

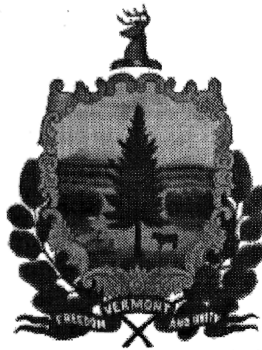
JOURNAL OF THE HOUSE

OF THE

STATE OF VERMONT

ADJOURNED SESSION, 2006

VOLUME 1
January 3, 2006 through April 26, 2006



Published by Authority

STATE OF VERMONT

BUILDINGS AND GENERAL SERVICES,

MIDDLESEX, VERMONT

Compiled and Edited by:
Donald G. Milne, Clerk of the House and Cathleen M. Cameron, Journal Clerk

Journal of the House

TUESDAY, JANUARY 3, 2006

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Speaker Gaye Symington.

Pledge of Allegiance

Page Elizabeth Kane of Swanton led the House in the Pledge of Allegiance.

Communication from the Governor

"November 3, 2005

The Honorable Gaye R. Symington
324 Browns Trace
Jericho, VT 05465

Dear Speaker Symington,

I have the honor to inform you that I have appointed Stephen B. Dates of Shelburne to serve the unexpired term of Representative George Schiavone serving House District Chittenden 5-2.

Sincerely,
s/s/ James H. Douglas
Governor

JHD/ms

cc: Deborah Markowitz, Secretary of State
Donald Milne, Clerk of the House"

New Member Seated

The newly appointed member, Stephen B. Dates of Shelburne, having taken and subscribed the oath, administered by the Clerk, as required by the Constitution and laws of the State, was conducted to his seat by the Doorkeeper.

Communication from the Governor

"November 15, 2005
The Honorable Gaye R. Symington
324 Browns Trace
Jericho, VT 05465

Dear Speaker Symington,

I have the honor to inform you that I have appointed Joseph Acinapura of Brandon to serve the unexpired term of Representative Bob Wood serving House District Rutland 7-1.

Sincerely,

s/s/ James H. Douglas
Governor

JHD/ms

cc: Deborah Markowitz, Secretary of State
Donald Milne, Clerk of the House"

New Member Seated

The newly appointed member, Joseph Acinapura of Brandon, having taken and subscribed the oath, administered by the Clerk, as required by the Constitution and laws of the State, was conducted to his seat by the Doorkeeper.

Communication from Clerk

"January 3, 2006

Honorable Gaye Symington
Speaker of the House

Dear Madam Speaker:

I have the honor to inform you and the members of the House that I have appointed BetsyAnn Wrask of Stowe as second assistant Clerk.

Sincerely,
/s/ Donald G. Milne
Clerk of the House

cmc/DGM"

Oath Administered to Second Assistant Clerk

The oath was administered to BetsyAnn Wrask, the Second Assistant Clerk who thereupon entered upon the discharge of her duties.

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Flory of Pittsford**, the rules were suspended and the bills were read the first time by number and referred as follows:

H. 550

By Rep. Kainen of Hartford,

An act relating to operating a motor vehicle while under the influence of alcohol or drugs;

To the committee on Judiciary.

H. 551

By Rep. Parent of St. Albans City,

An act relating to a wildlife disease researcher in the Department of Fish and Wildlife;

To the committee on Fish, Wildlife and Water Resources.

H. 552

By Rep. Parent of St. Albans City,

An act relating to a prohibition against feeding of wild deer;

To the committee on Fish, Wildlife and Water Resources.

H. 553

By Rep. Condon of Colchester,

An act relating to a cap on education property tax revenues and statewide negotiation of health benefits for teachers;

To the committee on Education

H. 554

By Reps. Adams of Hartland and Deen of Westminster,

An act relating to the classification of state waters;

To the committee on Fish, Wildlife and Water Resources

H. 555

By Rep. Bohi of Hartford,
An act relating to the establishment of fire districts;
To the committee on Government Operations.

H. 556

By Rep. Hutchinson of Randolph (by request),
An act relating to fluoridation of public water systems;
To the committee on Human Services.

