
Pledge of Allegiance

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

Bill Referred to Committee on Appropriations

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

H. 559.

An act relating to membership on the Building Bright Futures Council.

**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:

Liebow, David, DPM of Townshend - Member of the Board of Medical Practice, - from January 22, 2014, to December 31, 2018.

To the Committee on Health and Welfare.

Burkhardt, Frederick of South Burlington - Member of the Vermont Educational and Health Buildings Financing Agency, - from February 1, 2014, to January 31, 2020.

To the Committee on Finance.

Canney, Dwayne of Clarendon - Member of the Vermont Housing Finance Agency, - from February 1, 2014, to January 31, 2018.

To the Committee on Finance.

Sproul, Marga, MD of South Burlington - Member of the Board of Medical Practice, - from January 22, 2014, to December 31, 2018.

To the Committee on Health and Welfare.

Post, Bruce of Essex Junction - Member of the Board of Libraries, - from March 1, 2014, to February 28, 2018.

To the Committee on Education.

Joint Senate Resolution Adopted on the Part of the Senate

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

By Senators Baruth and Benning,

J.R.S. 43. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 7, 2014, it be to meet again no later than Tuesday, February 11, 2014.

Bill Passed

S. 283.

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

An act relating to the changing of the name of the Vermont Criminal Information Center.

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, February 5, 2014.

WEDNESDAY, FEBRUARY 5, 2014

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

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 14

A message was received from the House of Representatives by Ms. Melissa Kucserik, 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. 373. An act relating to updating and reorganizing Title 33.

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

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

Message from the Governor

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

Mr. President:

I am directed by the Governor to inform the Senate that on the fourth day of February, 2014 he approved and signed a bill originating in the Senate of the following title:

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

Bills Referred

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

H. 373.

An act relating to updating and reorganizing Title 33.

To the Committee on Health and Welfare.

H. 735.

An act relating to Executive Branch and Judiciary fees.

To the Committee on Finance.

Bill Passed

S. 223.

Senate bill of the following title:

An act relating to regulating the making of pension loans.

Was taken up.

Thereupon, the bill was passed on a roll call, Yeas 27, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Campbell (presiding), Flory, Fox (deceased).

Third Reading Ordered**S. 285.**

Senator Benning, for the Committee on Institutions, to which was referred Senate bill entitled:

An act relating to the furlough of offenders 65 years of age and older.

Reported that the bill ought to pass.

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

Bills Amended; Third Readings Ordered**S. 184.**

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

An act relating to eyewitness identification policy.

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

Sec. 1. 13 V.S.A. chapter 182, subchapter 3 is added to read:

Subchapter 3. Law Enforcement Practices

§ 5581. EYEWITNESS IDENTIFICATION POLICY

(a) On or before January 1, 2015, every State, county, and municipal law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with 20 V.S.A. § 2358 shall adopt an eyewitness identification policy.

(b) The written policy shall contain, at a minimum, the following essential elements as identified by the Law Enforcement Advisory Board:

(1) Protocols guiding the use of a show-up identification procedure.

(2) The photo or live lineup shall be conducted by a blind administrator who does not know the suspect's identity. For law enforcement agencies with limited staff, this can be accomplished through a procedure in which photographs are placed in folders, randomly numbered and shuffled, and then presented to an eyewitness such that the administrator cannot see or track which photograph is being presented to the witness until after the procedure is completed.

(3) Instructions to the eyewitness, including that the perpetrator may or may not be among the persons in the identification procedure.

(4) In a photo or live lineup, fillers shall possess the following characteristics:

(A) All fillers selected shall resemble the eyewitness's description of the perpetrator in significant features such as face, weight, build, or skin tone, including any unique or unusual features such as a scar or tattoo.

(B) At least five fillers shall be included in a photo lineup, in addition to the suspect.

(C) At least four fillers shall be included in a live lineup, in addition to the suspect.

(5) If the eyewitness makes an identification, the administrator shall seek and document a clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words, as to the eyewitness's confidence level that the person identified in a given identification procedure is the perpetrator.

(c) The model policy issued by the Law Enforcement Advisory Board shall encourage ongoing law enforcement training in eyewitness identification procedures for State, county, and municipal law enforcement agencies and constables who exercise law enforcement authority pursuant to 24 V.S.A. § 1936a and are trained in compliance with 20 V.S.A. § 2358.

(d) If a law enforcement agency does not adopt a policy by January 1, 2015 in accordance with this section, the model policy issued by the Law Enforcement Advisory Board shall become the policy of that law enforcement agency or constable.

Sec. 2. REPORTING EYEWITNESS IDENTIFICATION POLICIES

The Vermont Criminal Justice Training Council shall report to the General Assembly on or before April 15, 2015, regarding law enforcement's compliance with Sec. 1 of this act.

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.

S. 291.

Senator Rodgers, for the Committee on Institutions, to which was referred Senate bill entitled:

An act relating to the establishment of transition units at State correctional facilities.

Reported recommending that the bill be amended as follows:

First: In Sec. 1, in subsection (b), by striking out the following: “2015” and inserting in lieu thereof the following: 2016 and by adding after the word “facility” where it first appears the following: , except as otherwise provided in subsection (c).

Second: In Sec. 1, by adding a new subsection (c) to read as follows:

(c) No State-owned work camp shall be required to establish a transition unit under this section.

And that when so amended the bill ought to pass.

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

S. 297.

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

An act relating to the recording of custodial interrogations in homicide and sexual assault cases.

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

Sec. 1. 13 V.S.A. chapter 182, subchapter 3 of is added to read:

Subchapter 3. Law Enforcement Practices

§ 5581. ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION

(a) As used in this section:

(1) “Custodial interrogation” means any interrogation:

(A) involving questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject; and

(B) in which a reasonable person in the subject’s position would consider himself or herself to be in custody, starting from the moment a person

should have been advised of his or her Miranda rights and ending when the questioning has concluded.

(2) “Electronic recording” or “electronically recorded” means an audio and visual recording that is an authentic, accurate, unaltered record of a custodial interrogation, or if law enforcement does not have the capacity to create a visual recording, an audio recording of the interrogation.

(3) “Place of detention” means a building or a police station that is a place of operation for the State police, a municipal police department, county sheriff department, or other law enforcement agency that is owned or operated by a law enforcement agency at which persons are or may be questioned in connection with criminal offenses or detained temporarily in connection with criminal charges pending a potential arrest or citation.

(4) “Statement” means an oral, written, sign language, or nonverbal communication.

(b)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony violation of chapter 53 (homicide) or 72 (sexual assault) of this title shall be electronically recorded in its entirety.

(2) In consideration of best practices, law enforcement shall strive to simultaneously record both the interrogator and the person being interrogated.

(c)(1) The following are exceptions to the recording requirement in subsection (b) of this section:

(A) exigent circumstances;

(B) a person’s refusal to be electronically recorded;

(C) interrogations conducted by other jurisdictions;

(D) a reasonable belief that the person being interrogated did not commit a felony violation of chapter 53 (homicide) or 72 (sexual assault) of this title and, therefore, an electronic recording of the interrogation was not required;

(E) the safety of a person or protection of his or her identity; and

(F) equipment malfunction.

(2) If law enforcement does not make an electronic recording of a custodial interrogation as required by this section, the prosecution shall prove by a preponderance of the evidence that one of the exceptions identified in subdivision (1) of this subsection applies. If the prosecution does not meet the burden of proof, the evidence is still admissible, but the Court shall provide cautionary instructions to the jury regarding the failure to record the interrogation.

Sec. 2. TASK FORCE

(a) Creation. There is created an Interrogation Practices Task Force to plan for the implementation of Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation).

(b) Membership. The Task Force shall be composed of the following eight members:

(1) the Commissioner of Public Safety or his or her designee;

(2) the Director of the Criminal Justice Training Council or his or her designee;

(3) a Sheriff appointed by the Vermont Sheriffs' Association;

(4) a Chief of Police appointed by the Vermont Association of Chiefs of Police;

(5) the Attorney General or his or her designee;

(6) the Defender General or his or her designee;

(7) the Executive Director of State's Attorneys and Sheriffs or his or her designee;

(8) a representative appointed by The Innocence Project.

(c) Powers and duties. The Task Force, in consultation with practitioners and experts in recording interrogations, shall:

(1) assess the scope and location of the current inventory of recording equipment in Vermont;

(2) develop recommendations, including funding options, regarding how to equip adequately law enforcement with the recording devices necessary to carry out Sec. 1 of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation); and

(3) develop recommendations for expansion of recordings to questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject regarding any felony offense.

(d) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Department of Public Safety.

(e) Report. On or before October 1, 2014, the Task Force shall submit a written report to the Senate and House Committees on Judiciary with its recommendations for implementation of Sec. 1. of this act, 13 V.S.A. § 5581 (electronic recording of a custodial interrogation).

(f) Meetings.

(1) The Commissioner of Public Safety shall call the first meeting of the Task Force to occur on or before June 1, 2014.

(2) The Committee shall select a chair from among its members at the first meeting.

(3)(A) A majority of the members of the Task Force shall be physically present at the same location to constitute a quorum.

(B) A member may vote only if physically present at the meeting location.

(C) Action shall be taken only if there is both a quorum and a majority vote of all members of the Task Force.

(4) The Task Force shall cease to exist on December 31, 2014.

Sec. 3. EFFECTIVE DATES

Sec. 1 shall take effect on July 1, 2015 and Sec. 2 and this section 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.

Proposals of Amendment; Third Reading Ordered

H. 655.

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

An act relating to fiscal year 2014 budget adjustments.

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

First: By adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. 2013 Acts and Resolves No. 50, Sec. B.139 is amended to read:

Sec. B.139 Tax department - reappraisal and listing payments

Grants	<u>3,293,196</u>	3,368,196
Total	<u>3,293,196</u>	3,368,196
Source of funds		
Education fund	<u>3,293,196</u>	3,368,196
Total	<u>3,293,196</u>	3,368,196

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

Sec. 5. 2013 Acts and Resolves No. 50, Sec. B.145 is amended to read:

Sec. B.145 Total general government

Source of funds

General fund	69,657,388	70,763,769
Transportation fund	3,930,356	3,930,356
Special funds	10,336,132	10,336,132
Education fund	9,480,096	9,555,096
Federal funds	963,293	963,293
Internal service funds	69,123,421	69,123,421
Interdepartmental transfers	6,974,721	6,974,721
Enterprise funds	3,233,092	3,233,092
Pension trust funds	39,659,149	39,659,149
Private purpose trust funds	<u>1,138,128</u>	<u>1,138,128</u>
Total	214,495,776	215,677,157

and by adding a new section to be numbered Sec. 73a to read as follows:

Sec. 73a. 2013 Acts and Resolves No. 50, Sec. E.139(c) is added to read:

(c) Of this appropriation, \$75,000 shall be transferred to the Department of Taxes, Division of Property Valuation and Review and used with any remaining funds from the amount transferred pursuant to 2013 Acts and Resolves No. 1, Sec. 75, for payment of any expenses associated with reappraisals of the hydroelectric plants and other property owned by TransCanada Hydro Northeast, Inc. in the State of Vermont. Expenditures for this purpose shall be considered qualified expenditures under 16 V.S.A. § 4025(c).

Second: By adding a new section to be numbered Sec. 5a to read as follows:

Sec. 5a. 2013 Acts and Resolves No. 50, Sec. B.204 is amended to read:

Sec. B.204 Judiciary

Personal services	32,218,222	32,868,222
Operating expenses	8,707,574	8,707,574
Grants	<u>70,000</u>	<u>70,000</u>
Total	40,995,796	41,645,796
Source of funds		
General fund	35,067,633	35,717,633
Special funds	3,235,319	3,235,319
Tobacco fund	39,871	39,871

Federal funds	714,176	714,176
Interdepartmental transfers	<u>1,938,797</u>	<u>1,938,797</u>
Total	<u>40,995,796</u>	41,645,796

and by striking out Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. 2013 Acts and Resolves No. 50, Sec. B.240 is amended to read:

Sec. B.240 Total protection to persons and property

Source of funds

General fund	118,749,083	119,499,112
Transportation fund	25,238,498	25,238,498
Special funds	75,064,951	75,164,951
Tobacco fund	606,315	606,315
Federal funds	66,671,503	66,671,503
ARRA funds	1,479,429	1,479,429
Global commitment fund	256,224	256,224
Interdepartmental transfers	8,670,609	8,670,609
Enterprise funds	<u>6,178,980</u>	<u>6,178,980</u>
Total	302,915,592	303,376,621

Third: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. 2013 Acts and Resolves No. 50, Sec. B.300 is amended to read:

Sec. B.300 Human services - agency of human services - secretary's office

Personal services	10,337,270	10,462,270
Operating expenses	3,232,916	3,591,498
Grants	5,473,998	<u>5,260,754</u>
Total	19,044,184	19,314,522
Source of funds		
General fund	5,135,482	5,241,643
Special funds	91,017	91,017
Tobacco fund	291,127	223,127
Federal funds	9,843,546	9,975,320
Global commitment fund	415,000	415,000
Interdepartmental transfers	3,268,012	<u>3,368,415</u>
Total	19,044,184	19,314,522

and by striking out Sec. 36 in its entirety and inserting in lieu thereof a new Sec. 36 to read as follows:

Sec. 36. 2013 Acts and Resolves No. 50, Sec. B.346 is amended to read:

Sec. B.346 Total human services

Source of funds

General fund	590,507,696	606,770,937
Special funds	89,631,251	89,094,967
Tobacco fund	40,046,431	40,046,431
State health care resources fund	267,531,579	268,303,555
Education fund	3,929,242	3,929,242
Federal funds	1,186,473,782	1,207,610,475
Global commitment fund	1,224,791,971	1,248,742,299
Internal service funds	1,502,901	1,502,901
Interdepartmental transfers	25,378,027	25,503,430
Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	3,429,817,880	3,491,529,237

Fourth: By striking out Sec. 37 in its entirety and inserting in lieu thereof a new Sec. 37 to read as follows:

Sec. 37. 2013 Acts and Resolves No. 50, Sec. B.500 is amended to read:

Sec. B.500 Education - finance and administration

Personal services	7,072,845	7,147,845
Operating expenses	2,019,419	2,519,419
Grants	<u>12,591,200</u>	<u>12,591,200</u>
Total	21,683,464	22,258,464

Source of funds

General fund	3,007,875	3,007,875
Special funds	13,293,157	13,868,157
Education fund	892,795	892,795
Federal funds	3,624,185	3,624,185
Global commitment fund	<u>865,452</u>	<u>865,452</u>
Total	21,683,464	22,258,464

and by striking out Sec. 40 in its entirety and inserting in lieu thereof a new Sec. 40 read as follows:

Sec. 40. 2013 Acts and Resolves No. 50, Sec. B.515 is amended to read:

Sec. B.515 Total general education

Source of funds

General fund	370,703,978	370,703,978
Special funds	17,197,375	17,772,375
Tobacco fund	766,541	766,541
Education fund	1,452,124,701	1,451,050,701

Federal funds	133,926,899	133,926,899
Global commitment fund	865,452	865,452
Pension trust funds	<u>34,963,059</u>	<u>34,963,059</u>
Total	<u>2,010,548,005</u>	<u>2,010,049,005</u>

and by adding a new section to be numbered Sec.79a to read as follows:

Sec. 79a. 2013 Acts and Resolves No. 50, Sec. E.500(b) is added to read:

(b) Of the special funds appropriated in Sec. B.500 of this act, up to \$75,000 shall be transferred to the Joint Fiscal Office from the Agency of Education for reimbursement of costs incurred for analysis of special education as authorized in subsections (c) - (f) of this section.

(c) The Joint Fiscal Office, with the assistance of the Office of Legislative Council and the Agency of Education, shall develop a request for proposals to evaluate the use of paraprofessionals to provide special education services in Vermont public schools. A special committee consisting of the members of the Joint Fiscal Committee and the chairs of the House and Senate Committees on Education shall select a consultant from among the proposals submitted and the Joint Fiscal Office shall enter into a contract with the consultant to perform the evaluation required by this section.

(d) The consultant's evaluation shall include examination of the following:

(1) the relationship between the use of paraprofessionals and achievement of identified student outcomes;

(2) factors that influence a school district's decision to use paraprofessionals to deliver special education services;

(3) the range of and impacts resulting from the implementation of schoolwide programs for improving and managing behaviors, particularly on the use of paraprofessionals;

(4) if and how the current education funding system impacts the use of paraprofessionals to deliver special education services;

(5) the quality and availability of information to boards and administrators of supervisory unions and school districts to monitor and evaluate the delivery of special education services; and

(6) local governance practices regarding regular reevaluation of the needs for one-on-one aides and the movement of special needs students toward independence from an aide.

(e) The Joint Fiscal Office, the Office of Legislative Council, and the Agency of Education shall assist the consultant to gather data necessary for an evaluation. The consultant shall interview school board members,

administrators, licensed teachers, and paraprofessionals and shall provide opportunities for participation by students with special needs and their parents or guardians.

(f) On or before January 15, 2015, the consultant shall submit a report to the Governor, the Joint Fiscal Committee, and the House and Senate Committees on Education detailing research, conclusions, and recommendations.

Fifth: By striking out Sec. 42 in its entirety and inserting in lieu thereof a new Sec. 42 to read as follows:

Sec. 42. 2013 Acts and Resolves No. 50, Sec. B.714 is amended to read:

Sec. B.714 Total natural resources

Source of funds

General fund	26,072,035	27,838,171
Special funds	34,994,533	34,994,533
Fish and wildlife fund	8,914,102	8,914,102
Federal funds	20,837,609	20,837,609
Interdepartmental transfers	<u>6,986,357</u>	<u>6,986,357</u>
Total	97,804,636	99,570,772

Sixth: By striking out Sec. 45 in its entirety and inserting in lieu thereof a new Sec. 45 to read as follows:

Sec. 45. 2013 Acts and Resolves No. 50, Sec. B.813 is amended to read:

Sec. B.813 Total commerce and community development

Source of funds

General fund	14,731,031	14,731,031
Special funds	18,937,450	19,562,450
Federal funds	44,834,367	44,834,367
Interdepartmental transfers	222,700	222,700
Enterprise funds	<u>827,003</u>	<u>827,003</u>
Total	79,552,551	80,177,551

Seventh: By striking out Sec. 47 in its entirety and inserting in lieu thereof a new Sec. 47 to read as follows:

Sec. 47. 2013 Acts and Resolves No. 50, Sec. B.922 is amended to read:

Sec. B.922 Total transportation

Source of funds

Transportation fund	218,733,438	220,657,745
TIB fund	21,121,994	19,197,687
Special funds	2,235,250	2,235,250

Federal funds	373,641,099	373,641,099
Internal service funds	20,319,956	20,319,956
Interdepartmental transfers	4,432,547	4,432,547
Local match	2,183,313	2,183,313
TIB proceeds fund	<u>10,387,500</u>	<u>10,387,500</u>
Total	653,055,097	653,055,097

Eighth: By striking out Sec. 49 in its entirety and inserting in lieu thereof a new Sec. 49 to read as follows:

Sec. 49. 2013 Acts and Resolves No. 50, Sec. B.1001 is amended to read:

Sec. B.1001 Total debt service

Source of funds

General fund	70,521,584	70,210,177
Transportation fund	2,414,979	2,414,979
TIB debt service fund	2,397,816	2,393,683
Special funds	628,910	628,910
ARRA funds	<u>1,253,280</u>	<u>1,153,645</u>
Total	77,216,569	76,801,394

Ninth: By striking out Sec. 53(a) in its entirety and inserting in lieu thereof a new Sec. 53(a) to read as follows:

(a) The following is appropriated in fiscal year 2014 to the Agency of Transportation:

Transportation Fund \$1,626,284

Tenth: By adding a new section to be numbered Sec. 53a to read as follows:

Sec. 53a. 2012 Acts and Resolves No. 162, Sec. BB.1200(a)(1)(B) is amended to read:

(B) Transportation Fund. The amount of ~~\$2,200,000~~ \$1,910,949 is appropriated from the transportation fund to the secretary of administration for distribution to the agency of transportation, the transportation board, and the department of public safety to fund the collective bargaining agreements and the requirements of this act.

Eleventh: By striking out Sec 71 in its entirety and inserting in lieu thereof a new Sec. 71 to read as follows:

Sec. 71. [Deleted]

Twelfth: By striking out Sec. 73 in its entirety and inserting in lieu thereof a new Sec. 73 to read as follows:

Sec. 73. 2013 Acts and Resolves No. 50, Sec. E.127(c) is added to read:

(c) The amount of \$200,000 shall be transferred from the fiscal year 2014 Legislature budget to the Joint Fiscal Committee budget for the purpose of procuring fiscal and policy expertise related to Vermont's health care system.

Thirteenth: By adding a new section to be numbered Sec. 75a to read as follows:

Sec. 75a. CHOICES FOR CARE; REINVESTMENT

(a) Of the Choices for Care funds available for reinvestment in fiscal year 2014, the Department of Disabilities, Aging, and Independent Living is authorized to use up to \$1,000,000 in fiscal years 2014 and 2015 on one-time investments that directly benefit eligible choices for care enrollees and one-time investments to home- and community-based providers that are consistent with and prioritized based on current needs analysis to meet the overall strategic goals and outcomes of the waiver. This authorization is in addition to the reinvestment plan submitted by the Department as submitted to the Committees on Appropriations in January 2014. The General Fund portion of this amount is \$435,600 which may be transferred to other Department appropriations as needed to meet the objectives of this section. The Department shall report to the Joint Fiscal Committee in July 2014 regarding this provision.

Fourteenth: By striking out Sec. 78 in its entirety and inserting in lieu thereof a new Sec. 78 to read as follows:

Sec. 78. GENERAL ASSISTANCE HOUSING INTENT

(a) The General Assembly understands that there is a need for emergency housing in Vermont and supports the efforts of the Department for Children and Families to address the growing demand. It finds that while motels are currently used to address emergency housing needs, it is the goal of the General Assembly that motels be reserved for catastrophic situations in the future.

Fifteenth: By adding a new section to be numbered Sec. 86a to read as follows:

Sec. 86a. SPECIAL WARMTH GRANT

(a) Effective January 30, 2014, the Department for Children and Families is authorized to grant \$500,000 of the funds available within the fuel assistance program for a special warmth program to address extraordinary temperature-related fuel assistance needs in the 2013-2014 heating season.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposals of amendment were collectively agreed to, and third reading of the bill was ordered on a roll call, Yeas 25, Nays 2.

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

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

Those Senators absent or not voting were: Campbell (presiding), Flory, Fox (deceased).

House Proposals of Amendment Concurred In

S. 27.

House proposals of amendment to Senate bill entitled:

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

Were taken up.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 1, subsection (b), by deleting “and 223,” and by inserting “and” before “222” and by deleting Sec. 2a in its entirety

Second: In Sec. 2b, 1 V.S.A. § 146, in the first sentence, by striking out “general”

Third: By inserting a Sec. 2d after Sec. 2c to read as follows:

Sec. 2d. 1 V.S.A. § 148 is added to read:

§ 148. DEVELOPMENTAL DISABILITY

“Developmental disability” or “person with developmental disabilities” shall have the same meaning as in 18 V.S.A. § 9302.

