these purposes.

(C)(i) Requests to review active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to VTIAC and retained for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2) Requests for historical data, whether from Vermont or out-of-state law enforcement officers, shall be made in writing to an analyst at VTIAC. The request shall include the name of the requester, the law enforcement agency the requester is employed by, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose. VTIAC shall retain all requests as well as the outcome of the request and shall

record in writing any information that was provided to the requester or why the request was denied or not fulfilled. ALPR requests shall be retained by VTIAC for not less than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in section 1608 of this title, information gathered through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or back-ups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under Section 1608 of this title, or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) The total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database.

(B) The total number of ALPR reads each agency submitted to the statewide ALPR database.

(C) The 18-month accumulative number of ALPR reads being housed on the statewide ALPR database.

(D) The total number of requests made to VTIAC for ALPR data.

(E) The total number of requests that resulted in release of information from the statewide ALPR database.

(F) The total number of out-of-state requests.

(G) The total number of out-of-state requests that resulted in release of information from the statewide ALPR database.

(2) The Department of Public Safety may adopt rules to implement this section.

Sec. 2. 23 V.S.A. § 1608 is added to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A governmental entity may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation, or to a pending proceeding in the Judicial Bureau. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved, or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied, or 14 days after the denial of the application for disclosure, whichever is later.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2013.

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.

Third Reading Ordered

S. 152.

Senate committee bill entitled:

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

Was taken up.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as follows

First: In Sec. 11, 18 V.S.A. § 9374(h), by striking out subdivisions (2) and (3) in their entirety and inserting in lieu thereof new subdivisions (2) and (3) to read as follows:

(2) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision (1) of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

Second: By striking out Sec. 12 in its entirety.

Third: In Sec. 13, 18 V.S.A. § 9415, by striking out subsections (b), (c) and (d) in their entirety and inserting in lieu thereof new subsections (b) and (c) to read as follows:

(b) The Commissioner may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subsection (a) of this section if, in the Commissioner's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(c) Expenses under subsection (a) of this section shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section include major medical, comprehensive medical, hospital or surgical coverage, and any comprehensive health care services plan, but ~~does~~ shall not include long-term care, limited benefits, disability, credit or stop loss or excess loss insurance coverage.

Fourth: By adding a new section to be numbered Sec. 13 to read as follows:

Sec. 13. BILL-BACK REPORT

(a) Annually on or before September 15, the Green Mountain Care Board and the Department of Financial Regulation shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the House and Senate Committees on Appropriations the total amount of all expenses eligible for allocation pursuant to 18 V.S.A. §§ 9374(h) and 9415 during the preceding state fiscal year and the total amount actually billed back to the regulated entities during the same period.

(b) The Board and the Department shall also present the information required by subsection (a) of this section to the Joint Fiscal Committee annually at its September meeting.

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

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.

Third Reading Ordered

S. 157.

Senate committee bill entitled:

An act relating to modifying the requirements for hemp production in the State of Vermont.

Was taken up.

Senator Galbraith, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended in Sec. 1, in 6 V.S.A. § 566(b)(1), by striking out the following: "$25.00" and inserting in lieu thereof the following: $200.00

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. 132.

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

An act relating to sheriffs, deputy sheriffs, and the service of process.

Reported recommending that the bill be amended in Sec. 3, 13 V.S.A. § 3705 (unlawful trespass), by striking out subsection (e) in its entirety and inserting in lieu thereof the following:

(e) A law enforcement officer shall not be prosecuted under subsection (a) of this section if he or she is authorized to serve civil or criminal process, including citations, summons, subpoenas, warrants, and other court orders, and the scope of his or her entrance onto the land or place of another is no more than necessary to effectuate the service of process.

And that when so amended the bill ought to pass.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that it has considered the same and recommends that the bill be amended by striking out Sec 8 in its entirety.

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

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Government Operations, was agreed to.

Thereupon, the recommendation of the Committee on Appropriations, was agreed to.

Thereupon, third reading of the bill was ordered.

Adjournment

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

THURSDAY, MARCH 28, 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. 34

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. 21. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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

J.R.H. 1. Joint resolution relating to the history and legacy of the Vermont State Hospital and the preservation of its cemetery.

And has severally concurred therein.

Bill Amended; Third Reading Ordered

S. 27.

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

An act relating to respectful language in the Vermont Statutes Annotated.

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

Sec. 1. PURPOSE AND INTENT

(a) For the purpose of reversing demeaning stereotypes, changing negative attitudes, and cultivating a culture of respect toward persons with disabilities, the General Assembly seeks to replace offensive statutory terms with language that recognizes persons as opposed to their disabilities.

(b) Notwithstanding Secs. 7, 7a, 222, and 223, nothing in this act shall be construed to alter the substance or effect of existing law or judicial precedent. Changes in terminology made in this act are merely meant to reflect evolving attitudes toward persons with disabilities.

Sec. 2. 1 V.S.A. § 120 is amended to read:

§ 120. INSANE PERSON

"Insane person" shall include ~~every idiot, non compos, lunatic and distracted~~ any person incapacitated by reason of mental disability.

Sec. 2a. 1 V.S.A. § 145 is added to read:

§ 145. DEVELOPMENTAL DISABILITY

"Developmental disability" or "person with developmental disabilities" shall have the same meaning as in 18 V.S.A. § 9302.

Sec. 2b. 1 V.S.A. § 146 is added to read:

§ 146. INTELLECTUAL DISABILITY

"Intellectual disability" or "person with an intellectual disability" shall mean an individual who has significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior. "Intellectual disability" replaces what was previously known as "mental retardation."

Sec. 2c. 1 V.S.A. § 147 is added to read:

§ 147. PSYCHIATRIC DISABILITY

"Psychiatric disability" means an impairment of thought, mood, perception, orientation, or memory that limits one or more major life activities but does not include intellectual disability.

Sec. 3. 1 V.S.A. chapter 5, subchapter 5 is amended to read:

Subchapter 5. Interpreters for Judicial, Administrative, and Legislative Proceedings

§ 331. DEFINITIONS

As used in this subchapter:

(1) "~~Deaf~~ Person who is deaf or hard of hearing ~~person~~" means any person who has such difficulty hearing, even with amplification, that he or she cannot rely on hearing for communication.

* * *

(3) "Qualified interpreter" means an interpreter for a person who is deaf or hard of hearing ~~person~~ who meets standards of competency established by the national or Vermont Registry of Interpreters for the Deaf as amended, by rule, by the Vermont ~~commission of the deaf and hearing impaired~~ Commission of the Deaf and Hard of Hearing.

§ 332. RIGHT TO INTERPRETER; ASSISTIVE LISTENING EQUIPMENT

(a) Any person who is deaf or hard of hearing ~~person~~ who is a party or witness in any proceeding shall be entitled to be provided with a qualified interpreter for the duration of the person's participation in the proceeding.

(b) Any person who is deaf or hard of hearing ~~person~~ shall be entitled to be provided with a qualified interpreter upon five working days' notice that the person has reasonable need to do any of the following:

(1) Transact business with any state board or agency.

(2) Participate in any state-sponsored activity, including public hearings, conferences, and public meetings.

(3) Participate in any official state legislative activities.

(c) If a person who is deaf or hard of hearing ~~person~~ is unable to use or understand sign language, the presiding officer or state board or agency or state legislative official shall, upon five working days' notice, make available appropriate assistive listening equipment for use during the proceeding or activity.

§ 333. APPOINTMENT OF INTERPRETER

(a) The presiding officer in a proceeding shall appoint an interpreter after making a preliminary determination that the interpreter is able to readily communicate with the person who is deaf or hard of hearing ~~person~~, to accurately interpret statements or communications from the person who is deaf or hard of hearing ~~person~~, and to interpret the proceedings to the person who is deaf or hard of hearing ~~person~~.

* * *

§ 336. RULES; INFORMATION; LIST OF INTERPRETERS

(a) The Vermont ~~commission of the deaf and hearing impaired~~ Commission of the Deaf and Hard of Hearing shall, by rule, establish factors to be considered by the presiding officer under section 333 of this title before appointing an interpreter who is not a qualified interpreter. Such factors shall encourage the widest availability of interpreters in Vermont while at the same time ensuring that the interpreter:

(1) is able to communicate readily with the person who is deaf or hard of hearing ~~person~~;

(2) is able to interpret accurately statements or communications by the person who is deaf or hard of hearing ~~person~~;

(3) is able to interpret the proceedings to the person who is deaf or hard of hearing ~~person~~;

(4) shall maintain confidentiality;

(5) shall be impartial with respect to the outcome of the proceeding;

(6) shall not exert any influence over the person who is deaf or hard of hearing ~~person~~; and

(7) shall not accept assignments the interpreter does not feel competent to handle.

* * *

§ 337. REVIEW

(a) A decision, order, or judgment of a court or administrative agency may be reversed on appeal if the court or agency finds that a person who is deaf or hard of hearing ~~person~~ who was a party or a witness in the proceeding was deprived of an opportunity to communicate effectively, and that the deprivation was prejudicial.

* * *

§ 338. ADMISSIONS; CONFESSIONS

(a) An admission or confession by a person who is deaf or hard of hearing ~~person~~ made to a law enforcement officer or any other person having a prosecutorial function may only be used against the person in a criminal proceeding if:

(1) The admission or confession was made knowingly, voluntarily, and intelligently and is not subject to alternative interpretations resulting from the person's habits and patterns of communication.

(2) The admission or confession, if made during a custodial interrogation, was made after reasonable steps were taken, including ~~but not limited to~~ the appointment of a qualified interpreter, to ensure that the defendant understood his or her constitutional rights.

(b) The provisions of subsection (a) of this section supplement the constitutional rights of the person who is deaf or hard of hearing ~~person~~.

§ 339. COMMUNICATIONS MADE TO INTERPRETERS; PROHIBITION ON DISCLOSURE

(a) An interpreter, whether or not the interpreter is a qualified interpreter, shall not disclose or testify to:

(1) a communication made by a person to an interpreter acting in his or her capacity as an interpreter for a person who is deaf or hard of hearing ~~person~~ or a person with limited English proficiency; or

(2) any information obtained by the interpreter while acting in his or her capacity as an interpreter for a person who is deaf or hard of hearing ~~person~~ or a person with limited English proficiency.

(b) There is no prohibition on disclosure under this section if the services of the interpreter were sought or obtained to enable or aid anyone to commit or plan to commit what the person who is deaf or hard of hearing ~~person~~ or the person with limited English proficiency knew or reasonably should have known to be a crime or fraud.

* * *

Sec. 4. 1 V.S.A. chapter 21, subchapter 2 is amended to read:

Subchapter 2. Interchange of State Employees

* * *

§ 824. STATUS OF EMPLOYEES OF THIS STATE

* * *

(c) Any employee who participates in an exchange under the terms of this section who ~~suffers~~ has a disability or ~~death~~ dies as a result of personal injury arising out of and in the course of an exchange, or sustained in performance of duties in connection therewith, shall be treated, for the purposes of the sending agency's employee compensation program, as an employee, as defined in the law creating that program, who has sustained the injury in the performance of his or her duty, but shall not receive benefits under that law for any period for which he or she is entitled to and elects to receive similar benefits under the receiving agency's employee compensation program.

* * *

§ 826. STATUS OF EMPLOYEES OF OTHER GOVERNMENTS

* * *

(d) Any employee of a sending agency assigned in this ~~state~~ State who ~~suffers~~ has a disability or ~~death~~ dies as a result of personal injury arising out of and in the course of that assignment, or sustained in the performance of duties in connection therewith, shall be treated for the purpose of receiving agency's employee compensation program, as an employee, as defined in its law, who has sustained the injury in the performance of that duty, but shall not receive benefits under that law for any period for which he or she elects to receive similar benefits as an employee under the sending agency's employee compensation program.

* * *

Sec. 5. 3 V.S.A. § 128(a) is amended to read:

(a) Any hospital, clinic, community mental health center, or other health care institution in which a licensee performs professional services shall report

to the appropriate board, along with supporting information and evidence, any disciplinary action taken by it or its staff, after an initial investigation or hearing in which the licensee has been afforded the opportunity to participate, which limits or conditions the licensee's privilege to practice or leads to suspension or expulsion from the institution. The report shall be made within ten days of the date ~~such~~ the disciplinary action was taken, regardless of whether the action is the subject of a pending appeal, and in the case of a licensee who is employed by, or under contract with, a community mental health center, a copy of the report shall also be sent to the ~~commissioner of mental health and mental retardation~~ Commissioners of Mental Health and of Disabilities, Aging, and Independent Living. This section shall not apply to cases of resignation, separation from service, or changes in privileges which are unrelated to:

* * *

Sec. 6. 3 V.S.A. § 309a is amended to read:

§ 309a. EMPLOYMENT OF ~~THE HANDICAPPED~~ PERSONS WITH DISABILITIES

(a) The ~~commissioner~~ Commissioner shall adopt rules under chapter 25 of this title in consultation with appropriate vocational rehabilitation agencies, interested private associations and organizations, and interested individuals to establish procedures on the employment of ~~the handicapped~~ persons with disabilities.

(b) Rules adopted by the ~~commissioner~~ Commissioner shall allow flexibility with respect to hiring ~~handicapped~~ persons with a disability. The ~~commissioner~~ Commissioner may require certification by the ~~commissioner of the department of disabilities, aging, and independent living~~ Commissioner of Disabilities, Aging, and Independent Living to accompany the usual application for employment. The ~~commissioner of the department of disabilities, aging, and independent living~~ Commissioner of Disabilities, Aging, and Independent Living shall indicate in its certification that:

(1) the applicant is physically qualified to do the work without hazard to himself or herself or others; and

(2) the applicant is competent to maintain himself or herself in a work environment.

(c) The ~~commissioner~~ Commissioner, in ~~the commissioner's~~ his or her discretion, may waive qualifications which exclude a ~~handicapped~~ person with a disability who is otherwise qualified. A waiver may apply to competitive entrance examinations, provisions relating to previous experience, or any other

requirement for qualification. A waiver is to be used for equal access to employment, not for an advantage.

Sec. 7. 3 V.S.A. § 833 is amended to read:

§ 833. STYLE OF RULES

(a) Rules and procedures shall be written in a clear and coherent manner using words with common and everyday meanings, consistent with the text of the rule or procedure.

(b)(1) When an agency proposes to amend an existing rule, it shall replace terms identified as potentially disrespectful by the study produced in accordance with 2012 Acts and Resolves No. 24, Sec. 1 with respectful language recommended therein or used in the Vermont Statutes Annotated, where appropriate.

(2) All new rules adopted by agencies shall use, to the fullest extent possible, respectful language consistent with the Vermont Statutes Annotated and the respectful language study produced in accordance with 2012 Acts and Resolves No. 24, Sec. 1, where appropriate.

Sec. 7a. 3 V.S.A. § 2002 is amended to read:

§ 2002. EXECUTIVE ORDERS

(a) The ~~governor~~ Governor may propose by executive order changes in the organization of the ~~executive branch~~ Executive Branch of government which are not consistent with or will supersede existing organization provided for by law. The executive order shall be submitted to both houses of the ~~general assembly~~ General Assembly.

(b) An executive order issued under this chapter shall be presented to the ~~general assembly~~ General Assembly not later than January 15th of the year in which the ~~general assembly~~ General Assembly sits. The executive order shall become effective unless disapproved by resolution of either house of the ~~general assembly~~ General Assembly within 90 days, or before final adjournment of that annual session, whichever comes first.

(c) Executive orders which become effective under this chapter shall be printed with the session laws and published as an appendix to the Vermont Statutes Annotated.

(d)(1) Notwithstanding subsections (a) and (b) of this section, the Governor may revise existing executive orders to use respectful language consistent with Vermont Statutes Annotated and the respectful language study produced in accordance with 2012 Acts and Resolves No. 24, Sec. 1. The authority

pertains only to nonsubstantive revisions using respectful language and does not confer authority to make other changes.

(2) All new executive orders proposed by the Governor shall use, to the fullest extent possible, respectful language consistent with the Vermont Statutes Annotated and the respectful language study produced in accordance with 2012 Acts and Resolves No. 24, Sec. 1, where appropriate.

Sec. 8. 3 V.S.A. § 3002(b) is amended to read:

(b) The following units are attached to the agency for administrative support:

(1) Vermont ~~veterans' home~~ Veterans' Home.

(2) Governor's ~~committee on children and youth~~ Committee on Children and Youth.

(3) Interdepartmental ~~council on aging~~ Council on Aging.

(4)–(17) [Repealed.]

(18) Governor's ~~committee on employment of the handicapped~~ Committee on Employment of People with Disabilities.

(19) [Repealed.]

(20) [Repealed.]

Sec. 9. 3 V.S.A. § 3026(a) is amended to read:

(a) The ~~secretary of human services~~ Secretary of Human Services, the ~~commissioner of education~~ Secretary of Education, and the ~~president~~ President of the University of Vermont shall establish a research partnership to study and make recommendations for improving the effectiveness of state and local health, human services, and education programs. Critical program outcomes relating to the well-being of Vermonters that should be addressed by the research partnership may include~~, without limitation,~~ the following:

* * *

(8) ~~Elders~~ People who are elderly and people with disabilities live with dignity and independence in settings they prefer.

* * *

Sec. 10. 3 V.S.A. § 3085b(f) is amended to read:

(f) The ~~commission~~ Commission shall advise state agencies on matters of state policy relating to Alzheimer's disease and other dementia-related disorders in Vermont for both the public and private sectors. The ~~commission~~ Commission shall:

* * *

(3) Review or participate in the development of laws, rules, and other governmental initiatives which may affect individuals with Alzheimer's disease and other dementia-related disorders, and their families. This may include participation in the development of rules and procedures related to ~~No. 160 of the Acts of the 1995 Adj. Sess. (1996)~~ 1996 Acts and Resolves No. 160, Medicare and Medicaid, nursing and residential care facilities, adult day centers, special care units, and all community-based services to ~~elders~~ persons who are elderly.

* * *

Sec. 11. 4 V.S.A. § 33 is amended to read:

§ 33. JURISDICTION; FAMILY DIVISION

Notwithstanding any other provision of law to the contrary, the family division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:

* * *

(10) All ~~protective~~ guardianship services proceedings for ~~developmentally disabled~~ persons ~~proceedings~~ with developmental disabilities filed pursuant to 18 V.S.A. chapter 215 ~~of Title 18~~.

* * *

(13) All care for ~~mentally retarded~~ persons with developmental disabilities proceedings filed pursuant to 18 V.S.A. chapter 206 ~~of Title 18~~.

* * *

Sec. 12. 4 V.S.A. § 36(a) is amended to read:

(a) Unless otherwise specified by law, when in session, a ~~superior court~~ Superior Court shall consist of:

* * *

(2)(A) For cases in the ~~family division~~ Family Division, except as provided in subdivision (B) of this subdivision (2), one presiding superior judge and two assistant judges, if available.

(B) The ~~family court~~ Family Division shall consist of one presiding superior judge sitting alone in the following proceedings:

(i) All juvenile proceedings filed pursuant to 33 V.S.A. chapters 51, 52, and 53 ~~of Title 33~~, including proceedings involving "youthful offenders" pursuant to 33 V.S.A. § 5281, whether the matter originated in the

~~criminal or family division of the superior court~~ Criminal or Family Division of the Superior Court .

(ii) All ~~protective~~ guardianship services proceedings for ~~developmentally disabled~~ persons ~~proceedings~~ with developmental disabilities filed pursuant to 18 V.S.A. chapter 215 ~~of Title 18~~.

(iii) All mental health proceedings filed pursuant to 18 V.S.A. chapters 179, 181, and 185 ~~of Title 18~~.

(iv) All involuntary sterilization proceedings filed pursuant to 18 V.S.A. chapter 204 ~~of Title 18~~.

(v) All care for ~~mentally retarded~~ persons with developmental disabilities proceedings filed pursuant to 18 V.S.A. chapter 206 ~~of Title 18~~.

(vi) All proceedings specifically within the jurisdiction of the office of magistrate.

* * *

Sec. 13. 4 V.S.A. § 311a is amended to read:

§ 311a. VENUE GENERALLY

For proceedings authorized to the ~~probate division of superior court~~ Probate Division of Superior Court, venue shall lie as provided in Title 14A for the administration of trusts, and otherwise in a probate district as follows:

* * *

(7) Appointment of a guardian of a person resident in this state:

~~(A)~~ in the district where the ~~ward~~ person under guardianship resides at the time of appointment~~;~~, except

~~(B)~~ when the guardian is appointed for a minor who is interested in a decedent's estate as an heir, devisee, or legatee or representative of either, in the district where the decedent's estate is being probated.

* * *

(9) Termination or modification of a guardianship or change of a guardian:

(A) in the district of the appointing court; or

(B) in the district where the ~~ward~~ person under guardianship resides.

* * *

(12) Appointment of a guardian as to the estate of a nonresident subject to guardianship in this state or under guardianship in another state: in any

district where the estate of the ~~nonresident ward~~ nonresident under guardianship or ~~prospective ward~~ person who may need a guardian is situated.

(13) Change of residential placement for a ~~ward~~ person under total or limited guardianship:

(A) in the district of the appointing court; or

(B) in the district where the ~~ward~~ person under guardianship resides.

* * *

(17) Adoption:

(A) if the adopting person or persons are residents of this state, in the district where they reside; or

(B) if the adopting person or persons are nonresidents, in a court of competent jurisdiction where they reside; or

(C) if the prospective adoptee is a minor who has been relinquished or committed to the ~~department of social and rehabilitation services~~ Department for Children and Families or a licensed child placing agency, in the district where the ~~department~~ Department or agency is located or has its principal office.

* * *

(25) Petition for license to convey homestead interest of ~~an insane~~ a spouse who lacks capacity to protect his or her interests due to a psychiatric disability: in the district where the homestead is situated.

(26) Declaratory judgments (unless otherwise provided in Title 14A for proceedings relating to the administration of trusts):

(A) if any related proceeding is then pending in any probate division of the superior court, in that district;

(B) if no proceeding is pending:

(i) in the district where the petitioner resides; or

(ii) if a decedent's estate, a guardian or ~~ward~~ person under guardianship, or trust governed by Title 14 is the subject of the proceeding, in any district where venue lies for a proceeding thereon.

* * *

Sec. 14. 5 V.S.A. § 3529 is amended to read:

§ 3529. WHEN OWNER IS AN INFANT~~, MENTAL DEFECTIVE OR INSANE~~ OR HAS AN INTELLECTUAL OR PSYCHIATRIC DISABILITY

When the owner of the land or estate is an infant, ~~mental defective or insane~~ or lacks capacity to protect his or her interests due to an intellectual or psychiatric disability, or does not reside in this ~~state~~ State, or is not known, the corporation shall cause the damages sustained by the owner to be determined in the manner heretofore described, and shall pay the same to the lawful owner when demanded, with interest thereon. Such damages and interest shall be a specific lien upon the real estate of such corporation, and be preferred before any other demand against such corporation.

Sec. 15. 6 V.S.A. § 2777(d) is amended to read:

(d) Unpasteurized milk shall conform to the following production and marketing standards:

* * *

(2) Labeling. Unpasteurized (raw) milk shall be labeled as such, and the label shall contain:

* * *

(E) The words "This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, ~~the~~ persons who are elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn." on the container's principal display panel and clearly readable in letters at least one-sixteenth inch in height.

* * *

(4) Customer inspection and notification.

* * *

(B) A sign with the words "Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated." and "This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, ~~the~~ persons who are elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn." shall be displayed prominently on the farm in a place where it can be easily seen by customers. The lettering shall be at least one inch in height and shall be clearly readable.

Sec. 16. 8 V.S.A. § 3835(3) is amended to read:

(3) "Chronically ill" means:

(A) being unable to perform at least two activities of daily living, including eating, toileting, transferring, bathing, dressing, or continence;

(B) requiring substantial supervision to protect the individual from threats to health and safety due to ~~severe cognitive impairment~~ intellectual disability; or

(C) having a level of disability similar to that described in subdivision (A) of this subdivision (3) as determined by the appropriate administrator of a state or federal public disability insurance or benefit program.

Sec. 17. 8 V.S.A. § 4080f(a) is amended to read:

(a) As used in this section:

* * *

(3) "Chronic care" means health services provided by a health care professional for an established clinical condition that is expected to last a year or more and that requires ongoing clinical management attempting to restore the individual to highest function, minimize the negative effects of the condition, and prevent complications related to chronic conditions. Examples of chronic conditions include diabetes, hypertension, cardiovascular disease, cancer, asthma, pulmonary disease, substance abuse, mental ~~illness~~ condition or psychiatric disability, spinal cord injury, and hyperlipidemia.

* * *

(8) "Primary care" means health services provided by health care professionals, including naturopathic physicians licensed pursuant to 26 V.S.A. chapter 81, who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis, and shall include prenatal care and the treatment of mental ~~illness~~ condition or psychiatric disability.

* * *

Sec. 18. 8 V.S.A. § 4088i(c) is amended to read:

(c) A health insurance plan shall not impose greater coinsurance, co-payment, deductible, or other cost-sharing requirements for coverage of the diagnosis or treatment of early childhood developmental disorders than apply to the diagnosis and treatment of any other physical or mental ~~health~~ condition under the plan.

Sec. 19. 8 V.S.A. § 4089b is amended to read:

§ 4089b. HEALTH INSURANCE COVERAGE, MENTAL HEALTH, AND SUBSTANCE ABUSE

(a) It is the goal of the ~~general assembly~~ General Assembly that treatment for mental ~~health~~ conditions be recognized as an integral component of health care, that health insurance plans cover all necessary and appropriate medical services without imposing practices that create barriers to receiving appropriate care, and that integration of health care be recognized as the standard for care in this ~~state~~ State.

(b) As used in this section:

* * *

(2) "Mental ~~health~~ condition" means any condition or disorder involving ~~mental illness~~ psychiatric disabilities or alcohol or substance ~~abuse~~ use that falls under any of the diagnostic categories listed in the mental disorders section of the international classification of disease, as periodically revised.

* * *

(c) A health insurance plan shall provide coverage for treatment of a mental ~~health~~ condition and shall:

(1) not establish any rate, term, or condition that places a greater burden on an insured for access to treatment for a mental ~~health~~ condition than for access to treatment for other health conditions;

* * *

(3) make any deductible or out-of-pocket limits required under a health insurance plan comprehensive for coverage of both mental ~~health~~ and physical health conditions.

(d)(1)(A) A health insurance plan that does not otherwise provide for management of care under the plan, or that does not provide for the same degree of management of care for all health conditions, may provide coverage for treatment of mental ~~health~~ conditions through a managed care organization, provided that the managed care organization is in compliance with the rules adopted by the ~~commissioner~~ Commissioner that assure that the system for delivery of treatment for mental ~~health~~ conditions does not diminish or negate the purpose of this section. In reviewing rates and forms pursuant to section 4062 of this title, the ~~commissioner~~ Commissioner shall consider the compliance of the policy with the provisions of this section.

(B) The rules adopted by the ~~commissioner~~ Commissioner shall ~~assure~~ ensure that:

* * *

(vi) the health insurance plan is consistent with the Blueprint for Health with respect to mental ~~health~~ conditions, as determined by the ~~commissioner~~ Commissioner under 18 V.S.A. § 9414(b)(2);

(vii) a quality improvement project is completed annually as a joint project between the health insurance plan and its mental health managed care organization to implement policies and incentives to increase collaboration among providers that will facilitate clinical integration of services for medical and mental ~~health~~ conditions, including:

(I) evidence of how data collected from the quality improvement project are being used to inform the practices, policies, and future direction of care management programs for mental ~~health~~ conditions; and

(II) demonstration of how the quality improvement project is supporting the incorporation of best practices and evidence-based guidelines into the utilization review of mental ~~health~~ conditions;

* * *

(C) Prior to the adoption of rules pursuant to this subdivision, the ~~commissioner~~ Commissioner shall consult with the ~~commissioner of mental health~~ Commissioner of Mental Health and the task force established pursuant to subsection (h) of this section concerning:

(i) developing incentives and other measures addressing the availability of providers of care and treatment for mental ~~health~~ conditions, especially in medically underserved areas;

(ii) incorporating nationally recognized best practices and evidence-based guidelines into the utilization review of mental ~~health~~ conditions; and

(iii) establishing benefit design, infrastructure support, and payment methodology standards for evaluating the health insurance plan's consistency with the Blueprint for Health with respect to the care and treatment of mental ~~health~~ conditions.

(2) A managed care organization providing or administering coverage for treatment of mental ~~health~~ conditions on behalf of a health insurance plan shall comply with this section, sections 4089a and 4724 of this title, and 18 V.S.A. § 9414, with rules adopted pursuant to those provisions of law, and with all other obligations, under Title 18 and under this title, of the health insurance plan and the health insurer on behalf of which the review agent is providing or administering coverage. A violation of any provision of this

section shall constitute an unfair act or practice in the business of insurance in violation of section 4723 of this title.

(3) A health insurer that contracts with a managed care organization to provide or administer coverage for treatment of mental ~~health~~ conditions is fully responsible for the acts and omissions of the managed care organization, including any violations of this section or a rule adopted pursuant to this section.

* * *

(f) To be eligible for coverage under this section, the service shall be rendered:

(1) For treatment of a mental ~~illness~~ condition:

(A) by a licensed or certified mental health professional; or

(B) in a mental health facility qualified pursuant to rules adopted by the ~~secretary of human services~~ Secretary of Human Services or in an institution, approved by the ~~secretary of human services~~ Secretary of Human Services, that provides a program for the treatment of a mental ~~health~~ condition pursuant to a written plan. A nonprofit hospital or a medical service corporation may require a mental health facility or licensed or certified mental health professional to enter into a contract as a condition of providing benefits.

* * *

(g) On or before July 15 of each year, health insurance companies doing business in Vermont whose individual share of the ~~commercially insured~~ commercially insured Vermont market, as measured by covered lives, comprises at least five percent of the ~~commercially insured~~ commercially insured Vermont market, shall file with the ~~commissioner~~ Commissioner, in accordance with standards, procedures, and forms approved by the ~~commissioner~~ Commissioner:

(1) A report card on the health insurance plan's performance in relation to quality measures for the care, treatment, and treatment options of mental ~~health~~ and substance abuse conditions covered under the plan, pursuant to standards and procedures adopted by the ~~commissioner~~ Commissioner by rule, and without duplicating any reporting required of such companies pursuant to Rule H-2009-03 of the ~~division of health care administration~~ Division of Health Care Administration and regulation 95-2, "Mental Health Review Agents," of the ~~division of insurance~~ Division of Insurance, as amended, including:

* * *

(F) the rates of readmission to inpatient mental health and substance abuse care and treatment for insureds with a mental ~~health~~ condition;

* * *

(2) The health insurance plan's revenue loss and expense ratio relating to the care and treatment of mental ~~health~~ conditions covered under the health insurance plan. The expense ratio report shall list amounts paid in claims for services and administrative costs separately. A managed care organization providing or administering coverage for treatment of mental ~~health~~ conditions on behalf of a health insurance plan shall comply with the minimum loss ratio requirements pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, applicable to the underlying health insurance plan with which the managed care organization has contracted to provide or administer such services. The health insurance plan shall also bear responsibility for ensuring the managed care organization's compliance with the minimum loss ratio requirement pursuant to this subdivision.

(h) [Repealed.]