H. 557

By Rep. Hutchinson of Randolph,
An act relating to a permit for commercial use of fish and wildlife access areas;
To the committee on Fish, Wildlife and Water Resources.

H. 558

By Rep. Hosford of Waitsfield,
An act relating to income tax exemption for social security payments;
To the committee on Ways and Means.

H. 559

By Rep. O'Donnell of Vernon,
An act relating to low income elderly homestead exemption;
To the committee on Ways and Means.

H. 560

By Rep. Hutchinson of Randolph,
An act relating to sales tax exemption for health club admission;
To the committee on Ways and Means.

H. 561

By Rep. Rodgers of Glover,
An act relating to the alcohol content of beer;
To the committee on General, Housing and Military Affairs.

H. 562

By Rep. Condon of Colchester,

An act relating to motor vehicle retail installment sales contracts;

To the committee on Commerce.

H. 563

By Rep. Nuovo of Middlebury,

An act relating to restricting the use of cellular phones while operating a motor vehicle;

To the committee on Transportation.

Bill Referred to Committee on Appropriations

H. 249

House bill, entitled

An act relating to wood products income tax credit and education property tax limitation;

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Bill Referred to Committee on Appropriations

S. 165

Senate bill, entitled

An act relating to economic advancement tax incentives and economic development;

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Message from the Senate No. 1

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part adopted joint resolutions of the following titles:

J.R.S. 42. Joint resolution to provide for a Joint Assembly to receive the State-of-the-State message from the Governor.

J.R.S. 43. Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

J.R.S. 44. Joint resolution relating to Town Meeting adjournment.

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

Joint Resolution Adopted in Concurrence

J.R.S. 42

Joint resolution, entitled

Joint resolution to provide for a Joint Assembly to receive the State-of-the-State message from the Governor.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, January 5, 2006, at two o'clock in the afternoon to receive the State-of-the-State message from the Governor.

Was taken up read and adopted in concurrence.

Joint Resolution Adopted in Concurrence

J.R.S. 43

Joint resolution, entitled

Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Tuesday, January 17, 2006, at two o'clock in the afternoon to receive the budget message of the Governor.

Was taken up read and adopted in concurrence.

Remarks Journalized

On motion of **Rep. Westman of Cambridge**, the following remarks by **Rep. Errecart of Shelburne** were ordered printed in the Journal:

"Madam Speaker:

I rise first to extend a very warm welcome to the new member from Shelburne, Rep. Dates. Rep. Dates and I spent far more time together than we ever wanted as members of Shelburne's Ad Hoc Velco Committee. After working with Rep. Dates for a power line solution that is good for the Town of Shelburne and the State of Vermont, I can assure you that he is hard working, smart, reasonable, and thoughtful, and is a strong addition to this body.

Second, I rise to express my regret at the departure of Rep. Schiavone. Rep. Schiavone has worked tirelessly to improve Vermont. Most of us are familiar with Rep. Schiavone's hard work on a number of legislative committees. Most of us know far less about his other projects. He has served on Shelburne's Board of Civil Authority, on the Shelburne and Champlain Valley Union High School Boards, as Chair of the Northern Vermont Red Cross and Chair of the Medical Center Associates. He's serving now as the Chair of the Board of the Burlington Emergency Shelter.

I owe a huge debt of gratitude to Rep. Schiavone and his wife, Linda. They have been terrific mentors, first with helping me to figure out and execute a plan to get elected, and second with helping me not to make too many egregious mistakes in serving in this body. I doubt that I would be serving here today but for the Schiavones.

I will greatly miss Rep. Schiavone's dedication, grace, and good humor. I hope we have all learned from his friendly and courteous legislative demeanor. He leaves this body, Shelburne and Vermont all better places because of his public service."

Remarks Journalized

On motion of **Rep. Emmons of Springfield**, the following remarks by **Rep. O'Donnell of Vernon** were ordered printed in the Journal:

"Madam Speaker:

I would like to take a moment to remember a friend who dedicated his life to this body.