Fourth: By deleting Sec. 9 in its entirety

Fifth: By deleting Sec. 10 in its entirety

Sixth: In Sec. 11, 4 V.S.A. § 33, subdivision (13), by striking out “developmental” and inserting in lieu thereof “intellectual”

Seventh: In Sec. 12, 4 V.S.A. § 36(a), subdivision (2)(B)(v), by striking out “developmental” and inserting in lieu thereof “intellectual”

Eighth: In Sec. 15, 6 V.S.A. § 2777(d), in subdivisions (2)(E) and (4)(B), by striking out “persons who are elderly” and inserting in lieu thereof “elders”

Ninth: By deleting Sec. 17 in its entirety

Tenth: In Sec. 19, 8 V.S.A. § 4089b, by deleting subdivision (c)(1) and inserting in lieu thereof the following:

(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, 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;

Eleventh: In Sec. 19, 8 V.S.A. § 4089b, by deleting subdivision (d)(1)(A) and inserting in lieu thereof the following:

(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 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 or the Green Mountain Care Board established in 18 V.S.A. chapter 220, as appropriate, shall consider the compliance of the policy with the provisions of this section.

Twelfth: By deleting Sec. 19a in its entirety

Thirteenth: In Sec. 25, 8 V.S.A. § 10501, in the third sentence, by striking out “elderly” and inserting in lieu thereof “old”

Fourteenth: In Sec. 31, 9 V.S.A. § 4501, in subdivision (3)(C), in the first sentence, by striking out “intellectual” and inserting in lieu thereof

“developmental” and by inserting “substance use disorders, including” before “drug addiction and alcoholism” and in the second sentence, by striking out “who is an alcoholic or drug abuser” and inserting in lieu thereof “with a substance use disorder”

Fifteenth: In Sec. 32, 9 V.S.A. § 4503, in subdivision (b)(3), by striking out “persons who are elderly” and by inserting in lieu thereof “elders”

Sixteenth: In Sec. 35, 10 V.S.A. § 622(7), in the last sentence, by inserting “elders or” after “independent living for” and by striking out “are” before “handicapped” and by striking out “elderly or” after “handicapped”

Seventeenth: In Sec. 51, in 13 V.S.A. § 1306, by striking out “intellectual” and inserting in lieu thereof “developmental”

Eighteenth: In Sec. 80, 16 V.S.A. § 3851(c), by deleting subdivision (5)(D) and inserting in lieu thereof the following:

(D) nonprofit assisted living facility, nonprofit continuing care retirement facility, nonprofit residential care facility or similar nonprofit facility for the continuing care of ~~the elderly~~ elders or the infirm, 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 Green Mountain Care Board, if required, has issued a certificate of need.

Nineteenth: In Sec. 82, 17 V.S.A. § 2502, in subsection (b), in the first sentence, by striking out “elderly” and inserting in lieu thereof “elders” and in the second sentence by striking out “a” before “~~handicapped or elderly~~” and by inserting “an elder or to a” after “~~handicapped or elderly~~” and by striking out “is elderly or” after “person who”

Twentieth: In Sec. 85, 17 V.S.A. § 2667, in the first sentence, by striking out “elderly” and inserting in lieu thereof “elders”

Twenty-first: In Sec. 93, 18 V.S.A. § 1751(b)(26), by striking out “persons who are elderly” and by inserting in lieu thereof “elders”

Twenty-second: In Sec. 104, in 18 V.S.A. § 7401, in subdivisions (14) and (15), by striking out “or mental condition” after “a psychiatric disability” and by inserting “mental condition or” before “psychiatric disability”

Twenty-third: In Sec. 111, in 18 V.S.A. § 8706, in subdivision (1), by striking out “and” after the semicolon and in subdivision (3) by inserting “and” after the semicolon

Twenty-fourth: In Sec. 113, 18 V.S.A. § 8731(d), by striking out “adults who are elderly” and by inserting in lieu thereof “elders” and by inserting “adults who” after “~~disabled adults or~~”

Twenty-fifth: In Sec. 114, in 18 V.S.A. § 8839, in subdivision (3)(A), by inserting before the semicolon “, which means significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior that were manifest before 18 years of age”

Twenty-sixth: In Sec. 121, 20 V.S.A. § 2063(b)(1), by striking out “persons who are elderly” and inserting in lieu thereof “elders”

Twenty-seventh: In Sec. 122, 20 V.S.A. § 2730(a)(1)(A), by inserting “elders or” before “persons who” and by striking out “are elderly.” after “persons who” and by striking out the comma after “infirmity”

Twenty-eighth: In Sec. 125, 20 V.S.A. § 3072(b), in subdivision (3), by striking out the second section symbol

Twenty-ninth: In Sec. 130, 21 V.S.A. § 495d, in subdivision (7)(B), by striking out “intellectual” and inserting in lieu thereof “developmental”

Thirtieth: In Sec. 137, 21 V.S.A. § 644(a), in subdivision (6), by striking out “incurable”

Thirty-first: In Sec. 139, 21 V.S.A. § 1301(6)(C)(vii), in subdivision (IV), by striking out “elderly” and inserting in lieu thereof “an elder”

Thirty-second: In Sec. 141, 23 V.S.A. § 4(15), by inserting “elders or” after “nor one which is used to transport” and by striking out “are elderly” and by striking out “or” before “have a disability”

Thirty-third: By striking Sec. 142 in its entirety, and inserting in lieu thereof the following:

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. 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 shall issue these placards or plates under rules adopted by him or her after proper application has been made to the Commissioner by any person residing within the State of Vermont.

Application forms shall be available on request at the 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 in the county in which he or she resides to review a decision by the Commissioner to deny his or her application for a special registration plate or placard.

* * *

(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 issued by the 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 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 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 assistant, or licensed advanced practice registered nurse. The Commissioner shall promulgate rules to implement the provisions of this subsection.

Thirty-fourth: In Sec. 152, 24 V.S.A. § 2691, by striking out “persons who are elderly” and inserting in lieu thereof “elders”

Thirty-fifth: In Sec. 153, 24 V.S.A. § 2694, by striking out “persons who are elderly” and inserting in lieu thereof “elders”

Thirty-sixth: In Sec. 156, 24 V.S.A. § 4001(4), by striking out “persons who are elderly and” and inserting in lieu thereof “elders” in all three places

that it appears and by striking out “persons who are elderly” and inserting “elders” in both places that it appears and by striking out “persons who are elderly” and inserting “elders” in lieu thereof and by restoring “~~inevitably~~” by removing the striking

Thirty-seventh: In Sec. 157, 24 V.S.A. § 4002, in subdivision (10)(B), by striking “persons” after “~~elderly~~” and inserting in lieu thereof “elders” and by striking out “elderly and” before “of low income”

Thirty-eighth: In Sec. 157, 24 V.S.A. § 4002, in (11), in the first sentence, by striking out “who are elderly” and inserting in lieu thereof “elders” and in the second sentence, by striking out “elderly” and inserting in lieu thereof “elder”

Thirty-ninth: In Sec. 158, 24 V.S.A. § 4003(b), in subdivision (2), in the first sentence, by striking out “persons” before “~~of a low income~~” and by striking out “who are elderly” after “~~of a low income~~” and inserting in lieu thereof “elders of a low income”

Fortieth: In Sec. 159, 24 V.S.A. § 4008, in subdivision (6), by striking out “persons who are elderly and” and inserting in lieu thereof “elders who are”

Forty-first: In Sec. 159, 24 V.S.A. § 4008, in subdivision (8), in the first sentence, by striking out “persons who are elderly” and inserting in lieu thereof “elders” and in the second sentence, by striking out “Persons who are elderly” and inserting in lieu thereof “Elders”

Forty-second: In Sec. 160, 24 V.S.A. § 4010(a)(1), by striking out “persons who are elderly and” and inserting in lieu thereof “elders who are”

Forty-third: In Sec. 161, 24 V.S.A. § 4302(c)(11)(D), by inserting “elders,” before “or ~~disabled or elderly~~” and by striking out “or are elderly” before “should be allowed”

Forty-fourth: In Sec. 163, 24 V.S.A. § 5091, in subdivision (i)(1)(A), by striking out “who are elderly” and inserting in lieu thereof “of elders”

Forty-fifth: In Sec. 165, 24 App. V.S.A. chapter 5 § 1201, in the second sentence, by striking out “persons who are elderly” and inserting in lieu thereof “elders”

Forty-sixth: By deleting Sec. 172 in its entirety

Forty-seventh: In Sec. 175, 26 V.S.A. § 1446, by striking out “people who are elderly” and inserting in lieu thereof “elders”

Forty-eighth: In Sec. 182, 26 V.S.A. § 4451, in subdivisions (7) and (8), by striking out “hearing impaired” and inserting in lieu thereof “hard of hearing”

Forty-ninth: In Sec. 183, 26 V.S.A. § 4464(b), in subdivision (10), by restoring “~~or client~~” by removing the striking

Fiftieth: In Sec. 185, 27 V.S.A. § 1331, in subdivision (4), by striking out “elderly” and inserting in lieu thereof “an elder”

Fifty-first: In Sec. 186, 27 V.S.A. § 1333, in subsections (a) and (b), by striking out “elderly” and inserting in lieu thereof “elders”

Fifty-second: By deleting Sec. 188 in its entirety

Fifty-third: In Sec. 190, in 28 V.S.A. § 906, in subdivision (3), by striking out “intellectual” and inserting in lieu thereof “developmental”

Fifty-fourth: In Sec. 190, in 28 V.S.A. § 907, in subdivision (6)(B), by striking out “substance use or abuse” and restoring “~~chemical dependence~~” by removing the striking

Fifty-fifth: In Sec. 190, in 28 V.S.A. § 907, in subdivision (6)(E), by striking out “intellectual” and inserting in lieu thereof “developmental”

Fifty-sixth: In Sec. 191, 30 V.S.A. § 209c(a), in the third sentence, by striking out “people who are elderly” and inserting in lieu thereof “elders”

Fifty-seventh: In Sec. 193, 30 V.S.A. § 7059(a)(1), in subdivision (F), by striking out “individuals who are elderly” and inserting in lieu thereof “elders”

Fifty-eighth: In Sec. 194, 31 V.S.A. chapter 19, in the chapter’s catchline, by striking out “PEOPLE WHO ARE ELDERLY” and inserting in lieu thereof “ELDERS” and by deleting everything after the first set of ellipses

Fifty-ninth: In Sec. 202, in 33 V.S.A. § 1502, subdivision (1), by striking out “persons who are elderly and” and inserting in lieu thereof “elders who are”

Sixtieth: By deleting Sec. 204 in its entirety

Sixty-first: In Sec. 207, 33 V.S.A. § 1951, in subdivision (8), in the first sentence, by striking out “disability” and inserting in lieu thereof “disabilities” and by striking out the last sentence in its entirety

Sixty-second: In Sec. 208, 33 V.S.A. § 1955, by striking out “ICF/ID” in every instance in which it appears and inserting in lieu thereof “ICF/DD” and by striking out “ICF/ID’s” in both instances in which it appears and inserting in lieu thereof “ICF/DD’s”

Sixty-third: By deleting Sec. 210 in its entirety

Sixty-fourth: In Sec. 211, 33 V.S.A. § 2078, by striking out “elderly” after “Vermonters who are” and inserting in lieu thereof “elders”

Sixty-fifth: In Sec. 212, 33 V.S.A. § 2501a(c), in the second sentence, by striking out “people who are elderly” and inserting in lieu thereof “elders”

Sixty-sixth: In Sec. 213, 33 V.S.A. § 4301(3), in subdivision (D), by striking out “intellectual” and inserting in lieu thereof “developmental”

Sixty-seventh: In Sec. 214, 33 V.S.A. § 6321, in subdivision (a)(3), by striking out “elderly” and inserting in lieu thereof “an elder”

Sixty-eighth: In Sec. 214, 33 V.S.A. § 6321, in subsection (d), in the last sentence, by striking out “individuals who are elderly” and inserting in lieu thereof “elders”

Sixty-ninth: In Sec. 215, 33 V.S.A. § 6902, in subdivision (2), by striking out “elderly” and inserting in lieu thereof “an elder”

Seventieth: In Sec. 216, 33 V.S.A. § 6903(a), in subdivision (5), by striking out “intellectual” and inserting in lieu thereof “developmental”

Seventy-first: In Sec. 217, 33 V.S.A. § 6912(b), by striking out “elderly” and inserting in lieu thereof “elders”

Seventy-second: By deleting Sec. 223 in its entirety

Seventy-third: In Sec. 224 in the section catchline, by striking “DATES” and inserting in lieu thereof “DATE” and by deleting everything after the section catchline and inserting in lieu thereof the following:

This act shall take effect on July 1, 2014.

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

Message from the House No. 15

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

Mr. President:

I am directed to inform the Senate that:

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

H. 198. An act relating to the Legacy Insurance Management Act.

And has severally concurred therein.

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

J.R.S. 43. Joint resolution relating to weekend adjournment .

And has adopted the same in concurrence.

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock in the afternoon on Thursday, February 6, 2014.

THURSDAY, FEBRUARY 6, 2014

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

Devotional Exercises

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

Bill Referred to Committee on Finance

S. 247.

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 regulation of medical marijuana dispensaries.

Third Reading Ordered

S. 215.

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

An act relating to administering, implementing, and financing water quality improvement in Vermont.

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.

Proposal of Amendment; Third Reading Ordered

H. 526.

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

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

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS AND LEGISLATIVE INTENT

The General Assembly finds and declares that:

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

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

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

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

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

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

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

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

(C) moderate the temperature of shallow water habitat;

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

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

(7) Healthy lakes and adjacent shorelands:

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

(B) support property values and tax base; and

(C) reduce human health risks.

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

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

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

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

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

CHAPTER 49A. LAKE SHORELAND PROTECTION STANDARDS

§ 1441. PURPOSE

The purposes of this chapter shall be to:

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

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

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

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

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

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

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

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

§ 1442. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

(11) “Parcel” means a portion of land or a tract of land with defined boundaries created by dividing the land by sale, gift, lease, mortgage, foreclosure, court-ordered partition or decree, or filing of a plat, plan, or deed in the records of the municipality where the act of division occurred.

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

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

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

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

(16) “Secretary” means the Secretary of Natural Resources or the Secretary’s duly authorized representative.

(17) “Slope” means the vertical rise divided by the horizontal run of a place expressed as a percentage.

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

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

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

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

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

(c) Permit process.

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

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

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

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

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

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

§ 1444. PERMIT STANDARDS

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

(1) cleared area or impervious surface shall be located at least 100 feet from the mean water level, except for a public recreational access when compliance with this subdivision (1) would be inconsistent or in conflict with applicable federal requirements for the management of the parcel;

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

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

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

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

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

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

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

(5) within 100 feet of the mean water level, vegetative cover shall be managed according to the requirements of section 1447 of this title.

(b) Repair of highway or private road. When the repair, emergency repair, or replacement of a private road or highway, as that term is defined in 19 V.S.A. § 1(12), results in the construction, creation, or expansion of impervious surface or cleared area on a property adjacent to the private road or highway, the impervious surface or cleared area constructed or created on the adjacent property shall not be calculated as square footage of impervious surface or cleared area for purposes of permitting or registration under this chapter.

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

§ 1445. NONCONFORMING PARCELS; PERMIT STANDARDS

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

(1) parcel size;

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

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

(b) Permit standards for nonconforming parcels.

(1) For a parcel on which there is no habitable structure, the cleared area or impervious surface shall be as far as possible from the mean water level, and at a minimum shall be no less than 25 feet from the mean water level.

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

(A) expansion on the side of the structure farthest from the lake is not possible due to site characteristics, site limitations, or limitations under a municipal bylaw in existence on July 1, 2014;

(B) expansion on an alternate side of the structure will not negatively impact water quality; and

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

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

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

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

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

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

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

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

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

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

§ 1446. REGISTERED PROJECTS; EXEMPTIONS FROM PERMITTING

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

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

(i) the owner of the property on which the impervious surface or cleared area is created registers with the Secretary, on a form provided by the Secretary that contains the name of the property owner, the address of the property, and a certification that the project meets the requirements of this subdivision (a)(2);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) A private road that does not require a permit under section 1264 of this title, provided that emergency repair, repair, and replacement of the private road shall comply with the applicable water quality best management practices approved by the Secretary under 19 V.S.A. § 996 and incorporated

within the Vermont Agency of Transportation town road and bridge standards for controlling stormwater runoff and direct discharges to State waters. The requirement to comply with the water quality best management practices shall apply even if the municipality in which the private road is located has not adopted the town road and bridge standards. Under this subdivision, expansion of a private road in order to allow for passage of emergency vehicles shall be considered repair that does not require a permit under section 1443 of this title.

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

(10) Parcel intersected by public highway. The creation or expansion of impervious surface or cleared area on a parcel within the protected shoreland area when the parcel is intersected by a public highway, as that term is defined in 19 V.S.A. § 1, and the impervious surface or cleared area is created or expanded on that portion of the parcel on the side of the highway away from the mean water level.

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

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

(13) Utility projects and utility lines.

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

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

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

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

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

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

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

(i) urban or industrial in nature;

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

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

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

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

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

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

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

§ 1447. LAKE SHORELAND VEGETATION PROTECTION STANDARDS

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

(b) A “well-distributed stand of trees adjacent to a lake” shall be defined as maintaining a minimum rating score of 12, in each 25-foot by 25-foot area

within 100 feet of the mean water level, as determined by the following rating system.

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

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

(A) 25-foot by 25-foot plots shall be established within 100 feet of the mean water level for vegetation management purposes.

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

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

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

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

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

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

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

§ 1448. MUNICIPAL DELEGATION

(a) Municipal shoreland bylaws or ordinances. The Secretary may delegate authority to permit the construction, creation, or expansion of impervious

surface or cleared area under this chapter to a municipality that has adopted a shoreland bylaw or ordinance if:

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

(2) the municipal bylaw or ordinance is at least as stringent as the permitting requirements and exemptions of this chapter, upon a determination by the Secretary that the bylaw or ordinance is functionally equivalent to the requirements under sections 1444, 1445, 1446, and 1447 of this title.

(b) Delegation agreement.

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

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

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

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

(B) take timely and appropriate enforcement actions;

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

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

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

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

§ 1449. COORDINATION OF AGENCY OF NATURAL RESOURCES' PERMITTING OF ACTIVITIES IN PROTECTED SHORELAND AREAS

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

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

(c) Agency lands. All lands held by the Agency within a protected shoreland area shall be managed according to the requirements of this chapter when consistent and not in conflict with applicable federal requirements for the management of a parcel of land held by the Agency.

§ 1450. MUNICIPAL ZONING BYLAW OR ORDINANCE

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

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

§ 1451. RULEMAKING

The Secretary may adopt rules to implement the requirements of this chapter.

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

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

* * *

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

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

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

Sec. 4. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

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

(1) The following provisions of this title:

* * *

(R) chapter 32 (flood hazard areas).

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

* * *

Sec. 5. 3 V.S.A. § 2822(j)(32) is added to read:

(32) For projects taking place in a protected shoreland area that require a registration or permit under 10 V.S.A. chapter 49A: \$0.50 per square foot of impervious surface or cleared area.

Sec. 6. 10 V.S.A. § 1454 is amended to read:

§ 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC NUISANCE SPECIES

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

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

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

Sec. 7. TRANSITION

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

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

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

Sec. 8. EFFECTIVE DATE

This act shall take effect July 1, 2014.

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

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

First: In Sec. 2, in 10 V.S.A. § 1446, in subdivision (a)(1)(A)(i), by striking out the following: “this subdivision (a)(2)” where it appears and by inserting in lieu thereof the following: this subsection (a) and by striking out subdivision (a)(1)(B) in its entirety and inserting in lieu thereof the following:

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

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

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

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

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

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

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

Sec. 5. 3 V.S.A. § 2822(j)(32) is added to read:

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

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

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

Third: By adding a new section to be numbered Sec. 5a to read as follows:

Sec. 5a. REPORT ON COSTS OF LAKE SHORELAND PROTECTION PROGRAM

On or before January 15, 2016, the Secretary of Natural Resources shall submit to the Senate Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources a report regarding

the costs to the Agency of Natural Resources of administering the Lake Shoreland Protection Program under 10 V.S.A. chapter 49A. The report shall include:

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

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

(3) the cost to the Agency of implementing the Lake Shoreland Protection Program.

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

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

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, Senator Lyons moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, as amended, in Sec. 2, by adding 10 V.S.A. § 1452 to read as follows:

§ 1452. EDUCATION AND OUTREACH; CITIZEN'S GUIDE

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

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, Senator Snelling moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, as follows:

First: In Sec. 2, 10 V.S.A. § 1445, by striking out subdivision (b)(2) in its entirety and inserting in lieu thereof the following:

(2) For a parcel on which a habitable structure is located, the expansion of any portion of the structure within 100 feet of the mean water level shall be

on the side of the structure farthest from the lake, unless the Secretary determines that:

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

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

Second: In Sec. 2, 10 V.S.A. § 1446, by striking out the following: “protected shoreland area” where it firstly appears in subdivision (b)(2) and inserting in lieu thereof the following: mean water level

Which was agreed to.

Thereupon, the pending question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, was agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 21, Nays 5.

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

Roll Call

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

Those Senators who voted in the negative were: Benning, McAllister, Mullin, Nitka, Westman.

Those Senators absent or not voting were: Campbell (presiding), Flory, Fox (deceased), White.

Bill Passed

S. 184.

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

An act relating to eyewitness identification policy.

Bill Amended; Bill Passed

S. 285.

Senate bill entitled:

An act relating to the furlough of offenders 65 years of age and older.

Was taken up.

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

Sec. 1. 28 V.S.A. § 808 is amended to read:

§ 808. FURLOUGHS GRANTED TO OFFENDERS

(a)(1) The Department may extend the limits of the place of confinement of an offender at any correctional facility if the offender agrees to comply with such conditions of supervision the Department, in its sole discretion, deems appropriate for that offender's furlough. The Department may authorize furlough for any of the following reasons:

~~(1)~~(A) To visit a critically ill relative.

~~(2)~~(B) To attend the funeral of a relative.

~~(3)~~(C) To obtain medical services.

~~(4)~~(D) To contact prospective employers.

~~(5)~~(E) To secure a suitable residence for use upon discharge.

~~(6)~~(F) To continue the process of reintegration initiated in a correctional facility. The offender may be placed in a program of conditional reentry status by the Department upon the offender's completion of the minimum term of sentence. While on conditional reentry status, the offender shall be required to participate in programs and activities that hold the offender accountable to victims and the community pursuant to section 2a of this title.

(2) The Department may authorize furlough for an offender immediately upon the offender's having served the minimum term of his or her sentence for a qualifying offense if the offender is 65 years of age or older and agrees to comply with such conditions of supervision the Department, in its sole discretion, deems appropriate for that offender's furlough. As used in this subsection, "qualifying offense" means a nonviolent misdemeanor or nonviolent felony, but shall not include any offense for which registration as a sex offender is required pursuant to 13 V.S.A. chapter 167, subchapter 3 or a registry violation subject to the penalties of 13 V.S.A. § 5409.