Sec. 19a. 8 V.S.A. § 4089b(c) is amended to read:

(c) A health insurance plan shall provide coverage for treatment of a mental ~~health~~ condition and shall:

(1) not establish any rate, term, or condition that places a greater burden on an insured for access to treatment for a mental condition than for access to treatment for other health conditions, including no greater co-payment for primary mental health care or services than the co-payment applicable to care or services provided by a primary care provider under an insured's policy and no greater co-payment for specialty mental health care or services than the co-payment applicable to care or services provided by a specialist provider under an insured's policy;

* * *

Sec. 20. 8 V.S.A. § 4100i is amended to read:

§ 4100i. ANESTHESIA COVERAGE FOR CERTAIN DENTAL PROCEDURES

(a) A health insurance plan shall provide coverage for the hospital or ambulatory surgical center charges and administration of general anesthesia administered by a licensed anesthesiologist or certified registered nurse anesthetist for dental procedures performed on a covered person who is:

* * *

(2) a child 12 years of age or younger with documented phobias or a documented mental ~~illness~~ condition or psychiatric disability, as determined by a physician licensed pursuant to 26 V.S.A. chapter 23 ~~of Title 26~~ or by a licensed mental health professional, whose dental needs are sufficiently complex and urgent that delaying or deferring treatment can be expected to result in infection, loss of teeth, or other increased oral or dental morbidity; for whom a successful result cannot be expected from dental care provided under local anesthesia; and for whom a superior result can be expected from dental care provided under general anesthesia; or

* * *

(f) As used in this section:

* * *

(5) "Licensed mental health professional" means a licensed physician, psychologist, social worker, mental health counselor, or nurse with professional training, experience, and demonstrated competence in the treatment of a mental ~~illness~~ condition or psychiatric disability.

Sec. 21. 8 V.S.A. § 5101(4) is amended to read:

(4) "Health care services" means physician, hospitalization, laboratory, x-ray service, and medical equipment and supplies, which may include ~~but are not limited to~~: medical, surgical, and dental care; psychological, obstetrical, osteopathic, optometric, optic, podiatric, chiropractic, nursing, physical therapy services, and pharmaceutical services; health education; preventive medical, rehabilitative, and home health services; inpatient and outpatient hospital services, extended care, nursing home care, convalescent institutional care, laboratory and ambulance services, appliances, drugs, medicines, and supplies; and any other care, service, or treatment of disease or conditions, ~~correction of defects,~~ or the maintenance of the physical and mental well-being of members;

Sec. 22. [Deleted.]

Sec. 23. 8 V.S.A. § 8085(b) is amended to read:

(b) No long-term care insurance policy may:

* * *

(4) deny benefits or coverage on the basis that the need for services arises from a mental ~~health~~ condition or Alzheimer's disease and related disorders;

* * *

Sec. 24. 8 V.S.A. § 10403 is amended to read:

§ 10403. PROHIBITION ON DISCRIMINATION BASED ON SEX, MARITAL STATUS, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE, SEXUAL ORIENTATION, GENDER IDENTITY, OR ~~HANDICAPPING CONDITION~~ DISABILITY

(a) No financial institution shall discriminate against any applicant for credit services on the basis of the sex, marital status, race, color, religion, national origin, age, sexual orientation, gender identity, or ~~handicapping condition~~ disability of the applicant, provided the applicant has the legal capacity to contract.

* * *

(c) Definitions. As used in this section:

* * *

(6) "~~Handicapping condition~~ Disability" applied to an applicant means a ~~handicapped individual~~ person with a disability as defined in 21 V.S.A. § 495d(5). ~~For the purposes of~~ As used in this section, an applicant with a ~~handicapping condition~~ disability does not include an alcoholic or drug abuser who, by reason of current alcohol or drug use, constitutes an unacceptable credit risk.

* * *

Sec. 25. 8 V.S.A. § 10501 is amended to read:

§ 10501. BASIC BANKING

It is the public policy of this ~~state~~ State to promote the economic viability and prosperity of its residents and to promote, attract and encourage savings. The ~~legislature~~ General Assembly finds and declares that access to basic banking services for basic depository transactions is necessary for the payment of monthly expenses and for the encouragement of thrift by Vermont consumers. The ~~legislature~~ General Assembly further finds and declares that reasonable cost basic banking services promote savings on the part of consumers who are young, elderly ~~and~~ , or have low income ~~consumers~~, and ~~provides~~ provide, through means of payment by check, draft, negotiable order of withdrawal, or similar instrument, a viable alternative for cash transactions which is essential to all Vermont consumers. Therefore, it is the purpose of this chapter to ensure that basic banking services remain available to all Vermont consumers.

Sec. 26. 9 V.S.A. § 41c(a) is amended to read:

(a) As used in this section:

(1) "Assistive device" means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used or designed to be used to increase, maintain, or improve any functional capability of an individual with disabilities. An assistive device system, that as a whole is within the definition of this term, is itself an assistive device, and, in such cases, this term also applies to each component product of the assistive device system that is itself ordinarily an assistive device. This term includes~~, but is not limited to~~:

* * *

(D) hearing aids, telephone communication devices for ~~the deaf~~ people who are deaf, and other assistive listening devices;

* * *

Sec. 27. 9 V.S.A. § 2362 is amended to read:

§ 2362. PROHIBITION ON DISCRIMINATION BASED ON SEX, SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL STATUS, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE, OR ~~HANDICAPPING CONDITION~~ DISABILITY

No seller shall discriminate against any buyer or prospective buyer who desires to establish a retail installment contract because of the sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, age, or ~~handicapping condition~~ disability of the buyer.

Sec. 28. 9 V.S.A. § 2388 is amended to read:

§ 2388. PROHIBITION ON DISCRIMINATION BASED ON SEX, SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL STATUS, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE, OR ~~HANDICAPPING CONDITION~~ DISABILITY

No person shall discriminate against any lessee or prospective lessee who has entered into an agricultural finance lease, or who desires to enter into an agricultural finance lease, because of the sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, age, or ~~handicapping condition~~ disability of the lessee.

Sec. 29. 9 V.S.A. § 2410 is amended to read:

§ 2410. PROHIBITION ON DISCRIMINATION BASED ON SEX, SEXUAL ORIENTATION, GENDER IDENTITY, MARITAL STATUS, RACE, COLOR, RELIGION, NATIONAL ORIGIN, AGE, OR ~~HANDICAPPING CONDITION~~ DISABILITY

No seller shall discriminate against any buyer or prospective buyer who desires to establish a retail installment contract or retail charge agreement because of the sex, sexual orientation, gender identity, marital status, race, color, religion, national origin, age, or ~~handicapping condition~~ disability of the buyer.

Sec. 30. 9 V.S.A. § 4110a is amended to read:

§ 4110a. GASOLINE SERVICE TO ~~DISABLED~~ PERSONS WITH A DISABILITY

(a) Every full-service gasoline station offering self-service pumping at a lesser cost and every self-service gasoline station, when requested by a motor vehicle operator with a disability who has been issued a ~~handicapped~~ registration plate or parking card for persons with disabilities under the provisions of 23 V.S.A. § 304a or under the laws of any other state, shall require an attendant employed by the station to dispense gasoline at the self-service cost to the operator with a disability. Gasoline stations shall prominently display the international symbol of disability access to notify patrons of the availability of this service.

(b) Self-service gas stations or convenience stores which are operated by a single employee shall be exempt from the provisions of subsection (a) of this section.

(c) The ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles shall provide notice of the provisions of this section to each person who is issued a ~~handicapped parking card or~~ registration plate or parking card for persons with disabilities and to each person who operates a gasoline station or other facility which offers gasoline or other motor vehicle fuel for sale to the public.

(d) Failure to comply with the provisions of this subsection, related to providing gas pumping services, is a violation of 9 V.S.A. § 4502.

Sec. 31. 9 V.S.A. § 4501 is amended to read:

§ 4501. DEFINITIONS

As used in this chapter:

* * *

(2) "~~Handicap" or "disability~~ Disability," with respect to an individual, means:

(A) a physical or mental impairment which limits one or more major life activities;

(B) a history or record of such an impairment; or

(C) being regarded as having such an impairment.

(3) "Physical or mental impairment" means:

(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine;

(B) any mental or psychological disorder, such as ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or ~~mental illness~~ mental condition, and specific learning disabilities;

(C) The term "physical or mental impairment" includes ~~but is not limited to such~~ diseases and conditions such as orthopedic, visual, speech, and deafness or being hard of hearing ~~impairments~~, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, ~~mental retardation~~ intellectual disability, emotional ~~illness~~ disturbance, and drug addiction and alcoholism. ~~A handicapped~~ An individual with a disability does not include any individual who is an alcoholic or drug abuser who, by reason of current alcohol or drug use, constitutes a direct threat to property or safety of others.

* * *

(7) "Auxiliary aids and services" mean the following:

(A) Qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices and systems, hearing aid compatible telephones, closed caption decoders, open and closed captioning telecommunications devices for ~~deaf~~ persons who are deaf, videotext displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

(B) Qualified readers, taped texts, audio recordings, Braille materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments.

(C) Modification of equipment or devices.

(D) Other similar services and actions.

* * *

Sec. 32. 9 V.S.A. § 4503 is amended to read:

§ 4503. UNFAIR HOUSING PRACTICES

(a) It shall be unlawful for any person:

(1) To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or other real estate to any person because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or ~~handicap~~ disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(2) To discriminate against, or to harass any person in the terms, conditions, or privileges of the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection therewith, because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or ~~handicap~~ disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling or other real estate that indicates any preference, limitation, or discrimination based on race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or ~~handicap~~ disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(4) To represent to any person because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or ~~handicap~~ disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, that any dwelling or other real estate is not available for inspection, sale, or rental when the dwelling or real estate is in fact so available.

* * *

(6) To discriminate against any person in the making or purchasing of loans or providing other financial assistance for ~~real estate related~~ real-estate-related transactions or in the selling, brokering, or appraising of residential real property, because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or ~~handicap~~ disability of a person, or because a person intends to occupy a dwelling with

one or more minor children, or because a person is a recipient of public assistance.

(7) To engage in blockbusting practices, for profit, which may include inducing or attempting to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons of a particular race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or ~~handicap~~ disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance.

(8) To deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership, or participation, on account of race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or ~~handicap~~ disability of a person, or because a person is a recipient of public assistance.

(9) To discriminate in the sale or rental of a dwelling because a person relies upon aids such as attendants, specially trained animals, wheelchairs, or similar appliances or devices but the owner shall not be required to modify or alter the building in any way in order to comply with this chapter. An owner shall permit, at the expense of the ~~handicapped~~ person with a disability, reasonable modifications of existing premises occupied or to be occupied by the ~~handicapped~~ person with a disability if the modifications are necessary to afford the person full enjoyment of the premises. The owner may, if reasonable, require the person to agree to restore the premises to the condition that existed before the modification, reasonable wear and tear excepted, but the owner may not require an additional security deposit for this purpose.

(10) To refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a ~~handicapped~~ person with a disability equal opportunity to use and enjoy a dwelling unit, including public and common areas.

* * *

(b) The provisions of subsection (a) of this section with respect to discrimination in sales and rentals of dwellings on the basis of age or on the basis of a person's intention to occupy with one or more minor children shall not apply to the sale or rental of a dwelling in a housing complex:

* * *

(3) established under any federal or state program specifically designed and operated to assist ~~elderly~~ persons who are elderly, as defined in the federal or state program.

* * *

Sec. 33. 10 V.S.A. § 490(c) is amended to read:

(c) When the signs at one location are too numerous, or when highway safety requires for other reasons, as determined by the ~~travel information council~~ Travel Information Council, the signs may be removed and the applicant business given the option to purchase advertising plaques on information plazas, located and designed so that drivers of motor vehicles may leave the main traffic lanes and inspect them. Information plazas may contain maps and other information, depending on space availability, and may have telephone and other information facilities attached to them. Sign plazas shall include the international symbol to indicate that ~~handicapped~~ gasoline service is available to people with disabilities. The ~~agency of commerce and community development~~ Agency of Commerce and Community Development shall be responsible for the costs of installing new information plazas and for the installation of advertising plaques on state-owned information plazas, provided that the ~~secretary of commerce and community development,~~ Secretary of Commerce and Community Development or his or her designee~~,~~ gives prior approval for such costs and installation. If it is not practical to install information plazas or individual official business directional signs at any given location, because of the number of signs or because of traffic conditions, the ~~travel information council~~ Travel Information Council may in its discretion adopt some alternative method for providing information conveniently for travelers, including directions to zones or other geographic areas, and locally operated information booths and offices~~,~~ or multi-facility official business directional signs, or both.

Sec. 34. 10 V.S.A. § 601(14) is amended to read:

(14) "Residential housing" means residential housing units designed primarily to provide principal dwelling accommodations whether on a permanent or temporary basis for persons or families, which may include the land and improvements thereon and such nonhousing facilities or services considered necessary or convenient or part of a community development plan by the ~~agency~~ Agency in connection with the residential housing, including commercial enterprises and government functions within the same building. "Residential housing" includes~~, but is not limited to,~~ single or multi-family dwellings, congregate homes, residential care homes as defined in 33 V.S.A. § 7102, nursing homes, transitional housing, emergency shelters for the homeless or displaced, mobile homes, single room occupancy dwellings, and

group homes for ~~the mentally ill or developmentally disabled~~ persons with psychiatric or developmental disabilities. "Residential housing" also means cooperative interests, and mobile home parks as defined in section 6201 of this title.

Sec. 35. 10 V.S.A. § 622(7) is amended to read:

(7) To purchase, make, or otherwise participate in the making, to enter into commitments, for the purchase, making, or participation in the making, of eligible loans for rehabilitation to persons and families of low and moderate income, and to owners of existing residential housing for occupancy by those persons and families, for the rehabilitation of existing residential housing owned by them. The loans may be insured or uninsured and shall be made with such security as the agency considers advisable. They may be made in amounts sufficient to refinance existing indebtedness secured by the property, if the refinancing is determined by the agency to be necessary to permit the owner to meet his or her housing costs without expending an unreasonable portion of his or her income on it. A loan for rehabilitation shall not be made unless the agency determines that the loan is to be used primarily to make the housing more desirable to live in, to increase the market value of the housing, to comply with building, housing maintenance, fire, health, or similar codes and standards applicable to housing, to accomplish energy conservation related improvements, or to ~~insure~~ ensure independent living for persons who are ~~handicapped or~~ elderly or have a disability.

Sec. 36. 10 V.S.A. § 4001(30) is amended to read:

(30) ~~Paraplegic~~ Person with paraplegia: a person who ~~suffers from~~ has permanent paralysis of the lower half of the body with involvement of both legs, or a person who ~~suffers from the loss of~~ is missing both lower extremities.

Sec. 37. 10 V.S.A. § 4255(c) is amended to read:

(c) A permanent or free license may be secured on application to the department by a person qualifying as follows:

* * *

(2) A person who is legally blind ~~person~~ who is a Vermont resident may receive a free permanent fishing license upon submittal of proper proof of blindness as the ~~commissioner~~ Commissioner shall require. A person who is legally blind ~~person~~ who is a resident in a state which provides a reciprocal privilege for Vermont residents may receive a free one-year fishing license.

(3) A ~~paraplegic~~ person with paraplegia as defined in subdivision 4001(30) of this title who is a Vermont resident may receive a free permanent

fishing license or, if the person qualifies for a hunting license, a free combination hunting and fishing license. A ~~paraplegic~~ person with paraplegia who is a resident of a state which provides a reciprocal privilege for Vermont residents may receive a free one-year fishing license, or if the person qualifies for a hunting license, a free one-year combination fishing and hunting license.

* * *

(5) A ~~special olympian~~ person participating in a fishing tournament for ~~special olympics~~ Special Olympics may receive a free fishing license valid for that event.

Sec. 38. 10 V.S.A. § 4705(e) is amended to read:

(e) Subsection (a) of this section shall not apply to a licensed hunter ~~who is a paraplegic~~ with paraplegia or who is certified by a physician to be unable to pursue game because of permanent severe physical disability, if he or she obtains a permit as provided in this subsection. The ~~commissioner~~ Commissioner on receipt of satisfactory proof of the disability of an applicant may issue a permit under this subsection. This permit shall be attached to the license, and shall remain in effect until the death of the holder, unless the ~~commissioner~~ Commissioner has reason to believe the permit is misused. The holder of the permit shall carry it at all times while hunting, and shall produce it on demand for inspection by any game warden or other law enforcement officer authorized to make arrests. The holder of the permit may take game from a vehicle or boat but only if it is stationary and off of a public highway. In no event shall the holder of a permit shoot across the traveled portion of a public highway.

Sec. 39. 10 V.S.A. § 4715(e) is amended to read:

(e) A person who is physically ~~impaired~~ disabled to the degree that he or she cannot operate a device allowed for taking of game under Vermont law may obtain a permit to take game in Vermont with a device which is in the immediate vicinity of the permittee and which the permittee operates using remote-control technology other than the Internet. A person applying for this permit shall personally appear before the ~~commissioner~~ Commissioner or the ~~commissioner's~~ Commissioner's designee and submit certification from a licensed physician describing the person's limitations. The ~~commissioner~~ Commissioner may obtain a second medical opinion to verify the disability. Upon satisfactory proof of the disability, the ~~commissioner~~ Commissioner may issue a permit describing the device and method the person may use to take game. The ~~commissioner~~ Commissioner shall require that the permittee be accompanied while hunting by a person who is licensed to hunt in Vermont unless the permittee can demonstrate that he or she is able to track injured game and to retrieve and care for a carcass. If the permit is not intended to be

a permanent permit, it shall state the date on which the permit expires. The permit shall be attached to the hunting license, and the holder shall carry it at all times while hunting and produce it on demand for inspection by any fish and wildlife warden or other law enforcement officer.

Sec. 40. 11 V.S.A. § 3075 is amended to read:

§ 3075. POWER OF ESTATE OF DECEASED OR ~~INCOMPETENT~~ MEMBER WHO IS INCOMPETENT

* * *

Sec. 41. 11 V.S.A. § 3465 is amended to read:

§ 3465. POWER OF ESTATE OF DECEASED OR ~~INCOMPETENT~~ PARTNER WHO IS INCOMPETENT

* * *

Sec. 42. 11A V.S.A. § 1.40(12) is amended to read:

(12) "Individual" includes the estate of an individual who is incompetent or deceased ~~individual~~.

Sec. 43. 11B V.S.A. § 1.40(19) is amended to read:

(19) "Individual" includes the estate of an ~~incompetent~~ individual who is incompetent.

Sec. 44. [Deleted.]

Sec. 45. 12 V.S.A. § 551 is amended to read:

§ 551. MINORITY, ~~INSANITY~~ INCAPACITY, OR IMPRISONMENT

(a) When a person entitled to bring an action specified in this chapter is a minor, ~~insane~~ lacks capacity to protect his or her interests due to a mental condition or psychiatric disability, or is imprisoned at the time the cause of action accrues, such person may bring such action within the times in this chapter respectively limited, after the disability is removed.

(b) If a person entitled to bring an action specified in this chapter becomes ~~insane~~ unable to protect his or her interests due to a mental condition or psychiatric disability after the cause of action accrues but before the statute has run, the time during which the person is ~~insane~~ unable to protect his or her interests due to a mental condition or psychiatric disability shall not be taken as a part of the time limited for the commencement of the action.

Sec. 46. 12 V.S.A. § 1602 is amended to read:

§ 1602. WHEN ONE PARTY IS DEAD OR ~~INSANE~~ LACKS CAPACITY TO TESTIFY DUE TO A MENTAL CONDITION OR PSYCHIATRIC DISABILITY

A party shall not be allowed to testify in his or her own favor where the other party to the contract or cause of action in issue and on trial is dead or shown to the court to ~~be insane~~ lack capacity to testify due to a mental condition or psychiatric disability, except as follows:

(1) To meet or explain the testimony of living witnesses produced against him or her;

(2) To meet the testimony of such deceased or ~~insane~~ party who lacks capacity to testify due to a mental condition or psychiatric disability upon a question upon which his or her testimony has been taken in writing or by a stenographer in open court to be used in such action and is admitted as evidence therein;

(3) In any action in which the estate of such deceased or ~~insane~~ party who lacks capacity to testify due to a mental condition or psychiatric disability or his or her grantee or assignee is a party, entries in a cash or account book showing the receipt or payment of money in due course of business, made by such party prior to his or her death or ~~insanity~~ incapacity to testify and before any controversy arose respecting the transaction to which such entries relate, may be admitted in evidence as tending to show the facts therein recited to be true. The adverse party in such action may meet the evidence of such entries by any proper evidence;

* * *

Sec. 47. 12 V.S.A. § 2497 is amended to read:

§ 2497. LIMITATION OF TIME FOR PROCEEDINGS IN CERTIORARI

Proceedings in certiorari shall be commenced within one year after the rendition of the judgment or order to review which ~~such~~ proceedings are commenced. If a person entitled to bring ~~such~~ proceedings is, at the time ~~such~~ the judgment or order is rendered, a minor, or ~~insane~~ a person who lacks capacity to protect his or her interests due to a mental condition or psychiatric disability, or imprisoned, he or she may bring them within one year after the disability is removed.

Sec. 48. 12 V.S.A. § 4714 is amended to read:

§ 4714. FIDUCIARIES; EXECUTORS

A person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, ~~lunatic, or insolvent~~ a person lacking mental capacity, or a person without financial resources, may have a declaration of rights or legal relations in respect thereto;

(1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others; or

(2) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(3) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Sec. 49. 12 V.S.A. § 5187 is amended to read:

§ 5187. COMMISSIONER DISQUALIFIED, OTHERS MAY ACT

When a commissioner appointed under this chapter dies, becomes ~~insane~~ unable to perform his or her duties due to a mental condition or psychiatric disability, removes from the ~~state~~ State, or becomes otherwise disqualified to act, the survivors may exercise the powers granted to the whole number.

Sec. 50. 13 V.S.A. § 1024(d) is amended to read:

(d) Subdivision (a)(5) of this section shall not apply if the person threatened to use the deadly weapon:

(1) In the just and necessary defense of his or her own life or the life of his or her husband, wife, civil union partner, parent, child, brother, sister, guardian, or ~~ward~~ person under guardianship;

(2) In the suppression of a person attempting to commit murder, sexual assault, aggravated sexual assault, burglary, or robbery; or

(3) In the case of a civil or military officer lawfully called out to suppress a riot or rebellion, prevent or suppress an invasion, or assist in serving legal process, in suppressing opposition against him or her in the just and necessary discharge of his or her duty.

Sec. 51. 13 V.S.A. chapter 25 is amended to read:

CHAPTER 25. CHILDREN AND ~~INCOMPETENT~~ PERSONS WHO ARE INCOMPETENT

* * *

§ 1306. MISTREATMENT OF PERSONS ~~OF UNSOUND MIND~~ WITH IMPAIRED COGNITIVE FUNCTION

A person who ~~wilfully~~ willfully and maliciously teases, plagues, annoys, angers, irritates, maltreats, worries, or excites ~~another of unsound or feeble mind~~ a person with an intellectual or psychiatric disability or impaired cognitive function shall be imprisoned not more than one year or fined not more than $100.00 nor less than $5.00, or both.

* * *

Sec. 52. [Deleted.]

Sec. 53. 13 V.S.A. § 1455 is amended to read:

§ 1455. HATE-MOTIVATED CRIMES

A person who commits, causes to be committed, or attempts to commit any crime and whose conduct is maliciously motivated by the victim's actual or perceived race, color, religion, national origin, sex, ancestry, age, service in the ~~armed forces of the United States~~ U.S. Armed Forces, ~~handicap~~ disability as defined by 21 V.S.A. § 495d(5), sexual orientation or gender identity shall be subject to the following penalties:

* * *

Sec. 54. 13 V.S.A. § 1458(6) is amended to read:

(6) "Protected category" includes race, color, religion, national origin, sex, ancestry, age, service in the ~~armed forces of the United States~~ U.S. Armed Forces, ~~handicap~~ disability as defined by 21 V.S.A. § 495d(5), sexual orientation, and gender identity, and perceived membership in any such group.

Sec. 55. [Deleted.]

Sec. 56. 13 V.S.A. § 2406(a) is amended to read:

(a) A person commits the crime of unlawful restraint in the second degree if the person:

(1) not being a relative of a person under the age of 18, knowingly takes, entices, or harbors that person, without the consent of the person's custodian, knowing that he or she has no right to do so; or

(2) knowingly takes or entices from lawful custody or harbors any ~~mentally incompetent~~ person who is mentally incompetent, or other person entrusted by authority of law to the custody of another person or an institution, without the consent of the person or institution, knowing that he or she has no right to do so; or

(3) knowingly restrains another person.

Sec. 57. 13 V.S.A. § 3254(2) is amended to read:

(2) A person shall be deemed to have acted without the consent of the other person where the actor:

(A) Knows that the other person is mentally incapable of understanding the nature of the sexual act or lewd and lascivious conduct; or

(B) Knows that the other person is not physically capable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct; or

(C) Knows that the other person is unaware that a sexual act or lewd and lascivious conduct is being committed; or

(D) Knows that the other person is mentally incapable of resisting, or declining consent to, the sexual act or lewd and lascivious conduct, due to ~~mental illness or mental retardation~~ a mental condition or a psychiatric or developmental disability as defined in ~~section~~ 14 V.S.A. § 3061 ~~of Title 14~~.

Sec. 58. 13 V.S.A. chapter 157 is amended to read:

CHAPTER 157. INSANITY AS A DEFENSE

* * *

§ 4821. NOTICE OF HEARING; PROCEDURES

The person who is the subject of the proceedings, his or her attorney, the legal guardian, if any, the ~~commissioner of mental health~~ Commissioner of Mental Health or the ~~commissioner of disabilities, aging, and independent living~~ Commissioner of Disabilities, Aging, and Independent Living, and the state's attorney or other prosecuting officer representing the ~~state~~ State in the case, shall be given notice of the time and place of a hearing under the preceding section. Procedures for hearings for persons ~~who are mentally ill~~ with a mental illness shall be as provided in 18 V.S.A. chapter 181 ~~of Title 18~~. Procedures for hearings for persons ~~who are mentally retarded~~ with an intellectual disability shall be as provided in 18 V.S.A. chapter 206, subchapter 3 ~~of chapter 206 of Title 18~~.

§ 4822. FINDINGS AND ORDER; ~~MENTALLY ILL~~ PERSONS WITH A MENTAL ILLNESS

(a) If the court finds that such person is a person in need of treatment or a patient in need of further treatment as defined in 18 V.S.A. § 7101, the court shall issue an order of commitment directed to the ~~commissioner of developmental and mental health services~~ Commissioner of Mental Health, which shall admit the person to the care and custody of the ~~department of developmental and mental health services~~ Department of Mental Health for an indeterminate period. In any case involving personal injury or threat of personal injury, the committing court may issue an order requiring a court hearing before a person committed under this section may be discharged from custody.

(b) Such order of commitment shall have the same force and effect as an order issued under 18 V.S.A. §§ 7611–7622, and persons committed under such an order shall have the same status, and the same rights, including the right to receive care and treatment, to be examined and discharged, and to apply for and obtain judicial review of their cases, as persons ordered committed under 18 V.S.A. §§ 7611–7622.

(c) Notwithstanding the provisions of subsection (b) of this section, at least 10 days prior to the proposed discharge of any person committed under this section, the ~~commissioner of mental health~~ Commissioner of Mental Health shall give notice ~~thereof~~ of the discharge to the committing court and state's attorney of the county where the prosecution originated. In all cases requiring a hearing prior to discharge of a person found incompetent to stand trial under section 4817 of this title, the hearing shall be conducted by the committing court issuing the order under that section. In all other cases, when the committing court orders a hearing under subsection (a) of this section or when, in the discretion of the ~~commissioner of mental health~~ Commissioner of Mental Health, a hearing should be held prior to the discharge, the hearing shall be held in the ~~family division of the superior court~~ Family Division of the Superior Court to determine if the committed person is no longer a person in need of treatment or a patient in need of further treatment as set forth in subsection (a) of this section. Notice of the hearing shall be given to the ~~commissioner~~ Commissioner, the state's attorney of the county where the prosecution originated, the committed person, and the person's attorney. Prior to the hearing, the state's attorney may enter an appearance in the proceedings and may request examination of the patient by an independent psychiatrist, who may testify at the hearing.

(d) The court may continue the hearing provided in subsection (c) of this section for a period of 15 additional days upon a showing of good cause.

(e) If the court determines that commitment shall no longer be necessary, it shall issue an order discharging the patient from the custody of the ~~department of developmental and mental health services~~ Department of Mental Health.

(f) The court shall issue its findings and order not later than 15 days from the date of hearing.

§ 4823. FINDINGS AND ORDER; PERSONS WITH ~~MENTAL RETARDATION~~ AN INTELLECTUAL DISABILITY

* * *

Sec. 59. 13 V.S.A. § 5301(4) is amended to read:

(4) "Victim" means a person who sustains physical, emotional, or financial injury or death as a direct result of the commission or attempted commission of a crime or act of delinquency and shall also include the family members of a minor, a person who has been found to be incompetent, or a homicide victim.

Sec. 60. [Deleted.]

Sec. 61. [Deleted.]

Sec. 62. 14 V.S.A. § 204 is amended to read:

§ 204. DEFINITIONS

~~Whenever~~ As used in this title:

(1) "Interested person" includes heirs, devisees, legatees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, or ~~ward~~ person under guardianship which may be affected by the proceeding. It also includes persons having priority for appointment as executor or administrator, and other fiduciaries representing interested persons. The parties at commencement of a probate proceeding shall include all interested persons. The meaning as it relates to particular persons may vary from time to time and shall be determined by the rules of probate procedure.

(2) "Fiduciary" includes executor, administrator, special administrator, trustee, conservator, guardian of a minor, guardian of a spendthrift, voluntary guardian of ~~an infirm~~ a person who has an infirmity and total or limited guardian of ~~a mentally disabled~~ an adult with a developmental disability, but excludes one who is merely a guardian ad litem.

* * *

Sec. 63. 14 V.S.A. § 2305 is amended to read:

§ 2305. TRUSTEES OF ABSENT PERSONS-DEFINITION

For the purposes of sections 2306–2310 of this title, an absent person is defined as one having a domicile, property, or evidences of property in this ~~state~~ State who suddenly or mysteriously disappears under such circumstances as to satisfy the ~~probate division of the superior court~~ Probate Division of the Superior Court of the proper district that there is reasonable ground to believe that he or she is lost, ~~insane or~~ dead, or lacks capacity due to a mental condition or psychiatric disability, or is one who, having a domicile, property, or evidences of property in this ~~state~~ State, remains beyond the sea or absents himself or herself in this ~~state~~ State or elsewhere and is unheard of for three years.

Sec. 64. 14 V.S.A. § 3003 is amended to read:

§ 3003. PARENT MAY MOVE FOR GUARDIAN'S REMOVAL; NOTICE

When, by reason of the ~~incompetency~~ incapacity or unsuitableness of a parent to have the custody and education of a minor child, another person has been appointed guardian of the minor, the parent may, at any time, file a motion for the removal of the guardian. The court shall schedule a hearing and notice shall be given as provided by the ~~rules of probate procedure~~ Rules of Probate Procedure.

Sec. 65. 14 V.S.A. § 3096(a) is amended to read:

(a) The ~~office of public guardian~~ Office of Public Guardian may provide assistance to private guardians:

(1) To help them understand ~~their ward's~~ the disabilities of the person under guardianship.

(2) To help them foster increased independence on the part of ~~their ward~~ the person under guardianship.

(3) With the preparation and revision of guardianship plans and reports.

(4) On ways to secure rights, benefits, and services to which ~~their wards~~ the persons under guardianship are entitled.

Sec. 66. 15 V.S.A. § 291(a) is amended to read:

(a) When a married person without just cause fails to furnish suitable support for that person's spouse, or has deserted such spouse, or when a married person, for a justifiable cause, is actually living apart from such spouse, on the complaint of either married person, or, if the deserted spouse ~~is insane~~ has a mental condition or psychiatric disability, on the complaint of a guardian or next friend, the superior court, by its order, may prohibit either

spouse from imposing restraint on the other's personal liberty for such time as the court in such order directs, or until further order.

Sec. 67. 15 V.S.A. § 512 is amended to read:

§ 512. VOIDABLE CIVIL MARRIAGES-GROUNDS FOR ANNULMENT GENERALLY

The civil marriage contract may be annulled when, at the time of marriage, either party had not attained the age of 16 years or was ~~an idiot or lunatic or~~ physically or mentally incapable of entering into the civil marriage state or when the consent of either party was obtained by force or fraud.