Forever we will see the image of Rep. Wood in the halls of this building, walking down the ramp in his corduroy jacket with his maroon pants stuck in the top of his boot.

I ask that you keep him in your thoughts and prayers and always remember what he stood for. He loved us all and the great state of Vermont that he served so well."

Remarks Journalized

On motion of **Rep. Pillsbury of Brattleboro**, the following remarks by **Rep. Emmons of Springfield** were ordered printed in the Journal:

"Madam Speaker:

I rise to say a few words for the member from Brandon Rep. Bob Wood. As many of you know I was Rep. Wood's Vice Chair for 8 years. We are from the opposite ends of the political spectrum but we worked well together and with respect for each other. Bob worked with many of us in this building and I

must say I learned a lot about issues and life from Bob. We worked together in dealing with the other body, and at times in dealing with many of you here in this body. His passing has created a large void in this General Assembly, and a void within myself. I too see him in the hallways and in the Committee room. In fact, this morning upon entering the House Institutions Committee I saw a plaque with the green sneakers that the Committee had made up for Bob last year. Bob used to always like to kid about those sneakers. In fact they were given to him by the member from Burlington Rep. John Tracy when John was a member of the Institutions Committee. John and Bob had a very close relationship and those sneakers were given to Bob as a tribute.

Many times over the past year I have wanted to seek Bob's advice and been unable to and felt that emptiness. Instead, I think of how much Bob loved Vermont and worked hard for our way of life. I want to take this time to say thank you; thank you Bob for all the time and the work you gave to our state of Vermont and that you are missed."

Committee Appointments Announced

The Speaker announced the following committee appointments:

Rep. Acinapura of Brandon to the committee on Commerce
Rep. Ancel of Calais to the committee on Ways and Means
Rep. Copeland-Hanzas to the committee on Health Care
Rep. Dates of Shelburne to the committee on Government Operations
Rep. Green of Berlin to the committee on Agriculture
Rep. Metzger of Milton to the committee on Human Services

Committee Relieved of Consideration and Bill Committed to Other Committee

H. 456

Rep. McLaughlin of Royalton moved that the committee on Education be relieved of House bill, entitled

An act relating to use of Vermont products and nutrition education in schools;

And that the bill be committed to the committee on Agriculture, which was agreed to.

Bill Recommitted

H. 373

House bill, entitled

An act relating to stalking;

Appearing on the Calendar for action, was taken up and pending the reading of the report of the committee on Judiciary, on motion of **Rep. Lippert of Hinesburg**, the bill was recommitted to the committee on Judiciary.

Bill Read Second Time; Third Reading Ordered

H. 548

Rep. Parent of St. Albans spoke for the committee on Fish, Wildlife and Water Resources.

House bill entitled

An act relating to personal watercraft safety;

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Read Second Time; Consideration Interrupted by Recess

S. 164

Rep. Bohi of Hartford, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to elections and voter registration;

Reported in favor of its passage in concurrence with recommendation of proposal of amendment as follows:

First: In Sec. 1, § 2124 of 17 V.S.A., by striking subdivision 2124(a)(5) up until the old period, by striking “; and” at the end of subdivision 2124(a)(4), and by adding the word “and” following the semi-colon in subdivision 2124(a)(3)

Second: In Sec. 2, § 2144(a) of 17 V.S.A, by striking the second sentence and inserting in lieu thereof the following:

“The town clerk’s office in each municipality shall be kept open on the second Monday preceding the day of the election from no later than ~~10:00 a.m.~~ 3:00 p.m. until ~~12:00 noon,~~ 5:00 p.m. or for the last two hours of the normal business day on that Monday for the purpose of receiving applications for addition to the checklist.”