(b) An offender granted a furlough pursuant to this section may be accompanied by an employee of the Department, in the discretion of the Commissioner, during the period of the offender's furlough. The Department may use electronic monitoring equipment such as global position monitoring, automated voice recognition telephone equipment, and transdermal alcohol

monitoring equipment to enable more effective or efficient supervision of individuals placed on furlough.

(c) The extension of the limits of the place of confinement authorized by this section shall in no way be interpreted as a probation or parole of the offender, but shall constitute solely a permitted extension of the limits of the place of confinement for offenders committed to the custody of the Commissioner.

(d) When any enforcement officer, as defined in 23 V.S.A. § 4, employee of the Department, or correctional officer responsible for supervising an offender believes the offender is in violation of any verbal or written condition of the furlough, the officer or employee may immediately lodge the offender at a correctional facility or orally or in writing deputize any law enforcement officer or agency to arrest and lodge the offender at such a facility. The officer or employee shall subsequently document the reason for taking such action.

(e) The 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 a terminal or debilitating condition so as to render the offender unlikely to be physically capable of presenting a danger to society. The 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.

(f) While appropriate community housing is an important consideration in release of offenders, the Department of Corrections shall not use lack of housing as the sole factor in denying furlough to offenders who have served at least their minimum sentence for a nonviolent misdemeanor or nonviolent felony provided that public safety and the best interests of the offender will be served by reentering the community on furlough.

(g) Subsections (b)-(f) of this section shall also apply to sections 808a and 808c of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Which was agreed to.

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

Bill Passed**S. 291.**

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

An act relating to the establishment of transition units at State correctional facilities.

Bill Amended; Bill Passed**S. 297.**

Senate bill entitled:

An act relating to the recording of custodial interrogations in homicide and sexual assault cases.

Was taken up.

Thereupon, pending third reading of the bill, Senator Benning moved to amend the bill in Sec. 2, subsection (f) by striking out subdivision (3)(B) in its entirety and relettering the remaining subdivision.

Which was agreed to.

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

Bill Passed in Concurrence with Proposals of Amendment**H. 655.**

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

An act relating to fiscal year 2014 budget adjustments.

Message from the House No. 16

A message was received from the House of Representatives by Ms. Melissa Kucserik, 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. 260. An act relating to insurance notices by electronic means.

In the passage 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, FEBRUARY 7, 2014

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Kim Kie of Barre.

Bill Referred

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

H. 260.

An act relating to insurance notices by electronic means.

To the Committee on Finance.

Bill Amended; Third Reading Ordered**S. 296.**

Senator Flory, for the Committee on Institutions, to which was referred Senate bill entitled:

An act relating to the Defender General's duty to investigate issues related to the health, safety, and welfare of inmates in correctional facilities.

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

Sec. 1. 13 V.S.A. § 5259 is added to read:

§ 5259. DUTY TO INVESTIGATE

(a) The Defender General shall investigate issues related to the health, safety, and welfare of inmates in correctional facilities and shall receive the cooperation of all State agencies in carrying out this duty. Issues that require an investigation by the Defender General shall, at a minimum, include:

(1) the death of an inmate;

(2) a suicide attempt that requires more than 24 hours of emergency hospitalization; and

(3) a critical incident that results in injury to an inmate from an assault, use of force, or accident in a correctional facility that requires more than 24 hours of emergency hospitalization.

(b)(1) When an incident enumerated in subdivisions (a)(1)–(3) of this section occurs, the Department of Corrections shall notify the Defender General as soon as reasonably practicable.

(2) The Commissioner shall report weekly to the Defender General regarding any critical incident that negatively impacts the health, safety, or welfare of an inmate, the conditions of confinement, or the adequacy of care provided to inmates.

(c) In carrying out the duties under this section, the Defender General:

(1) Shall be given reasonable unaccompanied access to the correctional facility and inmates and is authorized to speak with any relevant personnel from the Department of Corrections and other State agencies subject to the individual's constitutional rights and to legitimate law enforcement concerns regarding preservation of a criminal investigation, if any.

(2) Shall be given broad access to records concerning the incident and any inmates involved in the incident. In response to a request for records from the Defender General, the Commissioner of Corrections shall provide the records promptly and no subpoena or public records request shall be required. Records subject to this section include video or audio recordings.

(d) The Defender General is authorized to protect the confidentiality of sources in the course of an investigation pursuant to this section. Work product generated in the course of representation of a client that contains confidential communication between an inmate and the Defender General shall not be discoverable and records of communications between inmates and the Defender General may be redacted.

(e) Where appropriate, the Defender General shall report to the Department of Corrections and the Joint Committee on Corrections Oversight identifying any concerns and suggested policy changes that arise from an incident that resulted in an investigation.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

Bill Amended; Bill Passed

S. 215.

Senate bill entitled:

An act relating to administering, implementing, and financing water quality improvement in Vermont.

Was taken up.

Thereupon, pending third reading of the bill, Senator Zuckerman moved to amend the bill in Sec. 1, subsection (c), by striking "2013" where it appears and inserting in lieu thereof 2014

Which was agreed to.

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

Bill Passed in Concurrence with Proposals of Amendment

H. 526.

House bill of the following title:

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

Was taken up.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 22, Nays 6.

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

Roll Call

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

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

The Senator absent and not voting was: Fox (deceased), White.

Bill Amended; Third Reading Ordered

S. 299.

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

An act relating to service of malt beverages by the glass.

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:

* * *

(37) "Sampler flight" means a flight, ski, paddle, or any similar device by design or name intended to hold alcoholic beverage samples for the purpose of comparison.

Sec. 2. 7 V.S.A. § 222 is amended to read:

§ 222. ~~FIRST AND SECOND CLASS~~ FIRST- AND SECOND-CLASS LICENSES, GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

With the approval of the Liquor Control Board, the Control Commissioners may grant to a retail dealer for the premises where the dealer carries on business the following:

* * *

(5)(A) The holder of a first-class license may serve a sampler flight of up to 32 ounces in the aggregate of malt beverages to a single customer at one time;

(B) The holder of a first-class license may serve a sampler flight of up to 12 ounces in the aggregate of vinous beverages to a single customer at one time; and

(C) The holder of a third-class license may serve a sampler flight of up to four ounces in the aggregate of spirituous liquors to a single customer at one time.

Sec. 3. 7 V.S.A. § 421 is amended to read:

§ 421. TAX ON MALT AND VINOUS BEVERAGES

(a) Every bottler and wholesaler shall pay to the Commissioner of Taxes the sum of 26 and one-half cents per gallon for every gallon or its equivalent of malt beverage containing not more than ~~six~~ eight percent of alcohol by volume at 60 degrees Fahrenheit sold by them to retailers in the State and the sum of 55 cents per gallon for each gallon of malt beverage containing more than ~~six~~ eight percent of alcohol by volume at 60 degrees Fahrenheit and each gallon of vinous beverages sold by them to retailers in the ~~state~~ State and shall also pay to the Liquor Control Board all fees for bottler's and wholesaler's licenses. A manufacturer or rectifier of malt or vinous beverages shall pay the taxes

required by this subsection to the Commissioner of Taxes for all malt and vinous beverages manufactured or rectified by them and sold at retail.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

After passage, the title of the bill is to be amended to read:

AN ACT RELATING TO SAMPLER FLIGHTS.

And that when so amended the bill ought to pass.

Senator Mullin, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, with the following amendment thereto:

By striking out Sec. 3 (tax on malt and vinous beverages) in its entirety and 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 was amended as recommended by the Committee on Finance.

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

Thereupon, third reading of the bill was ordered.

Message from the House No. 17

A message was received from the House of Representatives by Ms. Melissa Kucserik, 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. 578. An act relating to administering State funds for loans to individuals for replacement of failed wastewater systems and potable water supplies.

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. 214. House concurrent resolution in memory of Franklin County civic leader Lawrence Joseph Handy.

H.C.R. 215. House concurrent resolution commemorating the 50th anniversary of the Wilderness Act of 1964 and the 30th anniversary of the Vermont Wilderness Act of 1984.

H.C.R. 216. House concurrent resolution in memory of former Windsor Fire Chief Bruce W. Stearns.

H.C.R. 217. House concurrent resolution designating the week of February 3–7 as Vermont School Counseling Week.

H.C.R. 218. House concurrent resolution honoring nonprofit organizations and Common Good Vermont.

H.C.R. 219. House concurrent resolution in memory of Juanita Cook of Pownal.

H.C.R. 220. House concurrent resolution honoring Champlain College President Dr. David F. Finney for his higher education leadership.

H.C.R. 221. House concurrent resolution extending congratulations and best wishes for success to the Vermonters selected to represent the United States at the 2014 Winter Olympics.

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. 32. Senate concurrent resolution congratulating the *Montpelier Bridge* on its 20th anniversary.

S.C.R. 33. Senate concurrent resolution congratulating radio station WDEV in Waterbury, as the first electronic media winner of the Matthew Lyon Award.

S.C.R. 34. Senate concurrent resolution congratulating Sarducci's restaurant and bar on its 20th anniversary.

S.C.R. 35. Senate concurrent resolution in memory of former Eagleton Institute Director Alan Rosenthal.

S.C.R. 36. Senate concurrent resolution congratulating Bear Pond Books in Montpelier on its 40th anniversary.

S.C.R. 37. Senate concurrent resolution congratulating the 2012 Montpelier High School Solons Division II championship girls' soccer team.

S.C.R. 38. Senate concurrent resolution congratulating the Hunger Mountain Coop on the 20th anniversary of its Annual Food and Wellness Expo.

S.C.R. 39. Senate concurrent resolution in memory of former Senator Frank Smallwood.

S.C.R. 40. Senate concurrent resolution congratulating the 2013 Montpelier High School Division II championship girls' tennis team.

S.C.R. 41. Senate concurrent resolution congratulating the Reverend Jay Sprout on being named the Northeast Kingdom Chamber of Commerce's 2013 Citizen of the Year.

And has adopted the same in concurrence.

Senate Concurrent Resolutions

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

By Senators Doyle, Cummings and Pollina,

By Representatives Hooper and Kitzmiller,

S.C.R. 32.

Senate concurrent resolution congratulating the *Montpelier Bridge* on its 20th anniversary.

By Senators Doyle, Cummings and Pollina,

By Representatives Ellis and Stevens,

S.C.R. 33.

Senate concurrent resolution congratulating radio station WDEV in Waterbury, as the first electronic media winner of the Matthew Lyon Award.

By Senators Doyle, Cummings and Pollina,

By Representative Ancel and others,

S.C.R. 34.

Senate concurrent resolution congratulating Sarducci's restaurant and bar on its 20th anniversary.

By Senator Doyle,

S.C.R. 35.

Senate concurrent resolution in memory of former Eagleton Institute Director Alan Rosenthal.

By Senators Doyle, Cummings and Pollina,

By Representatives Hooper and Kitzmiller,

S.C.R. 36.

Senate concurrent resolution congratulating Bear Pond Books in Montpelier on its 40th anniversary.

By Senators Doyle, Cummings and Pollina,

By Representatives Hooper and Kitzmiller,

S.C.R. 37.

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

By Senators Doyle, Cummings and Pollina,

By Representatives Hooper and Kitzmiller,

S.C.R. 38.

Senate concurrent resolution congratulating the Hunger Mountain Coop on the 20th anniversary of its Annual Food and Wellness Expo.

By Senators Doyle, Campbell, Cummings, McCormack, Nitka and Pollina,

S.C.R. 39.

Senate concurrent resolution in memory of former Senator Frank Smallwood.

By Senators Doyle, Cummings and Pollina,

By Representatives Hooper and Kitzmiller,

S.C.R. 40.

Senate concurrent resolution congratulating the 2013 Montpelier High School Division II championship girls' tennis team.

By Senators Kitchel and Benning,

By Representative Fay and others,

S.C.R. 41.

Senate concurrent resolution congratulating the Reverend Jay Sprout on being named the Northeast Kingdom Chamber of Commerce's 2013 Citizen of the Year.

House Concurrent Resolutions

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

By Representative Keenan and others,

By Senator Collins,

H.C.R. 214.

House concurrent resolution in memory of Franklin County civic leader Lawrence Joseph Handy.

By Representative Deen,

H.C.R. 215.

House concurrent resolution commemorating the 50th anniversary of the Wilderness Act of 1964 and the 30th anniversary of the Vermont Wilderness Act of 1984.

By Representatives Sweaney and Bartholomew,

By Senators Campbell, McCormack and Nitka,

H.C.R. 216.

House concurrent resolution in memory of former Windsor Fire Chief Bruce W. Stearns.

By Representative Frank and others,

H.C.R. 217.

House concurrent resolution designating the week of February 3–7 as Vermont School Counseling Week.

By Representative Rachelson and others,

H.C.R. 218.

House concurrent resolution honoring nonprofit organizations and Common Good Vermont.

By Representative Botzow and others,

By Senators Hartwell and Sears,

H.C.R. 219.

House concurrent resolution in memory of Juanita Cook of Pownal.

By Representatives Rachelson and Donovan,

H.C.R. 220.

House concurrent resolution honoring Champlain College President Dr. David F. Finney for his higher education leadership.

By All Members of the House,

By All Members of the Senate,

H.C.R. 221.

House concurrent resolution extending congratulations and best wishes for success to the Vermonters selected to represent the United States at the 2014 Winter Olympics.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, February 11, 2014, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 43.

TUESDAY, FEBRUARY 11, 2014

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

Devotional Exercises

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

Pledge of Allegiance

Pages Jasper Goodman and Gabriello Lewis then led the members of the Senate in the pledge of allegiance.

Message from the Governor

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

Mr. President:

I am directed by the Governor to deliver to the Senate a communication in writing.

Appointment Journalized

The President laid before the Senate the following communication from His Excellency, the Honorable Peter E. Shumlin, Governor of the State of Vermont, relating to the appointment of a new Senator from the District of Chittenden, which was ordered entered in the Journal, and is as follows:

“State of Vermont
Executive Department
Montpelier

February 4, 2014

The Honorable Philip B. Scott
President
Vermont State Senate
State House
Montpelier, VT 05633-5501

Dear Mr. President:

I have the honor to inform you that I have appointed

MICHAEL D. SIROTKIN, of South Burlington

to serve the unexpired term of Sally G. Fox, Senator from Chittenden District. The appointment is effective February 11, 2014.

Sincerely,

/s/ Peter E. Shumlin

Peter E. Shumlin
Governor”

Oath Administered; New Senator Seated

Thereupon, the Senate-appointee, Michael D. Sirotkin, was escorted to the bar of the Senate by Senator Ashe of Chittenden District, Senator Westman of Lamoille District, Senator Ayer of Addison District and Senator Kitchel of Caledonia District, and took and subscribed the oath of office required by the Constitution from the Secretary of the Senate, John H. Bloomer, Jr.

The new Senator then took his seat and assumed his legislative duties.

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. 44. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 14, 2014, it be to meet again no later than Tuesday, February 18, 2014.

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 tomorrow:

S. 317.

By the Committee on Judiciary,

An act relating to repealing the unconstitutional Vermont statutes related to the performance of abortions.

Bill Referred

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

H. 578.

An act relating to administering State funds for loans to individuals for replacement of failed wastewater systems and potable water supplies.

To the Committee on Finance.

Bills Passed

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

S. 296. An act relating to the Defender General's duty to investigate issues related to the health, safety, and welfare of inmates in correctional facilities.

S. 299. An act relating to service of malt beverages by the glass.

Standing Committees Realigned

The President, on behalf of the Committee on Committees, and as a result of the death of Senator Sally G. Fox and subsequent replacement by Senator Michael D. Sirotkin, reported realignments and new appointments for five of the standing committees, as follows:

Agriculture

A.M. Senator Starr, Chair Room 26
 Zuckerman, Vice-Chair
 [Bray, Clerk]
 McAllister
 French
Sirotkin, Clerk

Appropriations

P.M. Senator Kitchel, Chair Room 5
 Nitka, Vice-Chair
 [Fox]
 Sears
 Snelling, Clerk
 Starr
 Westman
Cummings

Economic Development, Housing and General Affairs

A.M. Senator Mullin, Chair Room 27
 Baruth, Vice-Chair
 Collins, Clerk
 [Cummings]
 Doyle
Bray

Health and Welfare

A.M. Senator Ayer, Chair Room 17
 [Fox, Vice-Chair]
 Lyons, *Vice-Chair*
 McCormack
 Pollina, Clerk
Cummings

Institutions

P.M. Senator Flory, Chair Room 7
 [Cummings, Vice-Chair]
 Rodgers, *Vice-Chair*, Clerk
 Benning
 Mazza
Sirotkin

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, February 12, 2014.

WEDNESDAY, FEBRUARY 12, 2014

The Senate was called to order by the President.

Devotional Exercises

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

Message from the House No. 18

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

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 14. Joint resolution requesting the United States Congress to pass the Homeowners Flood Insurance Affordability Act.

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

Rules Suspended; Bill Committed**H. 112.**

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

An act relating to the labeling of food produced with genetic engineering.

Was taken up for immediate consideration.

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

Which was agreed to.

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

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

Joint resolution requesting the United States Congress to pass the Homeowners Flood Insurance Affordability Act.

Whereas, the National Flood Insurance Act of 1968 was enacted to provide previously unavailable flood insurance protection to property owners, and

Whereas, the National Flood Insurance Program continues to provide important and necessary property coverage for home and business owners throughout parishes, counties, and communities nationwide, and

Whereas, the Biggert-Waters Flood Insurance Reform Act of 2012 was signed into law on July 6, 2012 and calls for a revision of the flood insurance rate maps, and

Whereas, such revised flood insurance rate maps do not include the discounts granted by the current rate maps to property owners who have taken action to mitigate property damage by installing and maintaining flood control features, in conformity with the most current federal law available to them, and in conformity with current flood insurance rate maps, and

Whereas, countless property owners have built and purchased homes and businesses in accordance with the current flood rate insurance maps that, under the provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, will soon enter obsolescence, and

Whereas, the act also includes provisions, located in Section 207 of such act, that eliminate the “grandfathering” of homes that were built after the existing flood insurance rate maps in accordance with then existing laws, and

Whereas, by purchasing homes and businesses in accordance with the provisions of the former flood rate insurance maps and by investing in previously owned property to install flood mitigation features, property owners relied on their strict compliance with federal and state law to protect their purchases and investments, and

Whereas, in light of the provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, the reliance on existing flood insurance rate maps that those property owners demonstrated is now to their personal and financial detriment, and

Whereas, the passage of the Biggert-Waters Flood Insurance Reform Act of 2012 substantially and immediately devalued the investments made in all

properties endowed with flood damage mitigation measures and to properties receiving subsidized insurance premium rates, and

Whereas, the Biggert-Waters Flood Insurance Reform Act of 2012 also includes provisions that permit the National Flood Insurance Program to increase premium rates for many policyholders, and

Whereas, the elimination of these discounts combined with the certainty of general premium rate increases will result in a premium increase of up to 25 percent per year for certain property owners over the next four years, and

Whereas, under the changes to the National Flood Insurance Program caused by the Biggert-Waters Flood Insurance Reform Act of 2012, property owners will struggle to pay exorbitant amounts of money or will lose their flood insurance, and

Whereas, a change in the ability of property owners to insure their homes from flood damage without bearing the burden of such a violent rise in cost may lead to financial distress for residents and property owners around this State and the entire nation, and

Whereas, the premium increases to the National Flood Insurance Program, as mandated by the Biggert-Waters Flood Insurance Reform Act of 2012, will affect the entire nation's real estate market and the nation's banking and mortgage industry, and

Whereas, the premium increases to communities and property owners who made their best efforts to comply with federal law by building property in accordance with soon-to-be outdated flood insurance rate maps will affect consumer confidence and the entire nation's economy, and

Whereas, on October 29, 2013, H.R. 3370 and SB 1610, the Homeowner Flood Insurance Affordability Act of 2013, were introduced in the respective houses of Congress to delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012, and

Whereas, the Biggert-Waters Flood Insurance Reform Act of 2012 provides that an affordability study be conducted by the Federal Emergency Management Agency on the impact of rate increases, and

Whereas, the Homeowner Flood Insurance Affordability Act of 2013 would delay the provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 that provide for the increase of premium fees for policyholders of the National Flood Insurance Program, in order to prevent the unduly hazardous effects it will have on home and business owners who invested in property prior to the adoption of the new federal legislation and flood insurance rate maps, and

Whereas, Representative Maxine Waters (D. Calif), coauthor of the Biggert-Waters Flood Insurance Reform Act, released a statement saying she is “outraged by the increased costs of flood insurance premiums that have resulted from the Biggert-Waters Act. I certainly did not intend for these types of outrageous premiums to occur for any homeowner,” and

Whereas, Representative Waters, ranking member of the House Committee on Financial Services, said she is committed to fixing the “unintended consequences” of the 2012 law and passing legislation to delay most rate changes for three years “to give FEMA the opportunity to ensure its maps are accurate and allow Congress to make certain rates are affordable,” now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly supports and urges the United States Congress to pass the Homeowners Flood Insurance Affordability Act currently pending before Congress as H.R. 3370 and SB 12610, which will delay the implementation of the National Flood Insurance Program changes until two years after the Federal Emergency Management Agency completes the affordability study on the impact of the rate increases, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Administrator of the Federal Emergency Management Agency 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.

Message from the House No. 19

A message was received from the House of Representatives by Ms. Melissa Kucserik, 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. 88. An act relating to parental rights and responsibilities involving a child conceived as a result of a sexual assault.

H. 347. An act relating to veterinary dentistry.

H. 576. An act relating to applications for the Lifeline program.

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. 44. 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, February 13, 2014.

THURSDAY, FEBRUARY 13, 2014

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Referred

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

H. 88.

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

To the Committee on Judiciary.

H. 347.

An act relating to veterinary dentistry.

To the Committee on Agriculture.

H. 576.

An act relating to applications for the Lifeline program.

To the Committee on Health and Welfare.

Third Reading Ordered

S. 317.

Senate committee bill entitled:

An act relating to repealing the unconstitutional Vermont statutes related to the performance of abortions.

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

FRIDAY, FEBRUARY 14, 2014

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. 20

A message was received from the House of Representatives by Ms. Melissa Kucserik, 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. 612. An act relating to Gas Pipeline Safety Program penalties.

H. 739. An act relating to rulemaking by the Judicial Nominating Board.

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

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

H. 655. An act relating to fiscal year 2014 budget adjustments.

And has concurred therein.

Pages Honored

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

Christian Bolding of Northfield
Harrison Bushnell of Middlesex
Izabel Estrin of Putney
Susan Flint of Springfield
Jasper Goodman of Waterbury Center
Gabriello Lewis of Burlington
Jacob Metivier of Barre Town
Lauren Polk of Hinesburg
Grace Simmons of Waitsfield
Margaret Toll of Danville

Rules Suspended; Bill Committed**S. 287.**

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

An act relating to involuntary treatment and medication.

Was taken up for immediate consideration.

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

Which was agreed to.

Bills Referred

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

H. 612.

An act relating to Gas Pipeline Safety Program penalties.

To the Committee on Finance.

H. 739.

An act relating to rulemaking by the Judicial Nominating Board.

To the Committee on Judiciary.

Bill Passed**S. 317.**

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

An act relating to repealing the unconstitutional Vermont statutes related to the performance of abortions.