Sec. 68. 15 V.S.A. § 514 is amended to read:

§ 514. PARTY ~~AN IDIOT OR LUNATIC~~ IS MENTALLY INCAPABLE OF ENTERING INTO CIVIL MARRIAGE

(a) When a civil marriage is sought to be annulled on the ground of ~~the idiocy of~~ one of the ~~parties~~ parties' mental incapability to enter into the civil marriage, it may be declared void on the complaint of a relative of such ~~idiot~~ person at any time during the life of either of the parties.

(b) When a civil marriage is sought to be annulled on the ground of ~~the lunacy of~~ one of the ~~parties~~ parties' mental incapability to enter into the civil marriage, on the complaint of a relative of the ~~lunatic~~ person, such marriage may be declared void during the continuance of such ~~lunacy~~ mental incapacity, or after the death of the ~~lunatic~~ person who is mentally incapacitated in that condition and during the lifetime of the other party to the marriage.

(c) The civil marriage of a ~~lunatic~~ person who is mentally incapacitated may be declared void upon the complaint of ~~a lunatic~~ the person after restoration to ~~reason~~ health, but a decree of nullity shall not be pronounced if the parties freely cohabited as ~~husband and wife after the lunatic was restored to sound mind~~ spouses after the spouse who was mentally incapacitated had restored capacity.

(d) If an action is not prosecuted by a relative, the civil marriage of ~~an idiot or a lunatic~~ a person who is mentally incapacitated may be annulled during the lifetime of both the parties to the marriage, on the complaint of a person admitted by the court to prosecute as the next friend of such ~~idiot or lunatic~~ person who is mentally incapacitated.

(e) The ~~word "lunatic"~~ phrases "mentally incapacitated," "incapacitated," "mental incapacity," "mentally incapable," "mental incapability," and other similar phrases as used in sections 511-514 of this title shall extend only to persons ~~of unsound mind other than idiots~~ who have a severe psychiatric, cognitive, or other severe mental disability.

Sec. 69. 15 V.S.A. § 551 is amended to read:

§ 551. GROUNDS FOR DIVORCE FROM BOND OF MATRIMONY

A divorce from the bond of matrimony may be decreed:

* * *

(6) On the ground of ~~incurable insanity~~ permanent incapacity due to a mental condition or psychiatric disability of either party, as provided for in sections 631-637 of this title;

* * *

Sec. 70. 15 V.S.A. chapter 11, subchapter 3 is amended to read:

Subchapter 3. Proceedings Generally

* * *

Article 2. Divorce on Ground of ~~Insanity~~ Mental Incapacity

§ 631. GENERALLY

A divorce may be granted forthwith when either ~~husband or wife~~ spouse has become ~~incurably insane~~ permanently incapacitated due to a mental condition or psychiatric disability. A divorce shall not be granted under these provisions unless such ~~insane~~ person who is permanently incapacitated due to a mental condition or psychiatric disability shall have been duly and regularly confined in a ~~mental institution~~ psychiatric hospital, wherever located, for at least five years next preceding the commencement of the action for divorce, nor unless it shall appear to the court that such ~~insanity~~ mental condition or psychiatric disability is ~~incurable~~ permanent. No action shall be maintained under the provisions hereof unless the libelant is an actual resident of this ~~state~~ State and shall have resided therein for two years next preceding the commencement of such action.

§ 632. JURISDICTION; GUARDIAN AD LITEM FOR ~~INSANE~~ LIBELEE WITH A MENTAL INCAPACITY

The superior courts of the several counties of this ~~state~~ State shall have jurisdiction of such an action. Upon the filing by the plaintiff of a complaint, duly verified, showing that such cause of action exists, a superior judge shall appoint some person to act as guardian ad litem of such ~~insane~~ person with a mental incapacity in such action. The complaint and summons in such action shall be served upon the defendant by delivering a copy thereof to such guardian and another to the state's attorney of the county in which such action is brought.

* * *

§ 634. ALIMONY; DISTRIBUTION OF PROPERTY; CARE AND CUSTODY OF CHILDREN

(a) In actions brought for the cause of ~~insanity~~ mental incapacity, the courts and the judges thereof shall possess all the powers relative to the payment of alimony, the distribution of property, and the care and custody of the children of the parties, that such courts now have, or may hereafter have, in other actions for divorce.

* * *

(c) No order shall be made providing for continued support of a ~~sane~~ spouse without a mental condition or psychiatric disability from the estate of ~~an insane~~ a spouse with a mental condition or psychiatric disability after the remarriage of the ~~sane~~ spouse who does not have a mental condition or a psychiatric disability.

§ 635. SUPPORT OF DEFENDANT

(a) At the time of granting a divorce on the grounds of ~~incurable insanity~~ a permanent mental condition or psychiatric disability or any time thereafter, on motion of either party, or of the guardian of the ~~insane~~ spouse with a mental condition or psychiatric disability, or of any other person, town, or municipality charged with the support of the ~~insane~~ spouse with a mental condition or psychiatric disability, the court may make such orders requiring support of the defendant or security for such support as may be proper.

(b) An order for the support of the ~~insane~~ party with a mental condition or psychiatric disability shall be enforceable in the same manner as orders relating to alimony.

(c) On motion of either party or of the guardian of the ~~insane~~ spouse with a mental condition or psychiatric disability, or of any person, town, or municipality charged with the support of such defendant, an order relating to such support may be reviewed and altered at any time thereafter in such manner as to the court may seem just and proper.

§ 636. FILING CERTIFIED COPIES OF ORDERS WITH COURT WHICH COMMITTED ~~INSANE~~ PARTY WITH A MENTAL CONDITION OR PSYCHIATRIC DISABILITY

If the ~~insane~~ party with a mental condition or psychiatric disability was committed by a court of competent jurisdiction, ~~then~~ the clerk of the court shall file ~~with such court which committed such insane party~~ a certified copy of all orders entered in proceedings brought under these provisions.

* * *

Sec. 71. 15 V.S.A. § 1173(a) is amended to read:

(a) The council shall consist of the following members to be appointed as follows:

(1) To be appointed by the ~~governor~~ Governor:

(A) one member of the public who shall be a survivor of domestic violence;

(B) a representative from the same-sex domestic violence service provider community;

(C) a representative from the service provider community for people who are deaf ~~and disability service provider community~~ or have disabilities;

(D) a representative from the ~~department of state's attorneys~~ Department of State's Attorneys and Sheriffs' Association;

(E) a prosecutor from one of the STOP Domestic Violence units;

(F) a member of the Vermont clergy;

(G) one member of the public representing the interests of children exposed to domestic violence.

* * *

Sec. 72. 15A V.S.A. § 1-101 is amended to read:

§ 1-101. DEFINITIONS

~~In~~ As used in this title:

* * *

(5) "Child with special needs" means a child with a special factor or condition, including ethnic background, age, membership in a minority or sibling group, medical condition, or physical, mental, or emotional ~~handicap~~ disability, because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption or medical assistance.

* * *

(7) "Department" means the ~~department of social and rehabilitation services~~ Department for Children and Families.

* * *

Sec. 73. 15A V.S.A. § 2-105(a) is amended to read:

(a) Before placing a minor for adoption, a parent or agency placing the minor shall provide in writing to the prospective adoptive parent all of the

following nonidentifying information that is reasonably available from the parents, relatives or guardian of the minor, the agency, any person who has had physical custody of the minor for 30 days or more, or any person who has provided health, psychological, educational or similar services to the minor:

(1) a social and health history of the minor, including:

* * *

(E) any physical, sexual, or emotional abuse known to have been ~~suffered~~ experienced by the minor;

* * *

Sec. 74. 15A V.S.A. § 3-201(a) is amended to read:

(a) In a proceeding under this title which may result in the termination of a relationship of parent and child, the court shall appoint an attorney for any person who is indigent, a minor, or incompetent ~~person~~ who appears in the proceeding and whose parental relationship to a child may be terminated, unless the court finds that the minor or ~~incompetent~~ person who is incompetent has sufficient financial means to hire an attorney, or the ~~indigent~~ person who is indigent declines to be represented by an attorney.

Sec. 75. 15A V.S.A. § 4-107 is amended to read:

§ 4-107. PETITION TO ADOPT

A petition by a stepparent to adopt a minor stepchild shall be signed and verified by the petitioner and contain the following information or state why any of the information is not contained in the petition:

* * *

(2) the current marital status of the petitioner, including the date and place of marriage, the name and date and place of birth of the petitioner's spouse, and, if the spouse is deceased, the date, place, and cause of death and, if the spouse is found to be incompetent, the date on which a court declared the spouse incompetent;

* * *

Sec. 76. 15A V.S.A. § 5-109 is amended to read:

§ 5-109. ADOPTION OF AN ~~INCOMPETENT~~ ADULT WHO IS INCOMPETENT

* * *

Sec. 77. 16 V.S.A. § 1166(b) is amended to read:

(b) Each school board shall adopt and implement policies regarding a student who brings a firearm to or possesses a firearm at school which at a minimum shall include:

* * *

(2) A provision that the superintendent or principal, with the approval of the school board following opportunity for a hearing, shall expel from the school for not less than one calendar year any student who brings a firearm to or possesses a firearm at school. However, the school board may modify the expulsion on a ~~case-by-case~~ case-by-case basis. Modifications may be granted in circumstances such as ~~but not limited to~~:

(A) The pupil is unaware that he or she has brought a firearm to or possessed a firearm at school.

(B) The pupil did not intend to use the firearm to threaten or endanger others.

(C) The pupil ~~is disabled~~ has a disability and the misconduct is related to the pupil's disability.

(D) The pupil does not present an ongoing threat to others and a lengthy expulsion would not serve the best interests of the pupil.

Sec. 78. 16 V.S.A. § 2942(4) is amended to read:

(4) "Federal law" means the ~~Education of the Handicapped Act, codified at~~ Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400-1485, and its implementing regulations, as amended from time to time.

Sec. 79. 16 V.S.A. § 2967(b) is amended to read:

(b) The total expenditures made by the ~~state~~ State in any fiscal year pursuant to this chapter shall be 60 percent of the statewide total special education expenditures of funds that are not derived from federal sources. Special education expenditures shall include:

(1) costs eligible for grants and reimbursements under sections 2961 through 2963a of this title;

(2) costs for services for ~~the~~ persons who are visually impaired and ~~hearing impaired~~ persons who are deaf or hard of hearing;

(3) costs for the interdisciplinary team program;

(4) costs for regional specialists in multiple disabilities;

(5) funds expended for training and programs to meet the needs of students with emotional behavioral problems under subsection 2969(c) of this title; and

(6) funds expended for training under subsection 2969(d) of this title.

Sec. 80. 16 V.S.A. § 3851(c) is amended to read:

(c) "Eligible institution" means any:

* * *

(5) ~~any:~~

(A) nonprofit hospital as defined in 18 V.S.A. § 1902;

(B) nonprofit institution whose purpose is devoted primarily to the maintenance and operation of diagnostic and therapeutic facilities for medical, surgical, or psychiatric care of ambulatory patients;

(C) nonprofit licensed nursing home; or

(D) nonprofit assisted living facility, nonprofit continuing care retirement facility, nonprofit residential care facility, or similar nonprofit facility for the continuing care of ~~the~~ persons who are elderly or ~~the infirm~~ infirmed, provided that such facility is owned by or under common ownership with an otherwise eligible institution, and in the case of facilities to be financed for an eligible institution provided by this subdivision (5) of this subsection, for which the ~~department of financial regulation~~ Department of Financial Regulation, if required, has issued a certificate of need.

Sec. 81. 16 V.S.A. § 4014(d) is amended to read:

(d) The ~~commissioner~~ Secretary shall evaluate proposals based on the following criteria:

(1) The program will serve additional children with special needs, such as those who are economically disadvantaged, those who have limited English language skills, those ~~with disabling conditions~~ who have a disability, or those who have ~~suffered from~~ experienced or are at risk of~~,~~ abuse or neglect.

(2) The program will rely on early screening of children's development to determine need.

(3) The program will provide experiential learning activities which are developmentally appropriate for ~~three and four-year olds~~ three- and four-year-old children. Such activities may be provided in home or group settings or a combination of the two.

(4) The program will include active parental involvement in program design and in making decisions about services.

(5) The program has been cooperatively developed by community and school organizations that serve young children in a town or group of towns.

(6) There is a demonstrated need for the program.

(7) The program considers the transportation needs of children and parents.

(8) The program enables children with ~~disabling conditions~~ disabilities to be served in settings with peers who do not have a disability.

(9) The program includes voluntary training for parents.

Sec. 82. 17 V.S.A. § 2502 is amended to read:

§ 2502. LOCATION OF POLLING PLACES

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

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

Sec. 83. 17 V.S.A. § 2538(b) is amended to read:

(b) The town clerk shall divide the list of ~~ill or physically disabled~~ applicants who have an illness or physical disability into approximately as many equal parts as there are pairs of justices so designated, having regard to the several parts of the town in which the applicants may be found. During the eight days immediately preceding election day and on election day, the clerk shall deliver to each pair of justices one part of the list, together with early or absentee voter ballots and envelopes for each applicant. When justices receive ballots and envelopes prior to election day, they shall receive only the ballots and envelopes they are assigned to deliver on that day.

Sec. 84. 17 V.S.A. § 2567(b) is amended to read:

(b) All polling places, regardless of whether the municipality has voted to use a voting machine pursuant to section 2492 of this title, shall possess at least one voting system approved by the ~~secretary of state~~ Secretary of State

equipped for individuals with disabilities, including accessibility for ~~the~~ people who are blind ~~and visually impaired~~ and people who have a visual impairment, to vote independently and privately.

Sec. 85. 17 V.S.A. § 2667 is amended to read:

§ 2667. ACCESS TO ANNUAL MEETING

The legislative body of the municipality shall take reasonable measures to ~~assure~~ ensure that ~~elderly or handicapped~~ voters who are elderly or have a disability may conveniently attend annual or special meetings; provided, however, that such measures need not be taken if doing so would impose undue hardship on the town. Measures may include~~, but are not limited to,~~ location of meetings on the ground floor of buildings or providing ramps or other devices for access to meetings. In municipal elections using the Australian ballot system of voting, subsection 2502(b) of this title shall apply. For the purposes of this section, the legislative body shall have full jurisdiction on the day of the municipal meeting over the premises at which the town meeting is to be held.

Sec. 86. 18 V.S.A. § 115 is amended to read:

§ 115. CHRONIC DISEASES; STUDY; PROGRAM

(a) The ~~department of health~~ Department of Health may, in the discretion of the ~~commissioner~~ Commissioner, accept for treatment children ~~suffering from~~ who have chronic diseases such as cystic fibrosis and severe hemophilia.

(b) The state ~~board of health~~ Board of Health is authorized to:

(1) Study the prevalence of chronic disease~~,~~;

(2) Make such morbidity studies as may be necessary to evaluate the over-all problem of chronic disease~~,~~;

(3) Develop an early case-finding program, in cooperation with the medical profession~~,~~;

(4) Develop and carry on an educational program as to the causes, prevention and alleviation of chronic disease~~,~~;

(5) Integrate this program with that of the state rehabilitation center where possible, by seeking the early referral of persons with chronic disease, who ~~are capable of being rehabilitated~~ could benefit from the state rehabilitation program.

* * *

Sec. 87. 18 V.S.A. § 115a is amended to read:

§ 115a. CHRONIC DISEASES OF CHILDREN; TREATMENT

The ~~department of health~~ Department of Health may, in the discretion of the ~~commissioner~~ Commissioner, accept for treatment children ~~suffering from~~ who have chronic diseases such as cystic fibrosis.

Sec. 88. 18 V.S.A. § 116(a) is amended to read:

(a) The ~~board~~ Board shall continue the existing health service for mothers and children established in a manner harmonious with parts one and two of ~~title~~ Title V of the ~~act~~ Act of Congress approved August 14, 1935 and entitled ~~social security act~~ Social Security Act and shall continue its existing health service for ~~crippled~~ children with physical disabilities.

Sec. 89. 18 V.S.A. § 120 is amended to read:

§ 120. CONTRACT FOR PAYMENT OF CERTAIN HEALTH BENEFITS

The ~~board of health~~ Board of Health may contract with a private organization to process the payment of in-patient hospital care, and physician, radiological, and other medical costs related thereto under the maternal, child health, and ~~crippled children's~~ children with physical disabilities' plans of the ~~department of health~~ Department of Health. Such a contract shall provide for cancellation upon reasonable notification by the ~~board~~ Board. In furtherance of the purposes of the contract, the ~~board~~ Board may requisition funds, with the approval of the ~~governor~~ Governor, and the ~~commissioner of finance~~ Commissioner of Finance and Management shall issue his or her warrant in favor of the contracting party to permit the contracting party to make payments to vendors under the contract. The ~~board~~ Board shall quarterly, and at such other times as the ~~commissioner of finance~~ Commissioner of Finance and Management requires, render an account in such form as the ~~commissioner of finance~~ Commissioner of Finance and Management prescribes of the expenditures of monies so advanced.

Sec. 90. 18 V.S.A. § 701 is amended to read:

§ 701. DEFINITIONS

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

* * *

(3) "Chronic care" means health services provided by a health care professional for an established clinical condition that is expected to last a year or more and that requires ongoing clinical management attempting to restore the individual to highest function, minimize the negative effects of the condition, prevent complications related to chronic conditions, engage in

advanced care planning, and promote appropriate access to palliative care and pain and symptom management. Examples of chronic conditions include diabetes, hypertension, cardiovascular disease, cancer, asthma, pulmonary disease, substance abuse, ~~mental illness~~ mental condition or psychiatric disability, spinal cord injury, hyperlipidemia, dementia, and chronic pain.

* * *

(10) "Health service" means any treatment or procedure delivered by a health care professional to maintain an individual's physical or mental health or to diagnose or treat an individual's physical or mental ~~health~~ condition or intellectual disability, including services ordered by a health care professional, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

* * *

Sec. 91. [Deleted.]

Sec. 92. 18 V.S.A. chapter 21 is amended to read:

CHAPTER 21. COMMUNICABLE DISEASES

* * *

§ 1047. INDIGENT PERSONS WITH RESPIRATORY DISEASES

Persons ~~afflicted with~~ who have tuberculosis and other chronic respiratory diseases, who are without the means to obtain adequate care and treatment for such diseases, shall be deemed indigent persons for the purposes of this subchapter.

§ 1048. EXAMINATION; REPORT; TREATMENT

A physician, licensed to practice medicine and surgery in the ~~state~~ State, shall immediately after examination of an indigent person wishing treatment for tuberculosis or other chronic respiratory disease make a report of his or her findings to the ~~commissioner of health~~ Commissioner of Health. Upon receipt of such report, the ~~commissioner~~ Commissioner may authorize treatment of the ~~afflicted~~ person who has tuberculosis or other chronic respiratory disease. Such person's physician shall thereupon prescribe the time of treatment and designate the facility at which treatment shall be given~~,~~; provided, however, that in a case of tuberculosis suspected of being infectious, the ~~commissioner~~ Commissioner may apply all the laws and regulations of communicable disease control.

* * *

§ 1057. MEDICAL MANAGEMENT

(a) When the ~~commissioner of health~~ Commissioner of Health determines, as a result of an examination as provided by sections 1055 and 1056 of this title, that any person ~~is afflicted with~~ who has tuberculosis in an active stage and in communicable form to an extent that the person may expose other persons or the public generally to danger of infection, he or she shall investigate the circumstances thereof and if he or she finds that the person does constitute a health hazard to the public, he or she may request the court to order the person to a hospital or other suitable place and require appropriate medical management of the person therein until he or she determines that the management is no longer necessary. Such medical care and treatment as the ~~commissioner of health~~ Commissioner of Health considers necessary and proper may be furnished to the sick person at the expense of the state. Treatment shall not be imposed on any person against his or her will unless the ~~commissioner~~ Commissioner determines that the person constitutes a public health hazard without such treatment.

* * *

§ 1097. EDUCATIONAL CAMPAIGN

The ~~board~~ Board shall conduct an educational campaign of methods for the prevention and treatment and care of persons ~~suffering from~~ who have venereal diseases.

* * *

§ 1099. REPORTS AND RECORDS CONFIDENTIAL

All information and reports in connection with persons ~~suffering from~~ who have venereal diseases shall be regarded as absolutely confidential and for the sole use of the ~~board~~ Board in the performance of its duties hereunder, and such records shall not be accessible to the public nor shall such records be deemed public records; and ~~such board~~ the Board shall not disclose the names or addresses of persons so reported or treated except to a prosecuting officer or in court in connection with a prosecution under ~~sections~~ section 1105 or 1106 of this title. The foregoing shall not constitute a restriction on the ~~board~~ Board in the performance of its duties in controlling ~~the above~~ these communicable diseases.

* * *

§ 1101. REPORTS BY PUBLIC INSTITUTIONS

The superintendent or other officer in charge of public institutions such as hospitals, dispensaries, clinics, homes, ~~asylums,~~ psychiatric hospitals, and charitable and correctional institutions shall report promptly to the ~~board~~ Board

the name, sex, age, nationality, race, marital state, and address of every patient under observation ~~suffering from~~ who has venereal diseases in any form, stating the name, character, stage, and duration of the infection, and, if obtainable, the date and source of contracting the same.

* * *

Sec. 93. 18 V.S.A. § 1751(b)(26) is amended to read:

(26) "Target housing" means any dwelling constructed prior to 1978, except any 0-bedroom dwelling or any dwelling located in multiple-unit buildings or projects reserved for the exclusive use of ~~the~~ persons who are elderly or persons with disabilities, unless a child six years of age or younger resides in or is expected to reside in that dwelling. "Target housing" does not include units in a hotel, motel, or other lodging, including condominiums that are rented for transient occupancy for 30 days or less.

Sec. 94. 18 V.S.A. § 1852(a) is amended to read:

(a) The ~~general assembly~~ General Assembly hereby adopts the "Bill of Rights for Hospital Patients" as follows:

* * *

(15) A patient who does not speak or understand the predominant language of the community has a right to an interpreter if the language barrier presents a continuing problem to patient understanding of the care and treatment being provided. A patient who is hard of hearing ~~impaired~~ has a right to an interpreter if the impairment presents a continuing problem to patient understanding of the care and treatments being provided.

* * *

Sec. 95. 18 V.S.A. § 1871 is amended to read:

§ 1871. PATIENT'S BILL OF RIGHTS FOR PALLIATIVE CARE AND PAIN MANAGEMENT

* * *

(c) A patient ~~suffering from~~ with pain has the right to request or reject the use of any or all treatments in order to relieve his or her pain.

(d) A patient ~~suffering from~~ with a chronic condition has the right to competent and compassionate medical assistance in managing his or her physical and emotional symptoms.

(e) A pediatric patient ~~suffering from~~ with a serious or life-limiting illness or condition has the right to receive palliative care while seeking and undergoing potentially curative treatment.

Sec. 96. 18 V.S.A. § 1902 is amended to read:

§ 1902. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings unless otherwise provided:

(1) "Hospital" means a place devoted primarily to the maintenance and operation of diagnostic and therapeutic facilities for in-patient medical or surgical care of individuals ~~suffering from~~ who have an illness, disease, injury, or ~~deformity~~ physical disability, or for obstetrics.

(A) "General hospital" is a hospital of which not more than 50 percent of the total patient days during the year are customarily assignable to the following categories of cases: chronic, convalescent and rest, drug and alcoholic, ~~epileptic, mentally deficient, mental, nervous and mental~~ epilepsy, developmental and psychiatric disabilities and mental conditions, and tuberculosis, and which provides adequate and separate facilities and equipment for the performance of surgery and obstetrics, or either, and for diagnostic X-ray and laboratory services.

(B) "~~Mental~~ Psychiatric hospital" means a hospital for the diagnosis and treatment of mental illness.

(C) "Tuberculosis facility" means a hospital (excluding preventoria), or the separate tuberculosis unit of a general, ~~mental~~ psychiatric, or chronic disease hospital for the diagnosis and treatment of tuberculosis.

(D) "Chronic disease facility" means a hospital, or the separate chronic disease unit of a general hospital, for the treatment of chronic illness, including the degenerative diseases. The term does not include facilities primarily for the care of ~~mentally ill or tuberculosis patients~~ individuals with mental conditions and psychiatric disabilities or tuberculosis, nursing homes, and institutions the primary purpose of which is domiciliary care.

* * *

(H) "Psychiatric facility" means a type of ~~mental~~ psychiatric hospital, or separate unit of a general hospital, where patients may obtain diagnostic services and receive intensive treatment for mental ~~and nervous~~ illness and where only a minimum of continued treatment facilities will be afforded.

* * *

Sec. 97. 18 V.S.A. § 4201(18) is amended to read:

(18) "Nursing home" means a facility, other than a hospital, operated for the purpose of providing lodging, board, and nursing care to ~~sick, invalid, infirm, disabled or convalescent~~ persons who are sick, have an infirmity or

disability, or are convalescing, approved under this chapter as proper to be entrusted with the custody and use of regulated drugs prescribed for such individual patients under its care under the direction of a physician or dentist, confirmed by an official written order signed by a person authorized to prescribe such drugs. No nursing home shall be granted a certificate of approval for the possession and use of such drugs unless such nursing home has a registered nurse or a licensed practical nurse on duty or on call 24 hours daily who will have sole responsibility for those drugs. Nothing in this chapter shall be construed as conferring on any nursing home, convalescent home, or home for the aged any authority, right, or privilege beyond that granted to it by the law under which it is licensed or otherwise authorized to function.

Sec. 98. 18 V.S.A. § 5142 is amended to read:

§ 5142. RESTRICTIONS AS TO ~~MINORS AND INCOMPETENT~~ PERSONS WHO ARE MINORS OR INCOMPETENT

A clerk shall not issue a civil marriage license when either party to the intended marriage is:

(1) A person who has not attained majority without the consent in writing of one of the parents if there is one competent to act; or the guardian of such minor;

(2) Nor with such consent when either party is under 16 years of age;

(3) Nor when either of the parties to the intended marriage is ~~non compos mentis~~ not mentally capable of entering into marriage;

(4) Nor to a person under guardianship without the written consent of such guardian.

(5) [Deleted.]

Sec. 99. 18 V.S.A. § 5205(a) is amended to read:

(a) When a person dies from violence, or suddenly when in apparent good health or when unattended by a physician or a recognized practitioner of a well-established church, or by casualty, or by suicide or as a result of injury or when in jail or prison, or any ~~mental institution~~ psychiatric hospital, or in any unusual, unnatural, or suspicious manner, or in circumstances involving a hazard to public health, welfare, or safety, the head of the household, the jailer or the superintendent of a ~~mental institution~~ psychiatric hospital where such death occurred, or the next of kin, or the person discovering the body or any doctor notified of the death, shall immediately notify the medical examiner who resides nearest the town where the death occurred and immediately upon being notified, such medical examiner shall notify the state's attorney of the county in which the death occurred. The state's attorney shall thereafter be in

charge of the body and shall issue such instructions covering the care or removal of the body as he or she shall deem appropriate until he or she releases same.

Sec. 100. 18 V.S.A. chapter 171 is amended to read:

CHAPTER 171. GENERAL PROVISIONS

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

* * *

(7) "Hospital" means a public or private hospital or facility or part thereof, equipped and otherwise qualified to provide in-patient care and treatment for ~~the mentally ill~~ persons with mental conditions or psychiatric disabilities.

* * *

(12) "~~Mentally retarded individual" means an individual who has significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior.~~ [Deleted.]

* * *

(14) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory, any of which grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life, but shall not include ~~mental retardation~~ intellectual disability.

(15) "Patient" means a resident of or person in Vermont qualified under this title for hospitalization or treatment as a ~~mentally ill or mentally retarded individual~~ person with a mental illness or intellectual disability.

* * *

(17) "A person in need of treatment" means a person who ~~is suffering from~~ has a mental illness and, as a result of that mental illness, his or her capacity to exercise self-control, judgment, or discretion in the conduct of his or her affairs and social relations is so lessened that he or she poses a danger of harm to himself, to herself, or to others:

* * *

§ 7104. WRONGFUL HOSPITALIZATION OR DENIAL OF RIGHTS; FRAUD; ELOPEMENT

~~Any~~ A person ~~who wilfully~~ shall be fined not more than $500.00 or imprisoned not more than one year, or both, if he or she willfully causes, or conspires with or assists another to cause:

(1) the hospitalization of an individual knowing that the individual is not mentally ill or in need of hospitalization or treatment as ~~a mentally ill or mentally retarded~~ an individual with a mental illness or intellectual disability; or

(2) the denial to any individual of any rights granted to him or her under this part of this title; or

(3) the voluntary admission to a hospital of an individual knowing that he or she is not mentally ill or eligible for treatment thereby attempting to defraud the ~~state~~ State; or

(4) the elopement of any patient ~~or student~~ from a hospital ~~or training school~~ or who knowingly harbors any ~~sick person~~ patient who has eloped, or who aids in abducting a patient ~~or student~~ who has been conditionally discharged from the person or persons in whose care and service that patient ~~or student~~ has been legally placed~~; shall be fined not more than $500.00 or imprisoned not more than one year, or both~~.

* * *

§ 7113. INDEPENDENT EXAMINATION~~:~~; PAYMENT

Whenever a court orders an independent examination by a mental health professional or a qualified ~~mental retardation~~ developmental disabilities professional pursuant to this title or 13 V.S.A. § 4822, the cost of the examination shall be paid by the ~~department of disabilities, aging, and independent living or of health~~ Department of Disabilities, Aging, and Independent Living or of Health. The mental health professional or qualified ~~mental retardation~~ developmental disabilities professional may be selected by the court but the ~~commissioner of disabilities, aging, and independent living or the commissioner of mental health~~ Commissioner of Disabilities, Aging, and Independent Living or of Mental Health may adopt a reasonable fee schedule for examination, reports, and testimony.

Sec. 101. 18 V.S.A. chapter 174 is amended to read:

CHAPTER 174. MENTAL HEALTH SYSTEM OF CARE

§ 7251. PRINCIPLES FOR MENTAL HEALTH CARE REFORM

The ~~general assembly~~ General Assembly adopts the following principles as a framework for reforming the mental health care system in Vermont:

(1) The ~~state~~ State of Vermont shall meet the needs of individuals with ~~mental health conditions~~ a mental condition or psychiatric disability, including the needs of individuals in the custody of the ~~commissioner of corrections~~ Commissioner of Corrections, and the ~~state's~~ State's mental health system shall reflect excellence, best practices, and the highest standards of care.

(2) Long-term planning shall look beyond the foreseeable future and present needs of the mental health community. Programs shall be designed to be responsive to changes over time in levels and types of needs, service delivery practices, and sources of funding.

(3) Vermont's mental health system shall provide a coordinated continuum of care by the ~~departments of mental health and of corrections~~ Departments of Mental Health and of Corrections, designated hospitals, designated agencies, and community and peer partners to ensure that individuals with ~~mental health conditions~~ a mental condition or psychiatric disability receive care in the most integrated and least restrictive settings available. Individuals' treatment choices shall be honored to the extent possible.

(4) The mental health system shall be integrated into the overall health care system.

(5) Vermont's mental health system shall be geographically and financially accessible. Resources shall be distributed based on demographics and geography to increase the likelihood of treatment as close to the patient's home as possible. All ranges of services shall be available to individuals who need them, regardless of individuals' ability to pay.

(6) The state's mental health system shall ensure that the legal rights of individuals with a mental ~~health conditions~~ condition or psychiatric disability are protected.

(7) Oversight and accountability shall be built into all aspects of the mental health system.

(8) Vermont's mental health system shall be adequately funded and financially sustainable to the same degree as other health services.

(9) Individuals with a ~~mental health condition~~ psychiatric disability or mental condition who are in the custody of the ~~commissioner of mental health~~ Commissioner of Mental Health and who receive treatment in an acute inpatient hospital, intensive residential recovery facility, or a secure residential facility shall be afforded at least the same rights and protections as those individuals cared for at the former Vermont State Hospital.