Third: In Sec. 3, § 2144a of 17 V.S.A., subdivision (4), in the third sentence, by inserting after the phrase “to produce the required information” the following “or if an election official questions the legitimacy of the information presented by the person seeking to register at the poll on election day”

Fourth: In Sec. 5, § 2546 of 17 V.S.A., subsection (b), in the third sentence, by striking the term “precisely” where it appears and adding “previously”

Fifth: In Sec. 7, by striking “2007” where it appears and adding “2009”

Sixth: By striking Sec. 8 in its entirety and inserting in lieu thereof:

Sec. 8. EFFECTIVE DATE

(a) This section, Sec. 1, and Secs. 4 through 6 shall take effect upon passage.

(b) Secs. 2 (deadline for voter application), 3 (same-day voter registration), and 7 (survey of elections expenses for same-day voter registration) shall take effect January 1, 2007.

Having appeared on the Calendar one day for notice, was taken up and read the second time. Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Government Operations?

Recess

At eleven o'clock and twenty minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Action Postponed

S. 164

Consideration resumed on Senate bill entitled

An act relating to elections and voter registration;

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Government Operations? **Rep. Bohi of Hartford** moved to postpone action until Thursday, March 16, 2006. Which was agreed to.

Consideration Interrupted by Recess

S. 18

Rep. Zuckerman of Burlington, for the committee on Agriculture, to which had been referred Senate bill, entitled

An act relating to liability resulting from the use of genetically engineered seeds and plant parts;

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SHORT TITLE

This act shall be known and may be cited as the Farmer Protection Act.

Sec. 2. 6 V.S.A. chapter 35, subchapter 3 is added to read:

Subchapter 3. Liability Resulting from the Use of
Genetically Engineered Seeds and Plant Parts

§ 650. DEFINITIONS

As used in this subchapter, "injury" includes:

(1) loss of any price premium that would have accrued to a farmer by contract or other marketing arrangement or that would have been otherwise reasonably available to the person through ordinary commercial channels;

(2) any reasonable additional transportation, storage, handling, or related charges or costs incurred by a farmer that occurred because of the use of genetically engineered seeds or plant parts;

(3) any judgment, charge, or penalty for which the farmer of nongenetically engineered products is liable because of breach of contract, including loss of organic certification.

§ 651. LIABILITY FOR DAMAGES RESULTING FROM
GENETICALLY ENGINEERED CROPS

(a) The buyer of genetically engineered seeds or plant parts may recover damages for any injury proximately caused by the use of genetically engineered seeds or plant parts.

(b) The manufacturer of genetically engineered seeds or plant parts may be liable to any person for an injury proximately caused by the use by any person of genetically engineered seeds or plant parts.

(c) For the purposes of this section, the buyer of genetically engineered seeds or plant parts is a consumer, and genetically engineered seeds or plant parts are consumer goods.

(d) A farmer who is not in breach of contract for the purchase or use of genetically engineered seeds or plant parts and unknowingly comes into possession or unknowingly uses such seeds or plant parts as a result of natural reproduction, cross-pollination, or other alteration shall not be liable for any injuries, claims, losses, and expense, including attorney's fees, caused by the use of a genetically engineered seed or plant part.

§ 652. SEED CONTRACTS GOVERNED BY VERMONT LAW

(a) A seed contract for the purchase of seeds or plant parts in Vermont is governed by the laws of Vermont. If a seed contract purports to choose the laws of a jurisdiction other than Vermont to govern the contract, such provisions of the contract are void and unenforceable.

(b) The venue for an action under this subchapter shall be in the county in which the injury is alleged to have occurred.

§ 653. LIMITATION OF ACTION

An action brought pursuant to this subchapter shall be brought within three years after the cause of action accrues and not after.

Sec. 3. SEVERABILITY

If any provision of this act or its application to any person or circumstance is held invalid or in violation of the constitution or laws of the United States, the invalidity or the violation shall not affect other provisions of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are severable.

Rep. Jewett of Ripton, for the committee on **Judiciary**, recommended that the House propose to the Senate that the bill be amended by striking all after enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS; PURPOSE

(a) Vermont's farmers and agriculture are vitally important to sustaining the economy and maintaining the traditional values of our state. Building on our long history of cooperation among farmers and protecting the viability of all types of farming are critical to keeping agriculture a healthy part of life in Vermont.