Bill Amended; Third Reading Ordered**S. 213.**

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

An act relating to an employee's use of benefits.

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

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

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

§ 496b. EMPLOYEE USE OF BENEFITS

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

(b) This section shall not:

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

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

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

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

Sec. 3. EFFECTIVE DATE

This act 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, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Appointments Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

Smith, Rachel of St. Albans - Member, Vermont Economic Progress Council - July 18, 2013, to March 31, 2017.

Flanagan, Edward F. of Montpelier - Member, Vermont State Lottery Commission - September 4, 2013, to February 29, 2016.

Nesbitt, Thomas of Waterbury Center - Member, Plumbers' Examining Board – October 9, 2013, to February 28, 2017.

Briglin, Timothy of Thetford Center - Member, Vermont Economic Progress Council - July 18, 2013, to March 31, 2017.

Appointment Confirmed

The following Gubernatorial appointment was confirmed separately by the Senate, upon full report given by the Committee to which it was referred:

Shems, Ron of Moretown - Chair, Natural Resources Board – February 1, 2013, to January 31, 2015.

Message from the House No. 21

A message was received from the House of Representatives by Ms. Melissa Kucserik, 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. 809. An act relating to designation of new town centers and growth centers.

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. 222. House concurrent resolution commemorating the placement of a historic marker at Wagon Wheels Farm in South Royalton.

H.C.R. 223. House concurrent resolution honoring Windsor civic leader John Tansey.

H.C.R. 224. House concurrent resolution congratulating Carole Lacasse on her Vermont State government career.

H.C.R. 225. House concurrent resolution designating February 7, 2014 as Wear Red Day.

H.C.R. 226. House concurrent resolution honoring Ruth Levin for her community service in the town of Shaftsbury.

H.C.R. 227. House concurrent resolution congratulating *Vermont Standard* publisher Phillip Camp on his induction into the New England Newspaper Hall of Fame.

H.C.R. 228. House concurrent resolution congratulating Chris Braithwaite on his induction into the New England Newspaper Hall of Fame and the *Barton Chronicle* on its 40th anniversary.

H.C.R. 229. House concurrent resolution honoring Vermont Symphony Orchestra Chorus Director Robert De Cormier on his remarkable career in the musical arts.

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 adopted in concurrence:

By Representatives Buxton and McFaun,

By Senators Campbell, McCormack and Nitka,

H.C.R. 222.

House concurrent resolution commemorating the placement of a historic marker at Wagon Wheels Farm in South Royalton.

By Representatives Sweaney and Bartholomew,

By Senators Campbell, McCormack and Nitka,

H.C.R. 223.

House concurrent resolution honoring Windsor civic leader John Tansey.

By Representatives Donahue and Lewis,

By Senators Cummings, Doyle and Pollina,

H.C.R. 224.

House concurrent resolution congratulating Carole Lacasse on her Vermont State government career.

By Representative Krowinski and others,

By Senators Lyons, Ashe, Ayer, Baruth, Benning, Bray, Campbell, Collins, Cummings, Doyle, Flory, French, Galbraith, Hartwell, Kitchel, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White and Zuckerman,

H.C.R. 225.

House concurrent resolution designating February 7, 2014 as Wear Red Day.

By Representative Miller,

By Senators Hartwell and Sears,

H.C.R. 226.

House concurrent resolution honoring Ruth Levin for her community service in the town of Shaftsbury.

By Representatives Clarkson and Zagar,

By Senators Campbell, McCormack and Nitka,

H.C.R. 227.

House concurrent resolution congratulating *Vermont Standard* publisher Phillip Camp on his induction into the New England Newspaper Hall of Fame.

By Representative Young and others,

By Senators Benning, Rodgers and Starr,

H.C.R. 228.

House concurrent resolution congratulating Chris Braithwaite on his induction into the New England Newspaper Hall of Fame and the *Barton Chronicle* on its 40th anniversary.

By Representative Devereux and others,

By Senators Benning, Bray, Campbell, Collins, Doyle, Flory, Galbraith, Kitchel, Lyons, MacDonald, McCormack, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman and White,

H.C.R. 229.

House concurrent resolution honoring Vermont Symphony Orchestra Chorus Director Robert De Cormier on his remarkable career in the musical arts.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, February 18, 2014, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 44.

TUESDAY, FEBRUARY 18, 2014

The Senate was called to order by the President.

Devotional Exercises

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

Pledge of Allegiance

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

Committee Relieved of Further Consideration; Bill Committed**H. 350.**

On motion of Senator White, the Committee on Government Operations was relieved of further consideration of Senate bill entitled:

An act relating to the posting of medical unprofessional conduct decisions and to investigators of alleged unprofessional conduct,
and the bill was committed to the Committee on Health and Welfare.

Rules Suspended; Bill Recommitted

Senator White moved that the rules be suspended and that Senate bill entitled:

S. 165. An act relating to collective bargaining for deputy state's attorneys.
be recommitted to the Committee on Government Operations,
Which was agreed to.

Rules Suspended; Bill Committed**S. 295.**

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

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

Was taken up for immediate consideration.

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

Which was agreed to.

Joint Senate Resolution Adopted on the Part of the Senate

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

By Senators Baruth and Benning,

J.R.S. 45. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 21, 2014, it be to meet again no later than Tuesday, February 25, 2014.

Bill Referred

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

H. 809.

An act relating to designation of new town centers and growth centers.

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

Bill Passed

S. 213.

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

An act relating to an employee's use of benefits.

Message from the House No. 22

A message was received from the House of Representatives by Ms. Melissa Kucserik, 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. 62. An act relating to prohibiting the handheld use of a portable electronic device while driving.

H. 640. An act relating to technical corrections.

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

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, February 19, 2014.

WEDNESDAY, FEBRUARY 19, 2014

The Senate was called to order by the President.

Devotional Exercises

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

Bill Referred to Committee on Appropriations

S. 225.

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 early retirement allowance.

Bills Referred

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

H. 62.

An act relating to prohibiting the handheld use of a portable electronic device while driving.

To the Committee on Transportation.

H. 640.

An act relating to technical corrections.

To the Committee on Government Operations.

Bill Amended; Third Reading Ordered

S. 304.

Senator Collins, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to public school principals and nonrenewal of contracts.

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

Sec. 1. 16 V.S.A. § 243 is amended to read:

§ 243. APPOINTMENT; SUPERVISION; RENEWAL; DISMISSAL

(a) Appointment and supervision. The school board of each school district operating a school, after recommendation by the superintendent, may designate a person as principal for each public school within the district, except that a principal may be selected to serve more than one school. In the case of a career technical education center, only the school board ~~which that~~ operates the center may designate a person as director. For purposes of this section the word "principal" shall include a principal and the director of career technical education, and the term "public school" shall include a career technical education center. The superintendent shall supervise each principal within the supervisory union and shall support him or her in the performance of duties and the implementation of school-based initiatives.

(b) Length of contract. ~~The A~~ principal shall be employed by written contract for a term of not less than one year nor more than three years. Based upon the superintendent's written evaluation of the principal, a superintendent shall recommend to the school board whether to renew or not to renew the initial and any subsequent contract with a principal.

(c) Renewal and nonrenewal.

~~(1) A principal who has been continuously employed for more than two years in the same position~~ has the right either to have his or her contract renewed, or to receive written notice of nonrenewal ~~at least 90 days before the existing contract expires;~~

(A) on or before February 1, if the principal has been continuously employed for more than two years in the same position; and

(B) on or before April 1, if the principal has been continuously employed for two years or less in the same position.

~~(2) Nonrenewal may be based upon elimination of the position, unresolved performance deficiencies, or other reasons affecting the educational mission of the district. The written notice shall recite the grounds for nonrenewal. If nonrenewal is based on performance deficiencies, any reason other than the elimination of the position, then the principal shall have been provided the opportunity for remediation and the written notice of nonrenewal shall be accompanied by an evaluation performed by the superintendent. At its discretion, the school board may allow a period of remediation of performance deficiencies prior to issuance of the written notice.~~

(3) After receiving ~~such~~ a notice of nonrenewal, the principal may request in writing, and shall be granted, a meeting with the school board. Such request shall be delivered within ~~15~~ five days of delivery of notice of nonrenewal, and the meeting shall be held within 15 days of delivery of the request for a meeting. At the meeting, the school board shall explain its position, and the principal shall be allowed to respond. The principal and any member of the board may present written information or oral information through statements of others, and the principal and the board may be represented by counsel. The meeting shall be in executive session unless both parties agree in writing that it be open to the public. After the meeting, the school board shall decide whether or not to offer the principal an opportunity to renew his or her contract. The school board shall issue its decision in writing within five days. The decision of the school board shall be final.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered on a roll call, Yeas 19, Nays 11.

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

Roll Call

Those Senators who voted in the affirmative were: Ayer, Baruth, Bray, Campbell, Collins, Cummings, Doyle, French, Lyons, MacDonald, Mazza, McAllister, McCormack, Nitka, Pollina, Sirotkin, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Ashe, Benning, Flory, Galbraith, Hartwell, Kitchel, Mullin, Rodgers, Sears, Snelling, Starr.

Message from the House No. 23

A message was received from the House of Representatives by Ms. Melissa Kucserik, 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. 45. Joint resolution relating to weekend adjournment .

And has adopted the same in concurrence.

Adjournment

On motion of Senator Campbell, the Senate adjourned until ten o'clock and twenty minutes in the forenoon on Thursday, February 20, 2014.

THURSDAY, FEBRUARY 20, 2014

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Referred to Committee on Finance

S. 201.

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 siting review by the Public Service Board.

Bill Referred to Committee on Appropriations

S. 247.

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 the regulation of medical marijuana dispensaries.

Joint Assembly

At ten o'clock and thirty minutes in the morning, the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

J.R.S. 40. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

The Senate repaired to the hall of the House.

Having returned therefrom, at ten o'clock and fifty minutes in the morning, the President assumed the Chair.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon.

Afternoon

The Senate was called to order by the President.

Message from the Governor

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

Mr. President:

I am directed by the Governor to inform the Senate that on the twentieth of February, 2014 he approved and signed a bill originating in the Senate of the following title:

S. 41. An act relating to water and sewer service.

Proposal of Amendment; Third Reading Ordered**H. 583.**

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

An act relating to the charge of the Vermont Child Poverty Council.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2007 Acts and Resolves No. 68, Sec. 1 is amended to read:

Sec. 1. VERMONT CHILD POVERTY COUNCIL

* * *

(b)(1) The ~~council~~ Council shall consist of the following members or their designees:

(A) the ~~president pro tempore of the senate~~ President Pro Tempore of the Senate;

(B) the ~~speaker of the house of representatives~~ Speaker of the House of Representatives;

(C) the ~~chair of the senate committee on health and welfare~~ Chair of the Senate Committee on Health and Welfare;

(D) ~~the chair of the house committee on human services~~ Chair of the House Committee on Human Services;

(E) ~~the chair of the senate committee on education~~ Chair of the Senate Committee on Education;

(F) ~~the chair of the house committee on education~~ Chair of the House Committee on Education;

(G) ~~the commissioners of the departments for children and families; of health; of education; and of labor~~ Commissioners for Children and Families; of Health; and of Labor; and the Secretaries of Human Services and of Education; and

(H) one representative each from Voices for Vermont's Children, the Vermont ~~low income advocacy council~~ Low Income Advocacy Council, Vermont Legal Aid, and the Vermont ~~superintendents' association~~ Superintendents' Association.

* * *

(3) The ~~council~~ Council shall meet up to six times while the ~~general assembly~~ General Assembly is not in session to perform its functions under this section. ~~In addition, during the 2007 legislative interim, the council shall hold 14 public hearings as required under subsection (d) of this section. The Council may meet an unlimited number of times during the legislative session, but Council members shall not receive compensation or compensation and reimbursement for expenses pursuant to subsection (e) of this section for participation in meetings during the legislative session.~~

* * *

(e) Funds from private and public sources may be accepted and utilized by the ~~council~~ Council to develop and implement the plan and provisions of this section. ~~Legislative~~ For participation in meetings during the legislative interim, legislative members of the committee Council shall be entitled to compensation and reimbursement for expenses under ~~section 406 of Title 2~~ 2 V.S.A. § 406. All other members not receiving compensation for service on the ~~committee~~ Council from another source are entitled to compensation under ~~section 1010 of Title 32~~ 32 V.S.A. § 1010 for participation in meetings during the legislative interim.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

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

Adjournment

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

FRIDAY, FEBRUARY 21, 2014

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

Devotional Exercises

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

Message from the House No. 24

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

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 16. Joint resolution relating to Vermont caregivers.

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

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

H.C.R. 230. House concurrent resolution congratulating the 2013 class of Green Mountain Council Eagle Boy Scouts.

H.C.R. 231. House concurrent resolution recognizing the importance of the Vermont Umatter suicide prevention program.

H.C.R. 232. House concurrent resolution congratulating Mount Vernon Lodge No. 8 of Free and Accepted Masons in Morrisville on its bicentennial.

H.C.R. 233. House concurrent resolution designating February 20, 2014 as Afterschool and Summer Learning Day at the State House.

H.C.R. 234. House concurrent resolution congratulating Katie Sedore on her winning a Milken Educator Award.

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. 42. Senate concurrent resolution in memory of retired UVM Professor and environmental advocate Hubert W. Vogelmann.

And has adopted the same in concurrence.

**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:

Granquist, Deborah of Weston - Member of the Board of Libraries, - from March 1, 2014, to February 28, 2018.

To the Committee on Education.

Gill, Faisal of Winooski - Member of the Board of Medical Practice, - from February 12, 2014, to December 31, 2016.

To the Committee on Health and Welfare.

George, Dean of Middlebury - Chair of the Parole Board, - from March 1, 2014, to February 28, 2017.

To the Committee on Institutions.

Grassi, Richard of White River Junction - Member of the Parole Board, - from March 1, 2014, to February 28, 2017.

To the Committee on Institutions.

Wolcott, Julie of Enosburg Falls - Alternate Member of the Natural Resources Board, - from February 12, 2014, to January 31, 2018.

To the Committee on Natural Resources and Energy.

Sargent, Donald of Colchester - Member of the Natural Resources Board, - from February 12, 2014, to January 31, 2018.

To the Committee on Natural Resources and Energy.

DeMag, Allison Crowley of South Burlington - Member of the State Police Advisory Commission, - from February 12, 2014, to June 30, 2016.

To the Committee on Government Operations.

Vachon, Brian of Middlesex - Member of the Community High School of Vermont Board, - from March 1, 2014, to February 28, 2017.

To the Committee on Education.

Fischer, Robert of Barre - Member of the VT Citizens' Advisory Council on Lake Champlain's Future, - from February 12, 2014, to February 28, 2015.

To the Committee on Natural Resources and Energy.

Gaboriau, Jesse of Burlington - Member of the Children and Family Council for Prevention Programs, - from February 12, 2014, to February 29, 2016.

To the Committee on Health and Welfare.

Hayden, Mary of Barre - Member of the Children and Family Council for Prevention Programs, - from March 1, 2014, to February 28, 2017.

To the Committee on Health and Welfare.

Sheil, Robert of Montpelier - Member of the Children and Family Council for Prevention Programs, - from March 1, 2014, to February 28, 2017.

To the Committee on Health and Welfare.

Farrell, Willa of East Hardwick - Member of the Children and Family Council for Prevention Programs, - from March 1, 2014, to February 28, 2017.

To the Committee on Health and Welfare.

Kreitzer, Jerome of Rutland - Member of the Children and Family Council for Prevention Programs, - from March 1, 2014, to February 28, 2017.

To the Committee on Health and Welfare.

Marvin, Emma of Hyde Park - Member of the Vermont Economic Progress Council, - from February 12, 2014, to March 31, 2015.

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

Longhi, Andrew of Hanover, NH - Member of the Children and Family Council for Prevention Programs, - from March 1, 2014, to February 28, 2017.

To the Committee on Health and Welfare.

Joint Resolution Referred

J.R.H. 16.

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

Joint resolution relating to Vermont caregivers.

Whereas, the number of persons 85 years of age or older living in the State of Vermont is projected to grow by approximately 85.3 percent from 2010 to 2030, and

Whereas, the number of persons 85 years of age or older living in the State of Vermont is projected to reach 25,000 by 2032, and

Whereas, nationally, 70 percent of persons with Alzheimer's disease or a related disorder live at home and need assistance with activities of daily living, and

Whereas, nationally, almost three-fourths of older persons living in the community who receive personal assistance rely exclusively on unpaid caregivers for help, and

Whereas, an estimated 122,000 adults in Vermont provide care to adult relatives or friends, which equates to an estimated 80 million hours a year and an estimated value of \$990 million each year, and

Whereas, to address successfully the surging population of older adults who have significant needs for long-term services and supports, the State needs to develop methods to both encourage and support families who care for their aging relatives, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly supports the dedicated work of family caregivers statewide and will continue to seek additional ways to support these individuals through information, education, training, and relief care, and be it further

Resolved: That the General Assembly recognizes caregiving for older adults as a vital and needed profession today and in the future, and be it further

Resolved: That the General Assembly urges the creation of a special unit within the Department of Disabilities, Aging, and Independent Living that focuses on recruiting, retaining, and supporting family and paid caregivers, and be it further

Resolved: That the General Assembly strongly encourages additional innovative and creative means to support family caregivers to continue to provide needed in-home support for older adults, and be it further

Resolved: That the General Assembly should support current State programs that address the needs of older adults and their caregivers, and be it further

Resolved: That the General Assembly encourages the Department of Disabilities, Aging, and Independent Living to continue to provide information and education on supporting older adults in their homes through both family caregivers and paid professional caregivers, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Secretary of Human Services and the Commissioner of Disabilities, Aging, and Independent Living.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Health and Welfare.

Consideration Postponed

S. 168.

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

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

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

* * * Municipal Animal Control * * *

Sec. 1. 13 V.S.A. § 351 is amended to read:

§ 351. DEFINITIONS

As used in this chapter:

* * *

(4) “Humane officer” or “officer” means any law enforcement officer as defined in 23 V.S.A. § 4(11); auxiliary ~~state police~~ State Police officers; deputy game wardens; humane society officer, employee, or agent; ~~elected animal control officer~~; animal control officer appointed by the legislative body of a municipality; local board of health officer or agent; or any officer authorized to serve criminal process.

* * *

Sec. 2. 20 V.S.A. § 3549 is amended to read:

§ 3549. DOMESTIC PETS OR WOLF-HYBRIDS, REGULATION BY TOWNS

The legislative body of a city or town by ordinance may regulate the licensing, keeping, leashing, muzzling, restraint, impoundment, and destruction

of domestic pets or wolf-hybrids and their running at large except that a legislative body of a city or town shall not prohibit or regulate the barking or running at large of a working farm dog when it is on the property being farmed by the person who registered the working farm dog, pursuant to subsection 3581(a) of this title, in the following circumstances:

(1) If the working farm dog is barking in order to herd or protect livestock or poultry or to protect crops.

(2) If the working farm dog is running at large in order to herd or protect livestock or poultry or to protect crops.

Sec. 3. 20 V.S.A. § 3550 is amended to read:

§ 3550. PENALTIES; ENFORCEMENT; MUNICIPAL LEGISLATIVE BODY; SECRETARY

* * *

(k) A municipality may adopt ordinances inconsistent with this section imposing penalties for violation of any provisions of subchapter 1 or 2, refusal to obtain a kennel permit, or refusal to comply with an order issued by a municipal officer under subchapter 5 of this chapter, in which case those ordinances shall apply.

Sec. 4. 20 V.S.A. § 3621 is amended to read:

§ 3621. ISSUANCE OF WARRANT TO IMPOUND; COMPLAINT

(a)(1) The legislative body of a municipality may at any time issue a warrant to one or more police officers ~~or~~, constables, or pound keepers, ~~or~~ ~~elected or appointed animal control officers~~, directing them to proceed forthwith to impound all dogs or wolf-hybrids within the town or city not licensed according to the provisions of this subchapter, except as exempted by section 3587 of this title, and to enter a complaint against the owners or keepers thereof.

(2) A dog or wolf-hybrid impounded by a municipality under this section may be transferred to an animal shelter or rescue organization for the purpose of finding an adoptive home for the dog or wolf-hybrid. If the dog or wolf-hybrid cannot be placed in an adoptive home or transferred to a humane society or rescue organization within ten days, or a greater number of days established by the municipality, the dog or wolf-hybrid may be destroyed in a humane way. The municipality shall not be liable for expenses associated with keeping the dog or wolf-hybrid at the animal shelter or rescue organization beyond the established number of days.

* * *

* * * Current and Delinquent Tax Collectors * * *

Sec. 5. 17 V.S.A. § 2646 is amended to read:

§ 2646. TOWN OFFICERS; QUALIFICATION; ELECTION

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

* * *

(8) ~~A collector of current taxes, if the town so orders;~~ [Repealed.]

(9) A collector of delinquent taxes, if the town so orders, for a term of one year unless a town votes that a collector of delinquent taxes shall be elected for a term of three years. When a town votes for a three-year term for the collector of delinquent taxes, that three-year term shall remain in effect until the town rescinds it by the majority vote of the legal voters present and voting at an annual meeting, duly warned for that purpose;

* * *

Sec. 6. 17 V.S.A. § 2651d is added to read:

§ 2651d. COLLECTOR OF DELINQUENT TAXES; APPOINTMENT; REMOVAL

(a) A municipality may vote by Australian ballot at an annual or special meeting to authorize the legislative body to appoint a collector of delinquent taxes, who may be the municipal treasurer. A collector of delinquent taxes so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) When a municipality votes to authorize the legislative body to appoint a collector of delinquent taxes, the legislative body's authority to make such appointment shall remain in effect until the municipality rescinds that authority by the majority vote of the legal voters present and voting at an annual or special meeting, duly warned for that purpose.

(c) Any collector of delinquent taxes appointed under this section shall be paid a salary or other compensation for collecting delinquent taxes in lieu of fees and commissions. Fees and commissions collected by the collector of delinquent taxes shall be turned over to the municipal treasurer at least once a month.

* * * Incompatible Offices; Cemetery Commissioners and
Treasurers * * *

Sec. 7. 17 V.S.A. § 2647 is amended to read:

§ 2647. INCOMPATIBLE OFFICES

(a)(1) An auditor shall not be town clerk, town treasurer, selectboard member, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner, cemetery commissioner, or town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of official duties be eligible to hold office as auditor.

(2) A selectboard member or school director shall not be first constable, collector of taxes, town treasurer, auditor, or town agent. A selectboard member shall not be lister or assessor.

(3) A cemetery commissioner shall not be town treasurer.

~~(3)~~(4) A town manager shall not hold any elective office in the town or town school district.

~~(4)~~(5) Election officers at local elections shall be disqualified as provided in section 2456 of this title.

(b) Notwithstanding subsection (a) of this section, if a school district prepares and reports its budget independently from the budget of the town and the school district is audited by an independent public accountant, a person shall be eligible to hold office as auditor even if that person's spouse holds office as a school director.