§ 7252. DEFINITIONS

As used in this chapter:

(1) "Adult outpatient services" means flexible services responsive to individuals' preferences, needs, and values that are necessary to stabilize, restore, or improve the level of social functioning and well-being of individuals with ~~mental health conditions~~ a mental condition, including individual and group treatment, medication management, psychosocial rehabilitation, and case management services.

* * *

(5) "Intensive residential recovery facility" means a licensed program under contract with the ~~department of mental health~~ Department of Mental Health that provides a safe, therapeutic, recovery-oriented residential environment to care for individuals with one or more mental ~~health~~ conditions or psychiatric disabilities who need intensive clinical interventions to facilitate recovery in anticipation of returning to the community. This facility shall be for individuals not in need of acute inpatient care and for whom the facility is the least restrictive and most integrated setting.

* * *

(10) "Peer" means an individual who has a personal experience of living with a mental ~~health~~ condition or psychiatric disability.

(11) "Peer services" means support services provided by trained peers or peer-managed organizations focused on helping individuals with mental ~~health~~ and other co-occurring conditions to support recovery.

(12) "Psychosocial rehabilitation" means a range of social, educational, occupational, behavioral, and cognitive interventions for increasing the role performance and enhancing the recovery of individuals with a serious mental ~~illness~~ condition or psychiatric disability, including services that foster long-term recovery and self-sufficiency.

* * *

§ 7253. CLINICAL RESOURCE MANAGEMENT AND OVERSIGHT

The ~~commissioner of mental health~~ Commissioner of Mental Health, in consultation with health care providers as defined in section 9432 of this title, including designated hospitals, designated agencies, individuals with ~~mental health conditions~~ mental conditions or psychiatric disabilities, and other stakeholders, shall design and implement a clinical resource management system that ensures the highest quality of care and facilitates long-term, sustained recovery for individuals in the custody of the ~~commissioner~~ Commissioner.

(1) For the purpose of coordinating the movement of individuals across the continuum of care to the most appropriate services, the clinical resource management system shall:

(A) ensure that all individuals in the care and custody of the commissioner receive the highest quality and least restrictive care necessary;

(B) develop a process for receiving direct ~~patient~~ input from persons receiving services on treatment opportunities and the location of services;

(C) use state-employed clinical resource management coordinators to work collaboratively with community partners, including designated agencies, hospitals, individuals with mental ~~health~~ conditions or psychiatric disabilities, and peer groups, to ensure access to services for individuals in need. Clinical resource management coordinators or their designees shall be available 24 hours a day, seven days a week to assist emergency service clinicians in the field to access necessary services;

* * *

(J) ensure that individuals under the custody of the ~~commissioner~~ Commissioner being served in designated hospitals, intensive residential recovery facilities, and the secure residential recovery facility shall have access to a mental health patient representative. The patient representative shall advocate for ~~patients~~ persons receiving services and shall also foster communication between ~~patients~~ persons receiving services and health care providers. The ~~department of mental health~~ Department of Mental Health shall contract with an independent, peer-run organization to staff the full-time equivalent of a ~~patient~~ representative of persons receiving services.

* * *

§ 7255. SYSTEM OF CARE

The ~~commissioner of mental health~~ Commissioner of Mental Health shall coordinate a geographically diverse system and continuum of mental health care throughout the state that shall include at least the following:

(1) comprehensive and coordinated community services, including prevention, to serve children, families, and adults at all stages of ~~mental illness~~ mental condition or psychiatric disability;

(2) peer services, which may include:

(A) a warm line;

(B) peer-provided transportation services;

(C) peer-supported crisis services; and

(D) peer-supported hospital diversion services;

(3) alternative treatment options for individuals seeking to avoid or reduce reliance on medications;

(4) recovery-oriented housing programs;

(5) intensive residential recovery facilities;

(6) appropriate and adequate psychiatric inpatient capacity for voluntary patients;

(7) appropriate and adequate psychiatric inpatient capacity for involuntary inpatient treatment services, including ~~patients~~ persons receiving treatment through court order from a civil or criminal court; and

(8) a secure residential recovery facility.

§ 7256. REPORTING REQUIREMENTS

Notwithstanding 2 V.S.A. § 20(d), the ~~department of mental health~~ Department of Mental Health shall report annually on or before January 15 to the ~~senate committee on health and welfare~~ Senate Committee on Health and Welfare and the ~~house committee on human services~~ House Committee on Human Services regarding the extent to which individuals with ~~mental health conditions~~ a mental condition or psychiatric disability receive care in the most integrated and least restrictive setting available. The report shall address:

(1) Utilization of services across the continuum of mental health services;

(2) Adequacy of the capacity at each level of care across the continuum of mental health services;

(3) Individual experience of care and satisfaction;

(4) Individual recovery in terms of clinical, social, and legal outcomes; and

(5) Performance of the ~~state's~~ State's mental health system of care as compared to nationally recognized standards of excellence.

§ 7257. REPORTABLE ADVERSE EVENTS

An acute inpatient hospital, an intensive residential recovery facility, a designated agency, or a secure residential facility shall report to the ~~department of mental health~~ Department of Mental Health instances of death or serious bodily injury to individuals with a mental ~~health~~ condition or psychiatric disability in the custody of the ~~commissioner~~ Commissioner.

* * *

Sec. 102. 18 V.S.A. § 7304 is amended to read:

§ 7304. PERSONS NOT HOSPITALIZED

The ~~board~~ Board shall have general jurisdiction of ~~the mentally retarded and the mentally ill~~ persons with an intellectual disability or mental illness who have been discharged from a hospital or training school by authority of the ~~board~~ Board. It shall also have jurisdiction of ~~the mentally ill and mentally retarded~~ persons with a mental illness or intellectual disability of the ~~state~~ State not hospitalized, so far as concerns their physical and mental condition and their care, management, and medical treatment and shall make such orders therein as each case duly brought to its attention requires.

Sec. 103. 18 V.S.A. § 7314 is amended to read:

§ 7314. RECIPROCAL AGREEMENTS

The ~~board~~ Board may enter into reciprocal agreements with corresponding state agencies of other states regarding the interstate transportation or transfer of persons with ~~mental illness or retardation~~ a psychiatric or intellectual disability and arrange with the proper officials in this ~~state~~ State for the acceptance, transfer, and support of residents of this ~~state~~ State who are temporarily detained or receiving ~~mental~~ care in public institutions of other states in accordance with the terms of such agreements.

Sec. 104. 18 V.S.A. chapter 177 is amended to read:

CHAPTER 177. THE COMMISSIONER OF MENTAL HEALTH

§ 7401. POWERS AND DUTIES

Except insofar as this part of this title specifically confers certain powers, duties, and functions upon others, the ~~commissioner~~ Commissioner shall be charged with its administration. The ~~commissioner~~ Commissioner may:

* * *

(14) plan and coordinate the development of community services which are needed to assist children and adolescents with or at risk for a severe emotional disturbance and individuals with ~~mental illness~~ a psychiatric disability or mental condition to become as financially and socially independent as possible. These services shall consist of residential, vocational, rehabilitative, day treatment, inpatient, outpatient, and emergency services, as well as client assessment, prevention, family, and individual support services, and such other services as may be required by federal law or regulations;

(15) contract with community mental health centers to assure that children and adolescents with or at risk for a severe emotional disturbance or individuals with ~~mental illness~~ a psychiatric disability or mental condition can receive information, referral, and assistance in obtaining those community services which they need and to which they are lawfully entitled;

* * *

§ 7402. RECORDS AND REPORTS

The ~~commissioner~~ Commissioner shall keep records of all commitments and admissions to a hospital and shall secure compliance with the laws relating thereto. The ~~commissioner~~ Commissioner shall report biennially to the ~~governor~~ Governor and the ~~general assembly~~ General Assembly on the condition of hospitals, on the physical and medical treatment of patients therein, on the need for community services to former patients and ~~those mentally ill~~ persons with a mental condition or psychiatric disability not hospitalized and on any other matters the ~~commissioner~~ Commissioner deems advisable.

* * *

Sec. 105. [Deleted.]

Sec. 106. [Deleted.]

Sec. 107. [Deleted.]

Sec. 108. [Deleted.]

Sec. 109. [Deleted.]

Sec. 110. [Deleted.]

Sec. 111. 18 V.S.A. chapter 204 is amended to read:

CHAPTER 204. STERILIZATION

§ 8705. STERILIZATION; POLICY

(a) It is the policy of the ~~state~~ State of Vermont to allow voluntary and involuntary sterilizations of ~~mentally retarded~~ adults with an intellectual

disability under circumstances which will ensure that the best interests and rights of such persons are fully protected. In accordance with this policy, ~~no mentally retarded~~ a person with an intellectual disability, as defined by ~~section~~ subdivision 7101(12) of this title, may not be sterilized without his or her consent unless there is a prior hearing in the superior court as provided in this chapter. ~~No mentally retarded~~ A person with an intellectual disability under the age of ~~eighteen~~ 18 may not be sterilized.

(b) Sterilization is defined to mean a surgical procedure, the purpose of which is to render an individual incapable of procreating.

§ 8706. VOLUNTARY STERILIZATION

Any ~~mentally retarded~~ person with an intellectual disability over the age of ~~eighteen~~ 18, who does not have ~~either~~ a guardian ~~or protective services worker~~ with the power to consent to nonemergency surgery, may obtain a voluntary sterilization subject to all of the following preconditions:

(1) the ~~mentally retarded~~ person with an intellectual disability has freely, voluntarily, and without coercion~~,~~ personally requested a physician to perform a sterilization; and

(2) the ~~mentally retarded~~ person with an intellectual disability has given informed consent to the sterilization in that:

(A) the physician has provided a complete explanation concerning:

(i) the nature and irreversible consequences of a sterilization procedure~~,~~; and

(ii) the availability of alternative contraceptive measures;

(B) the physician is satisfied that the consent is based upon an understanding of that information and that before the operation is undertaken the physician personally obtains evidence of the person's retention of that understanding, not less than 10 days following the original explanation;

(C) the consent is in writing and signed by the ~~mentally retarded~~ person with an intellectual disability;

(3) the ~~mentally retarded~~ person with an intellectual disability has been informed and is aware that his or her consent may be withdrawn at any time prior to the operation;

(4) the physician has reviewed medical records and psychological assessments of the ~~mentally retarded~~ person with an intellectual disability.

§ 8707. COMPETENCY TO CONSENT; PROCEDURE

(a)(1) If the physician from whom the sterilization has been sought refuses to perform the sterilization because he or she is not satisfied that the ~~mentally retarded~~ person with an intellectual disability has the ability to give the informed consent required by section 8706 of this title, the ~~mentally retarded~~ person with an intellectual disability may file a petition in superior court for a determination of the person's competency to consent to the sterilization.

(2) The petition shall set forth the information required by ~~section~~ subdivisions 8709(b)(1)–(5) of this title.

(3) Upon filing of the petition, the court shall appoint a qualified ~~mental retardation~~ developmental disabilities professional as defined in ~~section~~ subdivision 8821(8) of this title to examine the ~~mentally retarded~~ person with an intellectual disability and present evidence to the court as to that person's ability to give informed consent.

(4) The hearing shall be limited to a determination of the ~~mentally retarded person's~~ person with an intellectual disability's competency to consent to a sterilization, and shall be conducted in accordance with sections 8709(c), 8710, and 8711(a) and (b) of this title.

(b)(1) If, after the hearing, the court determines on the basis of clear and convincing proof that the ~~mentally retarded~~ person with an intellectual disability is competent to consent and has given the required consent, it shall order that a voluntary sterilization may be performed.

(2) If the court determines that the ~~mentally retarded~~ person with an intellectual disability is not competent to give consent it shall inform the person that he or she has the right to petition the court for an involuntary sterilization pursuant to the requirements of section 8708 of this title.

§ 8708. INVOLUNTARY STERILIZATION

(a) Any sterilization sought on behalf of a ~~mentally retarded~~ person with an intellectual disability or requested by any person denied a voluntary sterilization by section 8707 of this title shall be considered an involuntary sterilization.

(b) Involuntary sterilizations may be performed only after a hearing in the superior court pursuant to sections 8709-8712 of this title. For the purposes of involuntary sterilization proceedings under this chapter, the ~~mentally retarded~~ person with an intellectual disability subject to a petition for sterilization shall be defined as the respondent.

§ 8709. PETITION AND NOTICE OF HEARING

(a) Any ~~mentally retarded~~ adult with an intellectual disability, his or her parent, private guardian, near relative, as defined in section 8821 of this title, or physician, may file a petition in the superior court alleging that the person ~~is mentally retarded~~ has an intellectual disability and is in need of sterilization.

* * *

§ 8711. CONDUCT OF HEARING

* * *

(c) The court shall determine the following:

(1) whether the respondent ~~is mentally retarded~~ has an intellectual disability;

(2) whether the respondent is competent to give informed consent as defined in section 8706 of this title; and

(3) if the court determines that the respondent is not competent to give informed consent, whether a sterilization is in the best interests of the respondent by considering the following factors:

* * *

(d) The court shall order the ~~commissioner of disabilities, aging, and independent living~~ Commissioner of Disabilities, Aging, and Independent Living to arrange for the preparation of a comprehensive medical, psychological, and social evaluation of the person through developmental disability agencies affiliated with the ~~department~~ Department. The comprehensive evaluation shall be completed within 30 days of the receipt of the petition. The medical report shall be prepared by a physician and shall describe the physical condition of the respondent and the availability of the effective alternative contraceptive measures to meet the needs of the person. The psychological report shall include a diagnosis of the person's intellectual ability and social functioning. The social report shall be prepared by a qualified ~~mental retardation~~ developmental disabilities professional, and shall describe the respondent's developmental and social functioning.

* * *

§ 8712. FINDINGS; ORDER

(a) The court shall prepare written findings of fact and state separately its conclusions of law in all cases.

(b) If upon completion of the hearing and consideration of the record, the court finds that the ~~mentally retarded~~ person with an intellectual disability is

competent to give informed consent and no such consent has been given, no sterilization may be ordered.

(c) If upon completion of the hearing and consideration of the record, the court finds that the person is incompetent to consent and that the sterilization is in the best interests of the person, it shall order that an involuntary sterilization may be performed.

* * *

§ 8716. JURISDICTION

The superior court shall have exclusive original jurisdiction over all proceedings brought under this chapter. Proceedings under this chapter shall be commenced in the superior court of the county in which the ~~mentally retarded~~ person with an intellectual disability resides.

Sec. 112. 18 V.S.A. § 8722(2) is amended to read:

(2) "Developmental disability" means a severe, chronic disability of a person that is manifested before the person reaches the age of 18 and results in:

(A) ~~mental retardation,~~ intellectual disability, autism, or pervasive developmental disorder; and

(B) deficits in adaptive behavior at least two standard deviations below the mean for a normative comparison group.

Sec. 113. 18 V.S.A. § 8731(d) is amended to read:

(d) All staff and all family-directed respite workers shall be trained in the requirements of 33 V.S.A. chapter 69, relating to reports of abuse, neglect, and exploitation of adults who are elderly ~~and disabled adults~~ or have a disability, and the requirements of 33 V.S.A. chapter 49, subchapter 2, relating to reports of suspected abuse or neglect of children.

Sec. 114. 18 V.S.A. chapter 206 is amended to read:

CHAPTER 206. CARE FOR ~~MENTALLY RETARDED~~ PERSONS WITH INTELLECTUAL DISABILITIES

§ 8820. PURPOSE

The purpose of this chapter is to establish procedures for determining appropriate care for ~~mentally retarded~~ persons with an intellectual disability in Vermont.

* * *

Subchapter 3. Judicial Proceeding; Persons with ~~Mental Retardation~~ an Intellectual Disability Who Present a Danger of Harm to Others

§ 8839. DEFINITIONS

As used in this subchapter~~,~~:

(1) "Danger of harm to others" means the person has inflicted or attempted to inflict serious bodily injury to another or has committed an act that would constitute a sexual assault or lewd or lascivious conduct with a child.

(2) "Designated program" means a program designated by the ~~commissioner~~ Commissioner as adequate to provide in an individual manner appropriate custody, care, and habilitation to persons with ~~mental retardation~~ intellectual disabilities receiving services under this subchapter. Placement in the Brandon Training School may only be accomplished through the procedures set forth in subchapter 1 of chapter 206 of this title.

(3) "Person in need of custody, care, and habilitation" means:

(A) a ~~mentally retarded~~ person with an intellectual disability;

(B) who presents a danger of harm to others; and

(C) for whom appropriate custody, care, and habilitation can be provided by the commissioner in a designated program.

* * *

Sec. 115. 18 V.S.A. chapter 207 is amended to read:

CHAPTER 207. COMMUNITY MENTAL HEALTH AND DEVELOPMENTAL SERVICES

§ 8901. PURPOSE

The purpose of this chapter is to expand community mental health and developmental disability services; to encourage participation in such a program by persons in local communities; to obtain better understanding of the need for community mental health and developmental services; to authorize funding for the program by state aid, local financial support, and direct payment by ~~clients~~ people who receive services who have the ability to pay and to provide services to ~~mentally ill persons, developmentally disabled~~ persons with a mental condition or psychiatric disability, persons with a developmental disability, and children or adolescents with a severe emotional disturbance.

* * *

§ 8907. DESIGNATION OF AGENCIES TO PROVIDE MENTAL HEALTH AND DEVELOPMENTAL DISABILITY SERVICES

(a) Except as otherwise provided in this chapter, the ~~commissioner of mental health and the commissioner of disabilities, aging, and independent living~~ Commissioners of Mental Health and of Disabilities, Aging, and Independent Living shall, within the limits of funds designated by the legislature for this purpose, ensure that community services to ~~mentally ill and developmentally disabled~~ persons with a mental condition or psychiatric disability and persons with a developmental disability throughout the ~~state~~ State are provided through designated community mental health agencies. The ~~commissioners~~ Commissioners shall designate public or private nonprofit agencies to provide or arrange for the provision of these services.

(b) Within the limits of available resources, each designated community mental health or developmental disability agency shall plan, develop, and provide or otherwise arrange for those community mental health or developmental disability services that are not assigned by law to the exclusive jurisdiction of another agency and which are needed by and not otherwise available to persons with ~~mental illness or developmental disabilities~~ a mental condition or psychiatric disability or a developmental disability or children and adolescents with a severe emotional disturbance in accordance with the provisions of 33 V.S.A. chapter 43 ~~of Title 33~~ who reside within the geographic area served by the agency.

* * *

§ 8909. BOARDS OF DIRECTORS OF NONPROFIT CORPORATIONS DESIGNATED AS COMMUNITY MENTAL HEALTH AND DEVELOPMENTAL DISABILITY AGENCIES

* * *

(b) The ~~board~~ Board shall direct the development of the local community services plan and shall consult with the ~~commissioners~~ Commissioners, with consumers, with other organizations representing ~~mentally ill~~ persons receiving services, persons with developmental disabilities, and children and adolescents with a severe emotional disturbance, and with other governmental or private agencies that provide community services to the ~~clients~~ people served by the agency to determine the needs of the community for mental health and developmental disability services, and the priority need for service. The plan shall encourage utilization of existing agencies, professional personnel, and public funds at both state and local levels in order to improve the effectiveness of mental health and developmental disability services and to prevent unnecessary duplication of expenditures.

* * *

§ 8911. POWERS OF THE COMMISSIONERS

(a) If the ~~commissioner~~ Commissioners after discussion with the board of a community mental health and developmental disability agency determine that the local community services plan required by section 8908 of this chapter is inadequate to meet the needs of persons with ~~mental illness~~ a mental condition or psychiatric disability or with developmental disabilities or children and adolescents with a severe emotional disturbance in accordance with the provisions of 33 V.S.A. chapter 43 ~~of Title 33~~ in the area served by a mental health and developmental disability agency or that an agency has, for reasons other than lack of resources, failed or refused to implement an otherwise adequate plan, the ~~commissioners~~ Commissioners shall take one or more of the following steps:

* * *

§ 8912. CONTRACTS WITH NONDESIGNATED AGENCIES

The ~~commissioners~~ Commissioners may enter into agreements with local community mental health and developmental disability agencies or with any public or private agency for the purpose of establishing specialized services which are needed by persons with ~~mental illness~~ a mental condition or psychiatric disability or with developmental disabilities or children and adolescents with a severe emotional disturbance and are not available from designated community mental health agencies.

* * *

Sec. 116. 18 V.S.A. § 9302(1) is amended to read:

(1) "Person with developmental disabilities" means:

(A) a person with a severe, chronic disability that must arise before the person reaches the age of 18, and results in:

(i) ~~mental retardation,~~ intellectual disability, autism, or pervasive developmental disorder; and

(ii) deficits in adaptive behavior at least two standard deviations below the mean for a normative comparative comparison group; or

(B) a person with a developmental disability who was receiving services on July 1, 1996.

Sec. 117. 18 V.S.A. § 9373(9) is amended to read:

(9) "Health service" means any treatment or procedure delivered by a health care professional to maintain an individual's physical or mental health

or to diagnose or treat an individual's physical or mental ~~health~~ condition, including services ordered by a health care professional, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

Sec. 118. 19 V.S.A. § 905a is amended to read:

§ 905a. CURB CUTS AND RAMPS

All newly constructed intersections or curbs in the ~~state~~ State used by pedestrians shall be constructed with curb cuts or ramps which enable persons with ambulatory ~~handicaps~~ disabilities to have access to the sidewalk. Specifications for design of curb cuts or ramps shall be in accordance with the American National Standards Institute. All curb cuts or ramps in the ~~state~~ State shall be of a uniform design where practical.

Sec. 119. 19 V.S.A. § 922a is amended to read:

§ 922a. WARNING SIGNS DESIGNATING ~~HANDICAPPED~~ ERSONS WITH A DISABILITY

Signs designating the presence of a ~~disabled individual~~ person with a disability shall be erected only with the consent of the individual or guardian.

Sec. 120. 20 V.S.A. § 46 is amended to read:

§ 46. DISASTER RELIEF WORKERS FUND; HEALTH CARE PROVIDERS; REIMBURSEMENT

(a) The ~~disaster relief workers fund~~ Disaster Relief Workers Fund is established in the ~~state treasury~~ State Treasury, and shall be managed in accordance with the provisions of 32 V.S.A. chapter 7, subchapter 5 ~~of chapter 7 of Title 32~~. The ~~fund~~ Fund is established for the purpose of providing pay reimbursement to employers of certain public or private health care providers who perform ~~behavioral~~ mental health disaster relief services.

* * *

(e) For ~~behavioral~~ mental health care relief services, the ~~commissioner of developmental and mental health services~~ Commissioner of Mental Health or a director of a regional mental health center may make timely applications to any and all appropriate federal or other grant programs that provide money for disaster relief or homeland security services, including the Crisis Counseling Training and Assistance Program. Any monies awarded from these sources for the purposes authorized in subsection (b) of this section shall be deposited into the ~~disaster relief workers fund~~ Disaster Relief Workers Fund. The ~~commissioner of developmental and mental health services~~ Commissioner of

Mental Health shall supervise the administration of ~~behavioral~~ mental health care reimbursements under this act.

* * *

Sec. 121. 20 V.S.A. § 2063(b)(1) is amended to read:

(1) Requests made by any individual, organization, or governmental body doing business in Vermont which has one or more individuals performing services for it within this ~~state~~ State and which is a qualified entity that provides care or services to children, ~~the~~ persons who are elderly, or persons with disabilities as defined in 42 U.S.C. § 5119c.

Sec. 122. 20 V.S.A. § 2730(a)(1)(A) is amended to read:

(1)(A) a building owned or occupied by a public utility; hospital; school; house of worship; convalescent center or home for ~~the aged, infirm, or disabled~~ persons who are elderly, have an infirmity, or a disability; nursery; kindergarten; or child care;

Sec. 123. 20 V.S.A. § 2900(2) is amended to read:

(2) "Ambulatory disability" means an impairment which prevents or impedes walking. A person shall be considered to have an ambulatory disability if the person:

* * *

(F) is severely limited in ability to walk due to ~~an arthritic,~~ having arthritis, or a neurological~~,~~ or orthopedic condition.

Sec. 124. 20 V.S.A. § 2904 is amended to read:

§ 2904. PARKING SPACES

Any parking facility on the premises of a public building shall contain at least the number of parking spaces required by ADAAG standards, and in any event at least one parking space, as designated parking for individuals with ambulatory disabilities or ~~blind~~ individuals who are blind patronizing the building. The space or spaces shall be accessibly and proximately located to the building, and, subject to 23 V.S.A. § 304a(d), shall be provided free of charge. Consideration shall be given to the distribution of spaces in accordance with the frequency and persistence of parking needs. Such spaces shall be designated by a clearly visible sign that cannot be obscured by a vehicle parked in the space, by the international symbol of access and, where appropriate, by the words "van accessible"; shall otherwise conform to ADAAG standards; and shall be in accordance with the standards established under section 2902 of this title.

Sec. 125. 20 V.S.A. § 3072(b) is amended to read:

(b) An applicant for a license shall be entitled to the issuance thereof upon the submission of evidence, under oath, which satisfies the ~~commissioner of public safety~~ Commissioner of Public Safety that the applicant:

(1) Has a reasonable and lawful purpose for possessing, purchasing, storing, using, transporting, giving, transferring, or selling explosives; and

(2) Has not been convicted of an offense the maximum term of imprisonment of which exceeds one year with the seven years preceding the application; and

(3) Has not been adjudged ~~insane or mentally~~ incompetent to stand trial or not guilty by reason of insanity, or has not been indicted by reason of insanity pursuant to 13 V.S.A. §§ 4817, 4818, or 4819 by a court of competent jurisdiction in this or any other jurisdiction; and

(4) Demonstrates that he or she is competent to possess, purchase, store, use, transport, give, transfer, or sell the explosives as the case may be.

Sec. 126. 21 V.S.A. § 201(a) is amended to read:

(a) It is the policy of the ~~state~~ State of Vermont that in their employment all persons shall be provided by their employers with safe and healthful working conditions at their work place, and that insofar as practicable ~~no~~ an employee shall ~~suffer~~ not experience diminished health, functional capacity, or life expectancy as a result of his or her work experience.

Sec. 127. 21 V.S.A. § 436 is amended to read:

§ 436. EMPLOYMENT OF CHILDREN UNDER 14 YEARS

A child under 14 years of age shall not be employed~~,~~ or permitted ~~or suffered~~ to work in any gainful occupation unless the occupation has been approved by the ~~commissioner~~ Commissioner, by rule, to be appropriate for a child under the age of 14, and the employment occurs during vacation and before and after school. The provisions of this section shall not apply to:

* * *

Sec. 128. 21 V.S.A. § 437 is amended to read:

§ 437. EMPLOYMENT OF CHILDREN; SPECIAL RESTRICTIONS; HOURS FOR CHILDREN UNDER 16 YEARS

(a) Except as provided in section 438 of this title, a child shall not be employed~~,~~ or permitted ~~or suffered~~ to work at or on any occupations, employment, operations, or machines determined to be hazardous, by rule, by the U.S. Secretary of Labor or the ~~commissioner~~ Commissioner.

(b) A child under 16 years of age shall not be employed more than eight hours in any one day or more than 40 hours in any one week.

Sec. 129. 21 V.S.A. § 495(a) is amended to read:

(a) It shall be unlawful employment practice, except where a bona fide occupational qualification requires persons of a particular race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, or physical or mental condition:

(1) For any employer, employment agency, or labor organization to discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, or age or against a qualified ~~disabled~~ individual with a disability;

* * *

(3) For any employment agency to fail or refuse to classify properly or refer for employment or to otherwise discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, or age or against a qualified ~~disabled~~ individual with a disability;

(4) For any labor organization, because of race, color, religion ancestry, national origin, sex, sexual orientation, gender identity, place of birth, or age to discriminate against any individual or against a qualified ~~disabled~~ individual with a disability or to limit, segregate, or qualify its membership;

* * *

Sec. 130. 21 V.S.A. § 495d is amended to read:

§ 495d. DEFINITIONS

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

* * *

(7) "Physical or mental impairment" means:

(A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine;

(B) any mental or psychological disorder, such as ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or ~~mental illness~~ mental condition or psychiatric disability, and specific learning disabilities;

(C) the term "physical or mental impairment" includes ~~but is not limited to such~~ diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

* * *

Sec. 131. 21 V.S.A. § 497e(b) is amended to read:

(b) The ~~chair~~ Chair or his or her designated representative may authorize the sale of products which relate to ~~handicapped~~ Vermonters with disabilities and the revenue therefrom shall be placed in the account of the ~~governor's committee on employment of people with disabilities~~ Governor's Committee on Employment of People with Disabilities.

Sec. 132. 21 V.S.A. § 501(1) is amended to read:

(1) "~~Blind~~ Person who is blind or visually impaired ~~person~~" means a person whose visual acuity with correction is no better than 20/60, or whose field of vision subtends an angle of no greater than 20 degrees.

Sec. 133. 21 V.S.A. § 502 is amended to read:

§ 502. DUTIES

The ~~division~~ Division shall have the authority to:

* * *

(3) issue licenses to person who are blind or visually impaired ~~persons~~ for the operation of vending facilities on state property;

(4) provide vending facility equipment and an adequate initial stock of suitable articles to licensed persons who are blind or visually impaired ~~persons~~;

(5) provide the necessary training and supervision to licensed persons who are blind or visually impaired ~~persons~~;

* * *

Sec. 134. 21 V.S.A. § 504 is amended to read:

§ 504. INCOME FROM VENDING FACILITIES AND MACHINES

(a) All net income from a vending facility on state property shall accrue to the person who is blind or visually impaired ~~person~~ licensed to operate that facility.

(b) All net income from vending machines not placed within vending facilities on state property shall accrue to the ~~division~~ Division.

(c) Income which accrues to the ~~division~~ Division under this subchapter shall be used to:

(1) maintain or enhance the vending facilities program;

(2) provide benefit programs, including~~, but not limited to,~~ health insurance or pension plans for licensed persons who are blind or visually impaired ~~persons~~ who operate vending facilities;

(3) provide vocational rehabilitation services for persons who are blind or visually impaired.

Sec. 135. 21 V.S.A. § 505 is amended to read:

§ 505. VENDING FACILITIES; OPERATION BY OTHER THAN PERSON WHO IS BLIND OR VISUALLY IMPAIRED ~~PERSON~~

Where vending facilities on state property are operated by those other than persons who are blind or visually impaired ~~persons~~ on July 1, 1984, the contracts of these vending facilities may be renewed or extended. A person who does not intend to renew or extend such a contract shall so notify the ~~director of the division~~ Director of the Division in a timely manner. Within 30 days of such notice, the ~~director~~ Director shall determine whether the vending facility is suited for operation by a person who is blind ~~and~~ or visually impaired ~~person~~. If the ~~director~~ Director determines that the facility is suited for operation by such person, preference in operation of the facility shall be given to a person who is blind or visually impaired ~~person~~.

Sec. 136. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

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

* * *

(11) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(E) In the case of a firefighter, as defined in 20 V.S.A. § 3151(3) and (4), who ~~suffers death~~ dies or has a disability from a cancer listed in subdivision (iv) of this subdivision (E), the firefighter shall be presumed to have ~~suffered~~ had the cancer as a result of exposure to conditions in the line of duty, unless it is shown by a preponderance of the evidence that the cancer was caused by non-service-connected risk factors or non-service-connected exposure, provided:

* * *

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

* * *

(H) With the approval of the ~~commissioner~~ Commissioner, a corporation or a limited liability company (L.L.C.) may elect to file exclusions from the provisions of this chapter. A corporation or an L.L.C. may elect to exclude up to four executive officers or managers or members from coverage requirements under this chapter. If all officers of the corporation or all managers or members of an L.L.C. make such election, receive approval, and the business has no employees, the corporation or L.L.C. shall not be required to purchase workers' compensation coverage. If after election, the officer, manager, or member ~~suffers~~ experiences a personal injury and files a claim under this chapter, the employer shall have all the defenses available in a personal injury claim. However, this election shall not prevent any other individual, other than the individual excluded under this section, found to be an employee of the corporation or L.L.C. to recover workers' compensation from either the corporation, L.L.C., or the statutory employer.