(b) In balancing the interests of all farmers, it is important to ensure that they retain the greatest possible flexibility as they make decisions as to how best to run their farms. They also need as much protection as possible against having liability unfairly shifted to them for the actions of others.

(c) Vermont law has recognized the economic and cultural importance of agriculture. Vermont has defined farmers as consumers under our Uniform Commercial Code and Consumer Fraud Act, and federal case law has allowed farmers to be compensated for economic loss caused by the wrongful action of others. Vermont courts also furnish fair forums for resolving agricultural disputes which may arise in this state. These protections would be jeopardized if anyone selling products to Vermont farmers is able to compel disputes with those farmers to be heard in other states, under another state's laws, and before non-Vermont juries.

Sec. 2. INTENT

It is the intent of the general assembly to:

(1) codify farmers' ability to recover economic losses caused by the wrongful action of others;

(2) confirm farmers' status as consumers with all the protections that provides;

(3) provide Vermont farmers with a Vermont forum and choice of law when legal disputes arise.

Sec. 3. 6 V.S.A. chapter 210 is added to read:

CHAPTER 210. FARMERS AND AGRICULTURAL GOODS

LIABILITY ACTIONS

§ 4715. DAMAGES IN ACTIONS

In any action in which liability for damages against a manufacturer of goods for agricultural use has been established in this state, the damages recoverable by a prevailing party may include economic losses.

§ 4716. FARMERS ARE CONSUMERS

(a) Vermont farmers are consumers for the purpose of actions in product liability.

(b) Goods purchased by farmers for agricultural use are consumer goods.

§ 4717. CHOICE OF LAW

If a contract for agricultural goods which are used in Vermont purports to choose the laws of a jurisdiction other than Vermont to govern the contract, such provisions of the contract are void and unenforceable. Any disputes involving such contracts shall be decided using the law of Vermont.

§ 4718. VENUE

The venue for an action relating to goods for agricultural use in Vermont shall be the Vermont county in which one of the parties resides. If neither party resides in the state, the venue may be any county in Vermont.

§ 4719. PROVISIONS MAY NOT BE VARIED

The provisions of this chapter may not be varied or waived by agreement of the parties.

Sec. 4. SEVERABILITY

If any provision of this act or its application to any person or circumstance is held invalid or in violation of the constitution or laws of the United States or the state of Vermont, the invalidity or the violation shall not affect other provisions of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are severable.

and that after passage, the title of the bill be changed to read as follows: "AN ACT RELATING TO FARMERS AND AGRICULTURAL GOODS LIABILITY ACTIONS"

Recess

At one o'clock and forty minutes in the afternoon, the Speaker declared a recess until two o'clock and thirty minutes in the afternoon.

At two o'clock and forty-five minutes in the afternoon, the Speaker called the House to order.

**Consideration Resumed;
Recommendation of Proposal of Amendment Agreed to
and Third reading Ordered**

S. 18

Consideration resumed on Senate bill, entitled

An act relating to liability resulting from the use of genetically engineered seeds and plant parts;

Rep. Jewett of Ripton moved to substitute the report of the committee on Judiciary for the report of the committee on Agriculture, which was agreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Judiciary? **Reps. Klein of East Montpelier, Randall of Troy, Deen of Westminster, Dowland of Holland, Emmons of Springfield, Haas of Rochester, Kilmartin of Newport City, Kitzmiller of Montpelier, Louras of Rutland City, Martin of Springfield, McLaughlin of Royalton, Obuchowski of Rockingham and Pillsbury of Brattleboro**, moved to substitute an amendment for that offered by the

committee on Judiciary by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SHORT TITLE

This act shall be known and may be cited as the Farmer Protection Act.