* * * Town Clerks; Public Record Redaction Authority * * *

Sec. 8. 24 V.S.A. § 1164 is amended to read:

§ 1164. CERTIFIED COPIES; FORM

(a) A town clerk shall furnish certified copies of any instrument on record in his or her office, or any instrument or paper filed in his or her office pursuant to law, on the tender of ~~his~~ the clerk's fees therefor, and his or her attestation shall be a sufficient authentication of the copies, except that the town clerk shall not copy the word "illegitimate" from any birth certificate he or she furnishes. The town clerk may redact Social Security numbers from copies of any instrument or record in his or her office.

(b) Copies of vital records for events occurring outside the ~~state~~ State, filed with a town clerk pursuant to ~~section 5015 of Title 18~~ V.S.A. § 5015, shall not be copied and certified.

* * * Planning and Advisory Commissions * * *

Sec. 9. 24 V.S.A. § 4433 is amended to read:

§ 4433. ADVISORY COMMISSIONS AND COMMITTEES

Municipalities may at any time create one or more advisory commissions, which for the purposes of this chapter include committees, or a combination of advisory commissions to assist the legislative body or the planning commission in preparing, adopting, and implementing the municipal plan. Advisory commissions authorized under this section and under chapter 118 of this title may advise appropriate municipal panels, applicants, and interested parties in accordance with the procedures established under section 4464 of this title.

(1) Creation of an advisory commission. Advisory commissions not authorized in chapter 118 of this title shall be created as follows:

(A) An advisory commission may be created at any time when a municipality votes to create one, or through adoption of bylaws, or ~~if the charter of a municipality permits it,~~ when the legislative body of the municipality votes to create one.

(B) An advisory commission shall have ~~not less~~ no fewer than three members. All members should be residents of the municipality, except that historic preservation, or design advisory, ~~or conservation~~ commissions may be composed of professional and lay members, a majority of whom shall reside within the municipality creating the commission.

* * *

(2) Procedures for advisory commissions. Advisory commissions not authorized in chapter 118 of this title shall establish the following procedures:

(A) At its organizational meeting, an advisory commission shall adopt by majority vote of those present and voting such rules as it deems necessary and appropriate for the performance of its functions. It shall annually elect a ~~chairperson, a treasurer,~~ chair and a clerk.

(B) Times and places of meetings of an advisory commission shall be publicly posted in the municipality, and its meetings shall be open to the public in accordance with the terms of the open meeting law, ~~subchapter 2 of chapter 5 of Title 1~~ set forth in 1 V.S.A. chapter 5, subchapter 2.

* * *

(3) Duties and powers of historic preservation commissions. In addition to the requirements set forth in subdivision (2) of this section, all historic preservation commissions shall comply with all the following:

* * *

(C) Have responsibilities set forth in ~~the commission's rules of procedure~~ a written document approved by a majority vote of the local legislative body at a regular or special meeting that may include:

(i) Preparation of reports and recommendations on standards for the planning commission in creating a local historic district bylaw under this chapter.

(ii) Advising and assisting the legislative body, planning commission, and other entities on matters related to historic preservation.

(iii) Advising the appropriate municipal panel and administrative officer in development review and enforcement pursuant to subdivision ~~4414(2)(C)~~ 4414(1)(F) and section 4464 of this title.

(iv) If provided in the bylaw, advising and assisting the legislative body, appropriate municipal panel, and administrative officer in creating and administering a design review district or downtown or village center district pursuant to subdivision 4414(1)(A) or ~~(B)~~(E) of this title.

(v) If provided in a bylaw developed in cooperation with the division for historic preservation, those procedural and advisory powers required of a Certified Local Government under the National Historic Preservation Act.

(4) Powers and duties of design review commissions. In addition to the requirements set forth in subdivision (2) of this section, all design review commissions shall:

(A) To the extent possible, have among their members professionals in the fields of architecture, landscape architecture, urban planning, historic preservation, and related disciplines.

(B) Have responsibilities identified by the legislative body that may include:

(i) Preparation of reports and standards for the planning commission in creating a design review district bylaw under this chapter.

(ii) Advising and assisting the legislative body, planning commission, and other entities on design-related matters in the creation of plans and bylaws and planning for public improvements.

(iii) Advising appropriate municipal panels and the administrative officer in development review and enforcement pursuant to subdivisions 4414(1)(E) and (F) and section 4464 of this title.

(5) Powers and duties of housing commissions. In addition to the requirements set forth in subdivision (2) of this section, housing commissions may have responsibilities identified by the local legislative body that include:

(A) ~~Make~~ Making an inventory of the current stock of housing units in the municipality and identify any gaps in the housing stock according to household incomes or special needs of the community. The inventory may include documentation of the affordable housing cost index for an average citizen of the municipality, the average cost of rental units and vacancy rates, and the annual average sales price of homes.

(B) ~~Review~~ Reviewing the zoning ordinances, subdivision bylaws, building codes, and the development review process of the municipality, make recommendations to facilitate the development of affordable housing in the municipality, and promote bylaws that increase densities for the purpose of providing affordable housing.

(C) ~~Assist~~ Assisting the local appropriate municipal panels pursuant to section 4464 of this title and the district environmental commission by providing advisory testimony on the housing needs of the municipality, where pertinent to applications made to those bodies, for permits for development.

(D) ~~Cooperate~~ Cooperating with the local legislative body, planning commission, zoning board of adjustment, road committee, or other municipal or private organizations on matters affecting housing resources of the municipality. This may include working with the municipality on a wastewater and water allocation policy that reserves a percentage of the capacity for future affordable housing.

(E) ~~Collaborate~~ Collaborating with not-for-profit housing organizations, government agencies, developers, and builders in pursuing options to meet the housing needs of the local residents.

Sec. 10. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

* * *

(c) In the case of an urban municipality or of a rural town where the planning commission does not serve as the board of adjustment or the development review board, members of the board of adjustment or the development review board shall be appointed by the legislative body, the number and terms of office of which shall be determined by the legislative body subject to the provisions of subsection (a) of this section. The municipal legislative body may appoint alternates to a planning commission, a board of adjustment, or a development review board for a term to be determined by the

legislative body. Alternates may be assigned by the legislative body to serve on the planning commission, the board of adjustment, or the development review board in situations when one or more members of the board are disqualified or are otherwise unable to serve. Vacancies shall be filled by the legislative body for the unexpired terms and upon the expiration of such terms. Each member of a board of adjustment or a development review board may be removed for cause by the legislative body upon written charges and after public hearing. If a development review board is created, provisions of this subsection regarding removal of members of the board of adjustment shall not apply.

* * *

* * * Required Frontage for Land Development * * *

Sec. 11. 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:

* * *

(3) Required frontage on, or access to, public roads, ~~class 4 town highways~~, or public waters. Land development may be permitted on lots that do not have frontage either on a public road, ~~class 4 town highway~~, or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with section 4418 of this title, or where subdivision bylaws have not been adopted or do not apply, through a process and pursuant to standards defined in bylaws adopted for the purpose of assuring safe and adequate access. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width.

* * *

* * * Municipal Law Enforcement Authority * * *

Sec. 12. 20 V.S.A. § 2358(c)(4) is added to read:

(4) “Exercise of law enforcement authority” does not include the enforcement of civil municipal ordinances, except civil municipal ordinances relating to the operation or use of motor vehicles which are adopted pursuant to 24 V.S.A. chapters 59 and 117.

* * * General Municipal Regulatory Authority * * *

Sec. 13. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(10) To regulate the keeping of dogs, and to provide for their licensing, leashing, muzzling, restraint, impoundment, and destruction.

* * *

(16) To name and rename streets and to number and renumber lots pursuant to section 4463 of this title, and to require the owner of a house or other building to which a number has been assigned to affix the number, including the assigned 911 address, to the structure, sign, or number post so that it is clearly visible from the road.

* * *

(26) When a disaster or emergency has been declared by the Governor, a municipal building inspector, health officer, fire marshal, or zoning administrator may declare a property that has been damaged in the disaster or emergency and is dangerous to life, health, or safety due to the disaster-related damage, condemned to be destroyed.

* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

And that when so amended the bill ought to pass.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, Senator Sears moved to amend the recommendation of the Committee on Government Operations, by striking out Sec. 12 in it entirety and renumbering the remaining sections of the bill to be numerically correct.

Which was agreed to.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, Senator Benning moved to amend the recommendation of the Committee on

Government Operations, as amended, in Sec. 6 by striking out subsection (c) in its entirety.

Thereupon, pending the question, Shall the recommendation of amendment of the Committee on Government Operations, as amended, be amended as recommended by Senator Benning?, Senator White moved that consideration of the bill be postponed until Wednesday, February 26, 2014.

Which was agreed to.

**Proposal of Amendment Amended; Bill Passed in Concurrence with
Proposal of Amendment**

H. 583.

House bill entitled:

An act relating to the charge of the Vermont Child Poverty Council.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved that the Senate proposal of amendment be amended as follows:

First: In Sec. 1 [2007 Acts and Resolves No. 68, Sec 1], in subdivision (b)(3), in the last sentence, before the words “Council members” by inserting the word legislative and after the word “receive” by striking out the words “compensation or”

Second: In Sec. 1 [2007 Acts and Resolves No. 68, Sec 1], by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(e) Funds from private and public sources may be accepted and utilized by the ~~council~~ Council to develop and implement the plan and provisions of this section. ~~Legislative~~ For participation in meetings during the legislative interim, legislative members of the ~~committee~~ Council shall be entitled to compensation and reimbursement for expenses under ~~section 406 of Title 2~~ 2 V.S.A. § 406. ~~All other members not receiving compensation for service on the committee from another source are entitled to compensation under section 1010 of Title 32.~~ Nonlegislative members who are not otherwise compensated and reimbursed for their participation on the Council shall be entitled to receive compensation and reimbursement of expenses under 32 V.S.A. § 1010.

* * *

Which was agreed to.

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

Senate Concurrent Resolution

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

By All Members of the Senate,

By Representative Botzow and others,

S.C.R. 42.

Senate concurrent resolution in memory of retired UVM Professor and environmental advocate Hubert W. Vogelmann.

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 Koch and others,

By Senators Ashe, Ayer, Bray, Collins, Flory, French, Galbraith, Hartwell, Lyons, MacDonald, McAllister, McCormack, Mullin, Nitka, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White and Zuckerman,

H.C.R. 230.

House concurrent resolution congratulating the 2013 class of Green Mountain Council Eagle Boy Scouts.

By Representative Cole and others,

By Senators Baruth, Flory, Rodgers and Zuckerman,

H.C.R. 231.

House concurrent resolution recognizing the importance of the Vermont Umatter suicide prevention program.

By Representatives Smith and Peltz,

H.C.R. 232.

House concurrent resolution congratulating Mount Vernon Lodge No. 8 of Free and Accepted Masons in Morrisville on its bicentennial.

By Representative Mrowicki and others,

H.C.R. 233.

House concurrent resolution designating February 20, 2014 as Afterschool and Summer Learning Day at the State House.

By Representative Koch and others,

By Senators Cummings, Doyle, Pollina, Rodgers and Starr,

H.C.R. 234.

House concurrent resolution congratulating Katie Sedore on her winning a Milken Educator Award.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, February 25, 2014, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 45.

TUESDAY, FEBRUARY 25, 2014

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Stephen Edington of Montpelier.

Pledge of Allegiance

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

Senate Bill Recommitted

S. 168.

Senate bill entitled:

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

Was taken up.

Thereupon, pending the question, Shall the recommendation of amendment of the Committee on Government Operations be amended as recommended by Senator Benning?, on motion of Senator French, the bill was recommitted to the Committee on Government Operations.

Bill Amended; Third Reading Ordered**S. 275.**

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

An act relating to the Court's jurisdiction over youthful offenders.

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

Sec. 1. 33 V.S.A. § 5204a is amended to read:

§ 5204a. JURISDICTION OVER ADULT DEFENDANT FOR CRIME COMMITTED WHEN DEFENDANT WAS UNDER ~~AGE~~ 18 YEARS OF AGE

* * *

(b)(1) The Family Division shall, except as provided in subdivision (2) of this subsection, transfer a petition filed pursuant to subsection (a) of this section to the Criminal Division if the Family Division finds that:

* * *

(2)(A) The Family Division may order that the defendant be treated as a youthful offender consistent with the applicable provisions of subchapter 5 of chapter 52 of this title if the defendant is under ~~23~~ 22 years of age and the Family Division:

(i) makes the findings required by subdivisions (1)(A), (B), and (C) of this subsection;

(ii) finds that the youth is amenable to treatment or rehabilitation as a youthful offender; and

(iii) finds that there are sufficient services in the Family Division system and the Department for Children and Families or the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(B) If the Family Division orders that the defendant be treated as a youthful offender, the Court shall approve a disposition case plan and impose conditions of probation on the defendant.

(C) If the Family Division finds after hearing that the defendant has violated the terms of his or her probation, the Family Division may:

(i) maintain the defendant's status as a youthful offender, with modified conditions of probation if the Court deems it appropriate; or

(ii) revoke the defendant's youthful offender status and transfer the petition to the Criminal Division pursuant to subdivision (1) of this subsection.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Wednesday, February 26, 2014.

WEDNESDAY, FEBRUARY 26, 2014

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. 25

A message was received from the House of Representatives by Mr. William M. MaGill, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 581. An act relating to guardianship of minors.

H. 676. An act relating to regulation of land uses within flood hazard areas.

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

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

S. 215. An act relating to administering, implementing, and financing water quality improvement in Vermont.

And has passed the same in concurrence.

Rules Suspended; Bill Committed**S. 239.**

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

An act relating to the regulation of toxic substances.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Health and Welfare, Senator Lyons moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Economic Development, Housing and General Affairs with the report of the Committee on Health and Welfare *intact*,

Which was agreed to.

Committee Relieved of Further Consideration**S. 247.**

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

An act relating to the regulation of medical marijuana dispensaries,

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

Rules Suspended; Consideration Postponed**S. 91.**

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

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

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Education, Senator McCormack moved that consideration of the bill be postponed until Thursday, March 13, 2014.

Joint Resolution Placed on Calendar**J.R.S. 46.**

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

By Senator Nitka,

J.R.S. 46. Joint resolution providing for a Joint Assembly to vote on the retention of six Superior Judges.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 20, 2014, at ten o'clock and thirty minutes in the forenoon to vote on the retention of six Superior Judges. In case the vote to retain said Judges 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, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Bills Referred

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

H. 581.

An act relating to guardianship of minors.

To the Committee on Judiciary.

H. 676.

An act relating to regulation of land uses within flood hazard areas.

To the Committee on Natural Resources and Energy.

Bill Amended; Bill Passed

S. 304.

Senate bill entitled:

An act relating to public school principals and nonrenewal of contracts.

Was taken up.

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

Sec. 1. 16 V.S.A. § 243 is amended to read:

§ 243. APPOINTMENT; SUPERVISION; RENEWAL; DISMISSAL

(a) Appointment; supervision.

(1) The school board of each school district operating a school, after recommendation by the superintendent, may designate a person as principal for

each public school within the district, except that a principal may be selected to serve more than one school. In the case of a career technical education center, only the school board ~~which~~ that operates the center may designate a person as director. ~~For purposes of~~ As used in this section, the word “principal” shall include a principal and the director of career technical education, and the term “public school” shall include a career technical education center.

(2) The superintendent shall supervise each principal within the supervisory union in the performance of duties and the implementation of school-based initiatives. The superintendent shall evaluate a principal during the year in which the principal’s contract shall expire and may evaluate the principal at other times during the contract term. Together with the evaluation provided to the principal in the year in which the contract shall expire, the superintendent shall indicate in writing whether he or she intends to recommend to the school board that the contract be renewed or not renewed. If the superintendent intends to recommend nonrenewal, then the written notification shall also indicate on which of the three categories set forth in subdivision (c)(2) of this section the recommendation is based.

(b) Length of contract. ~~The~~ A principal shall be employed by written contract for a term of not less than one year nor more than three years. Based upon the superintendent’s most recent written evaluation of the principal, a superintendent shall recommend to the school board whether or not to renew the initial and any subsequent contract with a principal.

(c) Renewal and nonrenewal.

(1) A principal who has been continuously employed for more than two years in the same position has the right either to have his or her contract renewed; or to receive written notice of nonrenewal at least 90 days before the existing contract expires;

(A) on or before February 1, if the principal has been continuously employed for more than two years in the same position; and

(B) on or before April 1, if the principal has been continuously employed for two years or less in the same position.

(2) Nonrenewal may be based upon elimination of the position, unresolved performance deficiencies, or other reasons affecting the educational mission of the district. The written notice shall recite the grounds for nonrenewal. If nonrenewal is based on performance deficiencies, the written notice shall be accompanied by an evaluation performed by the superintendent. At its discretion, any reason other than the elimination of the position then, at its discretion, the school board may allow a period of remediation of

~~performance deficiencies~~ prior to issuance of ~~the written notice~~ its final decision on nonrenewal.

(3) After receiving ~~such~~ a notice of nonrenewal, the principal may request in writing, and shall be granted, a meeting with the school board. Such request shall be delivered within ~~15~~ 10 calendar days of delivery of notice of nonrenewal, and the meeting shall be held within 15 calendar days of delivery of the request for a meeting. At the meeting, the school board shall explain its position, and the principal shall be allowed to respond. The principal and any member of the board may present written information or oral information through statements of others, and the principal and the board may be represented by counsel. The meeting shall be in executive session unless both parties agree in writing that it be open to the public. After the meeting, the school board shall decide whether or not to offer the principal an opportunity to renew his or her contract. The school board shall issue its decision in writing within five days. The decision of the school board shall be final.

* * *

(e) Inclusion in contract. Every principal's contract shall be deemed to contain the provisions of this section. Any contract provision to the contrary is without effect. Each written contract shall include a reference to chapter 5, subchapter 3 of this title; provided, however, that failure to do so shall not give rise to a private right of action.

(f) Notification by principal. On or before May 1 of the year in which a principal's contract expires, the principal shall notify the school board in writing if he or she intends not to enter into a new contract with the district.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Nitka moved to amend the bill in Sec. 1, in 16 V.S.A. § 243(c), in subdivision (1) by adding a new subparagraph (C) to read as follows:

(C) at least 30 days before the existing contract expires, if the final day of the existing contract is other than June 30.

Which was agreed to.

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

Bill Passed**S. 275.**

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

An act relating to the Court's jurisdiction over youthful offenders.

Third Reading Ordered**S. 263.**

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

An act relating to the authority of assistant judges in child support contempt proceedings.

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. 177.**

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

An act relating to nonjudicial discipline.

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

Sec. 1. 20 V.S.A. chapter 39 (courts-martial) §§ 941-945 are designated as subchapter 1, which is added to read:

Subchapter 1. General Provisions

Sec. 2. 20 V.S.A. chapter 39 (courts-martial), subchapter 2 is added to read:

Subchapter 2. Nonjudicial Discipline

§ 961. COMMANDING OFFICER NONJUDICIAL DISCIPLINE

(a)(1) A commanding officer may impose nonjudicial discipline upon a service member for minor military offenses without the intervention of a court-martial in accordance with the provisions of this subchapter.

(2) The commanding officer who intends to impose nonjudicial discipline upon a service member shall notify him or her of the following:

(A) the nature of the alleged offense;

(B) the commanding officer's intent to dispose of the matter by nonjudicial discipline; and

(C) any other nonjudicial discipline procedural rights established by regulation.

(3) As used in this section, "commanding officer" shall include an officer-in-charge.

(b) A commanding officer may impose upon enlisted members of the officer's command:

(1) an admonition;

(2) a reprimand;

(3) for members who are serving on full-time military orders in excess of 179 days, the forfeiture of up to seven days of pay and, for all others, up to four days of pay;

(4) a fine of not more than seven days' pay;

(5) a reduction to the next inferior pay grade, if the grade from which the member is demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(6) extra duties for not more than 14 days, which need not be consecutive; and

(7) restriction to certain specified limits, with or without suspension from duty, for not more than 14 days, which need not be consecutive.

(c) A commanding officer of the grade of major or above may impose upon enlisted members of the officer's command:

(1) any discipline authorized in subdivisions (b)(1), (2), and (3) of this section;

(2) for members who are serving on full-time military orders in excess of 179 days, the forfeiture of not more than one-half of one month's pay per month for up to two months, and, for all others, up to 14 days of pay;

(3) a fine of not more than one month's pay;

(4) a reduction to the lowest or any intermediate pay grade, if the grade from which the member is demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;

(5) for members who are serving on full-time military orders in excess of 179 days, the imposition of extra duties for up to 45 days which need not be consecutive, and, for all others, the imposition of extra duties for up to 14 days which need not be consecutive; and

(6) restriction to certain specified limits, with or without suspension from duty, for not more than 60 days, which need not be consecutive.

(d)(1) The Adjutant and Inspector General or an officer of a general or flag rank in command may impose:

(A) upon an officer or warrant officer of the officer's command, any discipline authorized in subdivisions (c)(1), (2), (3), and (6) of this section;

(B) upon an enlisted member of the officer's command, any discipline authorized in subsection (c) of this section.

(2) The Adjutant and Inspector General or an officer of a general or flag rank in command may delegate his or her powers under this subsection to a principle assistant who is a member of the Vermont National Guard.

(e) Whenever any disciplines imposed under this section are to be served consecutively, the total length of the combined discipline shall not exceed the authorized duration of the longest discipline in the combination, and there shall be an apportionment of disciplines so that no single discipline in the combination exceeds its authorized length.

(f)(1) The officer who imposes the discipline or his or her successor in command may at any time suspend, set aside, mitigate, or remit any part or amount of the discipline and restore all rights, privileges, and property affected. The officer also may mitigate a reduction in grade to a forfeiture of pay or mitigate extra duties to a restriction to certain specified limits.

(2) The mitigated discipline shall not be for a greater period than the original discipline mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the discipline.

(g) Whenever a discipline of forfeiture of pay is imposed under this section, the forfeiture may apply to pay accruing before, on, or after the date that discipline is imposed.

§ 962. SERVICE MEMBERS SUBJECT TO NONJUDICIAL DISCIPLINE

(a) A service member subject to nonjudicial discipline under this subchapter shall, during the course of his or her disciplinary proceedings, have the right to:

(1) consult with a judge advocate or with private counsel at the service member's own expense;

(2) submit matters in extenuation, mitigation, or defense; and

(3) call and examine witnesses, to the extent witness are reasonably available.

(b)(1) Except as provided in subdivision (2) of this subsection, a service member subject to nonjudicial discipline shall have the right to demand a court-martial in lieu of nonjudicial discipline.

(2) A service member subject to nonjudicial discipline shall not have the right to demand a court-martial in lieu of nonjudicial discipline if the service member is notified by the commanding officer that the commanding officer does not intend to impose a restriction to certain specified limits, a fine, or extra duties if, after a hearing, the service member is found guilty of any offense with which he or she is charged.

(c)(1) A service member subject to nonjudicial discipline under this subchapter may elect to have his or her case heard before a nonjudicial discipline panel, described in section 963 of this subchapter.

(2) The service member shall have 24 hours from the commanding officer's notice of his or her intent to dispose of the matter by nonjudicial discipline to make an election for disposition by a nonjudicial panel, and shall have the right to consult with a judge advocate or with private counsel at the service member's own expense prior to making such a decision.