* * *

Sec. 137. 21 V.S.A. § 644(a) is amended to read:

(a) In case of the following injuries, the disability caused thereby shall be deemed total and permanent:

* * *

(6) An injury to the skull resulting in incurable ~~imbecility or~~ ~~insanity~~ severe traumatic brain injury causing permanent and severe cognitive, physical, or psychiatric disabilities.

Sec. 138. 21 V.S.A. § 661 is amended to read:

§ 661. LIMITATION OF TIME AS REGARDS MINORS AND ~~INSANE~~ PERSONS WITH A MENTAL CONDITION OR PSYCHIATRIC DISABILITY

Limitation of time provided by this chapter shall not run as against any person who is ~~mentally~~ incompetent or a minor dependent so long as such person has no guardian.

Sec. 139. 21 V.S.A. § 1301(6)(C)(vii) is amended to read:

(vii) For the purposes of subdivisions (6)(A)(ix) and (6)(A)(x) of this section, the term "employment" does not include service performed:

* * *

(IV) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is ~~impaired by age or physical or mental deficiency~~ limited due to being elderly or having a disability or injury or providing remunerative work for individuals who because of ~~their impaired physical or mental capacity~~ having a disability cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or

* * *

Sec. 140. 22 V.S.A. § 605 is amended to read:

§ 605. DUTIES AND FUNCTIONS OF THE DEPARTMENT OF LIBRARIES

The duties and functions of the ~~department of libraries~~ Department of Libraries shall be to provide, administer, and maintain:

* * *

(6) All libraries in state correctional institutions and all state institutions for the treatment of ~~the mentally ill and mentally handicapped~~ persons with a mental condition or psychiatric disability and persons with an intellectual disability.

(7) Reading materials for ~~the~~ persons who are blind and persons with a ~~physically handicapped~~ physical disability.

Sec. 141. 23 V.S.A. § 4(15) is amended to read:

(15) "Jitney" shall include any motor vehicle, not designated for the carrying of merchandise or freight, advertised or regularly used for carrying passengers for hire, but not operating over a fixed route, including motor vehicles operated for hire in connection with a livery business, but shall not

include any such vehicle which the owner thereof uses in an emergency for such purpose, nor one which an employer uses to transport his or her employees to and from their work, nor one which is used at least 75 percent of the time in the transportation of ~~school children~~ schoolchildren or under authority granted to a school board under 16 V.S.A. § 562 to transport other than ~~school children~~ schoolchildren, nor one which is used in the transfer of ~~United States~~ U.S. mail on a star route, so-called, nor one which is used to transport persons who are elderly ~~and handicapped persons~~ or have a disability for whom special transportation programs are designed and funded by state and federal authority through public and private, nonprofit social service agencies; nor shall it apply to cooperative use transportation.

Sec. 142. 23 V.S.A. § 304a is amended to read:

§ 304a. SPECIAL REGISTRATION PLATES AND PLACARDS FOR PEOPLE WITH DISABILITIES

* * *

(b) Special registration plates or removable windshield placards, or both, shall be issued by the Vermont ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles. The placard shall be issued without a fee to a person who is blind or has an ambulatory disability. One set of plates shall be issued without additional fees for a vehicle registered or leased to a person who is blind or has an ambulatory disability. The ~~commissioner~~ Commissioner shall issue these placards or plates under rules adopted by him or her after proper application has been made to the ~~commissioner~~ Commissioner by any person residing within the ~~state~~ State of Vermont. Application forms shall be available on request at the ~~department of motor vehicles~~ Department of Motor Vehicles.

* * *

(4) An applicant for a ~~special handicapped~~ registration plate or placard for persons with disabilities may request the ~~civil division of the superior court~~ Civil Division of the Superior Court in the county in which he or she resides to review a decision by the ~~commissioner~~ Commissioner to deny his or her application for a special registration plate or placard.

* * *

(c) Vehicles with special registration plates or removable windshield placards from any state or which have a ~~handicapped~~ parking card for persons with disabilities issued by the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles may use the special parking spaces when the card or placard is displayed in the lower right side of the windshield or the plate is mounted as

provided in section 511 of this title or as provided by the law of the state where the vehicle is registered.

(d) A person who has an ambulatory disability or an individual transporting a person who is blind shall be permitted to park and to park without fee for at least 10 continuous days in a parking space or area which is restricted as to the length of time parking is permitted or where parking fees are assessed, except that this minimum period shall be 24 continuous hours for parking in a state- or municipally operated parking garage. This section shall not apply to spaces or areas in which parking, standing, or stopping of all vehicles is prohibited by law or by any parking ban, or which are reserved for special vehicles. As a condition to this privilege, the vehicle shall display the ~~special handicapped~~ registration plate or placard for persons with disabilities issued by the ~~commissioner~~ Commissioner or a special registration license plate or placard issued by any other jurisdiction.

* * *

(f) Persons who ~~are temporarily disabled with an~~ have a temporary ambulatory disability may apply for a temporary removable windshield placard to the ~~commissioner~~ Commissioner on a form prescribed by him or her. The placard shall be valid for a period of up to six months and displayed as required under the provisions of subsection (c) of this section. The application shall be signed by a licensed physician, certified physician's assistant, or licensed advanced practice registered nurse. The validation period of the temporary placard shall be established on the basis of the written recommendation from a licensed physician, certified physician's assistant, or licensed advanced practice registered nurse. The ~~commissioner~~ Commissioner shall promulgate rules to implement the provisions of this subsection.

Sec. 143. 23 V.S.A. § 311(c) is amended to read:

(c) The ~~commissioner~~ Commissioner may permit the operation of a specially equipped motor vehicle, not otherwise registerable, by a ~~handicapped~~ person with a disability who holds an operator's license permitting the operation of that vehicle.

Sec. 144. 23 V.S.A. § 671(a) is amended to read:

(a) In his or her discretion, the ~~commissioner~~ Commissioner may suspend indefinitely or for a definite time~~,~~ the license of an operator or the right of an unlicensed person to operate a motor vehicle upon not less than five days' notice. He or she may order the license delivered to him or her, whenever he or she has reason to believe that the holder thereof is ~~an improper or~~ a person who is incompetent ~~person~~ to operate a motor vehicle, or is operating improperly so as to endanger the public. If, upon receipt of such notice, the

person so notified shall request a hearing, such suspension shall not take effect unless the ~~commissioner~~ Commissioner, after hearing, determines that the suspension is justified. No less than six months from the date of suspension and each six months thereafter, a person upon whom such suspension has been imposed may apply for reinstatement of his or her license or right to operate or for a new license. Upon receipt of such application, the ~~commissioner~~ Commissioner shall thereupon cause an investigation to be made and, if so requested, conduct a hearing to determine whether such suspension should be continued in effect.

Sec. 145. 23 V.S.A. § 1025(c) is amended to read:

(c) Traffic and control signals at intersections with exclusive pedestrian walk cycles shall be of sufficient duration to allow a pedestrian to leave the curb and travel across the roadway before opposing vehicles receive a green light. Determination of the length of the signal shall take into account the circumstances of persons with ambulatory ~~handicaps~~ disabilities.

Sec. 146. 23 V.S.A. § 1057 is amended to read:

§ 1057. DUTY TOWARD ~~BLIND~~ PERSONS WHO ARE BLIND

(a) Whenever a pedestrian is crossing or attempting to cross a public street or highway, guided by a guide dog or carrying in a raised or extended position a cane or walking stick, white in color or white tipped with red, the driver of every vehicle approaching the intersection, or place where the pedestrian is attempting to cross, shall bring his or her vehicle to a full stop before arriving at the intersection or place of crossing and before proceeding shall take such precautions as may be necessary to avoid injuring the pedestrian.

(b) It is unlawful for any person, unless totally or partially blind or otherwise ~~incapacitated~~ having a severe visual disability, while on any public street or highway, to carry in a raised or extended position a cane or walking stick which is white in color or white tipped with red.

(c) Nothing in this section deprives any person who is totally or partially blind or otherwise ~~incapacitated person~~ has a severe visual disability, not carrying a cane or walking stick and not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing streets or highways, and the failure of any person who is totally or partially blind or otherwise ~~incapacitated person~~ has a severe visual disability to carry a cane or walking stick, or to be guided by a guide dog upon streets, highways, or sidewalks within this state, does not constitute and is not evidence of contributory negligence.

Sec. 147. 23 V.S.A. § 1749(b) is amended to read:

(b) Notwithstanding subsection (a) of this section, a person violating a ~~handicapped~~ parking ordinance for persons with disabilities may be fined not more than $25.00 for each offense.

Sec. 148. 23 V.S.A. § 2502(a)(3) is amended to read:

(3) Four points assessed for:

(A) § 1012. Failure to obey enforcement officer;

(B) § 1013. Authority of enforcement officers;

(C) § 1051. Failure to yield to pedestrian;

(D) § 1057. Failure to yield to ~~blind~~ persons who are blind;

Sec. 149. 24 V.S.A. § 290(b) is amended to read:

(b) Full-time deputy sheriffs whose primary responsibility is transportation of prisoners and ~~mentally ill~~ persons with a mental condition or psychiatric disability shall be paid by the ~~state~~ State of Vermont. The appointment of such deputies and their salary shall be approved by the ~~governor,~~ Governor or his or her designee. The ~~executive committee~~ Executive Committee of the Vermont ~~sheriffs association~~ Sheriffs Association and the ~~executive director~~ Executive Director of the ~~department of state's attorneys and sheriffs~~ Department of State's Attorneys and Sheriffs shall jointly have authority for the assignment of position locations in the counties of state-paid deputy sheriffs and shall review the county location assignments periodically for efficient use of resources.

Sec. 150. 24 V.S.A. § 961(a) is amended to read:

(a) When a town officer resigns his or her office, or has been removed therefrom, or dies, or ~~becomes insane~~ becomes unable to perform his or her duties due to a mental condition or psychiatric disability, or removes from town, such office shall become vacant. Notice of this vacancy shall be posted by the legislative body in at least two public places in the town, and in and near the town clerk's office, within 10 days of the creation of the vacancy.

Sec. 151. 24 V.S.A. § 2651(9) is amended to read:

(9) "Emergency medical treatment" means pre-hospital, in-hospital, and ~~inter-hospital~~ interhospital medical treatment rendered by emergency medical personnel given to individuals who have ~~suffered~~ experienced sudden illness or injury in order to prevent loss of life, the aggravation of the illness or injury, or to alleviate suffering. Emergency medical treatment includes basic emergency medical treatment and advanced emergency medical treatment.

Sec. 152. 24 V.S.A. § 2691 is amended to read:

§ 2691. AID TO SOCIAL SERVICES FOR TOWN RESIDENTS

At a meeting duly warned for that purpose, a town or incorporated village may appropriate such sums of money as it deems necessary for the support of social service programs and facilities within that town for its residents. Social service programs, for which a town or incorporated village may appropriate sums of money, include~~, but are not limited to~~: transportation, nutrition, medical, child care, and other rehabilitative services for persons with low incomes, ~~senior citizens~~ persons who are elderly, children, ~~disabled~~ persons with disabilities, ~~drug and alcohol abusers~~ persons with a substance use disorder, and persons requiring employment to eliminate their need for public assistance. The authority herein granted is not in derogation of other local powers to allocate funds.

Sec. 153. 24 V.S.A. § 2694 is amended to read:

§ 2694. ESTABLISHMENT OF HOMES

A town may build, purchase, or lease home to provide housing for ~~the aged~~ people who are elderly or persons entitled to receive aid and assistance under this title. It may purchase land and appropriate funds for those purposes.

Sec. 154. 24 V.S.A. § 3303 is amended to read:

§ 3303. COMPENSATION, CONDEMNATION

~~Such~~ The municipal corporation may agree with the owner or owners of any property, franchise, easement, or right which may be required by ~~such~~ the municipal corporation for the purposes of this chapter, as to the compensation to be paid therefor. In case of failure to agree as to ~~such~~ the compensation, or in case ~~such~~ the owner is an infant, ~~insane~~ a person who lacks capacity to protect his or her interests due to a mental condition or psychiatric disability, absent from the state, unknown, or the owner of a contingent interest, the ~~superior court~~ Superior Court within and for the county where the subject property is situated on the petition of either party, may cause ~~such~~ the notice to be given of ~~such~~ the petition as the presiding judge of ~~said~~ the court may prescribe. After proof thereof, ~~such~~ the presiding judge may appoint three disinterested persons as commissioners to examine ~~such~~ the property to be taken, or damaged by ~~such~~ the municipal corporation. ~~Such~~ The commissioners after being duly sworn, upon due notice to all parties in interest, shall view the premises, hear the parties in respect to ~~such~~ the property, and shall assess and award to ~~such~~ the owners and persons so interested just damages for any injury sustained as aforesaid and make report in writing to ~~such~~ the presiding judge. The presiding judge may thereupon accept ~~such~~ the report, unless just cause is shown to the contrary. ~~Such~~ The

presiding judge may order ~~such~~ the municipal corporation to pay the same in ~~such~~ the time and manner as he or she may prescribe, in full compensation for the property taken, or the injury done by ~~such~~ the municipal corporation, or ~~such~~ the presiding judge may reject or recommit ~~such~~ the report if the ends of justice so require. On compliance with ~~such~~ the order, ~~such~~ the municipal corporation may proceed with the construction of its work without liability for further claim for damages. ~~Such~~ The presiding judge may award costs in ~~such~~ the proceeding in his or her discretion. ~~Such~~ The cause may be transferred to the ~~supreme court~~ Supreme Court as provided in ~~section~~ 12 V.S.A. § 4601 ~~of Title 12~~.

Sec. 155. 24 V.S.A. § 3609 is amended to read:

§ 3609. COMPENSATION, CONDEMNATION

When an owner of land or rights therein and the ~~board~~ Board are unable to agree on the amount of compensation therefor or in case ~~such~~ the owner is an infant, ~~insane~~ a person who lacks capacity to protect his or her interests due to a mental condition or psychiatric disability, absent from the ~~state~~ State, unknown, or the owner of a contingent or uncertain interest, a superior judge may, on the application of either party, cause ~~such~~ the notice to be given of ~~such~~ the application as he or she may prescribe, and after proof thereof, may appoint three disinterested persons to examine ~~such~~ the property to be taken, or damaged by ~~such~~ the municipal corporation. After being duly sworn, the commissioners shall, upon due notice to all parties in interest, view the premises, hear the parties in respect to ~~such~~ the property, and shall assess and award to ~~such~~ the owners and persons so interested just damages for any injury sustained and make report in writing to ~~such~~ the judge. In determining damages resulting from the taking or use of property under the provisions of this chapter, the added value, if any, to the remaining property or right therein which inures directly to the owner thereof as a result of ~~such~~ the taking or use as distinguished from the general public benefit, shall be considered. The judge may thereupon accept ~~such~~ the report, unless just cause is shown to the contrary, and order ~~such~~ the municipal corporation to pay the same in ~~such~~ the time and manner as ~~such~~ the judge may prescribe, in full compensation for the property taken, or the injury done by ~~such~~ the municipal corporation, or the judge may reject or recommit the report if the ends of justice so require. On compliance with ~~such~~ the order, ~~such~~ the municipal corporation may proceed with the construction of its work without liability for further claim for damages. In his or her discretion, the judge may award costs in ~~such~~ the proceeding. Appeals from the order may be taken to the ~~supreme court~~ Supreme Court under 12 V.S.A. chapter 102 ~~of Title 12~~.

Sec. 156. 24 V.S.A. § 4001(4) is amended to read:

(4) That substandard and decadent areas exist in certain portions of the ~~state~~ State of Vermont and that there is not, in certain parts of ~~said state~~ the State, an adequate supply of decent, safe, and sanitary housing for persons of low income or ~~elderly~~ persons who are elderly and of low income, or both available for rents which ~~such~~ the persons can afford to pay, and the rents which ~~such~~ the persons can afford to pay would not warrant private enterprise in providing housing for ~~such~~ the persons; that this situation tends to cause an increase and spread of communicable and chronic disease; that the lack of properly constructed dwelling units designed specifically to meet the needs of ~~elderly~~ persons who are elderly aggravate those diseases peculiar to ~~the~~ persons who are elderly, thereby crowding the hospitals of the ~~state~~ State with ~~elderly~~ persons who are elderly under conditions of ~~idleness~~ neglect that ~~inevitably invite further senility~~ exacerbate mental deterioration; that this situation constitutes a menace to the health, safety, welfare, and comfort of the inhabitants of the ~~state~~ State and is detrimental to property values in the localities in which it exists; that this situation cannot readily be remedied by the private enterprise and that a public exigency exists which makes the provision of housing for ~~elderly~~ persons who are elderly and of low income and the clearance of substandard and decadent areas a public necessity; that the provision of housing for ~~elderly~~ persons who are elderly and of low income for the purpose of reducing the cost to the ~~state~~ State of their care by promoting their health and welfare, thereby prolonging their productivity in the interest of the ~~state~~ State and nation and the clearance of substandard and decadent areas is declared to be a public use for which private property may be taken by eminent domain and public funds raised by taxation may be expended, and the necessity in the public interest for provisions hereinafter enacted, is hereby declared as a matter of legislative determination.

Sec. 157. 24 V.S.A. § 4002 is amended to read:

§ 4002. DEFINITIONS

* * *

(10) "Housing project" shall mean any work or undertaking:

(A) To demolish, clear, or remove buildings from any slum area; ~~such~~ the work or undertaking may embrace the adaptation of ~~such~~ the area to public purposes and including parks or other recreational or community purposes;

(B) To provide decent, safe, and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of low income and accommodations for ~~elderly~~ persons who are elderly and of low income, ~~such~~

the work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes; or

(C) To accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of improvements, and all other work in connection therewith.

(11) "Persons of low income" shall mean persons or families, who are elderly or otherwise, who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings without overcrowding. The term "elderly" shall mean a person who has attained retirement age as defined in Section 216(a) of the federal Social Security Act or is under a disability as defined in Section 223 of that act.

* * *

Sec. 158. 24 V.S.A. § 4003(b) is amended to read:

(b) The governing body shall adopt a resolution declaring that there is a need for a housing authority in the municipality, if it shall find:

(1) That unsanitary or unsafe inhabited dwelling accommodations exist in ~~such~~ the municipality; or

(2) That there is a shortage of safe or sanitary dwelling accommodations in ~~such~~ the municipality available to persons of low income ~~and/or elderly~~ or persons ~~of a low income~~ who are elderly, or both, at rentals they can afford. In determining whether accommodations are unsafe or unsanitary, ~~said~~ the governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space, and access available to the inhabitants of ~~such~~ the accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in ~~such~~ the buildings which endanger life or property by fire or other causes.

Sec. 159. 24 V.S.A. § 4008 is amended to read:

§ 4008. POWERS

* * *

(6) Within its area of operation: to investigate into living, dwelling, and housing conditions and into the means and methods of improving ~~such~~ the

conditions; to determine where slum areas exist or where there is a shortage of decent, safe, and sanitary dwelling accommodations for persons of low income as well as ~~elderly~~ persons who are elderly and of low income; to make studies and recommendations relating to the problem of clearing, replanning, and reconstructing of slum areas and to cooperate with all urban renewal agencies on the problem of providing dwelling accommodations for persons of low income and to cooperate with the municipality, the ~~state~~ State, or any political subdivision thereof in action taken in connection with such problem and to engage in research, studies, and experimentation of the subject of housing.

* * *

(8) To provide an adequate number of dwelling units, especially designed for occupation by ~~elderly~~ persons who are elderly when a survey by the authority indicates a need ~~therefore~~ therefor. ~~Elderly persons~~ Persons who are elderly shall have priority in the rental of such units.

* * *

Sec. 160. 24 V.S.A. § 4010(a)(1) is amended to read:

(1) It may rent or lease the dwelling accommodations therein only to persons of low income or ~~elderly~~ persons who are elderly and of low income, or both.

Sec. 161. 24 V.S.A. § 4302(c)(11)(D) is amended to read:

(D) Accessory apartments within or attached to ~~single family~~ single-family residences which provide affordable housing in close proximity to cost-effective care and supervision for relatives or ~~disabled or elderly~~ persons who have a disability or are elderly should be allowed.

Sec. 162. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(G) A residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a ~~handicap or~~ disability as defined in 9 V.S.A. § 4501, shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1,000 feet of another existing or permitted such home.

* * *

Sec. 163. 24 V.S.A. § 5091 is amended to read:

§ 5091. FUNDING

* * *

(h) Applicants for state funding shall meet the requirements of federal laws and regulations relating to fiscal accountability and accessibility by ~~the disabled~~ persons with a disability.

(i) To implement the public transportation policy goals set forth in section 5083 of this title and 19 V.S.A. § 10f, the ~~agency of transportation~~ Agency of Transportation shall use the following formula for distribution of operating funds to public transit systems:

(1) [Deleted.]

(A) 10 percent based on the percentage of the ~~state's elderly~~ State's population who are elderly (persons ~~aged~~ age 60 and above) in each of the designated transit service areas;

(B) 10 percent based on the percentage of the ~~state's~~ State's youth population (persons ~~aged~~ ages 12 through 17) in each of the designated transit service areas;

(C) 10 percent based on the percentage of the ~~state's mobility limited~~ State's population of people who have limited physical mobility in each of the designated transit service areas;

(D) 10 percent based on the percentage of the ~~state's~~ State's population of people who are in poverty in each of the designated transit service areas;

(E) 10 percent based on the percentage of the ~~state's~~ State's households lacking access to an automobile in each of the designated transit service areas.

* * *

Sec. 164. [Deleted.]

Sec. 165. 24 App. V.S.A. chapter 5 § 1201 is amended to read:

§ 1201. ASSESSMENT OF TAXES AND ESTABLISHMENT OF TAX RATE

The city council shall assess such taxes upon the grand list of the city as the city at any annual or special meeting warned for that purpose and may vote for the payment of debts and current expenses of the city, for carrying out any of

the purposes of this charter, for the support of schools in ~~said~~ the city, and for the payment of all state and county taxes and obligations imposed upon ~~said~~ the city by law. The vote of the city shall be upon the specific sum of budgeted tax appropriation for the support of all city departments, grants, schools, recreation, and ~~senior citizens~~ persons who are elderly. The city council shall establish a tax rate based upon the true grand list as appraised by the city assessor, and shall deliver the same to the city treasurer for computation and collection. Any general statutory provisions insofar as they pertain to expressing in the vote the specific sum or rate per cent on the dollar of the grand list for highway purposes or other necessary expenditures shall not apply to any action taken by the City of Montpelier in regard to voting money for city purposes.

Sec. 166. 24 App. V.S.A. chapter 123 § 902(6) is amended to read:

(6) In any case where damages or compensation to owners of, and other persons interested in, the water so taken, or ~~such~~ land as may be used for laying, extending, constructing, and maintaining ~~such~~ the aqueduct, and for ~~such~~ the reservoirs and appurtenances, is not adjusted by agreement, or if the owners thereof be a minor, ~~insane~~ or a person who lacks capacity to protect his or her interests due to a mental condition or psychiatric disability, or out of the ~~state~~ State, or otherwise incapacitated to sell or convey, the same shall be fixed by the Board of Selectmen after hearing all parties interested, ~~such~~ the hearing to be had upon written notice of the time and place thereof, given at least six days before ~~said~~ the hearing, file their award in the ~~town clerk's~~ Town Clerk's office in the town or towns where the property in question is situated, and cause the same to be recorded in the land records of ~~said~~ the town or towns.

Sec. 167. 24 App. V.S.A. chapter 207 § 5(e) is amended to read:

(e) When a vacancy occurs in any of ~~said~~ the offices by reason of ~~non-acceptance~~ nonacceptance, death, removal, ~~insanity,~~ refusal to act, moved from village, inability to perform duties due to a mental condition or psychiatric disability, or from any other cause, ~~said~~ the corporation may fill ~~such~~ the vacancy by a new election, for the unexpired term at any legal meeting. The board of trustees may, by temporary appointment, fill any ~~such~~ vacancy, and the persons so appointed shall hold office until their successors are elected and qualified. A record of ~~such~~ the appointment shall be recorded in the office of the clerk of ~~said~~ the corporation.

Sec. 168. 24 App. V.S.A. chapter 215 § 902 is amended to read:

§ 902. ASSESSING DAMAGES

In the event that ~~said~~ the village and any owner of land over which it may be desirable to pass with the poles and wires of ~~said~~ the plants, or of land,

water power, or ~~rights of way~~ rights-of-way, which it may need for the construction and operation of ~~said~~ the plant, cannot agree upon the damages to be paid to ~~such~~ the owner for ~~such~~ the passage or ~~right of way~~ right-of-way, or for ~~such~~ the land or water power, or if ~~such~~ the owner be a minor or out of the state, or ~~is insane~~ a person who lacks capacity to protect his or her interests due to a mental condition or psychiatry disability, or otherwise incapable to sell and convey ~~such~~ the real estate or rights therein, the same proceedings shall be had for assessing such damages as are provided in section 302 of this charter, for compensating the owners of land taken for the construction and maintenance of a sewer or main drain, for ~~said~~ the village.

Sec. 169. 24 App. V.S.A. chapter 219 § 29 is amended to read:

§ 29. ELECTRIC LIGHT PLANT; DAMAGES

In the event the village and any owner of land over which it may be desirable to pass with the poles and wires of a plant or which the village may need for the operation of the plant cannot agree upon the damages to be paid to the owner for ~~such~~ the passage or right-of-way, and the owner is a minor, ~~insane~~ a person who lacks capacity to protect his or her interests due to a mental condition or psychiatric disability, or out of ~~state~~ State, or otherwise incapable to sell and convey, the same proceedings shall be had for assessing such damages as are provided for compensating the owners of water or lands taken for the construction and maintenance of a water plant for the village.

Sec. 170. 24 App. V.S.A. chapter 235 § 75 is amended to read:

§ 75. DAMAGES AND COMPENSATION RELATED TO CONSTRUCTION OF WATER SUPPLY SYSTEM

In any case where damage or compensation to owners of, and other persons interested in, the water so taken, or ~~such~~ land as may be used for laying, extending, constructing, and maintaining ~~such~~ the aqueduct, and for ~~such~~ the reservoirs and appurtenances, is not adjusted by agreement, or if the owner thereof be a minor, ~~insane~~ person who lacks capacity to protect his or her interests due to a mental condition or major psychiatric disability, or out of the ~~state~~ State, or otherwise incapacitated to sell and convey, the same shall be fixed by the board of water commissioners after hearing all parties interested, ~~such~~ the hearing to be had upon written notice of the time and place thereof, given at least six days before ~~said~~ the hearing, and ~~said~~ the water commissioners shall, within ten days after ~~said~~ the hearing, file their award in the town clerk's office in the town or towns where the property in question is situated, and cause the same to be recorded in the land records of ~~said~~ the town or towns.

Sec. 171. 24 App. V.S.A. chapter 235 § 92 is amended to read:

§ 92. DAMAGES AND COMPENSATION RELATED TO CONSTRUCTION OF ELECTRIC POWER SYSTEM

In any case where damage or compensation to owners of or other persons interested in the water powers so taken, or such land as may be used for laying, extending, constructing, and maintaining ~~such~~ the electric light plant and reservoirs and appurtenances is not adjusted by agreement, or if the owner thereof be a minor, ~~insane~~ a person who lacks capacity to protect his or her interests due to a mental condition or psychiatric disability, or out of the ~~state~~ State, or otherwise incapacitated to sell and convey, the same shall be fixed by the board of electric light commissioners after hearing the parties interested; ~~such~~ the hearing to be had upon written notice of the time and place thereof, given at least six days before ~~said~~ the hearing; and ~~said~~ the electric light commissioners shall within ten days after ~~said~~ the hearing file its award in the town clerk's office in the town or towns where the property in question is situated and to cause the same to be recorded in the land records in ~~said~~ the town or towns.

Sec. 172. 24 App. V.S.A. chapter 257 § 210(a) is amended to read:

(a) The office of an elected official shall become vacant upon his or her death; resignation; removal from office in any manner authorized by law; forfeiture of his or her office; removal from the Village, except if the Village elects an individual holding a town office to hold the same Village office; or permanent physical or mental ~~disability~~ condition resulting in decreased ability to perform his or her duties all as determined by the Board of Trustees.

Sec. 173. 24 App. V.S.A. chapter 261 § 29 is amended to read:

§ 29. DAMAGES, HOW FIXED

In any case where damage or compensation to owners of, and other person interested in, the water so taken, or such land as may be used for laying, extending, constructing, and maintaining ~~such~~ the aqueduct, and for ~~such~~ the reservoirs and appurtenances, is not adjusted by agreement or if the owner thereof be a minor, ~~insane~~ a person who lacks capacity to protect his or her interests due to a mental condition or psychiatric disability, or out of the ~~state~~ State, or otherwise incapacitated to sell and convey, the same shall be fixed by the board of trustees after hearing of all parties interested, ~~such~~ the hearing being had upon written notice of the time and place thereof, given at least ten days before ~~said~~ the hearing, and ~~said~~ the trustees shall, within ten days after ~~said~~ the hearing file their award in the town clerk's office in the town or towns where the property is situated, and cause the same to be recorded in the land records of ~~said~~ the town or towns.

Sec. 174. [Deleted.]

Sec. 175. 26 V.S.A. § 1446 is amended to read:

§ 1446. DIRECTORS OF CORPORATION

The ~~board of directors~~ Board of Directors of the Vermont Program for Quality in Health Care, Inc. shall include the ~~commissioner of the department of health~~ Commissioner of Health and two ~~directors~~ Directors, each of whom represents at least one of the following populations: people who are elderly, people with disabilities, or people with low income ~~individuals~~.

Sec. 176. 26 V.S.A. § 1751 is amended to read:

§ 1751. APPLICATION OF LAWS; RIGHTS

Osteopathic physicians and surgeons shall be subject to the provisions of law relating to communicable diseases and to the granting of certificates of births and deaths and the issuance of certificates relating to the commitment of ~~mentally ill~~ individuals with a mental illness, and such reports and certificates shall be accepted by the office or department to whom the same are made or presented, equally with the reports and certificates of physicians of any other school of medicine; and such physicians shall have the same rights with respect to the rendering of medical services under the provisions of public health, welfare, and assistance laws and rules.

Sec. 177. 26 V.S.A. § 3261(2) is amended to read:

(2) "Clinical mental health counseling" means providing, for a consideration, professional counseling services that are primarily drawn from the theory and practice of psychotherapy and the discipline of clinical mental health counseling, involving the application of principles of psychotherapy, human development, learning theory, group dynamics, and the etiology of mental illness and dysfunctional behavior to individuals, couples, families, and groups, for the purposes of treating psychopathology and promoting optimal mental health. The practice of clinical mental health counseling includes diagnosis and treatment of mental conditions or psychiatric disabilities and emotional disorders, psychoeducational techniques aimed at the prevention of such ~~disorders~~ conditions or disabilities, consultations to individuals, couples, families, groups, organizations, and communities, and clinical research into more effective psychotherapeutic treatment modalities.

Sec. 178. 26 V.S.A. § 3281(4) is amended to read:

(4) "Hearing aid" means an amplifying device to be worn by a ~~hearing-impaired~~ person who is hard of hearing to improve hearing, including any accessories specifically used in connection with such a device, but excluding ~~theater~~ theater- or ~~auditorium-wide-area~~ auditorium-wide-area

listening devices, telephone amplifiers, or other devices designed to replace a hearing aid for restricted situations.

Sec. 179. 26 V.S.A. § 3295(b) is amended to read:

(b) The examination shall cover the following: the basic physics of sound, anatomy, and physiology of the ear, structure and function of hearing aids, pure tone audiometry, voice and recorded speech audiometry, interpretation of audiograms as related to hearing aid usage, selection and adaptation of hearing aids, counseling ~~the hearing impaired~~ people who are hard of hearing, identifying situations in which referrals to a physician are appropriate, knowledge of medical and rehabilitation facilities for ~~the hearing impaired~~ people who are hard of hearing in this ~~state~~ State and state and federal laws relating to dispensing hearing aids and other areas of knowledge determined by the ~~director~~ Director to be necessary.