Sec. 2. FINDINGS; PURPOSE

The general assembly finds that agriculture is a central and vital component of our state's economy. Vermont has a unique national reputation for producing high quality crops, and its agricultural heritage is dependent on maintaining this reputation. Vermont is a leading producer of organic crops. Vermont's economy is also dependent on tourism that results from maintaining the state's reputation as a state with a pure and preserved natural environment. Genetically engineered crops have been shown to be dispersed into the environment, including through pollen drift, seed mix-ups, inadvertent transfer of seeds by humans and animals, and extreme weather events. The liability for the effects of genetically engineered crops has unfairly fallen on farmers who do not plant genetically engineered crops as well as farmers who do plant genetically engineered crops, and it can be expected that the liabilities associated with the growing of genetically engineered crops in Vermont will be passed by the manufacturer to the growers of the crops and to farmers who do not plant genetically engineered crops. Genetically engineered crops cannot be successfully segregated from crops that are not genetically engineered in current agronomic science, agricultural practices, and agricultural infrastructure. Therefore, it is the purpose of this act to ensure that farmers are not harmed by this technology and to place the liability for any harm on the manufacturer of the genetically engineered crops.

Sec. 3. 6 V.S.A. chapter 35, subchapter 3 is added to read:

Subchapter 3. Liability Resulting from the Use of
Genetically Engineered Seeds and Plant Parts

§ 650. DEFINITIONS

As used in this subchapter:

(1) "Genetically engineered crop" means a crop grown from genetically engineered seed as defined in subdivision 641(9) of this title or a genetically engineered plant part as defined in subdivision 641(10).

(2) "Injury" includes:

(A) loss of any price premium that would have accrued to a farmer by contract or other marketing arrangement or that would have been otherwise reasonably available to the person through ordinary commercial channels;

(B) any reasonable additional transportation, storage, handling, or related charges or costs incurred by the contaminated farmer that would not have been incurred in the absence of crop contamination;

(C) any judgment, charge, or penalty for which the farmer of nongenetically engineered products is liable because of breach of contract, including loss of organic certification.

§ 651. LIABILITY FOR DAMAGES RESULTING FROM GENETICALLY ENGINEERED CROPS

(a) The manufacturer of a genetically engineered seed or plant part is liable to any person who has suffered injury by the release into Vermont of a genetically engineered crop produced from such seed or plant part. The prevailing plaintiff in an action under this subsection may recover compensable damages, reasonable attorney's fees, and other litigation expenses.

(b) The liability created by this section may not be waived or otherwise avoided by contract or other means other than insurance.

(c) A farmer who is not in breach of contract for the purchase or use of genetically engineered seeds or plant parts and unknowingly comes into possession or uses such seeds or plant parts as a result of natural reproduction, cross-pollination, or other contamination shall not be liable for any injuries, claims, losses, or expense, including attorney's fees, caused by the use of a genetically engineered seed or plant part.

§ 652. CHOICE OF LAW

If a contract for the purchase of genetically engineered seeds or plant parts which are used in Vermont has provisions that purport to choose the laws of a jurisdiction other than Vermont to govern the contract, the provisions of the contract are void and unenforceable. Any disputes involving such contracts shall be decided using the law of Vermont.

§ 653. VENUE

The venue for an action relating to the use of genetically engineered seeds or plant parts in Vermont shall be the Vermont county in which one of the parties resides. If neither party resides in the state, the venue may be any county in Vermont.

§ 654. PROVISIONS MAY NOT BE VARIED

The provisions of this subchapter may not be varied or waived by agreement of the parties.

§ 655. LIMITATION OF ACTION

An action brought pursuant to this subchapter shall be brought within three years after the cause of action accrues and not after.

Sec. 4. SEVERABILITY

If any provision of this act or its application to any person or circumstance is held invalid or in violation of the constitution or laws of the United States or the state of Vermont, the invalidity or the violation shall not affect other provisions of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are severable.

Pending the question, Shall the House substitute an amendment offered by Reps. Klein of East Montpelier, et al, for the recommendation of proposal of amendment offered by the committee on Judiciary?

Rep. McAllister of Highgate demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House substitute an amendment offered by Reps. Klein of East Montpelier, et al, for the recommendation of proposal of amendment offered by the committee on Judiciary? was decided in the negative. Yeas, 68. Nays, 79.