§ 963. NONJUDICIAL DISCIPLINE PANELS

(a) When a service member elects to have his or her case heard before a nonjudicial discipline panel as provided in section 962 of this subchapter, the panel shall be formed as follows:

(1) The panel shall consist of three members, appointed by the next higher authority of the commanding officer who seeks to impose the nonjudicial discipline.

(2) The members of the panel shall be officers who are senior to the service member requesting the panel. If it is an enlisted service member requesting the panel, there shall be at least one enlisted service member on the panel, but that enlisted service member must be senior to the enlisted service member requesting the panel.

(3) The senior member of the panel shall be the chair. The most junior member shall be the recorder and shall record summaries of the proceedings.

(4) If the nonjudicial discipline is being offered by a general officer, the panel shall consist of three members appointed by the Adjutant and Inspector General with the most senior member being the chair and the most junior member being the recorder, who shall record the summaries of the proceedings.

(b) The panel decision shall be by majority vote. The panel shall have the same authority and responsibility in conducting the proceeding and disposing of the matter, including imposing nonjudicial discipline, as has a commanding officer of the grade of major or above pursuant to this subchapter.

(c)(1) The panel shall forward its recommendation for disposition and imposition of discipline, if any, to the authority who appointed the panel under subsection (a) of this section.

(2)(A) The appointing authority may approve the recommended discipline or any part or amount as the appointing authority sees fit and may suspend, mitigate, or remit the recommended discipline as he or she deems appropriate.

(B) The appointing authority shall not approve any discipline in excess of that recommended by the panel.

§ 964. APPEALS FROM NONJUDICIAL DISCIPLINE DECISIONS

(a)(1) A service member disciplined under this subchapter who considers the discipline unjust or disproportionate to the offense may appeal to the next superior authority within 15 days after the discipline is either announced or notice of the discipline is sent to the accused, as the commander under section 961 or the appointing authority under section 963 of this subchapter may determine.

(2) An appeal from the decision of an appointing authority under section 963 of this subchapter shall be taken directly to the next higher authority, unless the action is initiated by a general officer, in which case the Adjutant and Inspector General shall have the final decision.

(b) The appeal shall be promptly forwarded and decided, but the service member disciplined may, in the meantime, be required to undergo the discipline adjudged.

(c)(1) The superior authority may exercise the same powers with respect to the discipline imposed as may be exercised under section 961 or 963 of this subchapter by the officer who imposed the discipline, except that the superior authority shall not impose any discipline in excess of what was originally imposed.

(2) Before acting on an appeal, the authority may refer the case to a judge advocate for consideration and advice.

§ 965. EFFECT OF NONJUDICIAL DISCIPLINE

(a) The imposition and enforcement of nonjudicial discipline under this subchapter for any act or omission shall not be a bar to trial by court-martial or a civilian court of competent jurisdiction for a serious crime or offense growing out of the same act or omission and not properly punishable under this subchapter.

(b) The fact that nonjudicial discipline has been enforced may be shown by the accused upon trial and, when so shown, it shall be considered in determining the measure of discipline to be adjudged in the event of a finding of guilty.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

And that when so amended the bill ought to pass.

Senator White, for the Committee on Judiciary, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Government Operations, with the following amendments thereto:

First: In Sec. 2, in 20 V.S.A. § 961(a)(1), after the following: “in accordance with the provisions” by inserting the following: of

Second: In Sec. 2, in 20 V.S.A. § 962(b), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) A service member subject to nonjudicial discipline shall not have the right to demand a court-martial in lieu of nonjudicial discipline if the commanding officer will not impose a restriction to certain specified limits, a fine, or extra duties if, after a hearing, the service member is found guilty of any offense with which he or she is charged and the commanding officer advises the service member of that fact when the commanding officer notifies the service member of his or her intent to impose nonjudicial discipline.

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 amended as recommended by the Committee on Judiciary.

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.

Bill Amended; Third Reading Ordered

S. 287.

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

An act relating to involuntary treatment and medication.

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. § 7612 is amended to read:

§ 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~~ Family Division of the Superior Court of the proposed patient's residence or, in the case of a nonresident, in any district 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~~ unit of the Family Division of the Superior Court in which the hospital is located. In all other cases, it shall be filed in the unit in which the patient resides. In the case of a nonresident, it may be filed in any unit.

(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~~ 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~~ 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.

Sec. 2. 18 V.S.A. § 7612a is added to read:

§ 7612a. PROBABLE CAUSE REVIEW

(a) Within three days after an application for involuntary treatment is filed, the Family Division of the Superior Court shall conduct a review to determine whether there is probable cause to believe that he or she was a person in need of treatment at the time of his or her admission. The review shall be based solely on the application for an emergency examination and accompanying certificate by a licensed physician and the application for involuntary treatment.

(b) If based on a review conducted pursuant to subsection (a) of this section the Court finds probable cause to believe that the person was a person in need of treatment at the time of his or her admission, the person shall be ordered held for further proceedings in accordance with part 8 of this title. If probable cause is not established, the person shall be ordered discharged from the hospital and returned to the place from which he or she was transported or to his or her home.

Sec. 3. 18 V.S.A. § 7615 is amended to read:

§ 7615. HEARING

(a)(1) Upon receipt of the application, the ~~court~~ Court shall set a date for the hearing to be held within 10 days from the date of the receipt of the application or 20 days from the date of the receipt of the application if a psychiatric examination is ordered under section 7614 of this title unless the hearing is continued by the ~~court~~ Court pursuant to subsection (b) of this section.

(2)(A) The applicant or a person who is certified as a person in need of treatment pursuant to section 7508 may file a motion to expedite the hearing. The motion shall be supported by an affidavit. The Court may grant the motion if it finds that:

(i) the person has received involuntary medication pursuant to section 7624 of this title during the past two years and experienced significant clinical improvement in his or her mental state as a result of the treatment; or

(ii)(I) the person demonstrates a significant risk of causing the person or others serious bodily injury as defined in 13 V.S.A. § 1021 even while hospitalized; and

(II) clinical interventions have failed to address the risk of harm to the person or others.

(B) If the Court grants the motion for expedited hearing pursuant to this subdivision, the hearing shall be held within seven to ten days from the date of the order for expedited hearing.

~~(b) The court~~ For hearings held pursuant to subdivision (a)(1) of this section, the Court may grant either party ~~an~~ a onetime extension ~~of time~~ of up to seven days for good cause.

(c) The hearing shall be conducted according to the ~~rules of evidence~~ Rules of Evidence applicable in civil actions in the ~~criminal division of the superior courts~~ Family Division of the Superior Court of the state State, and to an extent not inconsistent with this part, the ~~rules of civil procedure of the state~~ Vermont Rules of Civil Procedure shall be applicable.

(d) The applicant and the proposed patient shall have a right to appear at the hearing to testify. The attorney for the ~~state~~ State and the proposed patient shall have the right to subpoena, present and cross-examine witnesses, and present oral arguments. The ~~court~~ Court may, at its discretion, receive the testimony of any other person.

(e) The proposed patient may at his or her election attend the hearing, subject to reasonable rules of conduct, and the ~~court~~ Court may exclude all persons not necessary for the conduct of the hearing.

Sec. 4. 18 V.S.A. § 7624 is amended to read:

§ 7624. PETITION FOR INVOLUNTARY MEDICATION

(a) The ~~commissioner~~ Commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following three conditions:

(1) has been placed in the ~~commissioner's~~ Commissioner's care and custody pursuant to section 7619 of this title or subsection 7621(b) of this title;

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, including a person on an order of nonhospitalization who resides in a secure residential recovery facility; or

(3) has been committed to the custody of the ~~commissioner of corrections~~ Commissioner of Corrections as a convicted felon and is being held

in a correctional facility which is a designated facility pursuant to section 7628 of this title and for whom the ~~department of corrections~~ Department of Corrections and the ~~department of mental health~~ Department of Mental Health have ~~jointly~~ jointly determined jointly that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H).

(b)(1) A petition for involuntary medication may be filed at any time after the application for involuntary treatment is filed. A The petition for involuntary medication shall be filed in the family division of the superior court Family Division of the Superior Court in the county in which the person is receiving treatment or, if an order has not been issued on the application for involuntary treatment, in the county in which the application for involuntary treatment is pending.

(2) The Court may consolidate a petition for involuntary medication and an application for involuntary treatment upon motion of a party or upon its own motion if it finds that consolidation would serve the interests of the parties and the administration of justice. If the proceedings are consolidated, the Court shall rule on the application for involuntary treatment before ruling on the petition for involuntary medication.

(c) The petition shall include a certification from the treating physician, executed under penalty of perjury, that includes the following information:

- (1) the nature of the person's mental illness;
- (2) the necessity for involuntary medication, including the person's competency to decide to accept or refuse medication;
- (3) any proposed medication, including the method, dosage range, and length of administration for each specific medication;
- (4) a statement of the risks and benefits of the proposed medications, including the likelihood and severity of adverse side effects and its effect on:
 - (A) the person's prognosis with and without the proposed medications; and
 - (B) the person's health and safety, including any pregnancy;
- (5) the current relevant facts and circumstances, including any history of psychiatric treatment and medication, upon which the physician's opinion is based;
- (6) what alternate treatments have been proposed by the doctor, the patient, or others, and the reasons for ruling out those alternatives; and
- (7) whether the person has executed ~~a durable power of attorney for health care~~ an advance directive in accordance with the provisions of

~~18 V.S.A. chapter 44, subchapter 2~~ 231 of this title, and the identity of the ~~health care agent or agents~~ designated by the ~~durable power of attorney advance directive~~.

(d) A copy of the ~~durable power of attorney advance directive~~, if available, shall be attached to the petition.

Sec. 5. 18 V.S.A. § 7625 is amended to read:

§ 7625. HEARING ON PETITION FOR INVOLUNTARY MEDICATION;
BURDEN OF PROOF

(a) ~~A~~ Unless consolidated with an application for involuntary treatment pursuant to section 7624 of this title, a hearing on a petition for involuntary medication shall be held within seven days of filing and shall be conducted in accordance with sections 7613, 7614, ~~7615(b)–(e)~~, and 7616 and subsections 7615(b)–(e) of this title.

(b) In a hearing conducted pursuant to this section, section 7626, or section 7627 of this title, the ~~commissioner~~ Commissioner has the burden of proof by clear and convincing evidence.

(c) In determining whether or not the person is competent to make a decision regarding the proposed treatment, the ~~court~~ Court shall consider whether the person is able to make a decision and appreciate the consequences of that decision.

Sec. 6. 18 V.S.A. § 7626 is amended to read:

§ 7626. ~~DURABLE POWER OF ATTORNEY~~ ADVANCE DIRECTIVE

(a) If a person who is the subject of a petition filed under section 7624 of this title has executed ~~a durable power of attorney~~ an advance directive in accordance with the provisions of ~~18 V.S.A. chapter 44~~ 231 of this title, ~~subchapter 2 for health care~~, the ~~court~~ Court shall suspend the hearing and enter an order pursuant to subsection (b) of this section, if the ~~court~~ Court determines that:

(1) the person is refusing to accept psychiatric medication;

(2) the person is not competent to make a decision regarding the proposed treatment; and

(3) the decision regarding the proposed treatment is within the scope of the valid, duly executed ~~durable power of attorney for health care~~ advance directive.

(b) An order entered under subsection (a) of this section shall authorize the ~~commissioner~~ Commissioner to administer treatment to the person, including involuntary medication in accordance with the direction set forth in the ~~durable~~

~~power of attorney advance directive~~ or provided by the ~~health care agent or agents~~ acting within the scope of authority granted by the ~~durable power of attorney advance directive~~. If hospitalization is necessary to effectuate the proposed treatment, the ~~court~~ Court may order the person to be hospitalized.

~~(c) In the case of a person subject to an order entered pursuant to subsection (a) of this section, and upon the certification by the person's treating physician to the court that the person has received treatment or no treatment consistent with the durable power of attorney for health care for 45 days after the order under subsection (a) of this section has been entered, then the court shall reconvene the hearing on the petition.~~

~~(1) If the court concludes that the person has experienced, and is likely to continue to experience, a significant clinical improvement in his or her mental state as a result of the treatment or nontreatment directed by the durable power of attorney for health care, or that the patient has regained competence, then the court shall enter an order denying and dismissing the petition.~~

~~(2) If the court concludes that the person has not experienced a significant clinical improvement in his or her mental state, and remains incompetent then the court shall consider the remaining evidence under the factors described in subdivisions 7627(c)(1) (5) of this title and render a decision on whether the person should receive medication. [Repealed.]~~

Sec. 7. 18 V.S.A. § 7627(b) is amended to read:

(b) If a person who is the subject of a petition filed under section 7625 of this title has not executed a ~~durable power of attorney~~ an advance directive, the ~~court~~ Court shall follow the person's competently expressed written or oral preferences regarding medication, if any, unless the ~~commissioner~~ Commissioner demonstrates that the person's medication preferences have not led to a significant clinical improvement in the person's mental state in the past within an appropriate period of time.

Sec. 8. Rule 12 of the Vermont Rules for Family Proceedings is amended to read:

Rule 12. STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

(a) Automatic Stay Prior to Appeal; Exceptions.

(1) Automatic Stay. Except as provided in paragraph (2) of this subdivision and in subdivision (c), no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 30 days after its entry or until the time for appeal from the judgment as extended by Appellate Rule 4 has expired.

(2) Exceptions. Unless otherwise ordered by the court, none of the following orders shall be stayed during the period after its entry and until an appeal is taken:

(A) In an action under Rule 4 of these rules, an order relating to parental rights and responsibilities and support of minor children or to separate support of a spouse (including maintenance) or to personal liberty or to the dissolution of marriage;

(B) An order of involuntary treatment, involuntary medication, nonhospitalization, or hospitalization, in an action pursuant to 18 V.S.A. §§ ~~7611-7623~~ chapter 181;

(C) Any order of disposition in a juvenile case, including an order terminating residual parental rights; or

(D) Any order in an action under Rule 9 of these rules for prevention of abuse, including such an action that has been consolidated or deemed consolidated with a proceeding for divorce or annulment pursuant to Rule 4(n).

The provisions of subdivision (d) of this rule govern the modification or enforcement of the judgment in an action under Rule 4 of these rules, during the pendency of an appeal.

* * *

(d) Stay Pending Appeal.

(1) Automatic Stay. In any action in which automatic stay prior to appeal is in effect pursuant to paragraph (1) or subdivision (a) of this rule, the taking of an appeal from a judgment shall operate as a stay of execution upon the judgment during the pendency of the appeal, and no supersedeas bond or other security shall be required as a condition of such stay.

(2) Other Actions.

(A) When an appeal has been taken from judgment in an action under Rule 4 of these rules in which no stay pursuant to paragraph (1) of subdivision (a) of this rule is in effect, the court in its discretion may, during the pendency of the appeal, grant or deny motions for modification or enforcement of that judgment.

(B)(i) When an appeal has been taken from an order for involuntary treatment, nonhospitalization, or hospitalization ~~or involuntary treatment~~, in an action pursuant to ~~chapter 181 of Title 18 V.S.A.~~ chapter 181, the court in its discretion may, during the pendency of the appeal, grant or deny applications for continued treatment, modify its order, or discharge the patient, as provided in 18 V.S.A. §§ 7617, 7618, 7620, and 7621.

(ii)(I) If an order of involuntary medication is appealed, the appellant may file a motion in the Family Division to stay the order during the pendency of the appeal. A motion to stay filed under this subdivision shall stay the involuntary medication order while the motion to stay is pending.

(II) The Family Division's ruling on a motion to stay filed under subdivision (I) of this subdivision (ii) may be modified or vacated by the Supreme Court upon motion by a party filed within seven days after the ruling is issued. If the appellant is the moving party, the order for involuntary medication shall remain stayed until the Supreme Court rules on the motion to vacate or modify the stay. A motion to vacate or modify a stay under this subdivision shall be determined by a single Justice of the Supreme Court, who may hear the matter or at his or her discretion refer it to the entire Supreme Court for hearing. No further appeal may lie from the ruling of a single Justice in matters to which this subdivision applies. The motion shall be determined as soon as practicable and to the extent possible shall take priority over other matters.

* * *

Sec. 9. AVAILABILITY OF PSYCHIATRISTS FOR EXAMINATIONS

The Agency of Human Services shall examine its contract with Vermont Legal Aid's Mental Health Law Project to determine whether continued State funding to the Mental Health Law Project may be made contingent upon the Mental Health Law Project contracting with a sufficient number of psychiatrists to conduct psychiatric examinations pursuant to 18 V.S.A. § 7614 in the time frame established by 18 V.S.A. § 7615.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

And that when so amended the bill ought to pass.

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

In Sec. 4, 18 V.S.A. § 7624(b), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) The Court may consolidate an application for involuntary treatment and a petition for involuntary medication upon motion of a party or upon its own motion if there is good cause to believe that consolidation will serve the best interests of the patient. If the proceedings are consolidated, the Court

shall rule on the application for involuntary treatment before ruling on the petition for involuntary medication.

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 Health and Welfare.

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 4.

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, French, Galbraith, Hartwell, Kitchel, Lyons, Mazza, McAllister, Mullin, Nitka, Rodgers, Sears, Sirotkin, *Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: MacDonald, McCormack, Pollina, Zuckerman.

*Senator Snelling explained her vote as follows:

“I voted yes with concern but also with the intention to continue to do everything possible to make certain all options, and treatment is available to individuals in Vermont prior to mental health crisis.”

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock and thirty minutes in the afternoon on Thursday, February 27, 2014.

THURSDAY, FEBRUARY 27, 2014

The Senate was called to order by the President.

Devotional Exercises

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

Bills Passed

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

S. 177. An act relating to nonjudicial discipline.

S. 263. An act relating to the authority of assistant judges in child support contempt proceedings.

Bill Amended; Bill Passed

S. 287.

Senate bill entitled:

An act relating to involuntary treatment and medication.

Was taken up.

Thereupon, pending third reading of the bill, Senators Sirotkin and Snelling move to amend the bill as follows:

First: In Sec. 3, 18 V.S.A. § 7615, in subdivision (a)(2)(A)(i), by striking out the word “treatment” and inserting in lieu thereof the word medication

Second: By striking Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. AVAILABILITY OF PSYCHIATRISTS FOR EXAMINATIONS

The Agency of Human Services shall ensure that Vermont Legal Aid’s Mental Health Law Project has a sufficient number of psychiatrists to conduct psychiatric examinations pursuant to 18 V.S.A. § 7614 in the time frame established by 18 V.S.A. § 7615.

Which was agreed to.

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

Bill Amended; Third Reading Ordered

S. 316.

Senate committee bill entitled:

An act relating to child care providers.

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

Senator Cummings, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as follows:

First: In Sec. 2, in § 3603, by striking out the subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b)(1) Mandatory subjects of bargaining are limited to:

(A) child care subsidy reimbursement rates and payment procedures, excluding quality standards and payment schedules associated with the SStep Ahead Recognition System (STARS);

(B) professional development;

(C) the collection of dues and disbursement to the exclusive representative;

(D) agency fees and disbursement to the exclusive representative; and

(E) procedures for resolving grievances.

(2) The parties may also negotiate on any mutually agreed matters that are not in conflict with State or federal law.

Second: In Sec. 2, in § 3603, by striking out the subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(e) An early care and education providers' organization shall not charge the agency fee unless it has established and maintained a procedure to provide nonmembers with:

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

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

(3) prompt arbitration by the Vermont Labor Board to resolve any objections over the agency fee.

Third: In Sec. 2, in § 3606, by striking out the subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) The bargaining unit shall be composed of licensed home child care providers, registered home child care providers, and legally exempt child care providers, as defined in this chapter, who have an agreement with the Department to accept a subsidy.

Fourth: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. NEGOTIATIONS; EARLY CARE AND EDUCATION PROVIDERS

The State's cost of negotiating an agreement pursuant to 33 V.S.A. chapter 36 shall be borne by the State out of existing appropriations made to it

for administrative expenditures by the General Assembly. These costs shall not be funded by appropriations made for benefit payments.

Fifth: By striking out Sec. 4 in its entirety and inserting in lieu thereof two new sections to be numbered Secs. 4 and 5 to read as follows:

Sec. 4. SEVERABILITY OF PROVISIONS

If any provision of this chapter or the application of such provision to any person or circumstances shall be held invalid, the remainder of the chapter and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage, except for Sec. 2(b)(1)(D) (bargaining for agency fees) which shall take effect on February 15, 2015.

And that when so amended the bill ought to pass.

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

Thereupon, pending the question, Shall the bill be read a third time?, Senator McCormack moved that the bill be amended as follows:

First: In Sec. 2, in § 3601(c), after the words “conditions of employment” by striking out the words “at individual child care centers”

Second: In Sec. 2, in § 3602(3), after the third instance of the words “child care home provider” by inserting the following: , which is defined by the Legally Exempt Child Care Provider Requirements set forth by the Vermont Department for Children and Families, Child Development Division.

Third: In Sec. 2, in § 3612(b)(4), by striking out the words “take negative action” and inserting the word discriminate

Fourth: In Sec. 2, in § 3612(d), after the words “curtail their services” by inserting the words for which they receive State payment

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Mullin moved that the bill be amended as follows:

First: In Sec. 2, in § 3602 by striking out subsection (2) in its entirety and inserting in lieu thereof a new subsection (2) to read as follows:

(2) “Collective bargaining” or “bargaining collectively” means the process by which the State and the exclusive representative of:

(A) early care and education providers negotiate terms or conditions related to the subjects of collective bargaining identified in subsection 3603(b) of this chapter that when reached and funded shall be legally binding; or

(B) landlords who receive subsidies negotiate terms or conditions related to the subjects of collective bargaining identified in subsection 3603(b) of this chapter that when reached and funded shall be legally binding.

Second: In Sec. 2, in § 3602 by striking out subsection (4) in its entirety and inserting in lieu thereof a new subsection (4) to read as follows:

(4) “Exclusive representative” means the labor organization that has been elected or recognized and certified by the Board under this chapter and consequently has the exclusive right under section 3608 of this chapter to represent landlords and early care and education providers for the purpose of collective bargaining and the enforcement of any contract provisions.

Third: In Sec. 2, in § 3602 by striking out subsection (6) in its entirety and inserting in lieu thereof a new subsection (6) to read as follows:

(6) “Subsidy payment” means any payment made by the State to assist families in paying for housing or child care services through the State’s housing assistance or child care financial assistance programs.

Fourth: In Sec. 2, in § 3602 by inserting a new subsection (7) to read as follows:

(7) “Landlord” means a person or organization that owns and leases properties to others.

Fifth: In Sec. 2, in § 3603 by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Landlords and early care and education providers, through their exclusive representative, shall have the right to bargain collectively with the State through the Governor’s designee.

Sixth: In Sec. 2, in § 3603 by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b)(1) Mandatory subjects of bargaining are limited to:

(A) housing and child care subsidy reimbursement rates and payment procedures;

(B) professional development;

(C) the collection of dues and disbursement to the exclusive representative;

(D) agency fees and disbursement to the exclusive representative; and

(E) procedures for resolving grievances.

(2) The parties may also negotiate on any mutually agreed matters that are not in conflict with State or federal law.