Sec. 180. 26 V.S.A. § 3351(6) is amended to read:

(6) "Occupational therapy services" include~~, but are not limited to~~:

* * *

(F) evaluating and providing intervention in collaboration with the ~~client~~ individual receiving treatment, family, caregiver, or others;

(G) educating the ~~client~~ individual receiving treatment, family, caregiver, or others in carrying out appropriate nonskilled interventions;

* * *

Sec. 181. 26 V.S.A. § 4031(6) is amended to read:

(6) "Marriage and family services" means the diagnosis and treatment of ~~nervous and~~ mental ~~disorders~~ conditions or disabilities, whether cognitive, affective, or behavioral, from the context of marital and family systems. It further involves the professional application of psychotherapeutic and family systems theory and technique in the delivery of services to individuals, couples, and families for the purpose of treating such diagnosed ~~nervous and~~ mental ~~disorders~~ conditions or disabilities.

Sec. 182. 26 V.S.A. § 4451 is amended to read:

§ 4451. DEFINITIONS

* * *

(7) "Hearing aid" means an amplifying device to be worn by a ~~hearing impaired~~ person who is hearing impaired to improve hearing, including any accessories specifically used in connection with such a device, but excluding theater or auditorium wide-area listening devices, telephone

amplifiers, or other devices designed to replace a hearing aid for restricted situations.

(8) "Practice of audiology" includes:

* * *

(I) providing aural rehabilitation and related counseling services to ~~hearing-impaired~~ individuals who are hearing impaired and their families;

* * *

(9) "The practice of speech-language pathology" includes:

* * *

(E) providing aural rehabilitation and related counseling services to ~~hearing-impaired~~ individuals who are hard of hearing and their families;

* * *

Sec. 183. 26 V.S.A. § 4464(b) is amended to read:

(b) Unprofessional conduct means the following conduct and the conduct set forth in ~~section~~ 3 V.S.A. § 129a ~~of Title 3~~:

* * *

(10) Sexual harassment of a patient ~~or client~~;

* * *

Sec. 184. 27 V.S.A. § 143 is amended to read:

§ 143. SPOUSE ~~INSANE~~ WITH A MENTAL CONDITION OR PSYCHIATRIC DISABILITY

(a) When the ~~wife or husband~~ spouse of an owner of a homestead ~~is insane~~ lacks capacity to protect his or her interests due to a mental condition or psychiatric disability and the owner desires to convey it or an interest therein, he or she may petition the ~~probate division of the superior court~~ Probate Division of the Superior Court in the district in which the homestead is situated for a license to convey the same. Upon not less than ten days' notice of ~~such~~ the petition to the kindred of ~~such insane wife or husband~~ the spouse who lacks capacity to protect his or her interests due to a mental condition or psychiatric disability residing in the ~~state~~ State, and to the selectmen of the town in which ~~such~~ the homestead is situated, which notice may be personal or by publication, ~~such~~ the court may hear and determine ~~such~~ the petition and may license the owner or convey ~~such~~ the homestead, or an interest therein, by his or her sole deed. ~~Such~~ The license shall be recorded in the office where a deed of ~~such~~ the homestead is required to be recorded and ~~such~~ the sole deed shall

have the same effect as if ~~such wife or husband~~ the spouse has ~~been sane~~ the capacity to protect his or her interests and had joined therein.

* * *

Sec. 185. 27 V.S.A. § 1331 is amended to read:

§ 1331. DEFINITIONS

As used in this subchapter:

(1) "Comparable housing" means housing that is decent, safe, sanitary, and in compliance with all local and state housing codes, and provided with facilities equivalent to those provided by the landlord in the dwelling unit in which the tenant then resides in regard to each of the following: apartment size, rent range, major kitchen and bathroom facilities, special facilities necessary for ~~the handicapped or infirmed~~ persons with disabilities or who have an infirmity, and desirability of neighborhood, school facilities, or area.

* * *

(4) "~~Elder tenant~~ Tenant who is elderly" means a tenant who is 62 years of age or older.

(5) "~~Handicapped tenant~~ Tenant with a disability" means a tenant who has a physical or mental impairment which restricts one or more major life activities, including functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

* * *

Sec. 186. 27 V.S.A. § 1333 is amended to read:

§ 1333. CONVERSION BUILDING; NOTICE TO TENANTS

(a) If the building to be converted consists of more than five dwelling units or if the building to be converted is part of an apartment complex or is one building in a group of buildings which are contiguous or which share common areas, the landlord shall give to each tenant the following minimum written notice to vacate or purchase the unit: two years to ~~elder and handicapped~~ tenants who are elderly or have a disability; one year to low-income tenant households; six months to all other tenants.

(b) If the building to be converted consists of five or fewer dwelling units, the landlord shall give to each tenant the following minimum written notice to vacate or purchase the unit: one year to ~~elder and handicapped~~ tenants who are elderly or have a disability; six months to low-income tenant households; three months to all other tenants. A landlord may not circumvent the longer notice requirements by converting a building consisting of five or fewer dwelling

units if the conversion is part of a plan to convert more than five dwelling units.

* * *

Sec. 187. 28 V.S.A. § 502a(d) is amended to read:

(d) Notwithstanding subsection (a) of this section, or any other provision of law to the contrary, any inmate who is serving a sentence, including an inmate who has not yet served the minimum term of the sentence, who is diagnosed as ~~suffering from~~ having a terminal or debilitating condition so as to render the inmate unlikely to be physically capable of presenting a danger to society, may be released on medical parole to a hospital, hospice, other licensed inpatient facility, or suitable housing accommodation as specified by the parole board. The ~~department~~ Department shall promptly notify the parole board upon receipt of medical information of an inmate's diagnosis of a terminal or debilitating condition.

Sec. 188. 28 V.S.A. § 702(b) is amended to read:

(b) The ~~commissioner~~ Commissioner shall have the authority to transfer a person under arrest and charged with any offense, or convicted but not yet sentenced, from the correctional facility at which the person is detained to any other facility if the ~~commissioner~~ Commissioner determines that the person cannot be kept properly or safely at the correctional facility at which he or she is detained. If the ~~commissioner~~ Commissioner determines that such person has manifested a ~~mental illness~~ psychiatric disability requiring treatment, the ~~commissioner~~ Commissioner shall have the authority to initiate transfer proceedings pursuant to section 703 of this title.

Sec. 189. 28 V.S.A. § 808(e) is amended to read:

(e) The ~~commissioner~~ Commissioner may place on medical furlough any offender who is serving a sentence, including an offender who has not yet served the minimum term of the sentence, who is diagnosed ~~as suffering from~~ with a terminal or debilitating condition so as to render the offender unlikely to be physically capable of presenting a danger to society. The ~~commissioner~~ Commissioner shall develop a policy regarding the application for, standards for eligibility of, and supervision of persons on medical furlough. The offender may be released to a hospital, hospice, other licensed inpatient facility, or other housing accommodation deemed suitable by the ~~commissioner~~ Commissioner.

Sec. 190. 28 V.S.A. chapter 11, subchapter 6 is amended to read:

Subchapter 6. Services for Inmates with Serious Mental Illness

§ 906. DEFINITIONS

As used in this subchapter:

(1) "Serious functional impairment" means:

(A) a disorder of thought, mood, perception, orientation, or memory as diagnosed by a qualified mental health professional, which substantially impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life and which substantially impairs the ability to function within the correctional setting; or

(B) a developmental disability, traumatic brain injury or other organic brain disorder, or various forms of dementia or other neurological disorders, as diagnosed by a qualified mental health professional, which substantially impairs the ability to function in the correctional setting.

(2) "Qualified mental health professional" means a person with professional training, experience, and demonstrated competence in the treatment of mental ~~illness~~ conditions or psychiatric disabilities or serious functional impairments who is a physician, psychiatrist, psychologist, social worker, nurse, or other qualified person determined by the ~~commissioner of mental health~~ Commissioner of Mental Health.

(3) "~~Mental illness~~ Mental condition or psychiatric disability or disorder" means a condition that falls under any Axis I diagnostic categories or the following Axis II diagnostic categories as listed in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders DSM-IV-TR Fourth Edition (Text Revision), as updated from time to time: borderline personality disorder, histrionic personality disorder, ~~mental retardation~~ intellectual disability, obsessive-compulsive personality disorder, paranoid personality disorder, schizoid personality disorder, or schizotypal personality disorder.

(4) "Screening" means an initial survey, which shall be trauma-informed, to identify whether an inmate has immediate treatment needs or is in need of further evaluation.

§ 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND RESPONSIBILITIES OF COMMISSIONER

The ~~commissioner~~ Commissioner shall administer a program of trauma-informed mental health services which shall be available to all inmates

and shall provide adequate staff to support the program. The program shall provide the following services:

(1) Within 24 hours of admittance to a correctional facility, all inmates shall be screened for any signs of ~~mental illness~~ mental condition or psychiatric disability or disorder, or serious functional impairment. If as a result of the screening it is determined that the inmate is receiving services under the developmental disabilities home and community based services waiver or is currently receiving community rehabilitation and treatment services, he or she will automatically be designated as having a serious functional impairment.

(2) A thorough trauma-informed evaluation, conducted in a timely and reasonable fashion by a qualified mental health professional, which includes a review of available medical and psychiatric records. The evaluation shall be made of each inmate who:

(A) has a history of ~~mental illness~~ a mental condition or psychiatric disability or disorder;

(B) has received community rehabilitation and treatment services; or

(C) shows signs or symptoms of ~~mental illness~~ a mental condition or psychiatric disability or disorder or of serious functional impairment at the initial screening or as observed subsequent to entering the facility.

(3) The development and implementation of an individual treatment plan, when a clinical diagnosis by a qualified mental health professional indicates an inmate ~~is suffering from mental illness~~ has a mental condition or psychiatric disability or disorder or from serious functional impairment. The treatment plan shall be developed in accordance with best practices and explained to the inmate by a qualified mental health professional.

(4) Access to a variety of services and levels of care consistent with the treatment plan to inmates ~~suffering mental illness~~ with a mental condition or psychiatric disability or disorder or serious functional impairment. These services shall include, as appropriate, the following:

* * *

(5) Proactive procedures to seek and identify any inmate who has not received the enhanced screening, evaluation, and access to mental health services appropriate for inmates ~~suffering from a mental illness~~ with a mental condition or psychiatric disability or disorder or a serious functional impairment.

(6) Special training to medical and correctional staff to enable them to identify and initially deal with inmates with a mental illness or disorder or a serious functional impairment. This training shall include the following:

(A) Recognition of signs and symptoms of ~~mental illness~~ a mental condition or psychiatric disability or disorder or a serious functional impairment in the inmate population.

(B) Recognition of signs and symptoms of ~~chemical dependence~~ substance use or abuse and withdrawal.

(C) Recognition of adverse reactions to psychotropic medication.

(D) Recognition of improvement in the general condition of the inmate.

(E) Recognition of ~~mental retardation~~ intellectual disability.

(F) Recognition of mental health emergencies and specific instructions on contacting the appropriate professional care provider and taking other appropriate action.

(G) Suicide potential and prevention.

(H) Precise instructions on procedures for mental health referrals.

(I) Any other training determined to be appropriate.

* * *

Sec. 191. 30 V.S.A. § 209c(a) is amended to read:

(a) The ~~board of public service~~ Public Service Board shall design a proposed electricity affordability program in the form of draft legislation. The program shall be developed with the aid of an electricity affordability program collaborative. The collaborative, composed of representatives from the electric utilities, residential customers, consumer representatives, ~~low income~~ low-income program representatives, ~~elderly program~~ representatives from programs for people who are elderly, the ~~department of public service~~ Department of Public Service, the ~~department of human services~~ Agency of Human Services, and other stakeholders identified by the ~~board~~ Board, shall aid in the development of an electricity affordability program, as well as requirements for the implementation and funding of the program. The proposed electricity affordability program will be presented to the Vermont ~~general assembly~~ General Assembly in the form of draft legislation for consideration in January 2007.

Sec. 192. 30 V.S.A. § 218a is amended to read:

§ 218a. PERMANENT TELECOMMUNICATIONS RELAY SERVICE

* * *

(c) The ~~department of public service~~ Department of Public Service may contract with the qualified bidder offering the most favorable proposal, giving due consideration to costs, to quality of service, and to the interests of the community of people who are deaf, ~~hearing impaired, and speech impaired community~~ hard of hearing, or have speech limitations.

(d) The ~~department of public service~~ Department of Public Service shall establish a Vermont ~~telecommunications relay service advisory council~~ Telecommunications Relay Service Advisory Council composed of the following members: one representative of the ~~department of public service~~ Department of Public Service, who shall act as chair and who shall be designated by the ~~commissioner of public service~~ Commissioner of Public Service; one representative of the ~~department of disabilities, aging, and independent living~~ Department of Disabilities, Aging, and Independent Living, who shall act as ~~vice-chair~~ vice chair; two representatives of the deaf community; one member of the community of people who are hard of hearing or have a speech ~~impaired community~~ limitation; one representative of a company providing local exchange service within the ~~state~~ State; and one representative of an organization currently providing telecommunications relay services. The members of the ~~council~~ Council who are not officers or employees of the ~~state~~ State shall receive per diem compensation and expense reimbursement in amounts authorized by ~~subsection~~ 32 V.S.A. § 1010(b) ~~of Title 32~~. The costs of such compensation and reimbursement, and any other necessary administrative costs shall be included within the contract entered into under subsection (c) of this section. The ~~Vermont telecommunications relay service advisory council~~ Council shall advise the ~~department of public service~~ Department of Public Service and the contractor for telecommunications relay services on all matters concerning the implementation and administration of the ~~state's~~ State's telecommunications relay service.

(e) The ~~department~~ Department shall propose and the ~~board~~ Board shall establish by rule or order a telecommunications equipment grant program to assist persons who are deaf, deaf-blind, hard of hearing ~~impaired persons~~, have a speech ~~impaired persons~~ limitation, and persons with physical disabilities that limit their ability to use standard telephone equipment to communicate by telephone. Pursuant to this program a person who is deaf, deaf-blind, hard of hearing ~~impaired person~~, has a speech ~~impaired person~~ limitation, or a person with a physical disability that limits his or her ability to use standard telephone

equipment whose modified adjusted gross income as defined in ~~subdivision~~ 32 V.S.A. § 5829(b)(1) ~~of Title 32~~ for the preceding taxable year was less than 200 percent of the official poverty line established by the ~~federal~~ U.S. Department of Health and Human Services for a family of six or the actual number in the family, whichever is greater, published as of October 1 of the preceding taxable year, may be eligible for a benefit towards the purchase, upgrade, or repair of equipment used to access the relay service or otherwise communicate by telephone. The total benefits allocable under this section shall not exceed $75,000.00 per year. In adopting rules, the ~~board~~ Board shall consider the following:

* * *

Sec. 193. 30 V.S.A. § 7059(a)(1) is amended to read:

(a)(1) ~~No~~ A person shall not access, use, or disclose to any other person any individually identifiable information contained in the system database created under subdivision 7053(a)(4) of this title, including any customer or user ALI or ANI information, except in accordance with rules adopted by the ~~board~~ Board and for the purpose of:

* * *

(F) coordinating with state and local service providers for the provision of emergency dispatch services that serve individuals with a disability, ~~elderly~~ individuals who are elderly, and other populations with special needs ~~populations~~.

Sec. 194. 31 V.S.A. chapter 19 is amended to read:

CHAPTER 19. LEISURE TIME AND BENEFITS FOR ~~THE~~ PEOPLE WHO ARE ELDERLY

* * *

§ 1002. GREEN MOUNTAIN PASSPORT; ELIGIBILITY

(a) Any person is eligible to obtain a Green Mountain Passport who:

(1) is:

(A) at least 62 years of age; or

(B) totally disabled as the result of disease or injury ~~suffered~~ received while serving in the ~~armed forces~~ U.S. Armed Forces; or

(C) a resident of the Vermont Veteran's Home in Bennington; and

(2) is a resident of the ~~state~~ State.

* * *

Sec. 195. 32 V.S.A. § 1591 is amended to read:

§ 1591. SHERIFFS AND OTHER OFFICERS

There shall be paid to sheriffs' departments and constables in civil causes and to sheriffs, deputy sheriffs, and constables for the transportation and care of prisoners, juveniles, and ~~mental~~ patients with a mental condition or psychiatric disability the following fees:

* * *

(2) For the transportation and care of prisoners, juveniles, and ~~mental~~ patients with a mental condition or psychiatric disability:

* * *

(C) For each mile of actual travel, for transporting prisoners, juveniles, and ~~mental~~ patients with a mental condition or psychiatric disability:

(i) five cents more per mile than the rate allowed state employees under the terms of the prevailing contract between the ~~state~~ State and the Vermont State Employees Association, Inc.; or

(ii) twenty cents more per mile than the rate allowed state employees under the terms of the prevailing contract between the ~~state~~ State and the Vermont State Employees Association, Inc. when four or more prisoners, juveniles, or people receiving mental health ~~clients~~ services are transported in a single vehicle designed to carry six or more passengers in addition to the driver.

* * *

Sec. 196. 32 V.S.A. § 5822(d)(1) is amended to read:

(d)(1) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: credit for people who are elderly ~~and~~ or permanently totally disabled ~~credit~~, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits.

Sec. 197. 32 V.S.A. § 6061(5) is amended to read:

(5) "Modified adjusted gross income" means "federal adjusted gross income":

* * *

(C) without the inclusion of: any gifts from nongovernmental sources other than those described in subdivision (B) of this subdivision (5); surplus food or other relief in kind supplied by a governmental agency; or the first

$6,500.00 of income earned by a full-time student who qualifies as a dependent of the claimant under the federal Internal Revenue Code; the first $6,500.00 of income received by a person who qualifies as a dependent of the claimant under the Internal Revenue Code and who is the claimant's parent or ~~disabled~~ adult child with a disability; or payments made by the ~~state~~ State pursuant to 33 V.S.A. chapters 49 and 55 ~~of Title 33~~ for foster care, or payments made by the ~~state~~ State or an agency designated in 18 V.S.A. § 8907 for adult foster care or to a family for the support of ~~an eligible~~ a person ~~with~~ who is eligible and who has a developmental disability. If the ~~commissioner~~ Commissioner determines, upon application by the claimant, that a person resides with a claimant who ~~is disabled~~ has a disability or was at least 62 years of age as of the end of the year preceding the claim, for the primary purpose of providing attendant care services (as defined in 33 V.S.A. § 6321) or homemaker or companionship services, with or without compensation, which allow the claimant to remain in his or her home or avoid institutionalization, the ~~commissioner~~ Commissioner shall exclude that person's modified adjusted gross income from the claimant's household income. The ~~commissioner~~ Commissioner may require that a certificate in a form satisfactory to ~~the commissioner~~ him or her be submitted which supports the claim;

* * *

Sec. 198. 32 V.S.A. § 8911(12) is amended to read:

(12) one motor vehicle owned or leased and operated by a ~~permanently physically handicapped~~ person with a permanent physical disability for whom the vehicle's controls have been altered to enable the person to drive, or owned or leased by a ~~permanently handicapped~~ person with a permanent disability or by a parent or guardian of a ~~permanently handicapped~~ person with a permanent disability for whom a mechanical lifting device has been installed to allow for entry and exit of the vehicle, provided that the ~~handicapped~~ person with a disability has been certified exempt from the tax by the ~~commissioner of motor vehicles~~ Commissioner of Motor Vehicles under the provisions of section 8901 of this title;

Sec. 198a. 32 V.S.A. § 9202(18) is amended to read:

(18) "Independent living facility" means a congregate living environment, however named, for profit or otherwise, that meets the definitions of housing complexes for older persons as enumerated in 9 V.S.A. § 4503(b) and (c), or housing programs designed to meet the needs of individuals with a ~~handicap or~~ disability as defined in 9 V.S.A. § 4501(2) and (3).

Sec. 199. 33 V.S.A. chapter 1 is amended to read:

CHAPTER 1. DEPARTMENT ~~OF PREVENTION, ASSISTANCE, TRANSITION, AND HEALTH ACCESS~~ FOR CHILDREN AND FAMILIES

* * *

Sec. 200. 33 V.S.A. § 504 is amended to read:

§ 504. DUTIES OF DEPARTMENT

(a) The ~~department~~ Department shall administer all laws and programs specifically assigned to it for administration, including:

* * *

(4) Special services, including vocational rehabilitation, for Vermonters who are blind or ~~visually impaired~~ have a visual impairment, and for Vermonters who are deaf or ~~hearing impaired~~ hard of hearing.

* * *

(c) In addition to the powers vested in it by law, the ~~department~~ Department may:

* * *

(3) Take and hold in trust for the ~~state~~ State any grant or devise of land or donation or bequest of money, or other personal property, to be applied to the maintenance of ~~developmentally disabled~~ persons with developmental disabilities.

Sec. 201. 33 V.S.A. § 701 is amended to read:

§ 701. DECLARATION OF POLICY

(a) It is the policy of the ~~state~~ State of Vermont that alcoholism and alcohol abuse are correctly perceived as health and social problems rather than criminal transgressions against the welfare and morals of the public.

(b) The ~~general assembly~~ General Assembly therefore declares that:

(1) alcoholics and alcohol abusers shall no longer be subjected to criminal prosecution solely because of their consumption of alcoholic beverages or other behavior related to consumption which is not directly injurious to the welfare or property of the public;

(2) alcoholics and alcohol abusers shall be treated as ~~sick~~ persons who are sick and shall be provided adequate and appropriate medical and other humane rehabilitative services congruent with their needs.

Sec. 202. 33 V.S.A. chapter 15 is amended to read:

CHAPTER 15. SPECIAL SERVICES FOR ~~THE~~ PERSONS WHO ARE BLIND

§ 1501. REGISTER

The ~~department of disabilities, aging, and independent living~~ Department of Disabilities, Aging, and Independent Living may prepare and maintain a register of ~~blind~~ persons who are blind in the ~~state~~ State. It shall describe their condition, cause of blindness, capacity for education and vocational training, and other pertinent data.

§ 1502. SERVICES FOR ~~THE~~ PERSONS WHO ARE BLIND

For the rehabilitation or amelioration of the condition of ~~the~~ persons who are blind, the ~~department of disabilities, aging, and independent living~~ Department of Disabilities, Aging, and Independent Living may:

(1) Ameliorate the condition of ~~the~~ persons who are blind by devising means for their adjustment, care, instruction, and well-being, including the distribution of books, promotion of visits to ~~the aged and helpless~~ persons who are elderly and blind, and by other expedient and proper means and methods.

(2) Furnish medical examinations, physical restoration, guidance and counseling, vocational training, maintenance and transportation, occupational materials, tools, equipment, and licenses.

(3) Assist ~~blind~~ persons who are blind in developing home industries and small business enterprises and marketing their products.

(4) Act as an intermediary between ~~the~~ persons who are blind and otherwise ~~handicapped persons~~ have a disability and industry for the purpose of arranging industrial homework of a subcontract nature, and pay inherent costs such as workers' compensation insurance and Social Security taxes.

(5) Contribute to the support of ~~blind~~ persons who are blind from this ~~state~~ State who are receiving instruction or training in schools or institutions outside the ~~state~~ State.

(6) Establish and maintain a revolving fund out of ~~moneys~~ monies appropriated for ~~the~~ persons who are blind, for the purpose of aiding ~~blind~~ persons who are blind to produce and sell products of their labor. Money received under this subdivision shall be paid into the revolving fund, and not into the ~~state treasury~~ State Treasury.

Sec. 203. 33 V.S.A. § 1823 is amended to read:

§ 1823. DEFINITIONS

~~For purposes of~~ As used in this subchapter:

* * *

(4) "Chronic care" means health services provided by a health care professional for an established clinical condition that is expected to last a year or more and that requires ongoing clinical management attempting to restore the individual to highest function, minimize the negative effects of the condition, prevent complications related to chronic conditions, engage in advanced care planning, and promote appropriate access to palliative care. Examples of chronic conditions include diabetes, hypertension, cardiovascular disease, cancer, asthma, pulmonary disease, substance abuse, ~~mental illness~~ mental condition or psychiatric disability, spinal cord injury, and hyperlipidemia.

* * *

(7) "Health service" means any treatment or procedure delivered by a health care professional to maintain an individual's physical or mental health or to diagnose or treat an individual's physical or mental ~~health~~ condition, including services ordered by a health care professional, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

* * *

Sec. 204. 33 V.S.A. § 1901b(d) is amended to read:

(d) As used in this section:

* * *

(3) "VHAP-Pharmacy" or "VHAP-Rx" means the VHAP ~~program of state pharmaceutical assistance for~~ Program of State Pharmaceutical Assistance for Vermonters who are elderly ~~and disabled Vermonters~~ or have a disability with income up to and including 150 percent of the federal poverty level (hereinafter "FPL").

(4) "VScript" means the Section 1115 ~~waiver program of state pharmaceutical assistance for~~ Waiver Program of State Pharmaceutical Assistance for Vermonters who are elderly ~~and disabled Vermonters~~ or have a disability with income over 150 and less than or equal to 175 percent of FPL, and administered under ~~subchapter 4 of~~ chapter 19, subchapter 4 of this title.

(5) "VScript-Expanded" means the state-funded ~~program of pharmaceutical assistance for~~ Program of Pharmaceutical Assistance for

Vermonters who are elderly ~~and disabled Vermonters~~ or have a disability with income over 175 and less than or equal to 225 percent of FPL, and administered under ~~subchapter 4 of~~ chapter 19, subchapter 4 of this title.

Sec. 205. 33 V.S.A. § 1904(4) is amended to read:

(4) "Insurer" means any insurance company, prepaid health care delivery plan, self-funded employee benefit plan, pension fund, hospital or medical service corporation, managed care organization, pharmacy benefit manager, prescription drug plan, retirement system, or similar entity that is under an obligation to make payments for medical services as a result of an injury, illness, or disease ~~suffered~~ experienced by an individual.

Sec. 206. 33 V.S.A. § 1910 is amended to read:

§ 1910. LIABILITY OF THIRD PARTIES; LIENS

(a) The ~~agency~~ Agency shall have a lien against a third party, to the extent of the amount paid by the ~~agency~~ Agency for medical expenses, on any recovery for that claim, whether by judgment, compromise, mediation, or settlement, whenever:

(1) the ~~agency~~ Agency pays medical expenses for or on behalf of a recipient who has been injured or has ~~suffered~~ an illness or disease as a result of negligence; and

(2) the recipient asserts a claim against a third party for damages resulting from the injury, illness, or disease.

(b)(1) The ~~agency~~ Agency shall have a lien against the insurer, to the extent of the amount paid by the ~~agency~~ Agency for past medical expenses, on any recovery from the insurer, whenever the ~~agency~~ Agency pays medical expenses or renders medical services on behalf of a recipient who has been injured or has ~~suffered~~ an injury, illness, or disease; and the recipient asserts a claim against an insurer as a result of the injury, illness, or disease.

(2) Effective July 1, 2013, the recipient's insurer or alleged liable party's insurer, if any, shall take reasonable steps to discover the existence of the ~~agency's~~ Agency's medical assistance. Payment to the recipient instead of the ~~agency~~ Agency does not discharge the insurer from payment of the ~~agency's~~ Agency's claim.

* * *

Sec. 207. 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

* * *

(2) "Core home health care services" means those ~~medically necessary~~ medically necessary skilled nursing, home health aide, therapeutic, and persona1 care attendant services, provided exclusively in the home by home health agencies. Core home health services do not include private duty nursing, hospice, homemaker, or physician services, or services provided under early periodic screening, diagnosis, and treatment (EPSDT), traumatic brain injury (TBI), high technology programs, or services provided by a home for ~~the~~ persons who are terminally ill as defined in subdivision ~~7102(10)~~ 7102(3) of this title.

* * *

(5) "Health care provider" means any hospital, nursing home, intermediate care facility for ~~the mentally retarded~~ people with intellectual disabilities, home health agency, or retail pharmacy.

* * *

(8) "Intermediate Care Facility for ~~the Mentally Retarded~~ People with Developmental Disabilities" ("~~ICF/MR~~ ICF/DD") means a facility which provides long-term health related care to residents with ~~mental retardation~~ developmental disability pursuant to subdivision 1902(a)(31) of the Social Security Act (42 U.S.C. § 1396a(a)(31)). Notwithstanding 1 V.S.A. § 145, in this subdivision, "developmental disability" replaces what was "mental retardation."

* * *

Sec. 208. 33 V.S.A. § 1955 is amended to read:

§ 1955. ~~ICF/MR~~ ICF/ID ASSESSMENT

(a) Beginning October 1, 2011, each ~~ICF/MR's~~ ICF/ID's annual assessment shall be 5.9 percent of the ~~ICF/MR's~~ ICF/ID's total annual direct and indirect expenses for the most recently settled ~~ICF/MR~~ ICF/ID audit.

(b) The ~~department~~ Department shall provide written notification of the assessment amount to each ~~ICF/MR~~ ICF/ID. The assessment amount determined shall be considered final unless the facility requests a reconsideration. Requests for reconsideration shall be subject to the provisions of section 1958 of this title.

(c) Each ~~ICF/MR~~ ICF/ID shall remit its assessment to the ~~department~~ Department according to a schedule adopted by the ~~commissioner~~ Commissioner. The ~~commissioner~~ Commissioner may permit variations in the schedule of payment as deemed necessary.

(d) Any ~~ICF/MR~~ ICF/ID that fails to make a payment to the ~~department~~ Department on or before the specified schedule, or under any schedule of delayed payments established by the ~~commissioner~~ Commissioner, shall be assessed not more than $1,000.00. The ~~commissioner~~ Commissioner may waive this late-payment assessment provided for in this subsection for good cause shown by the ~~ICF/MR~~ ICF/ID.

Sec. 209. 33 V.S.A. § 1974(c)(1)(A) is amended to read:

(A) "Chronic care" means health services provided by a health care professional for an established clinical condition that is expected to last a year or more and that requires ongoing clinical management attempting to restore the individual to highest function, minimize the negative effects of the condition, and prevent complications related to chronic conditions. Examples of chronic conditions include diabetes, hypertension, cardiovascular disease, cancer, asthma, pulmonary disease, substance abuse, ~~mental illness~~ mental condition or psychiatric disability, spinal cord injury, and hyperlipidemia.

Sec. 210. 33 V.S.A. § 2074(b) is amended to read:

(b) VermontRx shall provide:

(1) the same pharmaceutical coverage as the Medicaid program to individuals who are elderly ~~individuals~~ and individuals with disabilities whose income is no greater than 150 percent of the federal poverty guidelines; and

(2) maintenance drugs to individuals who are elderly ~~individuals~~ and individuals with disabilities whose income is greater than 150 percent and no greater than 225 percent of the federal poverty guidelines.

Sec. 211. 33 V.S.A. § 2078 is amended to read:

§ 2078. EDUCATION AND OUTREACH

The ~~department of disabilities, aging, and independent living~~ Department of Disabilities, Aging, and Independent Living shall conduct ongoing education and outreach to inform ~~elderly~~ Vermonters who are elderly and Vermonters with disabilities of the benefits they may be entitled to pursuant to this subchapter, make available information concerning pharmaceutical assistance programs, and minimize any confusion and duplication of pharmaceutical coverage resulting from a multiplicity of pharmaceutical programs.

Sec. 212. 33 V.S.A. § 2501a(c) is amended to read:

(c) A ~~home energy assistance task force~~ Home Energy Assistance Task Force shall advise the ~~office of home energy assistance~~ Office of Home Energy Assistance. The ~~task force~~ Task Force shall be composed of the commissioner of the designated department or the commissioner's designee, one member of

the ~~low income~~ low-income community selected by the ~~low income advocacy council~~ Vermont Low Income Advocacy Council, Inc., one representative of ~~the~~ people who are elderly selected by the ~~coalition of Vermont elders~~ Community of Vermont Elders, one representative of people with disabilities selected by the Vermont ~~coalition for disability rights~~ Coalition for Disability Rights, one representative of unregulated fuel providers selected by unregulated fuel providers, one representative of electric utilities selected by the electric utilities, one representative of gas utilities selected by the gas utilities, one representative of the ~~state economic opportunity office~~ State Economic Opportunity Office, and one representative of the ~~public service department~~ Department of Public Service. If any constituency group cannot agree on its representative, the ~~secretary~~ Secretary shall make those selections. Members of the ~~task force~~ Task Force shall be entitled to reimbursement for reasonable travel and meal expenses. The ~~task force~~ Task Force shall report regularly to the ~~director~~ Director, and on request to the ~~general assembly~~ General Assembly, for the purpose of making recommendations for improving Vermont's home energy assistance programs.