Seventh: In Sec. 2, in § 3603 by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d) Landlords and early care and education providers shall be considered employees, and the State shall be considered the employer, solely for the purpose of collective bargaining under this chapter. Landlords and early care and education providers shall not be considered State employees other than for purposes of collective bargaining, including for purposes of vicarious liability in tort, and for purposes of unemployment compensation or workers' compensation. Landlords and early care and education providers shall not be eligible for participation in the State Employees Retirement System or the health insurance plans available to Executive Branch employees solely by virtue of bargaining under this chapter.

Eighth: In Sec. 2, in § 3603 by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(e) A landlord or early care and education providers' organization shall not charge the agency fee unless it has established and maintained a procedure to provide nonmembers with:

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

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

(3) prompt arbitration by the Vermont Labor Board to resolve any objections over the agency fee.

Ninth: In Sec. 2, in § 3604 by striking out the section in its entirety and inserting in lieu thereof a new section 3604 to read as follows:

§ 3604. RIGHTS OF LANDLORDS AND EARLY CARE AND EDUCATION PROVIDERS

Landlords and early care and education providers shall have the right to:

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

-
- (2) bargain collectively through a representative of their own choice;
 - (3) engage in concerted activities for the purpose of supporting or engaging in collective bargaining;
 - (4) pursue grievances through the exclusive representative as negotiated pursuant to this chapter; and
 - (5) refrain from any or all such activities.

Tenth: In Sec. 2, in § 3605 by striking out the section in its entirety and inserting in lieu thereof a new section 3605 to read as follows:

§ 3605. RIGHTS OF THE STATE

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

- (1) carry out the statutory mandate and goals of the Vermont State Housing Authority or the Agency of Human Services and to use personnel, methods, and means in the most appropriate manner possible;
- (2) with the approval of the Governor, take whatever action may be necessary to carry out the mission of the Vermont State Housing Authority or the Agency of Human Services in an emergency situation;
- (3) comply with federal and State laws and regulations regarding housing or child care and child care subsidies;
- (4) enforce housing or child care regulations and regulatory processes, including regulations regarding the qualifications of landlords or early care and education providers and the prevention of abuse in connection with the provisions of housing or child care services;
- (5) develop housing or child care regulations and regulatory processes subject to the rulemaking authority of the General Assembly and the Human Services Board;
- (6) establish and administer quality standards under the Step Ahead Recognition system;
- (7) 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
- (8) refuse to take any action that would diminish the quantity or quality of housing or child care provided under existing law.

Eleventh: In Sec. 2, in § 3606 by striking out the section in its entirety and inserting in lieu thereof a new section 3606 to read as follows:

§ 3606. BARGAINING UNIT

(a) The bargaining unit shall be composed of:

(1) landlords, as defined in this chapter, who have an agreement with the Department to accept a subsidy; or

(2) licensed home child care providers, registered home child care providers, and legally exempt child care providers, as defined in this chapter, who have an agreement with the Department to accept a subsidy.

(b) Landlords or early care and education providers may select an exclusive representative for the purpose of collective bargaining by using the procedures under sections 3607 and 3608 of this chapter.

(c) The exclusive representative of the landlords or the early care and education providers is required to represent all of the providers in the unit without regard to membership in the union.

Twelfth: In Sec. 2, in § 3607 by striking out the section in its entirety and inserting in lieu thereof a new section 3607 to read as follows:

§ 3607. PETITIONS FOR ELECTION; FILING; INVESTIGATIONS; HEARINGS; DETERMINATIONS

(a) A petition may be filed with the Board in accordance with regulations prescribed by the Board:

(1) By a landlord or early care and education provider or group of providers or any individual or labor organization acting on the landlords' providers' behalf:

(A) alleging that not less than 30 percent of the landlords or providers in the petitioned bargaining unit wish to be represented for collective bargaining and that the State declines to recognize their representative as the representative defined in this chapter; or

(B) asserting that the labor organization that has been certified as the bargaining representative no longer represents a majority of landlords or early care and education providers.

(2) By the State alleging that one or more individuals or labor organizations have presented a claim to be recognized as the exclusive representative defined in this chapter.

(b) The Board shall investigate the petition and, if it has reasonable cause to believe that a question concerning representation exists, shall conduct a

hearing. The hearing shall be held before the Board, a member of the Board, or its agents appointed for that purpose upon due notice. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than seven days before the hearing. If the Board finds upon the record of the hearing that a question of representation exists, it shall conduct an election by secret ballot and certify to the parties, in writing, the results of the election.

(c) In determining whether or not a question of representation exists, the Board shall apply the same regulations and rules of decision-making regardless of the identity of the persons filing the petition or the kind of relief sought.

(d) Nothing in this chapter prohibits the waiving of hearings by stipulation for a consent election in conformity with regulations and rules of the Board.

(e) For the purposes of this chapter, the State may voluntarily recognize the exclusive representative of a unit of landlords or early care and education providers if the labor organization demonstrates that it has the support of a majority of the landlords or providers in the unit it seeks to represent and no other employee organization seeks to represent the landlords or providers.

Thirteenth: In Sec. 2, in § 3608 by striking out the section in its entirety and inserting in lieu thereof a new section 3608 to read as follows:

§ 3608. ELECTION; RUNOFF ELECTIONS

(a) If a question of representation exists, the Board shall conduct a secret ballot election to determine the exclusive representative of the unit of landlords or early care and education providers. The original ballot shall be prepared to permit a vote against representation by anyone named on the ballot. The labor organization receiving a majority of votes cast shall be certified by the Board as the exclusive representative of the unit of landlords or early care and education providers. In any election in which there are three or more choices, including the choice of “no union,” and none of the choices on the ballot receives a majority, a runoff election shall be conducted by the Board. The ballot shall provide for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(b) An election shall not be directed if in the preceding 12 months a valid election has been held.

Fourteenth: In Sec. 2, in § 3609 by striking out the section in its entirety and inserting in lieu thereof a new section 3609 to read as follows:

§ 3609. POWERS OF REPRESENTATIVES

The exclusive representative shall be the exclusive representative of all the landlords or early care and education providers in the unit for the purposes of collective bargaining and the resolution of grievances.

Fifteenth: In Sec. 2, in § 3612 by striking out the section in its entirety and inserting in lieu thereof a new section 3612 to read as follows:

§ 3612. GENERAL DUTIES AND PROHIBITED CONDUCT

(a) The State and all landlords or early care and education providers and their representatives shall exert every reasonable effort to make and maintain agreements concerning matters allowable under this chapter and to settle all disputes, whether arising out of the application of those agreements or growing out of any disputes concerning those agreements. However, this obligation does not compel either party to agree to a proposal or make a concession.

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

(1) interfere with, restrain, or coerce landlords or early care and education providers in the exercise of their rights under this chapter or by any other law, rule, or regulation;

(2) dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it;

(3) discriminate against a landlord or early care and education provider because of the provider's affiliation with a labor organization or because a landlord or provider has filed charges or complaints or has given testimony under this chapter;

(4) take negative action against a landlord or early care and education provider because the landlord or provider has taken actions such as signing a petition, grievance, or affidavit that demonstrates the landlord's or provider's support for a labor organization;

(5) refuse to bargain collectively in good faith with the exclusive representative;

(6) discriminate against a landlord or early care and education provider based on race, color, religion, ancestry, age, sex, sexual orientation, gender identity, national origin, place of birth, or marital status, or against a qualified individual with a disability; or

(7) request or require a landlord or early care and education provider to have an HIV-related blood test or discriminate against a provider on the basis of HIV status of the provider.

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

(1) Restrain or coerce landlords or early care and education providers in the exercise of the rights guaranteed to them under this chapter or 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) Cause or attempt to cause the State to discriminate against a landlord or early care and education provider or to discriminate against a landlord or provider.

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

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

(d) Landlords or early care and education providers shall not strike or curtail their 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 procedures set forth in 3 V.S.A. § 965.

Sixteenth: In Sec. 2, in § 3613 by striking out the section in its entirety and inserting in lieu thereof a new section 3613 to read as follows:

§ 3613. ANTITRUST EXEMPTION

The activities of landlords or early care and education providers and their exclusive representatives that are necessary for the exercise of their rights under this chapter shall be afforded State action immunity under applicable federal and State antitrust laws. The State intends that the "State action" exemption to federal antitrust laws be available only to the State, to landlords or early care and education providers, and to their exclusive representative in connection with these necessary activities. Exempt activities shall be actively supervised by the State.

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

An act relating to child care providers and landlords.

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

Thereupon, President *sustained* the point of order, ruled the amendment offered by Senator Mullin was *not germane* and could *not* be considered by the Senate.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Mullin moved that the bill be amended as follows:

First: In Sec. 2, in § 3602 by striking out subsection (2) in its entirety and inserting in lieu thereof a new subsection (2) to read as follows:

(2) “Collective bargaining” or “bargaining collectively” means the process by which the State and the exclusive representative of:

(A) early care and education providers negotiate terms or conditions related to the subjects of collective bargaining identified in subsection 3603(b) of this chapter that when reached and funded shall be legally binding; or

(B) health care professionals who receive subsidies negotiate terms or conditions related to the subjects of collective bargaining identified in subsection 3603(b) of this chapter that when reached and funded shall be legally binding.

Second: In Sec. 2, in § 3602 by striking out subsection (4) in its entirety and inserting in lieu thereof a new subsection (4) to read as follows:

(4) “Exclusive representative” means the labor organization that has been elected or recognized and certified by the Board under this chapter and consequently has the exclusive right under section 3608 of this chapter to represent health care professionals and early care and education providers for the purpose of collective bargaining and the enforcement of any contract provisions.

Third: In Sec. 2, in § 3602 by striking out subsection (6) in its entirety and inserting in lieu thereof a new subsection (6) to read as follows:

(6) “Subsidy payment” means any payment made by the State to assist families in paying for health care or child care services through the State’s health care or child care financial assistance programs.

Fourth: In Sec. 2, in § 3602 by inserting a new subsection to be numbered subsection (7) to read as follows:

(7) “Health care professional” means an individual or an institution that provides preventive, curative, promotional or rehabilitative health care services in a systematic way to individuals, families, or communities.

Fifth: In Sec. 2, in § 3603 by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Health care professionals and early care and education providers, through their exclusive representative, shall have the right to bargain collectively with the State through the Governor's designee.

Sixth: In Sec. 2, in § 3603 by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b)(1) Mandatory subjects of bargaining are limited to:

(A) Health care and child care subsidy reimbursement rates and payment procedures;

(B) professional development;

(C) the collection of dues and disbursement to the exclusive representative;

(D) agency fees and disbursement to the exclusive representative; and

(E) procedures for resolving grievances.

(2) The parties may also negotiate on any mutually agreed matters that are not in conflict with State or federal law.

Seventh: In Sec. 2, in § 3603 by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d) Health care professionals and early care and education providers shall be considered employees, and the State shall be considered the employer, solely for the purpose of collective bargaining under this chapter. Health care professionals and early care and education providers shall not be considered State employees other than for purposes of collective bargaining, including for purposes of vicarious liability in tort, and for purposes of unemployment compensation or workers' compensation. Health care professionals and early care and education providers shall not be eligible for participation in the State Employees Retirement System or the health insurance plans available to Executive Branch employees solely by virtue of bargaining under this chapter.

Eighth: In Sec. 2, in § 3603 by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(e) A health care professionals' or early care and education providers' organization shall not charge the agency fee unless it has established and maintained a procedure to provide nonmembers with:

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

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

(3) prompt arbitration by the Vermont Labor Board to resolve any objections over the agency fee.

Ninth: In Sec. 2, in § 3604 by striking out the section in its entirety and inserting in lieu thereof a new section 3604 to read as follows:

§ 3604. RIGHTS OF HEALTH CARE PROFESSIONALS AND EARLY CARE AND EDUCATION PROVIDERS

Health care professionals and early care and education providers shall have the right to:

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

(2) bargain collectively through a representative of their own choice;

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

(4) pursue grievances through the exclusive representative as negotiated pursuant to this chapter; and

(5) refrain from any or all such activities.

Tenth: In Sec. 2, in § 3605 by striking out the section in its entirety and inserting in lieu thereof a new section 3605 to read as follows:

§ 3605. RIGHTS OF THE STATE

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

(1) carry out the statutory mandate and goals of the Agency of Human Services and to use personnel, methods, and means in the most appropriate manner possible;

(2) with the approval of the Governor, take whatever action may be necessary to carry out the mission of the Agency of Human Services in an emergency situation;

(3) comply with federal and State laws and regulations regarding health care or child care and child care subsidies;

(4) enforce health care or child care regulations and regulatory processes, including regulations regarding the qualifications of health care

professionals or early care and education providers and the prevention of abuse in connection with the provisions of health care or child care services;

(5) develop health care or child care regulations and regulatory processes subject to the rulemaking authority of the General Assembly and the Human Services Board;

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

(7) 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

(8) refuse to take any action that would diminish the quantity or quality of health care or child care provided under existing law.

Eleventh: In Sec. 2, in § 3606 by striking out the section in its entirety and inserting in lieu thereof a new section 3606 to read as follows:

§ 3606. BARGAINING UNIT

(a) The bargaining unit shall be composed of:

(1) health care professionals, as defined in this chapter, who have an agreement with the Department to accept a subsidy; or

(2) licensed home child care providers, registered home child care providers, and legally exempt child care providers, as defined in this chapter, who have an agreement with the Department to accept a subsidy.

(b) Health care professionals or early care and education providers may select an exclusive representative for the purpose of collective bargaining by using the procedures under sections 3607 and 3608 of this chapter.

(c) The exclusive representative of the health care professionals or the early care and education providers is required to represent all of the providers in the unit without regard to membership in the union.

Twelfth: In Sec. 2, in § 3607 by striking out the section in its entirety and inserting in lieu thereof a new section 3607 to read as follows:

§ 3607. PETITIONS FOR ELECTION; FILING; INVESTIGATIONS; HEARINGS; DETERMINATIONS

(a) A petition may be filed with the Board in accordance with regulations prescribed by the Board:

(1) By a health care professional or early care and education provider or group of providers or any individual or labor organization acting on the health care professionals' or providers' behalf:

(A) alleging that not less than 30 percent of the health care professionals or providers in the petitioned bargaining unit wish to be represented for collective bargaining and that the State declines to recognize their representative as the representative defined in this chapter; or

(B) asserting that the labor organization that has been certified as the bargaining representative no longer represents a majority of health care professionals or early care and education providers.

(2) By the State alleging that one or more individuals or labor organizations have presented a claim to be recognized as the exclusive representative defined in this chapter.

(b) The Board shall investigate the petition and, if it has reasonable cause to believe that a question concerning representation exists, shall conduct a hearing. The hearing shall be held before the Board, a member of the Board, or its agents appointed for that purpose upon due notice. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than seven days before the hearing. If the Board finds upon the record of the hearing that a question of representation exists, it shall conduct an election by secret ballot and certify to the parties, in writing, the results of the election.

(c) In determining whether or not a question of representation exists, the Board shall apply the same regulations and rules of decision-making regardless of the identity of the persons filing the petition or the kind of relief sought.

(d) Nothing in this chapter prohibits the waiving of hearings by stipulation for a consent election in conformity with regulations and rules of the Board.

(e) For the purposes of this chapter, the State may voluntarily recognize the exclusive representative of a unit of health care professionals or early care and education providers if the labor organization demonstrates that it has the support of a majority of the health care professionals or providers in the unit it seeks to represent and no other employee organization seeks to represent the health care professionals or providers.

Thirteenth: In Sec. 2, in § 3608 by striking out the section in its entirety and inserting in lieu thereof a new section 3608 to read as follows:

§ 3608. ELECTION; RUNOFF ELECTIONS

(a) If a question of representation exists, the Board shall conduct a secret ballot election to determine the exclusive representative of the unit of health

care professionals or early care and education providers. The original ballot shall be prepared to permit a vote against representation by anyone named on the ballot. The labor organization receiving a majority of votes cast shall be certified by the Board as the exclusive representative of the unit of health care professionals or early care and education providers. In any election in which there are three or more choices, including the choice of “no union,” and none of the choices on the ballot receives a majority, a runoff election shall be conducted by the Board. The ballot shall provide for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(b) An election shall not be directed if in the preceding 12 months a valid election has been held.

Fourteenth: In Sec. 2, in § 3609 by striking out the section in its entirety and inserting in lieu thereof a new section 3609 to read as follows:

§ 3609. POWERS OF REPRESENTATIVES

The exclusive representative shall be the exclusive representative of all the health care professionals or early care and education providers in the unit for the purposes of collective bargaining and the resolution of grievances.

Fifteenth: In Sec. 2, in § 3612 by striking out the section in its entirety and inserting in lieu thereof a new section 3612 to read as follows:

§ 3612. GENERAL DUTIES AND PROHIBITED CONDUCT

(a) The State and all health care professionals or early care and education providers and their representatives shall exert every reasonable effort to make and maintain agreements concerning matters allowable under this chapter and to settle all disputes, whether arising out of the application of those agreements or growing out of any disputes concerning those agreements. However, this obligation does not compel either party to agree to a proposal or make a concession.

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

(1) interfere with, restrain, or coerce health care professionals or early care and education providers in the exercise of their rights under this chapter or by any other law, rule, or regulation;

(2) dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it;

(3) discriminate against a health care professional or early care and education provider because of the provider’s affiliation with a labor

organization or because a health care professional or provider has filed charges or complaints or has given testimony under this chapter;

(4) take negative action against a health care professional or early care and education provider because the health care professional or provider has taken actions such as signing a petition, grievance, or affidavit that demonstrates the health care professional's or provider's support for a labor organization;

(5) refuse to bargain collectively in good faith with the exclusive representative;

(6) discriminate against a health care professional or early care and education provider based on race, color, religion, ancestry, age, sex, sexual orientation, gender identity, national origin, place of birth, or marital status, or against a qualified individual with a disability; or

(7) request or require a health care professional or early care and education provider to have an HIV-related blood test or discriminate against a provider on the basis of HIV status of the provider.

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

(1) Restrain or coerce health care professional or early care and education providers in the exercise of the rights guaranteed to them under this chapter or 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) Cause or attempt to cause the State to discriminate against a health care professional or early care and education provider or to discriminate against a health care professional or provider.

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

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

(d) Health care professionals or early care and education providers shall not strike or curtail their 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 procedures set forth in 3 V.S.A. § 965.

Sixteenth: In Sec. 2, in § 3613 by striking out the section in its entirety and inserting in lieu thereof a new section 3613 to read as follows:

§ 3613. ANTITRUST EXEMPTION

The activities of health care professionals or early care and education providers and their exclusive representatives that are necessary for the exercise of their rights under this chapter shall be afforded State action immunity under applicable federal and State antitrust laws. The State intends that the “State action” exemption to federal antitrust laws be available only to the State, to health care professionals or early care and education providers, and to their exclusive representative in connection with these necessary activities. Exempt activities shall be actively supervised by the State.

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

An act relating to child care providers and health care professionals.

Thereupon, pending the question, Shall the bill be amended as moved by Senator Mullin?, Senator Mullin requested and was granted leave to withdraw the proposal of amendment.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 22, Nays 8.

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

Roll Call

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

Those Senators who voted in the negative were: Benning, Campbell, Flory, Mazza, McAllister, Mullin, Rodgers, Snelling.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 46.

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of six Superior Judges.

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. Melissa Kucserik, 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. 275. An act relating to unemployment insurance benefits for military spouses.

H. 589. An act relating to hunting, fishing, and trapping.

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

Adjournment

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

FRIDAY, FEBRUARY 28, 2014

The Senate was called to order by the President.

Devotional Exercises

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

Message from the House No. 27

A message was received from the House of Representatives by Ms. Melissa Kucserik, 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. 863. An act relating to a Public Records Act exemption for the identity of whistleblowers.

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

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

S. 317. An act relating to repealing the unconstitutional Vermont statutes related to the performance of abortions.

And has passed the same in concurrence.

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

J.R.S. 46. Joint resolution providing for a Joint Assembly to vote on the retention of six Superior Judges.

And has adopted the same in concurrence.

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

H.C.R. 235. House concurrent resolution congratulating Alexina Federhen on winning U.S. Senator Bernie Sanders's 2014 State of the Union Essay Contest.

H.C.R. 236. House concurrent resolution honoring employees of municipal public works departments and designating May 18–24, 2014 as Public Works Week in Vermont.

H.C.R. 237. House concurrent resolution congratulating Stephen A. Sampson on his selection as the 2013 Vermont Assistant Principal of the Year.

H.C.R. 238. House concurrent resolution honoring Diane Marcoux-LaClair on her career accomplishments as an elementary school teacher.

H.C.R. 239. House concurrent resolution congratulating the Town of Londonderry on its revitalization of Pingree Park.

H.C.R. 240. House concurrent resolution honoring Lexa Clark for her leadership as captain of the Jamaica Rescue Squad.

H.C.R. 241. House concurrent resolution congratulates CVS Caremark for the decision to terminate the sale of all tobacco products, including cigarettes.

H.C.R. 242. House concurrent resolution honoring the federal TRIO programs in Vermont.

H.C.R. 243. House concurrent resolution designating March 2014 as Myeloma Awareness Month in Vermont.

H.C.R. 244. House concurrent resolution honoring the New Haven Town moderators.

H.C.R. 245. House concurrent resolution congratulating Elaine Pinckney on her being named the 2013 Frederick H. Tuttle Superintendent of the Year.

H.C.R. 246. House concurrent resolution designating April 2014 as Month of the Military Child in Vermont.

H.C.R. 247. House concurrent resolution honoring the retiring Weybridge Selectboard members Gale Hurd, Steven Smith, and Peter James.

H.C.R. 248. House concurrent resolution honoring Bridport's Collector of Delinquent Taxes Harry "Boo" Duffany.

H.C.R. 249. House concurrent resolution recognizing the significant health care role of the Rutland Area Visiting Nurse Association and Hospice.

H.C.R. 250. House concurrent resolution congratulating U.S. Navy Ensign Matthew McVay on his graduation from the U.S. Naval Academy with a 4.0 GPA.

H.C.R. 251. House concurrent resolution in memory of former Representative and Senator Merritt S. Hewitt.

H.C.R. 252. House concurrent resolution commemorating the 250th anniversary of the Town of Corinth.

H.C.R. 253. House concurrent resolution congratulating Edward Koren of Brookfield on his being named Vermont's newest Cartoonist Laureate.

H.C.R. 254. House concurrent resolution honoring Laura Soares of Randolph for her contributions to public education policy and governance.

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. 43. Senate concurrent resolution congratulating Mad River Glen ski area on its 65th anniversary.

S.C.R. 44. Senate concurrent resolution honoring Gary W. Moore for his accomplishments as an educator, environmentalist, and civic leader.

S.C.R. 45. Senate concurrent resolution in memory of former Waitsfield Fire Chief Delbert W. Palmer.

S.C.R. 46. Senate concurrent resolution congratulating the People's Health and Wellness Clinic on its 20th anniversary.

S.C.R. 47. Senate concurrent resolution in memory of Sister Miriam Ward.

S.C.R. 48. Senate concurrent resolution congratulating Marilyn Fuller on her selection as the 2013 Cohase Chamber of Commerce Citizen of the Year.

S.C.R. 49. Senate concurrent resolution in memory of former Legislative Council Operations Director Claudette Marinelli.