Sec. 213. 33 V.S.A. § 4301(3) is amended to read:

(3) "Child or adolescent with a severe emotional disturbance" means a person who:

* * *

(D) falls into one or more of the following categories, whether or not he or she is diagnosed with other serious disorders such as ~~mental retardation~~ intellectual disability, severe neurological dysfunction, or sensory impairments;

* * *

Sec. 214. 33 V.S.A. § 6321 is amended to read:

§ 6321. ATTENDANT CARE SERVICES

(a) As used in this section~~,~~:

* * *

(3) "Personal services" means attendant care services provided to ~~an elderly or disabled~~ a Medicaid eligible individual who is elderly or has a disability in his or her home, which are necessary to avoid institutionalization.

(4) "Participant-directed attendant care" means attendant care services for ~~permanently, severely disabled~~ an individual who has a permanent and severe disability who requires service in at least two activities of daily living in order to live independently.

* * *

(d) The ~~commissioner~~ Commissioner shall adopt rules to implement the provisions of this section, including eligibility criteria for the programs, criteria for determining service needs, rules relating to control and oversight of services by beneficiaries of a program, and procedures for handling and maintaining confidential information. Prior to filing a proposed rule, the ~~commissioner~~ Commissioner shall seek input from individuals with disabilities, ~~the~~ individuals who are elderly, and organizations which represent such individuals.

* * *

Sec. 215. 33 V.S.A. § 6902 is amended to read:

§ 6902. DEFINITIONS

As used in this chapter:

* * *

(2) "Caregiver" means a person, agency, facility, or other organization with responsibility for providing subsistence or medical or other care to an adult who is elderly or ~~disabled adult~~ has a disability, who has assumed the responsibility voluntarily, by contract or by an order of the court; or a person providing care, including ~~but not limited to~~ medical care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care provided which is required because of another's age or disability.

* * *

(14) "Vulnerable adult" means any person 18 years of age or older who:

* * *

(D) regardless of residence or whether any type of service is received, is impaired due to brain damage, infirmities of aging, mental condition, or a physical, ~~mental~~ psychiatric, or developmental disability:

(i) that results in some impairment of the individual's ability to provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances; or

(ii) because of the disability or infirmity, the individual has an impaired ability to protect himself or herself from abuse, neglect, or exploitation.

Sec. 216. 33 V.S.A. § 6903(a) is amended to read:

(a) Any of the following, other than a crisis worker acting pursuant to 12 V.S.A. § 1614, who knows of or has received information of abuse, neglect,

or exploitation of a vulnerable adult or who has reason to suspect that any vulnerable adult has been abused, neglected, or exploited shall report or cause a report to be made in accordance with the provisions of section 6904 of this title within 48 hours:

* * *

(5) A hospital, nursing home, residential care home, home health agency, or any entity providing nursing or nursing related services for remuneration; intermediate care facility for adults with ~~mental retardation,~~ intellectual disabilities; therapeutic community residence, group home, developmental home, school or contractor involved in caregiving; or an operator or employee of any of these facilities or agencies.

Sec. 217. 33 V.S.A. § 6912(b) is amended to read:

(b) All agencies, facilities, or institutions providing care and services to adults who are elderly, ~~disabled~~ have a disability, or are vulnerable ~~adults~~ shall inform their employees of their right and duty to report suspected incidents of abuse, neglect, or exploitation and the protections afforded them by this chapter, and shall establish appropriate policies and procedures to facilitate such reporting.

Sec. 218. 33 V.S.A. § 7102 is amended to read:

§ 7102. DEFINITIONS

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

* * *

(2) "Facility" means a residential care home, nursing home, assisted living residence, home for ~~the~~ persons who are terminally ill, or therapeutic community residence licensed or required to be licensed pursuant to the provisions of this chapter.

(3) "Home for ~~the~~ persons who are terminally ill" means a place providing services specifically for three or more people who are dying ~~people~~, including room, board, personal care, and other assistance for the residents' emotional, spiritual, and physical well-being.

* * *

(6) "Nursing care" means the performance of services necessary in caring for ~~the~~ persons who are sick or injured that require specialized knowledge, judgment, and skill and meet the standards of nursing as defined in 26 V.S.A. § 1572.

(7) "Nursing home" means an institution or distinct part of an institution which is primarily engaged in providing to its residents any of the following:

(A) Skilled nursing care and related services for residents who require medical or nursing care.

(B) Rehabilitation services for the rehabilitation of persons who are injured, ~~disabled~~ have a disability, or are sick ~~persons~~.

(C) On a 24-hour basis, ~~health related~~ health-related care and services to individuals who because of their mental or physical condition require care and services which can be made available to them only through institutional care.

* * *

(11) "Therapeutic community residence" means a place, however named, excluding hospitals as defined by statute which provides, for profit or otherwise, transitional individualized treatment to three or more residents with major life adjustment problems, such as alcoholism, drug abuse, ~~mental illness~~ psychiatric disability, or delinquency.

Sec. 219. 33 V.S.A. § 7103 is amended to read;

§ 7103. LICENSE

(a) A person shall not operate a nursing home, assisted living residence, home for ~~the~~ persons who are terminally ill, residential care home, or therapeutic community residence without first obtaining a license.

(b) A person shall not operate a nursing home as defined in this chapter or as defined in 18 V.S.A. chapter 46 ~~of Title 18~~ except under the supervision of an administrator licensed in the manner provided in 18 V.S.A. chapter 46 ~~of Title 18~~.

(c) Residents of a home for ~~the~~ persons who are terminally ill shall receive necessary medical and nursing services, which may be provided through outside providers.

Sec. 220. 33 V.S.A. § 7105(b) is amended to read:

(b) In its discretion, the licensing agency may issue a temporary license permitting operation of a nursing home, assisted living residence, therapeutic community residence, residential care home, or home for ~~the~~ persons who are terminally ill for such period or periods and subject to such conditions as the licensing agency deems proper, but in no case shall a nursing home, assisted living residence, therapeutic community residence, residential care home, or home for ~~the~~ persons who are terminally ill operate under a temporary license or renewal thereof for a period exceeding 36 months.

Sec. 221. 33 V.S.A. § 7107(a) is amended to read:

(a) The licensing agency shall ~~promulgate regulations~~ adopt rules governing the identification of unlicensed residential care homes, nursing homes, assisted living residences, therapeutic community residences, and homes for ~~the~~ persons who are terminally ill.

Sec. 222. LEGISLATIVE REVISION

To ensure consistent use of respectful language throughout the Vermont Statutes Annotated and in recognition of the vast breadth of this act, the Office of Legislative Council is directed to prepare a bill revising any identified term that is amended in one or more statutes by this act and that was inadvertently left unchanged elsewhere in statute, where appropriate. The bill shall be delivered to the House and Senate Committees on Government Operations on or before December 1, 2013.

Sec. 223. REPEAL

The following are repealed:

(1) 2012 Acts and Resolves No. 171, Sec. 11d (parity for mental health co-payments).

(2) 2012 Acts and Resolves No. 171, Sec. 42(k) (effective date; parity for mental health co-payments).

Sec. 224. EFFECTIVE DATES

This act shall take effect on July 1, 2013, except that Sec. 19a (parity for mental health co-payments) of this act shall take effect on January 1, 2014, and shall apply to health insurance plans on and after January 1, 2014 on such date as a health insurer issues, offers, or renews the health insurance plan, but in no event later than January 1, 2015.

And that when so amended the bill ought to pass.

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

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

Bill Passed

S. 30.

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

An act relating to siting of electric generation plants

Third Reading Ordered; Bill Amended

S. 154.

Senate committee bill entitled:

An act relating to classification of crimes.

Was taken up.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended in Sec. 1, by striking out subsection (f) (appropriation) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) Appropriation. The sum of $6,500.00 is appropriated to the Joint Fiscal Committee from the General Fund in FY14 for a contract with the Vermont Center for Justice Research for providing data and staffing necessary for the Working Group's work.

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; Consideration Interrupted by Recess

S. 82.

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

An act relating to campaign finance law.

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

Sec. 1. FINDINGS

The General Assembly finds that:

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

(2) In Vermont, contributions greater than the amounts specified in this act are considered by the General Assembly, candidates, and elected officials to be unduly large contributions that have the ability to corrupt and create the appearance of corrupting candidates and the democratic system.

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

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

(5) In Vermont, candidates can raise sufficient monies to fund effective, competitive campaigns from contributions no larger than the amounts specified in this act.

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

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

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

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

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

(11) This act is necessary in order to implement more fully the provisions of Article 8 of Chapter I of the Constitution of the State of Vermont, which declares "That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution."

Sec. 2. REPEAL

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

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

CHAPTER 61. CAMPAIGN FINANCE

Subchapter 1. General Provisions

§ 2901. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

(A) the name of the candidate appears;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) "Independent expenditure-only political committee" means a political committee that conducts its activities entirely independent of candidates; does not give contributions to candidates, political committees, or political parties; does not make related expenditures; and is not closely related to a political party or to a political committee that makes contributions to candidates or makes related expenditures.

(10) "Mass media activity" means a television commercial, radio commercial, mass mailing, mass electronic or digital communication, literature drop, newspaper and periodical advertisement, robotic phone call, or telephone bank, which includes the name or likeness of a clearly identified candidate for office.

(11) "Party candidate listing" means any communication by a political party that:

(A) lists the names of at least three candidates for election to public office;

(B) is distributed through public advertising such as broadcast stations, cable television, newspapers, and similar media or through direct mail, telephone, electronic mail, a publicly accessible site on the Internet, or personal delivery;

(C) treats all candidates in the communication in a substantially similar manner; and

(D) is limited to:

(i) the identification of each candidate, with which pictures may be used;

(ii) the offices sought;

(iii) the offices currently held by the candidates;

(iv) the party affiliation of the candidates and a brief statement about the party or the candidates' positions, philosophy, goals, accomplishments, or biographies;

(v) encouragement to vote for the candidates identified; and

(vi) information about voting, such as voting hours and locations.

(12) "Political committee" or "political action committee" means any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, which accepts contributions of $1,000.00 or more and makes expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of supporting or opposing one or more candidates, influencing an

election, or advocating a position on a public question in any election, and includes an independent expenditure-only political committee.

(13) "Political party" means a political party organized under chapter 45 of this title and any committee established, financed, maintained, or controlled by the party, including any subsidiary, branch, or local unit thereof, and shall be considered a single, unified political party. The national affiliate of the political party shall be considered a separate political party.

(14) "Public question" means an issue that is before the voters for a binding decision.

(15) "Single source" means an individual, partnership, corporation, association, labor organization, or any other organization or group of persons which is not a political committee or political party.

(16) "Telephone bank" means more than 500 telephone calls of an identical or substantially similar nature that are made to the general public within any 30-day period.

(17) "Two-year general election cycle" means the 24-month period that begins 38 days after a general election.

§ 2902. EXCEPTIONS

The definitions of "contribution," "expenditure," and "electioneering communication" shall not apply to:

(1) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication that has not been paid for or such facilities are not owned or controlled by any political party, committee, or candidate; or

(2) any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and if all candidates in the race have an equal opportunity to promote their candidacies through the station.

§ 2903. PENALTIES

(a)(1) A person who knowingly and intentionally violates a provision of subchapter 2 or 4 of this chapter shall be fined not more than $1,000.00 or imprisoned not more than six months or both.

(2) A person who knowingly and intentionally violates any provision of subchapter 3 of this chapter shall be fined not more than $10,000.00 or imprisoned not more than two years or both.

(b) A person who violates any provision of this chapter shall be subject to a civil penalty of up to $10,000.00 for each violation and shall refund the

unspent balance of Vermont campaign finance grants received under subchapter 5 of this chapter, if any, calculated as of the date of the violation.

(c) In addition to the other penalties provided in this section, a state's attorney or the Attorney General may institute any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate any violation of this chapter.

§ 2904. CIVIL INVESTIGATION

(a)(1) The Attorney General or a state's attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule or regulation made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, and physical objects of any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation.

(2) The Attorney General or a state's attorney may require the attendance of such person or of any other person having knowledge in the premises in the county where such person resides or has a place of business or in Washington County if such person is a nonresident or has no place of business within the State and may take testimony and require proof material for his or her information and may administer oaths or take acknowledgment in respect of any book, record, paper, or memorandum.

(3) The Attorney General or a state's attorney shall serve notice of the time, place, and cause of such examination or attendance or notice of the cause of the demand for written responses personally or by certified mail upon such person at his or her principal place of business or, if such place is not known, to his or her last known address.

(4) Any book, record, paper, memorandum, or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of this State for good cause shown, be disclosed to any person other than the authorized agent or representative of the Attorney General or a state's attorney or another law enforcement officer engaged in legitimate law enforcement activities unless with the consent of the person producing the same, except that any transcript of oral testimony, written responses, documents, or other information produced pursuant to this section may be used in the enforcement of this chapter, including in connection with any civil action brought under section 2903 of this subchapter or subsection (c) of this section.

(5) Nothing in this subsection is intended to prevent the Attorney General or a state's attorney from disclosing the results of an investigation

conducted under this section, including the grounds for his or her decision as to whether to bring an enforcement action alleging a violation of this chapter or of any rule or regulation made pursuant to this chapter.

(6) This subsection shall not be applicable to any criminal investigation or prosecution brought under the laws of this or any state.

(b)(1) A person upon whom a notice is served pursuant to the provisions of this section shall comply with its terms unless otherwise provided by the order of a court of this State. Any person who is served with such notice within the State shall bear the complete cost of compliance with its terms.

(2) Any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this section, removes from any place; conceals, withholds, or destroys; or mutilates, alters, or by any other means falsifies any documentary material in the possession, custody, or control of any person subject to such notice or mistakes or conceals any information shall be fined not more than $5,000.00.

(c)(1) Whenever any person fails to comply with any notice served upon him or her under this section or whenever satisfactory copying or reproduction of any such material cannot be done and the person refuses to surrender the material, the Attorney General or a state's attorney may file, in the superior court in which the person resides or has his or her principal place of business or in Washington County if the person is a nonresident or has no principal place of business in this State, and serve upon the person a petition for an order of the court for the enforcement of this section.

(2) Whenever any petition is filed under this section, the court shall have jurisdiction to hear and determine the matter so presented and to enter any order or orders as may be required to carry into effect the provisions of this section. Any disobedience of any order entered under this section by any court shall be punished as a contempt of the court.

(d) Any person aggrieved by a civil investigation conducted under this section may seek relief from Washington Superior Court or the superior court in the county in which the aggrieved person resides. Except for cases the court considers to be of greater importance, proceedings before superior court as authorized by this section shall take precedence on the docket over all other cases.

§ 2905. ADJUSTMENTS FOR INFLATION

(a) Whenever it is required by this chapter, the Secretary of State shall make adjustments to monetary amounts provided in this chapter based on the Consumer Price Index. Increases shall be rounded to the nearest $10.00 and shall apply for the term of two two-year general election cycles. Increases

shall be effective for the first two-year general election cycle beginning after the general election held in 2016.

(b) On or before the first two-year general election cycle beginning after the general election held in 2016, the Secretary of State shall calculate and publish on the online database set forth in section 2906 of this chapter each adjusted monetary amount that will apply to those two two-year general election cycles. On or before the beginning of each second subsequent two-year general election cycle, the Secretary shall publish the amount of each adjusted monetary amount that shall apply for that two-year general election cycle and the next two-year general election cycle.

§ 2906. CAMPAIGN DATABASE; CANDIDATE INFORMATION PUBLICATION

(a) Campaign database. For each two-year general election cycle, the Secretary of State shall develop and continually update a publicly accessible campaign database which shall be made available to the public through the Secretary of State's home page online service or through printed reports from the Secretary in response to a public request within 14 days of the date of the request. The database shall contain:

(1) at least the following information for all candidates for statewide, county, and local office and for the General Assembly:

(A) for candidates receiving public financing grants, the amount of each grant awarded; and

(B) the information contained in any reports submitted pursuant to subchapter 4 of this chapter;

(2) campaign finance reports filed by candidates for federal office;

(3) the adjustments for inflation made to monetary amounts as required by this chapter; and

(4) any photographs, biographical sketches, and position statements submitted to the Secretary pursuant to subsection (b) of this section.

(b) Candidate information publication.

(1) Any candidate for statewide office and any candidate for federal office qualified to be on the ballot in this State may submit to the Secretary of State a photograph, biographical sketch, and position statement of a length and format specified by the Secretary for the purposes of preparing a candidate information publication.

(2) Without making any substantive changes in the material presented, the Secretary shall prepare a candidate information publication for statewide

distribution prior to the general election, which includes the candidates' photographs, biographies, and position statements; a brief explanation of the process used to obtain candidate submissions; and, with respect to offices for which public financing is available, an indication of which candidates are receiving Vermont campaign finance grants and which candidates are not receiving Vermont campaign finance grants.

(3) The Secretary shall prepare, publish, and distribute the candidate information publication throughout the State no later than one week prior to the general election. The Secretary shall also seek voluntary distribution of the candidate information publication in weekly and daily newspapers and other publications in the State. The Secretary shall also make the candidate information publication available in large type, audiotape, and Internet versions.

§ 2907. ADMINISTRATION

The Secretary of State shall administer this chapter and shall perform all duties required under this chapter. The Secretary may employ or contract for the services of persons necessary for performance of these duties.

Subchapter 2. Registration and Maintenance Requirements

§ 2911. CANDIDATES, POLITICAL COMMITTEES, POLITICAL PARTIES; CHECKING ACCOUNT; TREASURER

Each candidate who has made expenditures or accepted contributions of $500.00 or more, each political committee, and each political party required to register under section 2912 of this subchapter shall be subject to the following requirements:

(1) All expenditures shall be paid by either a credit card or a debit card, check, or other electronic transfer from a single campaign checking account in a single bank publicly designated by the candidate, political committee, or political party.

(2) Each candidate, political committee, and political party shall name a treasurer who is responsible for maintaining the checking account. A candidate's treasurer may be the candidate or his or her spouse.

§ 2912. POLITICAL COMMITTEES AND PARTIES; REGISTRATION

(a) Each political committee and each political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year general election cycle shall register with the Secretary of State stating its full name and address, the name and address of its treasurer, and the name and address of the bank in which it maintains its campaign checking account. A

political party shall register within 10 days of reaching the $1,000.00 threshold.

(b) A political party or political committee whose principal place of business or whose treasurer is not located in this State shall file a statement with the Secretary of State designating a person who resides in this State upon whom may be served any process, notice, or demand required or permitted by law to be served upon the political party or political committee. This statement shall be filed at the same time as the registration required in subsection (a) of this section.

§ 2913. CANDIDATES AND POLITICAL COMMITTEES; SURPLUS CAMPAIGN FUNDS

(a) A member of a political committee which has surplus funds after all campaign debts have been paid shall not convert the surplus to personal use.

(b) A candidate who has surplus funds after all campaign debts have been paid shall not convert the surplus to personal use, other than to reduce personal campaign debts.

(c) Surplus funds in a political committee's or candidate's account after payment of all campaign debts may be contributed to other candidates, political parties, or political committees subject to the contribution limits set forth in this chapter or may be contributed to a charity.

(d) The "final report" of a candidate or a political committee shall indicate the amount of the surplus and how it has been or is to be liquidated.

§ 2914. CANDIDATES; NEW CAMPAIGN ACCOUNTS

(a) A candidate who chooses to roll over any surplus contributions into a new campaign account for public office may close out his or her former campaign by filing a final report with the Secretary of State converting all debts and assets to the new campaign.

(b) A candidate shall be required to file a new bank designation form only if there has been a change in the treasurer or the location of the campaign account.

Subchapter 3. Contribution Limitations

§ 2921. LIMITATIONS OF CONTRIBUTIONS

In any two-year general election cycle:

(1) A candidate for state representative or for local office shall not accept contributions totaling more than:

(A) $750.00 from a single source;

(B) $750.00 from a political committee; or

(C) $3,000.00 from a political party.

(2) A candidate for state senator or county office shall not accept contributions totaling more than:

(A) $1,500.00 from a single source;

(B) $1,500.00 from a political committee; or

(C) $6,000.00 from a political party.

(3) A candidate for the office of Governor, Lieutenant Governor, Secretary of State, State Treasurer, Auditor of Accounts, or Attorney General shall not accept contributions totaling more than:

(A) $3,000.00 from a single source;

(B) $3,000.00 from a political committee; or

(C) $85,000.00 from a political party.

(4) A political committee shall not accept contributions totaling more than:

(A) $3,000.00 from a single source;

(B) $3,000.00 from a political committee; or

(C) $3,000.00 from a political party.

(5) A political party shall not accept contributions totaling more than:

(A) $3,000.00 from a single source;

(B) $3,000.00 from a political committee; or

(C) $30,000.00 from a political party.

(6) A single source shall not contribute more than an aggregate of:

(A) $25,000.00 to candidates; and

(B) $25,000.00 to political committees and political parties.

(7) A single source, political committee, or political party shall not contribute more to a candidate, political committee, or political party than the candidate, political committee, or political party is permitted to accept under subdivisions (1) through (5) of this section.

§ 2922. EXCEPTIONS

The contribution limitations established by this subchapter shall not apply to contributions to a political committee made for the purpose of advocating a position on a public question, including a constitutional amendment.

§ 2923. LIMITATIONS ADJUSTED FOR INFLATION

The contribution limitations contained in this subchapter shall be adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

§ 2924. ACCOUNTABILITY FOR RELATED EXPENDITURES

(a) A related campaign expenditure made on a candidate's behalf shall be considered a contribution to the candidate on whose behalf it was made.

(b) For the purposes of this section, a "related campaign expenditure made on the candidate's behalf" means any expenditure intended to promote the election of a specific candidate or group of candidates or the defeat of an opposing candidate or group of candidates if intentionally facilitated by, solicited by, or approved by the candidate or the candidate's committee.

(c)(1) An expenditure made by a political party or by a political committee that recruits or endorses candidates that primarily benefits six or fewer candidates who are associated with the political party or political committee making the expenditure is presumed to be a related expenditure made on behalf of those candidates.

(2) An expenditure made by a political party or by a political committee that recruits or endorses candidates that substantially benefits more than six candidates and facilitates party or political committee functions, voter turnout, platform promotion, or organizational capacity shall not be presumed to be a related expenditure made on a candidate's behalf.

(3) For the purposes of this section, a "related campaign expenditure made on the candidate's behalf" does not mean:

(A) the cost of invitations and postage and of food and beverages voluntarily provided by an individual in conjunction with an opportunity for a group of voters to meet a candidate if the cumulative value of these items provided by the individual on behalf of any candidate does not exceed $500.00 per election; or

(B) the sale of any food or beverage by a vendor at a charge less than the normal comparable charge for use at a campaign event providing an opportunity for a group of voters to meet a candidate if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and

if the cumulative value of the food or beverages does not exceed $500.00 per election.

(d)(1) A candidate may seek a determination that an expenditure is a related expenditure made on behalf of an opposing candidate by filing a petition with the superior court of the county in which either candidate resides.

(2) Within 24 hours of the filing of a petition, the court shall schedule the petition for hearing. Except as to cases the court considers of greater importance, proceedings before the superior court, as authorized by this section, and appeals therefrom take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(3) The findings and determination of the court shall be prima facie evidence in any proceedings brought for violation of this chapter.

(e) The Secretary of State may adopt rules necessary to administer the provisions of this section.

§ 2925. GENERAL PROVISIONS

(a) A candidate, political committee, or political party accepts a contribution when the contribution is deposited in the candidate's, committee's, or party's campaign account or two business days after the candidate, committee, or party receives it, whichever comes first.

(b) A candidate, political committee, or political party shall not accept a monetary contribution in excess of $50.00 unless made by check, credit or debit card, or other electronic transfer.

(c) A candidate's expenditures related to a previous two-year general election cycle and contributions used to retire a debt of a previous two-year general election cycle shall be attributed to the earlier two-year general election cycle.

(d) This subchapter shall not be interpreted to limit the amount a candidate or his or her immediate family may contribute to his or her own campaign. For purposes of this subsection, "immediate family" means a candidate's spouse, parent, grandparent, child, grandchild, sister, brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, legal guardian, or former legal guardian.

(e) For purposes of this subchapter, the term "candidate" includes the candidate's committee.

(f) A candidate, political committee, or political party shall not knowingly accept a contribution which is not directly from the contributor but was transferred to the contributor by another person for the purpose of transferring the same to the candidate, political committee, or political party or otherwise circumventing the provisions of this chapter. It shall be a violation of this chapter for a person to make a contribution with the explicit or implicit understanding that the contribution will be transferred in violation of this subsection.

Subchapter 4. Reporting Requirements; Disclosures

§ 2931. SUBMISSION OF REPORTS TO THE SECRETARY OF STATE

(a)(1) The Secretary of State shall provide on the online database set forth in section 2906 of this chapter digital access to the form that he or she provides for any report required by this chapter. Digital access shall enable any person required to file a report under this chapter to file the report by completing and submitting the report to the Secretary of State online.

(2) The Secretary shall maintain on the online database reports that have been filed for each two-year general election cycle so that any person may have direct machine-readable electronic access to the individual data elements in each report and the ability to search those data elements as soon as a report is filed.

(b) Any person required to file a report with the Secretary of State under this chapter shall file the report digitally on the online database.

§ 2932. CAMPAIGN REPORTS; SECRETARY OF STATE; FORMS; FILING

(a) The Secretary of State shall prescribe and provide a uniform reporting form for all campaign finance reports. The reporting form shall be designed to show the following information:

(1) the full name, town of residence, and mailing address of each contributor who contributes an amount in excess of $100.00, the date of the contribution, and the amount contributed, as well as a space on the form for the occupation and employer of each contributor, which the candidate, political committee, or political party shall make a reasonable effort to obtain;

(2) the total amount of all contributions of $100.00 or less and the total number of all such contributions;

(3) each expenditure listed by amount, date, to whom paid, and for what purpose;

(4) the amount contributed or loaned by the candidate to his or her own campaign during the reporting period; and

(5) each debt or other obligation, listed by amount, date incurred, to whom owed, and for what purpose, incurred during the reporting period.

(b)(1) The form shall require the reporting of all contributions and expenditures accepted or spent during the reporting period and during the campaign to date and shall require full disclosure of the manner in which any indebtedness is discharged or forgiven.

(2) Contributions and expenditures for the reporting period and for the campaign to date also shall be totaled in an appropriate place on the form. The total of contributions shall include a subtotal of nonmonetary contributions and a subtotal of all monetary contributions.

(3) The form shall contain a list of the required filing times so that the person filing may designate for which time period the filing is made.

(4) Contributions accepted and expenditures spent after 5:00 p.m. on the third day prior to the filing deadline shall be reported on the next report.

(c) The form described in this section shall contain language of certification of the truth of the statements and places for the signature of the candidate or the treasurer of the campaign.

(d) Any person required to file a campaign finance report under this chapter shall provide the information required in the Secretary of State's reporting form. Disclosure shall be limited to the information required to administer this chapter.

(e) All reports filed under this chapter shall be retained in an indexed file by the Secretary of State and shall be subject to the examination of any person.

§ 2933. CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE AND THE GENERAL ASSEMBLY; POLITICAL COMMITTEES; POLITICAL PARTIES

(a) Each candidate for state office, each candidate for the General Assembly who has made expenditures or accepted contributions of $500.00 or more, and, except as provided in subsection (b) of this section, each political committee and each political party required to register under section 2912 of this chapter shall file with the Secretary of State campaign finance reports as follows:

(1) in the first year of the two-year general election cycle, quarterly, beginning on March 15 of the odd-numbered year;

(2) in the second year of the two-year general election cycle, monthly, beginning on January 15 of the even-numbered year until July 15;

(3) from July 15 through the general election, every two weeks; and

(4) two weeks after the general election.

(b) A political committee or a political party which has accepted contributions or made expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of influencing a local election or supporting or opposing one or more candidates in a local election shall file campaign finance reports regarding that election 30 days before, 10 days before, and two weeks after the local election with the Secretary of State.

(c) Any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, which makes expenditures of $1,000.00 or more in any two-year general election cycle for the purpose of advocating a position on a public question in any election shall file a report of its expenditures 30 days before, 10 days before, and two weeks after the election with the Secretary of State.

(d) At any time, but not later than December 15th following the general election, each candidate for state office and each candidate for the General Assembly who has made expenditures or received contributions of $500.00 or more shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and disposition of surplus and which shall constitute the termination of his or her campaign activities.

(e) A political committee or political party shall file a campaign finance report not later than 40 days following the general election. At any time, a political committee or a political party may file a "final report" which lists a complete accounting of all contributions and expenditures since the last report and disposition of surplus and which shall constitute the termination of its campaign activities.

(f) Each candidate for state office and each candidate for the General Assembly who has made expenditures or accepted contributions of less than $500.00 shall file with the Secretary of State 10 days following the general election a statement that the candidate has not made expenditures or accepted contributions of $500.00 or more during the two-year general election cycle.

(g) The failure of a candidate for the General Assembly to file a report under subsection (a) of this section shall be deemed an affirmative statement that the candidate has not accepted contributions or made expenditures of $500.00 or more.

§ 2934. ADDITIONAL CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE AND THE GENERAL ASSEMBLY; INDEPENDENT EXPENDITURE-ONLY POLITICAL COMMITTEES

(a) In addition to any other reports required to be filed under this chapter, a candidate for state office or for the General Assembly who accepts a monetary contribution in an amount over $2,000.00 within 10 days of a primary or general election shall report the contribution to the Secretary of State within 24 hours of receiving the contribution.

(b) A report required by this section shall include the following information:

(1) the full name, town of residence, and mailing address of the contributor; the date of the contribution; and the amount contributed; and

(2) the amount contributed or loaned by the candidate to his or her own campaign.

§ 2935. CAMPAIGN REPORTS; COUNTY OFFICE CANDIDATES

(a) Each candidate for county office who has made expenditures or accepted contributions of $500.00 or more shall file campaign finance reports with the Secretary of State as follows:

(1) Ten days before the primary election.

(2) Ten days before the general election.

(3) Further campaign reports shall be filed on the 15th day of July and annually thereafter or until all contributions and expenditures have been accounted for and any indebtedness and surplus have been eliminated.

(b) Within 40 days after the general election, each candidate for county office who has made expenditures or accepted contributions of $500.00 or more shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and a disposition of surplus and which shall constitute the termination of his or her campaign activities.

(c) The failure of a county candidate to file a campaign finance report shall be deemed an affirmative statement that the candidate has not accepted contributions or made expenditures of $500.00 or more.

§ 2936. CAMPAIGN REPORTS; LOCAL CANDIDATES

(a) Each candidate for local office who has made expenditures or accepted contributions of $500.00 or more shall file with the Secretary of State campaign finance reports 30 days before, 10 days before, and two weeks after the local election.

(b) The failure of a local candidate to file a campaign finance report shall be deemed an affirmative statement that the candidate has not accepted contributions or made expenditures of $500.00 or more.

§ 2937. REPORT OF MASS MEDIA ACTIVITIES

(a)(1) In addition to any other reports required to be filed under this chapter, a person who makes expenditures for any one mass media activity totaling $500.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each activity, file a mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The copy of the mass media report shall be sent by e-mail to each candidate who has provided the Secretary of State with an e-mail address on his or her consent form and to any other candidate by mail.

(3) The mass media report shall be filed and the copy of the report shall be sent within 24 hours of the expenditure or activity, whichever occurs first. For the purposes of this section, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure.

(b) The report shall identify the person who made the expenditure; the name of each candidate whose name or likeness was included in the activity; the amount and date of the expenditure; to whom it was paid; and the purpose of the expenditure.

(c) If the activity occurs within 30 days before the election and the expenditure was previously reported, an additional report shall be required under this section.

(d)(1) In addition to the reporting requirements of this section, an independent expenditure-only political committee that makes an expenditure for any one mass media activity totaling $5,000.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each such activity, file an independent expenditure-only political committee mass media report with the Secretary of State and send a copy of

the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The report shall include all of the information required under subsection (b) of this section, as well as the names, dates, and amounts of all contributions in excess of $100.00 accepted since the filing of the committee's last report.

§ 2938. IDENTIFICATION IN ELECTIONEERING COMMUNICATIONS

(a) An electioneering communication shall contain the name and mailing address of the person, candidate, political committee, or political party that paid for the communication. The name and address shall appear prominently such that a reasonable person would clearly understand by whom the expenditure has been made, except that:

(1) An electioneering communication transmitted through radio and paid for by a candidate does not need to contain the candidate's address.

(2) An electioneering communication paid for by a person acting as an agent or consultant on behalf of another person, candidate, political committee, or political party shall clearly designate the name and mailing address of the person, candidate, political committee, or political party on whose behalf the communication is published or broadcast.

(b) If an electioneering communication is a related campaign expenditure made on a candidate's behalf as provided in section 2924 of this chapter, then in addition to other requirements of this section, the communication shall also clearly designate the candidate on whose behalf it was made by including language such as "on behalf of" such candidate.

(c) In addition to the identification requirements in subsections (a) and (b) of this section, an electioneering communication paid for on behalf of a political committee or political party shall contain the name of any contributor who contributed more than 25 percent of all contributions and more than $2,000.00 to that committee or party since the beginning of the two-year general election cycle in which the electioneering communication was made.

(d) The identification requirements of this section shall not apply to lapel stickers or buttons, nor shall they apply to electioneering communications made by a single individual acting alone who spends, in a single two-year general election cycle, a cumulative amount of no more than $150.00 on those electioneering communications, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

§ 2939. SPECIFIC IDENTIFICATION REQUIREMENTS FOR RADIO OR TELEVISION COMMUNICATIONS

(a) A person, candidate, political committee, or political party that makes an expenditure for an electioneering communication shall include in any communication which is transmitted through radio or television, in a clearly spoken manner, an audio statement of the name and title of the person who paid for the communication, that the person paid for the communication, and that the person approves of the content of the communication.

(b) If the person who paid for the communication is not a natural person, the audio statement required by this section shall include the name of that person, the name and title of the principal officer of the person, and a statement that the officer approves of the content of the communication.

Subchapter 5. Public Financing Option

§ 2951. DEFINITIONS

As used in this subchapter:

(1) "Affidavit" means the Vermont campaign finance affidavit required under section 2952 of this chapter.

(2) "General election period" means the period beginning the day after the primary election and ending the day of the general election.

(3) "Primary election period" means the period beginning the day after primary petitions must be filed under section 2356 of this title and ending the day of the primary election.

(4) "Vermont campaign finance qualification period" means the period beginning February 15 of each even-numbered year and ending on the date on which primary petitions must be filed under section 2356 of this title.

§ 2952. FILING OF VERMONT CAMPAIGN FINANCE AFFIDAVIT

(a) A candidate for the office of Governor or Lieutenant Governor who intends to seek Vermont campaign finance grants from the Secretary of State Services Fund shall file a Vermont campaign finance affidavit on the date on or before which primary petitions must be filed, whether the candidate seeks to enter a party primary or is an independent candidate.

(b) The Secretary of State shall prepare a Vermont campaign finance affidavit form, informational materials on procedures and financial requirements, and notification of the penalties for violation of this subchapter.

(c)(1) The Vermont campaign finance affidavit shall set forth the conditions of receiving grants under this subchapter and provide space for the candidate to agree that he or she will abide by such conditions and all

expenditure and contribution limitations, reporting requirements, and other provisions of this chapter.

(2) The affidavit shall also state the candidate's name, legal residence, business or occupation, address of business or occupation, party affiliation, if any, the office sought, and whether the candidate intends to enter a party primary.

(3) The affidavit shall also contain a list of all the candidate's qualifying contributions together with the name and town of residence of the contributor and the date each contribution was made.

(4) The affidavit may further require affirmation of such other information as deemed necessary by the Secretary of State for the administration of this subchapter.

(5) The affidavit shall be sworn and subscribed to by the candidate.

§ 2953. VERMONT CAMPAIGN FINANCE GRANTS; CONDITIONS

(a) A person shall not be eligible for Vermont campaign finance grants if, prior to February 15 of the general election year during any two-year general election cycle, he or she becomes a candidate by announcing that he or she seeks an elected position as Governor or Lieutenant Governor or by accepting contributions totaling $2,000.00 or more or by making expenditures totaling $2,000.00 or more.

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

(1) not solicit, accept, or expend any contributions except qualifying contributions, Vermont campaign finance grants, and contributions authorized under section 2955 of this chapter, which contributions may be solicited, accepted, or expended only in accordance with the provisions of this subchapter;

(2) deposit all qualifying contributions, Vermont campaign finance grants, and any contributions accepted in accordance with the provisions of section 2955 of this chapter in a federally insured noninterest-bearing checking account; and

(3) not later than 40 days after the general election, deposit in the Secretary of State Services Fund, after all permissible expenditures have been paid, the balance of any amounts remaining in the account established under subdivision (2) of this subsection.

§ 2954. QUALIFYING CONTRIBUTIONS

(a) In order to qualify for Vermont campaign finance grants, a candidate for the office of Governor or Lieutenant Governor shall obtain during the Vermont

campaign finance qualification period the following amount and number of qualifying contributions for the office being sought:

(1) for Governor, a total amount of no less than $35,000.00 collected from no fewer than 1,500 qualified individual contributors making a contribution of no more than $50.00 each; or

(2) for Lieutenant Governor, a total amount of no less than $17,500.00 collected from no fewer than 750 qualified individual contributors making a contribution of no more than $50.00 each.

(b) A candidate shall not accept more than one qualifying contribution from the same contributor and a contributor shall not make more than one qualifying contribution to the same candidate in any Vermont campaign finance qualification period. For the purpose of this section, a qualified individual contributor means an individual who is registered to vote in Vermont. No more than 25 percent of the total number of qualified individual contributors may be residents of the same county.

(c) Each qualifying contribution shall indicate the name and town of residence of the contributor and the date received and be acknowledged by the signature of the contributor.

(d) A candidate may retain and expend qualifying contributions obtained under this section. A candidate may expend the qualifying contributions for the purpose of obtaining additional qualifying contributions and may expend the remaining qualifying contributions during the primary and general election periods. Amounts expended under this subsection shall be considered expenditures for purposes of this chapter.

§ 2955. VERMONT CAMPAIGN FINANCE GRANTS; AMOUNTS; TIMING

(a) The Secretary of State shall make grants from the Secretary of State Services Fund in separate grants for the primary and general election periods to candidates who have qualified for Vermont campaign finance grants under this subchapter.

(b) Whether a candidate has entered a primary or is an independent candidate, Vermont campaign finance grants shall be in the following amounts:

(1) For Governor, $75,000.00 in a primary election period and $225,000.00 in a general election period, provided that the grant for a primary election period shall be reduced by an amount equal to the candidate's qualifying contributions.

(2) For Lieutenant Governor, $25,000.00 in a primary election period and $75,000.00 in a general election period, provided that the grant for a

primary election period shall be reduced by an amount equal to the candidate's qualifying contributions;

(3) A candidate who is an incumbent of the office being sought shall be entitled to receive a grant in an amount equal to 85 percent of the amount listed in subdivision (1) or (2) of this subsection.

(c) In an uncontested general election and in the case of a candidate who enters a primary election and is unsuccessful in that election, an otherwise eligible candidate shall not be eligible for a general election period grant. However, such candidate may solicit and accept contributions and make expenditures as follows: contributions shall be subject to the limitations set forth in subchapter 3 of this chapter, and expenditures shall be limited to an amount equal to the amount of the grant set forth in subsection (b) of this section for the general election for that office.

(d) Grants awarded in a primary election period but not expended by the candidate in the primary election period may be expended by the candidate in the general election period.

(e) Vermont campaign finance grants for a primary election period shall be paid to qualifying candidates within the first 10 business days of the primary election period. Vermont campaign finance grants for a general election period shall be paid to qualifying candidates during the first 10 business days of the general election period.

§ 2956. MONETARY AMOUNTS ADJUSTED FOR INFLATION

The monetary amounts contained in sections 2953–2955 of this subchapter shall be adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter.

Sec. 4. 17 V.S.A. § 2937 is amended to read:

§ 2937. REPORT OF MASS MEDIA ACTIVITIES

(a)(1) In addition to any other reports required to be filed under this chapter, a person who makes expenditures for any one mass media activity totaling $500.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each activity, file a mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The copy of the mass media report shall be sent by e-mail to each candidate who has provided the Secretary of State with an e-mail address on his or her consent form and to any other candidate by mail.

(3) The mass media report shall be filed and the copy of the report shall be sent within 24 hours of the expenditure or activity, whichever occurs first. For the purposes of this section, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure.

(b) The report shall identify the person who made the expenditure; the name of each candidate whose name or likeness was included in the activity; the amount and date of the expenditure; to whom it was paid; and the purpose of the expenditure.

(c) If the activity occurs within 30 days before the election and the expenditure was previously reported, an additional report shall be required under this section.

(d)~~(1) In addition to the reporting requirements of this section, an independent expenditure-only political committee that makes an expenditure for any one mass media activity totaling $5,000.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within 45 days before a primary, general, county, or local election shall, for each such activity, file an independent expenditure-only political committee mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.~~

~~(2) The report shall include all of the information required under subsection (b) of this section, as well as the names, dates, and amounts of all contributions in excess of $100.00 accepted since the filing of the committee's last report.~~ [Repealed.]

Sec. 5. APPROPRIATION

The amount of $100,000.00 is appropriated to the Office of the Secretary of State for the purpose of the preliminary measures necessary to establish the digital filing of campaign finance reports and direct machine-readable electronic access to the individual data elements in each report as required by Sec. 3 of this act in 17 V.S.A. § 2931.

Sec. 6. EVALUATION OF 2014 PRIMARY AND GENERAL ELECTIONS

The House and Senate Committees on Government Operations shall evaluate the 2014 primary and general elections to determine whether the major provisions of this act are accomplishing their intended purposes.

Sec. 7. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

(a) This act shall take effect on passage, except that:

(1) in Sec. 3 of this act, 17 V.S.A. § 2931 (submission of reports to the Secretary of State) shall take effect on January 15, 2015;

(2) in Sec. 3 of this act, 17 V.S.A. § 2921(6) (limitations of contributions; aggregate limits on contributions from a single source) shall not take effect unless the final disposition, including all appeals, of *McCutcheon v. Federal Election Commission*, No. 12cv1034 (D.D.C. Sept. 28, 2012) either:

(A) holds that aggregate limits on contributions from single sources are constitutional; or

(B) does not result in an order of the Court that aggregate limits on contributions from single sources are unconstitutional; and

(3) Sec. 4 of this act, amending 17 V.S.A. § 2937, shall not take effect unless the final disposition, including all appeals, of *Vermont Right to Life Committee, Inc. v. Sorrell*, No. 2:09-cv-188 (D. Vt. June 21, 2012) either:

(A) holds that limits on contributions to independent expenditure-only political committees are constitutional; or

(B) does not result in an order of the Court that limits on contributions to independent expenditure-only political committees are unconstitutional.

(b) The provisions of 17 V.S.A. § 2921(4) (limitations of contributions; limits on contributions to a political committee) in Sec. 3 of this act shall not apply to independent expenditure-only political committees, except that those provisions shall apply to independent expenditure-only political committees if the final disposition, including all appeals, of *Vermont Right to Life Committee, Inc. v. Sorrell*, No. 2:09-cv-188 (D. Vt. June 21, 2012) either:

(1) holds that limits on contributions to independent expenditure-only political committees are constitutional; or

(2) does not result in an order of the Court that limits on contributions to independent expenditure-only political committees are unconstitutional.

(c) As used in this section, "independent expenditure-only political committee" shall have the same meaning as that term is defined in Sec. 3, 17 V.S.A. § 2901(9), of this act.

And that when so amended the bill ought to pass.

Thereupon, during the report of the Committee on Government Operations, Senator Campbell moved that the Senate recess until 5:00 P.M.

Which was agreed to.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Bill Amended; Bill Ordered to Lie

S. 82.

Consideration was resumed on Senate bill entitled:

An act relating to campaign finance law.

Thereupon, the report of the Committee on Government Operations was completed.

Senator Fox, for the Committee on Appropriations, to which the bill was referred, that the bill be amended as recommended by the Committee on Government Operations, with the following amendments thereto:

First: By striking out Sec. 5 in its entirety.

Second: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. EVALUATION OF 2014 PRIMARY AND GENERAL ELECTIONS

The House and Senate Committees on Government Operations shall evaluate the 2014 primary and general elections to determine the effect of the implementation of this act.

Third: By striking out Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

(a) This act shall take effect on passage, except that:

(1) in Sec. 3 of this act, 17 V.S.A. § 2931 (submission of reports to the Secretary of State) shall take effect on January 15, 2015;

(2) in Sec. 3 of this act, 17 V.S.A. § 2921(6) (limitations of contributions; aggregate limits on contributions from a single source) shall not take effect unless the final disposition, including all appeals, of *McCutcheon v. Federal Election Commission*, No. 12cv1034 (D.D.C. Sept. 28, 2012) holds that aggregate limits on contributions from single sources are constitutional; and

(3) Sec. 4 of this act, amending 17 V.S.A. § 2937, shall not take effect unless the final disposition, including all appeals, of *Vermont Right to Life Committee, Inc. v. Sorrell*, No. 2:09-cv-188 (D. Vt. June 21, 2012) holds that

limits on contributions to independent expenditure-only political committees are constitutional.

(b) The provisions of 17 V.S.A. § 2921(4) (limitations of contributions; limits on contributions to a political committee) in Sec. 3 of this act shall not apply to independent expenditure-only political committees, except that those provisions shall apply to independent expenditure-only political committees if the final disposition, including all appeals, of *Vermont Right to Life Committee, Inc. v. Sorrell*, No. 2:09-cv-188 (D. Vt. June 21, 2012) holds that limits on contributions to independent expenditure-only political committees are constitutional.

(c) As used in this section, "independent expenditure-only political committee" shall have the same meaning as that term is defined in Sec. 3, 17 V.S.A. § 2901(9), of this act.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the recommendation of amendment of the Committee on Government Operations be amended as recommended by the Committee on Appropriations?, Senator White moved the question be divided.

Thereupon, the *first* and *second* recommendations of amendment were agreed to.

Thereupon, the *third* recommendation of amendment was agreed to on a roll call, Yeas 20, Nays 10.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Benning, Bray, Campbell, Collins, Cummings, Doyle, Flory, Fox, Hartwell, Kitchel, Lyons, Mazza, Mullin, Nitka, Rodgers, Sears, Snelling, Starr, Westman.

Those Senators who voted in the negative were: Ayer, Baruth, French, Galbraith, MacDonald, McAllister, McCormack, Pollina, White, Zuckerman.

Thereupon, Senator Ayer, on behalf of the Committee on Government Operations, moved to amend the recommendation of amendment of the Committee on Government Operations, as amended, as follows

First: In Sec. 3, in 17 V.S.A. § 2925 (general provisions), in subsection (e), after the following: "includes the candidate's committee" by adding the following: , except in regard to the provisions of subsection (d) of this section

Second: In Sec. 3, in 17 V.S.A. § 2933 (campaign reports; candidates for state office and the General Assembly; political committees; political parties), in subsection (a), by striking out subdivisions (1)-(4) in their entirety and inserting in lieu thereof the following:

(1) in the first year of the two-year general election cycle, quarterly, beginning on March 15 of the odd-numbered year; and

(2) in the second year of the two-year general election cycle:

(A) on March 15 and June 15;

(B) on July 15, August 1, and August 15;

(C) on September 15;

(D) on October 1, October 15, and November 1; and

(E) two weeks after the general election.

Third: In Sec. 3, by redesignating the title of 17 V.S.A. § 2934 to read as follows:

§ 2934. ADDITIONAL CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE AND THE GENERAL ASSEMBLY

Fourth: In Sec. 3, in 17 V.S.A. § 2936 (campaign reports; local candidates), by inserting a new subsection to be subsection (b) to read as follows:

(b) Within 40 days after the local election, each candidate for local office who has made expenditures or accepted contributions of $500.00 or more shall file with the Secretary of State a "final report" which lists a complete accounting of all contributions and expenditures since the last report and a disposition of surplus and which shall constitute the termination of his or her campaign activities.

And by relettering the remaining subsection to be subsection (c)

Fifth: In Sec. 7 (effective dates; transitional provisions), in subdivision (a)(2) (regarding aggregate limits on contributions from a single source), after the following: shall not take effect by adding the following: any sooner than January 15, 2015 and

Which was agreed to.

Thereupon, Senators Galbraith, Baruth, Benning, Ashe and Zuckerman moved to amend the recommendation of amendment of the Committee on Government Operations, as amended, as follows:

First: In Sec. 1 (findings), by adding four new subdivisions to be subdivisions (12), (13), (14) and (15) to read as follows:

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

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

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

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

Second: In Sec. 3, in 17 V.S.A. § 2901, by inserting a new subdivision to be subdivision (14) to read as follows:

(14) "Separate segregated fund" means a bank account held separately from the general treasury of a corporation or labor union and which contains only contributions made by natural persons within the contribution limits of this chapter for those persons.

And by renumbering the remaining subdivisions within 17 V.S.A. § 2901 to be numerically correct.

Third: In Sec. 3, under Subchapter 2 (registration and maintenance requirements), by adding a new section to be 17 V.S.A. § 2915 to read as follows:

§ 2915. REQUIREMENTS FOR SEPARATE SEGREGATED FUNDS

(a) The separate segregated fund of a corporation or labor union shall be considered a political committee.

(b) Only a natural person may make a contribution to a separate segregated fund.

(c) A separate segregated fund may be used only to make contributions to candidates, political committees, or political parties.

Fourth: In Sec. 3, under Subchapter 3 (contribution limitations), by adding a new section to be 17 V.S.A. § 2926 to read as follows:

§ 2926. LIMITATIONS ON CONTRIBUTIONS; CORPORATIONS AND LABOR UNIONS; SEPARATE SEGREGATED FUNDS

(a) Notwithstanding any provision of law to the contrary and except as provided in subsection (b) of this section, a corporation or labor union shall not make a contribution to a candidate, political committee, or political party.

(b)(1) A corporation or labor union may:

(A) establish a separate segregated fund that may contribute to candidates, political committees, and political parties; and

(B) provide its meeting facilities to a candidate, political committee, or political party on a nondiscriminatory and nonpreferential basis.

(2) A corporation may use money, property, labor, or any other thing of monetary value of the corporation for the purposes of soliciting its stockholders, executive or administrative personnel, and the immediate families of those persons for contributions to the corporation's separate segregated fund and for financing the administration of that separate segregated fund. The corporation's employees and the immediate families of those employees to whom the foregoing authority does not extend may only be solicited in writing, and such solicitations may only take place two times in a calendar year.

(3) A labor union may use money, property, labor, or any other thing of monetary value of the labor union for the purposes of soliciting its members, executive or administrative personnel, and the immediate families of those persons for contributions to the labor union's separate segregated fund and for financing the administration of that separate segregated fund. The labor union's employees and the immediate families of those employees to whom the foregoing authority does not extend and stockholders and their immediate families of a corporation in which the labor union represents members working for the corporation may only be solicited in writing, and such solicitations may only take place two times in a calendar year.

(c) Notwithstanding any provision of law to the contrary, a candidate, political committee, or political party shall not accept a contribution from a corporation or labor union except from the separate segregated fund of that corporation or labor union.

(d) The provisions of this section shall not apply to a non-profit corporation that:

(1) is not organized or operating for the principal purpose of conducting a business;

(2) has no shareholders or other persons affiliated so as to have a claim on its assets or earnings; and

(3) was not established by a business corporation or a labor union and has a policy not to accept significant contributions from those entities.

(e) As used in this section, "immediate families" means the spouse and the father, mother, sons, and daughters who live in the same household as a corporation or labor union's stockholder, executive or administrative personnel, member, or employee.

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

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Baruth, Benning, Campbell, Cummings, Doyle, Fox, Galbraith, Hartwell, Kitchel, MacDonald, Mazza, McAllister, McCormack, Mullin, Pollina, Rodgers, Sears, Starr, Westman, *Zuckerman.

Those Senators who voted in the negative were: Ayer, Bray, Flory, French, Lyons, Nitka, Snelling, White.

The Senator absent and not voting was: Collins.

*Senator Zuckerman explained his vote as follows:

"I hope the yes votes were sincere."

Thereupon, Senator Mazza, moved the bill be committed to the Committee on Judiciary. Thereupon, pending the question, Shall the bill be committed to the Committee on Judiciary?, Senator Mazza requested and was granted leave to withdraw his motion.

Thereupon, on motion of Senator Campbell the bill was ordered to lie.

Bills Passed

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

S. 11. An act relating to the Austine School

S. 26. An act relating to providing state financial support for school meals for children of low-income households.

S. 61. An act relating to the shipment of malt beverages.

S. 132. An act relating to sheriffs, deputy sheriffs, and the service of process.

S. 152. An act relating to the Green Mountain Care Board's rate review authority.

S. 157. An act relating to modifying the requirements for hemp production in the State of Vermont.

Adjournment

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

FRIDAY, MARCH 29, 2013

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Brad Keller of South Royalton.

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:

Pelletier, Heidi of Montpelier - Member, Vermont State Colleges Board of Trustees – March 1, 2013, to February 28, 2019.

Diamond, M. Jerome of Montpelier - Member, Vermont State Colleges Board of Trustees – March 1, 2013, to February 28, 2019.

Sylvester, Harlan of Burlington - Chair, Vermont Racing Commission – February 1, 2013, to January 31, 2019.

DeVos, Cheryl of North Ferrisburgh - Member, Vermont Housing and Conservation Board – February 27, 2013, to January 31, 2016.

Dwyer, Carolyn of Montpelier - Member, University of Vermont and Agricultural College Board of Trustees – March 1, 2013, to February 28, 2019.

MacLean, Margaret of Peacham - Member, State Board of Education – February 5, 2013, to February 28, 2015.

Gish, Jim of Middlebury - Member, Board of Libraries – June 1, 2012, to February 29, 2016.

Weinberger, Stacy of Burlington - Member, State Board of Education – March 1, 2013, to February 28, 2019.

Macfarlane, Christopher of Essex Junction - Member, Vermont State Colleges Board of Trustees – March, 1, 2013, to February 28, 2019.

Consideration Resumed; Bill Amended; Bill Passed

S. 81.

Consideration was resumed on Senate bill entitled:

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

Thereupon, the pending question, Shall the bill be committed to the Committee on Economic Development, Housing and General Affairs?, Senator Benning requested and was granted leave to withdraw his motion.

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

Thereupon, pending third reading of the bill, Senators Ayer, Lyons, and Mullin moved to amend the bill as follows:

First: In Sec. 1, 9 V.S.A. § 2972, by adding a new subdivision (a)(1) to read as follows:

(1) "Article" means an object that during production is given a special shape, surface, or design which determines its function to a greater degree than its chemical composition. and in subdivision (a)(13), by striking out the following: ";" after the expression "(as of the effective date of this section)" where it appears for the first time in the subsection, and inserting in lieu thereof the word and and in subsection (a)(13), by striking out the following: "; or tris(2-chloro-1-methylethyl) phosphate (TCPP) chemical abstracts service number 13674-84-5, (as of the effective date of this section)"

And by renumbering the subdivisions of subsection (a) to be numerically correct

Second: In Sec. 1, by striking out 9 V.S.A. § 2974 in its entirety and inserting in lieu thereof the following:

§ 2974. CHLORINATED FLAME RETARDANTS

(a) Except for inventory manufactured prior to January 1, 2014, no person, other than a retailer, shall, as of January 1, 2014, manufacture, offer for sale, distribute for sale, or knowingly sell in or into this State any children's product

or residential upholstered furniture that contains Tris in any product component in an amount greater than 1,000 parts per million.

(b) A retailer shall not, as of July 1, 2014, knowingly sell or offer for sale in or into this State any children's product or residential upholstered furniture containing Tris in any product component in an amount greater than 1,000 parts per million.

(c)(1) Notwithstanding the requirements of subsections (a) and (b) of this section, the 1,000-parts-per-million threshold for Tris shall be applied to an individual article and not to individual product components for the following:

(A) personal computers, audio and video equipment, calculators, wireless telephones, game consoles, handheld devices incorporating a screen that are used to access interactive software and their associated peripherals, and cable and other similar connecting devices; and

(B) interactive software intended for leisure and entertainment, such as computer games, and their storage media, such as compact discs.

(2) In applying the requirements of the 1,000-parts-per-million threshold for Tris to an individual article under this subsection, the Attorney General shall interpret what constitutes an "article" in a manner that is consistent with industry practices and guidance, including the European Union's Registration, Evaluation, and Restriction on Chemical Substances regulation, known as "REACH", Regulation (EC) Number 1907/2006, Art. 3(3).

Third: In Sec. 1, by striking out 9 V.S.A. § 2977 in its entirety and inserting in lieu thereof:

§ 2977. EXEMPTIONS

The requirements and prohibitions of this chapter shall not apply to:

(1) the sale or resale of used products;

(2) motor vehicles or parts for use on motor vehicles; and

(3) building insulation materials.

Fourth: In Sec. 1, by adding 9 V.S.A. § 2980 to read:

§ 2980. DEPARTMENT OF HEALTH RULEMAKING; TCPP

(a) The Commissioner of Health may adopt by rule:

(1) a prohibition on the manufacture, offer for sale, distribution for sale, or knowing sale at retail in or into the State of the flame retardant tris(2-chloro-1-methylethyl) phosphate (TCPP) if the Commissioner of Health determines, based on the weight of available, scientific studies, that the toxicity

of TCPP and its potential exposure pathways pose a hazard to human health; and

(2) exemptions from a prohibition adopted under subdivision (1) of this subsection.

(b) A violation of a prohibition or requirement adopted by rule under this section shall be enforceable by the Attorney General under section 2978 of this title as a violation of this chapter.

(c) In addition to the public participation requirements of 3 V.S.A. chapter 25 and prior to submitting a rule authorized under this section to the Secretary of State under 3 V.S.A. § 838, the Commissioner of Health shall consult with interested parties within the State regarding a proposed prohibition on the manufacture, offer for sale, distribution for sale, or knowing sale at retail in the State of the flame retardant TCPP. The Commissioner of Health may satisfy the consultation requirement of this section through the use of workshops, focused work groups, dockets, meetings, or other forms of communication.

(d) A rule proposed by the Commissioner of Health under this section shall go into effect one calendar year after the Commissioner of Health files an adopted rule under 3 V.S.A. § 843.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Zuckerman and Galbraith moved that the bill be amended in Sec. 1, 9 V.S.A. § 2974 (Chlorinated flame retardants) by adding a subsection (c) to read as follows:

(c) A retailer shall not, as of July 1, 2014, knowingly sell or offer for sale in or into this State any children's bedding, clothing, or stuffed toys containing Tris in any product component in an amount greater than 50 parts per million.

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

Thereupon, the bill was read the third time and passed on a roll call, Yeas 28, Nays 0.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Bray, Campbell, Collins, Cummings, Doyle, Flory, Fox, French,

Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, White, Zuckerman.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: McAllister, Westman.

Consideration Resumed; Bill Amended; Third Reading Ordered

S. 129.

Consideration was resumed on Senate bill entitled:

An act relating to workers' compensation liens.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Finance, as substituted, in the *first* instance?, Senator Mullin requested and was granted leave to withdraw his request that the question be divided.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Finance, as substituted?, Senator Campbell moved to amend the report of the Committee on Finance, as substituted, by striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. STUDY

(a) The Department of Labor in consultation with interested parties shall evaluate:

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

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

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

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Finance, as amended?, was agreed to.

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

Bills Amended; Bills Passed

S. 18.

Senate bill entitled:

An act relating to automated license plate recognition systems.

Was taken up.

Thereupon, pending third reading of the bill, Senator Campbell moved to amend the bill in Sec. 2, 23 V.S.A. § 1608(a), by striking out subdivision (1) in its entirety and inserting in lieu thereof the following:

(1) A law enforcement agency or the Department of Motor Vehicles may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation, or to a pending proceeding in the Judicial Bureau. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

Which was agreed to.

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

S. 40.

Senate bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill Senators Campbell and Galbraith moved to amend the bill as follows

First: In Sec. 2(b)(1), by deleting the words "United Professions American Federation of Teachers Vermont" and inserting the words the Faculty Senate

Second: In Sec. 2(b)(2), after the following: "faculty member," by inserting the following: of the Vermont State Colleges to be appointed by a committee consisting of one representative from each of the Faculty Senates,

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

Thereupon, the question, Shall the bill be amended as recommended by Senators Campbell and Galbraith in the *first* instance of amendment?, was disagreed to on a roll call Yeas 5, Nays 23.

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, Flory, Galbraith, Mullin.

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

Those Senators absent and not voting were: McAllister, Starr.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 28, Nays 1.

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

Roll Call

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

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

The Senator absent and not voting was: McAllister.

*Senator Galbraith explained his vote as follows:

"I don't think we need to study what we already know."

S. 27.

Senate bill entitled:

An act relating to respectful language in the Vermont Statutes Annotated.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill by striking out Sec. 222 in its entirety and inserting in lieu thereof the following:

Sec. 222. STATUTORY REVISION

The Office of Legislative Council, in its statutory revision capacity under 2 V.S.A. § 424, is authorized and directed to make such amendments to the Vermont Statutes Annotated as are necessary to effect the purpose of this act by replacing any term amended in one or more statutes by this act which was inadvertently left unchanged elsewhere in statute with a term identical or similar to that which was used to replace it in this act, where appropriate.

Which was agreed to.

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

Bill Passed

S. 154.

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

An act relating to classification of crimes

Message from the House No. 35

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

H. 528. An act relating to revenue changes for fiscal year 2014 and fiscal year 2015.

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

H.C.R. 74. House concurrent resolution congratulating the 2013 Mount Anthony Union High School Patriots' 25th consecutive state and seventh New England championship wrestling team.

H.C.R. 75. House concurrent resolution congratulating the Vermont Law School 2013 National Environmental Law Moot Court Competition championship team.

H.C.R. 76. House concurrent resolution congratulating the 2013 Rochester High School Rockets Division IV boys' basketball championship team.

H.C.R. 77. House concurrent resolution congratulating Westminster Cares, Inc. on its 25th anniversary.

H.C.R. 78. House concurrent resolution congratulating the 2013 Vergennes Union High School Division II championship boys' basketball team.

H.C.R. 79. House concurrent resolution congratulating the Underhill-Jericho Fire Department on its centennial anniversary.

H.C.R. 80. House concurrent resolution congratulating the 2013 Rutland High School Raiders Division I championship cheerleading team.

H.C.R. 81. House concurrent resolution honoring the Vermont Women's History Project and its women in journalism panel's commemoration of Women's History Month.

H.C.R. 82. House concurrent resolution congratulating the Clarendon Fire Association, Inc. on its 50th anniversary.

H.C.R. 83. House concurrent resolution in memory of Jeannette Lynch.

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. 19. Senate concurrent resolution in memory of Roy Jacobsen, cofounder of the first chapter of Vietnam Veterans of America.

And has adopted the same in concurrence.

Senate Concurrent Resolution

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

By Senators Flory, French and Mullin,

By Representative Canfield and others,

S.C.R. 19.

Senate concurrent resolution in memory of Roy Jacobsen, cofounder of the first chapter of Vietnam Veterans of America.