S.C.R. 50. Senate concurrent resolution honoring S. John Osha.

And has adopted the same in concurrence.

Joint Resolution Placed on Calendar**J.R.S. 47.**

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

By Committee on Institutions,

J.R.S. 47. Joint resolution relating to the approval of State land transactions.

Whereas, 10 V.S.A. § 2606(b) authorizes the Commissioner of Forests, Parks and Recreation to exchange or lease certain lands, with the approval of the General Assembly, and

Whereas, the General Assembly considers the following actions to be in the best interest of the State, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the Commissioner of Forests, Parks and Recreation is authorized to:

(1) Convey a limited right-of-way across a portion of Mt. Mansfield State Forest in the Town of Stowe to Eugene Touchette for forest management and seasonal recreation purposes. In exchange for this right-of-way, Mr. Touchette shall convey a right-of-way across his parcel to the State allowing access to Mt. Mansfield State Forest for forest management purposes.

(2) Quitclaim to Amy and Angel Mendel any and all interest in an existing unrestricted State-owned right-of-way in the Town of Victory to the Victory State Forest crossing a parcel of land the Mendels currently own. In exchange for terminating this State-owned right-of-way, the Mendels shall convey a new unrestricted right-of-way to the State across another portion of the Mendels' property providing access to Victory State Forest, and they shall pay for the cost of developing an associated new access road to Victory State Forest, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Forest, Parks and Recreation.

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 Referred

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

H. 275.

An act relating to unemployment insurance benefits for military spouses.

To the Committee on Finance.

H. 589.

An act relating to hunting, fishing, and trapping.

To the Committee on Natural Resources and Energy.

H. 863.

An act relating to a Public Records Act exemption for the identity of whistleblowers.

To the Committee on Government Operations.

Bill Amended; Third Reading Ordered**S. 281.**

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

An act relating to vision riders and a choice of providers for vision and eye care services.

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

Sec. 1. 8 V.S.A. § 4088j is added to read:

§ 4088j. CHOICE OF PROVIDERS FOR VISION CARE AND MEDICAL EYE CARE SERVICES

(a) To the extent a health insurance plan provides coverage for vision care or medical eye care services, it shall cover those services when provided by a physician licensed pursuant to 26 V.S.A. chapter 23, an optometrist licensed pursuant to 26 V.S.A. chapter 30, or an osteopathic physician licensed pursuant to 26 V.S.A. chapter 33, provided the health care professional is acting within his or her authorized scope of practice and participates in the plan's network.

(b) A health insurance plan shall impose no greater co-payment, coinsurance, or other cost-sharing amount for services when provided by an optometrist than for the same service when provided by a physician or osteopathic physician.

(c) A health insurance plan shall provide to a licensed health care professional acting within his or her scope of practice the same level of reimbursement or other compensation for providing vision care and medical eye care services that are within the lawful scope of practice of the professions of medicine, optometry, and osteopathy, regardless of whether the health care professional is a physician, optometrist, or osteopathic physician.

(d)(1) A health insurer shall permit a licensed optometrist to participate in plans or contracts providing for vision care or medical eye care to the same extent as it does a licensed physician or osteopathic physician.

(2) A health insurer shall not require a licensed optometrist to provide discounted materials benefits or to participate as a provider in another medical or vision care plan or contract as a condition or requirement for the optometrist's participation as a provider in any medical or vision care plan or contract.

(e)(1) An agreement between a health insurer or an entity that writes vision insurance and an optometrist or ophthalmologist for the provision of vision services to plan members or subscribers in connection with coverage under a stand-alone vision plan or other health insurance plan shall not require that an optometrist or ophthalmologist provide services or materials at a fee limited or set by the plan or insurer unless the services or materials are reimbursed as covered services under the contract.

(2) An optometrist or ophthalmologist shall not charge more for services and materials that are noncovered services under a vision plan than his or her usual and customary rate for those services and materials.

(3) Reimbursement paid by a vision plan for covered services and materials shall be reasonable and shall not provide nominal reimbursement in order to claim that services and materials are covered services.

(f) As used in this section:

(1) "Contractual discount" means a percentage reduction from an optometrist's or ophthalmologist's usual and customary rate for covered services and materials required under a participating provider agreement.

(2) "Covered services" means services and materials for which reimbursement from a vision plan or other health insurance plan is provided by a member's or subscriber's plan contract, or for which a reimbursement would be available but for the application of the member's or subscriber's contractual limitations of deductibles, co-payments, or coinsurance.

(3) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer or a subcontractor of a health insurer,

as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term includes vision plans but does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

(4) “Health insurer” shall have the same meaning as in 18 V.S.A. § 9402.

(5) “Materials” includes lenses, devices containing lenses, prisms, lens treatments and coatings, contact lenses, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

Sec. 2. EFFECTIVE DATE

This act 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, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Bill Passed

S. 316.

Senate bill entitled:

An act relating to child care providers.

Was taken up.

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

First: In Sec. 2, in 33 V.S.A. § 3603 by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d) Early care and education providers shall be considered employees, and the State shall be considered the employer, solely for the purpose of collective bargaining under this chapter. Early care and education providers shall be considered State employees for purposes of collective bargaining. Early care and education providers shall not be considered State employees for any other reason, including for purposes of vicarious liability in tort, unemployment compensation, or workers’ compensation. Early care and education providers shall not be eligible for participation in the State Employees Retirement System or the health insurance plans available to Executive Branch employees solely by virtue of bargaining under this chapter.

Second: In Sec. 5, by striking out “Sec. 2(b)(1)(D)” and inserting in lieu thereof the following: Sec. 2, 33 V.S.A. § 3603(b)(1)(D)

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Bray moved to amend the bill in Sec. 2, in 33 V.S.A. § 3603, by inserting a new subsection (f) to read as follows:

(f) Agency fees, if successfully bargained, shall be based on the proportionate amount of subsidies an early care and education provider receives.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Bray?, Senator Mullin moved to amend the proposal of amendment by adding a new sentence at the end of the subsection as follows: ; such proportionate amount shall not exceed 100 percent.

Which was disagreed to on a division of the Senate Yeas 12, Nays 13.

Thereupon, the question, Shall the bill be amended as recommended by Senator Bray?, was agreed to on a roll call, Yeas 15, Nays 10.

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

Those Senators who voted in the negative were: Baruth, Cummings, Doyle, Lyons, McCormack, *Mullin, Pollina, Sirotkin, White, Zuckerman.

Those Senators absent and not voting were: Ashe, Campbell, Kitchel, Mazza, Sears.

*Senator Mullin explained his vote as follows:

“While I support the intentions of the amendment, I cannot support a proposal that might unintentionally require someone to pay more than 100 percent of the assessed fee.”

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

First: In Sec. 2, 33 V.S.A. § 3601(c) after the words “conditions of employment” by inserting the words at child care centers

Second: In Sec. 2, 33 V.S.A. § 3601(e) in the second sentence, by striking out the word “individual”

Third: In Sec. 2, 33 V.S.A. § 3602(3) after the following: “a registered child care home provider.” by inserting the following: individuals in supervisory and nonsupervisory roles providing care in or employed by a licensed child care center.

Fourth: In Sec. 2, 33 V.S.A. § 3606(a) after the words “registered home child care providers.” by inserting the following: child care center personnel.

Fifth: In Sec. 2, 33 V.S.A. § 3614(b) in the second sentence, by striking out the word “individual”

Which was disagreed to on a roll call, Yeas 4, Nays 21.

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

Roll Call

Those Senators who voted in the affirmative were: Bray, Collins, Doyle, McAllister.

Those Senators who voted in the negative were: Ayer, Baruth, Benning, Cummings, Flory, French, Galbraith, Hartwell, Lyons, MacDonald, McCormack, Mullin, Nitka, Pollina, Rodgers, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

Those Senators absent and not voting were: Ashe, Campbell, Kitchel, Mazza, Sears.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 20, Nays 7.

Senator Bray 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, *Collins, Cummings, Doyle, French, Galbraith, Hartwell, Lyons, MacDonald, McCormack, Nitka, Pollina, Sirotkin, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Benning, *Campbell, Flory, McAllister, Mullin, Rodgers, Snelling.

Those Senators absent and not voting were: Kitchel, Mazza, Sears.

*Senator Campbell explained his vote as follows:

“Thank you Mr. President,

“Today I find myself reluctantly having to vote against this bill. Reluctantly because on the surface this bill supports children, the hard working folks that care for them and the ever important right for individuals to organize.

“The reason I have to vote against this bill is because I do not believe it is what it seems. I believe this bill has the potential to adversely affect the State of Vermont, structurally and financially, the workers who provide these services, and most importantly, the children who receive the care.

“This bill creates a legal fiction in the guise of a hybrid employer/employee labor relationship that will inevitably find itself being litigated in our courts. The outcome of this litigation could reasonably lead to the determination that, despite this bills attempt to limit the State of Vermont’s role as an “employer,” that in passing S-316, the state has in fact created, and accepted, its role as employer of those who provide childcare services for subsidized families.

“If this occurs then the state would have to provide the same rights and benefits of Vermont state employees to the childcare workers referred to in this legislation. Additionally, as an employer, the state would then assume liability for the actions of its new employees. Mr. President, at this time the state cannot accept the potential consequences of this bill, therefore I must vote no.”

*Senator Collins explained his vote as follows:

“I voted yes because of the numerous providers who contacted me and asked the opportunity to vote as to whether or not a union is necessary or appropriate.”

Third Reading Ordered

S. 211.

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

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

Reported that the bill ought to pass.

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

Bills Amended; Third Readings Ordered
S. 247.

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

An act relating to the regulation of medical marijuana dispensaries.

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

Sec. 1. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

As used in this subchapter:

(1) “Bona fide health care professional-patient relationship” means a treating or consulting relationship of not less than six months’ duration, in the course of which a health care professional has completed a full assessment of the registered patient’s medical history and current medical condition, including a personal physical examination. If a patient has a terminal illness, the six-month requirement shall not apply.

* * *

(6) “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81 who has a special license endorsement authorizing the individual to prescribe, dispense, and administer prescription medicines, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28. This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

* * *

Sec. 2. 18 V.S.A. § 4474 is amended to read:

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS AND PROCEDURES

(a) A person may submit a signed application to the ~~department of public safety~~ Department of Public Safety to become a registered patient’s registered caregiver. The ~~department~~ Department shall approve or deny the application in writing within 30 days. The Department shall adopt rules for the issuance of a registry identification card which shall include standards for approval or denial of an application based on an individual’s criminal history record. The

rules shall address whether an applicant who has been convicted of an offense listed in subsection 4474g(e) of this title has been rehabilitated and should be otherwise eligible for a registry identification card. An applicant shall not be denied solely on the basis of a criminal conviction that is not listed in subsection 4474g(e) of this title. The ~~department~~ Department shall approve a registered caregiver's application and issue the person an authorization card, including the caregiver's name, photograph, and a unique identifier, after verifying:-

~~(1) the person will serve as the registered caregiver for one registered patient only; and~~

~~(2) the person has never been convicted of a drug-related crime.~~

(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. ~~For purposes of~~ As used in this subdivision, "criminal record" means a record of whether the person has ever been convicted of a drug-related crime. Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms substantially similar to the release forms developed by the ~~center~~ Center pursuant to 20 V.S.A. § 2056c. The ~~department~~ Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont ~~criminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of public safety~~ Department that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~criminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

~~(c)(1) A~~ Except as provided in subdivision (2) of this subsection, a registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time.

(2) A registered patient who is under 18 years of age may have two registered caregivers.

Sec. 3. 18 V.S.A. § 4473(b) is amended to read:

(b) The ~~department of public safety~~ Department of Public Safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit, ~~under oath,~~ a signed application for registration to the ~~department~~ Department. If the patient is under ~~the age of 18 years of age,~~ the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient's registered caregiver applying for authorization under section 4474 of this title, if any, and the patient's designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the ~~department~~ Department pursuant to subdivision (2) of this subsection.

* * *

Sec. 4. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief. ~~For purposes of~~ As used in this section, "transport" shall mean the movement of marijuana or marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered caregivers in accordance with delivery protocols, or as otherwise allowed under this subchapter.

* * *

(3) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and ~~two~~ four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

* * *

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of the dispensary who have valid registry identification cards. ~~The department of public safety~~ Department of Public Safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the ~~department~~ Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

(2)(A) A registered patient or registered caregiver may obtain marijuana from the dispensary ~~facility~~ by appointment only.

(B) A dispensary may deliver marijuana to a registered patient or registered caregiver. The marijuana shall be transported in a locked container. The Department of Public Safety shall adopt rules establishing protocols for the safe delivery of marijuana to patients and caregivers.

(3) The operating documents of a dispensary shall include procedures for the oversight of the dispensary and procedures to ensure accurate record-keeping.

(4) A dispensary shall submit the results of ~~an annual~~ a biennial financial audit to the ~~department of public safety~~ Department of Public Safety no later than 60 days after the end of the dispensary's fiscal year. The ~~annual~~ audit shall be conducted by an independent certified public accountant, and the costs of any such audit shall be borne by the dispensary. The ~~department~~ Department may also periodically require, within its discretion, the audit of a dispensary's financial records by the ~~department~~ Department.

(5) A dispensary shall destroy or dispose of marijuana, marijuana-infused products, clones, seeds, parts of marijuana that are not usable for symptom relief or are beyond the possession limits provided by this subchapter, and marijuana-related supplies only in a manner approved by rules adopted by the ~~department of public safety~~ Department of Public Safety.

* * *

Sec. 4a. 18 V.S.A. § 4474e(b) is amended to read:

(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients ~~but need~~. A dispensary does not need to be recognized as a tax-exempt organization by the Internal Revenue Service. Notwithstanding any other provision of law, a dispensary shall be exempt from taxes imposed by 32 V.S.A. §§ 5822 and 5832.

(2) A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.

Sec. 5. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND REGISTRATION

* * *

(b) Within 30 days of the adoption of rules, the ~~department~~ Department shall begin accepting applications for the operation of dispensaries. Within 365 days of the effective date of this section, the ~~department~~ Department shall grant registration certificates to four dispensaries, provided at least four applicants apply and meet the requirements of this section. No more than ~~four~~ six dispensaries shall hold valid registration certificates at one time. ~~The total statewide number of registered patients who have designated a dispensary shall not exceed 1,000 at any one time.~~ Any time a dispensary registration certificate is revoked, is relinquished, or expires, the ~~department~~ Department shall accept applications for a new dispensary. ~~If at any time after one year after the effective date of this section fewer than four dispensaries hold valid registration certificates in Vermont, the department of public safety shall accept applications for a new dispensary.~~

* * *

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the ~~department of public safety~~ Department:

* * *

(4) A registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$30,000.00 in subsequent years that do not require a biennial audit and \$25,000.00 in subsequent years that require a biennial audit.

Sec. 6. EFFECTIVE DATES

(a) This section and Sec. 4a shall take effect on passage.

(b) All remaining sections shall take effect on July 1, 2014.

And that when so amended the bill ought to pass.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: By striking out Sec. 4a in its entirety.

Second: In Sec. 5, 18 V.S.A. § 4474f, by striking out subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read as follows:

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the ~~department of public safety~~ Department:

* * *

(4) A registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$30,000.00 in subsequent years.

Third: By striking out Sec. 6 in its entirety and inserting in lieu thereof the a new Sec. 6 to read as follows:

Sec. 6. EFFECTIVE DATE

This act 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 Government Operations was amended as recommended by the Committee on Finance.

Thereupon, pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, Senators White and Flory moved to amend the recommendation of amendment of the Committee on Government Operations, as amended in Sec. 2, 18 V.S.A. § 4474 by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Prior to acting on an application, the ~~department~~ Department shall obtain from the Vermont ~~criminal information center~~ Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. ~~For purposes of this subdivision, "criminal record" means a record of whether the person has ever been convicted of a drug-related crime.~~ Each applicant shall consent to release of criminal records to the ~~department~~ Department on forms substantially similar to the release forms developed by the ~~center~~ Center pursuant to 20 V.S.A. § 2056c. The ~~department~~ Department shall comply with all laws regulating the release of criminal history records and the protection of

individual privacy. The Vermont ~~criminal information center~~ Crime Information Center shall send to the requester any record received pursuant to this section or inform the ~~department of public safety~~ Department that no record exists. If the ~~department~~ Department disapproves an application, the ~~department~~ Department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont ~~criminal information center~~ Crime Information Center. No person shall confirm the existence or nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, was agreed to and third reading of the bill was ordered

S. 269.

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

An act relating to business consumer protection and data security breaches.

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. § 2435(b)(4) is amended to read:

(4)(A) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation, or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. In the event law enforcement makes the request for a delay in a manner other than in writing, the data collector shall document such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data collector in writing when the law enforcement agency no longer believes that notification may impede a law enforcement investigation, or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. The data collector shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

(B) A Vermont law enforcement agency with a reasonable belief that a security breach has or may have occurred at a specific business shall notify the business in writing of its belief. The agency shall also notify the business that additional information on the security breach may need to be furnished to the Vermont Office of the Attorney General or the Vermont Department of Financial Regulation and shall include the website and phone number for the Office and the Department in the notice required by this subdivision. Nothing in this subdivision shall alter the responsibilities of a data collector under this section or provide a cause of action against a law enforcement agency that fails, without bad faith, to provide the notice required by this subdivision.

Sec. 2. EFFECTIVE DATE

This act 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, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Senate Concurrent Resolutions

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

By Senators Doyle, Cummings and Pollina,

By Representatives Grad and Greshin,

S.C.R. 43.

Senate concurrent resolution congratulating Mad River Glen ski area on its 65th anniversary.

By Senators Kitchel and Benning,

By Representative Copeland-Hanzas,

S.C.R. 44.

Senate concurrent resolution honoring Gary W. Moore for his accomplishments as an educator, environmentalist, and civic leader.

By Senators Doyle, Cummings and Pollina,

By Representatives Grad and Greshin,

S.C.R. 45.

Senate concurrent resolution in memory of former Waitsfield Fire Chief Delbert W. Palmer.

By Senators Doyle, Cummings and Pollina,

By Representative Koch and others,

S.C.R. 46.

Senate concurrent resolution congratulating the People's Health and Wellness Clinic on its 20th anniversary.

By Senators Lyons, Ayer, Baruth, Cummings, MacDonald, Mazza and Nitka,

S.C.R. 47.

Senate concurrent resolution in memory of Sister Miriam Ward.

By Senators Kitchel and Benning,

By Representative Conquest,

S.C.R. 48.

Senate concurrent resolution congratulating Marilyn Fuller on her selection as the 2013 Cohase Chamber of Commerce Citizen of the Year.

By Senators Cummings, Doyle, Pollina and McCormack,

By Representatives Ancel and Klein,

S.C.R. 49.

Senate concurrent resolution in memory of former Legislative Council Operations Director Claudette Marinelli.

By Senator MacDonald,

By Representatives French and Ryerson,

S.C.R. 50.

Senate concurrent resolution honoring S. John Osha.

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 Campion and others,

By Senators Hartwell, MacDonald, McCormack, Nitka, Rodgers, Sears and Starr,

H.C.R. 235.

House concurrent resolution congratulating Alexina Federhen on winning U.S. Senator Bernie Sanders's 2014 State of the Union Essay Contest.

By Representative Koch and others,

By Senators Ayer, Bray, Collins, Flory, French, Galbraith, Hartwell, Lyons, MacDonald, McAllister, McCormack, Mullin, Nitka, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White and Zuckerman,

H.C.R. 236.

House concurrent resolution honoring employees of municipal public works departments and designating May 18–24, 2014 as Public Works Week in Vermont.

By Representative Cupoli and others,

By Senators Flory, French and Mullin,

H.C.R. 237.

House concurrent resolution congratulating Stephen A. Sampson on his selection as the 2013 Vermont Assistant Principal of the Year.

By Representatives Martin and Woodward,

By Senator Westman,

H.C.R. 238.

House concurrent resolution honoring Diane Marcoux-LaClair on her career accomplishments as an elementary school teacher.

By Representative Goodwin,

By Senators Campbell, McCormack and Nitka,

H.C.R. 239.

House concurrent resolution congratulating the Town of Londonderry on its revitalization of Pingree Park.

By Representative Goodwin,
By Senators Galbraith and White,

H.C.R. 240.

House concurrent resolution honoring Lexa Clark for her leadership as captain of the Jamaica Rescue Squad.

By Representative Koch and others,

H.C.R. 241.

House concurrent resolution congratulates CVS Caremark for the decision to terminate the sale of all tobacco products, including cigarettes.

By Representative Jerman and others,

H.C.R. 242.

House concurrent resolution honoring the federal TRIO programs in Vermont.

By Representative Morrissey and others,

By Senators Hartwell and Sears,

H.C.R. 243.

House concurrent resolution designating March 2014 as Myeloma Awareness Month in Vermont.

By Representative Smith,

By Senators Ayer and Bray,

H.C.R. 244.

House concurrent resolution honoring the New Haven Town moderators.

By Representative Lenes and others,

By Senators Lyons, Sirotkin, Snelling and Zuckerman,

H.C.R. 245.

House concurrent resolution congratulating Elaine Pinckney on her being named the 2013 Frederick H. Tuttle Superintendent of the Year.

By Representative Head and others,

H.C.R. 246.

House concurrent resolution designating April 2014 as Month of the Military Child in Vermont.

By Representative Smith,
By Senators Ayer and Bray,

H.C.R. 247.

House concurrent resolution honoring the retiring Weybridge Selectboard members Gale Hurd, Steven Smith, and Peter James.

By Representative Smith,
By Senators Ayer and Bray,

H.C.R. 248.

House concurrent resolution honoring Bridport's Collector of Delinquent Taxes Harry "Boo" Duffany.

By Representative Cupoli and others,
By Senators Flory, French and Mullin,

H.C.R. 249.

House concurrent resolution recognizing the significant health care role of the Rutland Area Visiting Nurse Association and Hospice.

By Representative Miller and others,
By Senators Hartwell and Sears,

H.C.R. 250.

House concurrent resolution congratulating U.S. Navy Ensign Matthew McVay on his graduation from the U.S. Naval Academy with a 4.0 GPA.

By Representative Miller and others,
By Senators Hartwell and Sears,

H.C.R. 251.

House concurrent resolution in memory of former Representative and Senator Merritt S. Hewitt.

By Representatives Davis and Winters,

H.C.R. 252.

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

By Representatives Ryerson and French,

By Senator MacDonald,

H.C.R. 253.

House concurrent resolution congratulating Edward Koren of Brookfield on his being named Vermont's newest Cartoonist Laureate.

By Representatives French and Ryerson,

By Senator MacDonald,

H.C.R. 254.

House concurrent resolution honoring Laura Soares of Randolph for her contributions to public education policy and governance.

Adjournment

On motion of Senator Baruth, the Senate adjourned, to reconvene on Tuesday, March 11, 2014, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 35.

TUESDAY, MARCH 11, 2014

The Senate was called to order by the President.

Devotional Exercises

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

Pledge of Allegiance

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

Bills Referred to Committee on Finance

Senate bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

S. 220. An act relating to amending the workers' compensation law, establishing a registry of sole contractors, increasing the funds available to the Department of Tourism and Marketing for advertising, and regulating legacy insurance transfers.

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