Those who voted in the affirmative are:

Adams of Hartland
Ancel of Calais
Bohi of Hartford
Brooks of Montpelier
Chen of Mendon
Copeland-Hanzas of
Bradford
Darrow of Dummerston
Deen of Westminster
Donahue of Northfield

Donovan of Burlington
Dostis of Waterbury
Dowland of Holland
Edwards of Brattleboro
Emmons of Springfield
Fallar of Tinmouth
Fisher of Lincoln
Frank of Underhill
French of Randolph
Green of Berlin

Haas of Rochester
Head of S. Burlington
Heath of Westford
Hosford of Waitsfield
Howard of Rutland City
Hutchinson of Randolph
Jerman of Essex
Johnson of South Hero
Kilmartin of Newport City
Kiss of Burlington

Kitzmiller of Montpelier
 Klein of East Montpelier
 Komline of Dorset
 Kupersmith of S. Burlington
 Larson of Burlington
 Leriche of Hardwick
 Lorber of Burlington
 Louras of Rutland City
 Maier of Middlebury
 Marek of Newfane
 Martin of Springfield
 Martin of Wolcott
 Masland of Thetford

McCullough of Williston
 McLaughlin of Royalton
 Milkey of Brattleboro
 Minter of Waterbury
 Monti of Barre City
 Nease of Johnson
 Nitka of Ludlow
 Nuovo of Middlebury
 Obuchowski of Rockingham
 O'Donnell of Vernon
 Orr of Charlotte
 Partridge of Windham
 Pellett of Chester

Pillsbury of Brattleboro
 Pugh of S. Burlington
 Reese of Pomfret
 Rusten of Halifax
 Seibert of Norwich
 Shand of Weathersfield
 Sharpe of Bristol
 Smith of Morristown
 Sweaney of Windsor
 Tracy of Burlington
 Trombley of Grand Isle
 Westman of Cambridge
 Zuckerman of Burlington

Those who voted in the negative are:

Acinapura of Brandon
 Allaire of Rutland City
 Allard of St. Albans Town
 Aswad of Burlington
 Atkins of Winooski
 Audette of S. Burlington
 Baker of West Rutland
 Barnard of Richmond
 Bartlett of Dover
 Bostic of St. Johnsbury
 Botzow of Pownal
 Branagan of Georgia
 Brennan of Colchester
 Canfield of Fair Haven
 Clark of St. Johnsbury
 Clark of Vergennes
 Clarkson of Woodstock
 Condon of Colchester
 Corcoran of Bennington
 Cross of Winooski
 Dates of Shelburne
 DePoy of Rutland City
 Donaghy of Poultney
 Dunsmore of Georgia
 Endres of Milton
 Errecart of Shelburne
 Evans of Essex

Flory of Pittsford
 Gervais of Enosburg
 Grad of Moretown
 Helm of Castleton
 Houston of Ferrisburgh
 Howrigan of Fairfield
 Hube of Londonderry
 Hudson of Lyndon
 Hunt of Essex
 Jewett of Ripton
 Johnson of Canaan
 Kainen of Hartford
 Keenan of St. Albans City
 Kennedy of Chelsea
 Keogh of Burlington
 Koch of Barre Town
 Krawczyk of Bennington
 Larocque of Barnet
 Larrabee of Danville
 LaVoie of Swanton
 Lawrence of Lyndon
 Lippert of Hinesburg
 Livingston of Manchester
 Malcolm of Pawlet
 Marcotte of Coventry
 Marron of Stowe
 McAllister of Highgate

McFaun of Barre Town
 Miller of Shaftsbury
 Miller of Elmore
 Molloy of Arlington
 Mook of Bennington
 Morley of Barton
 Morrissey of Bennington
 Myers of Essex
 Niquette of Colchester
 Otterman of Topsham
 Parent of St. Albans City
 Peaslee of Guildhall
 Perry of Richford
 Peterson of Williston
 Potter of Clarendon
 Rodgers of Glover
 Severance of Colchester
 Shaw of Derby
 Smith of New Haven
 Sunderland of Rutland Town
 Valliere of Barre City
 Winters of Swanton
 Winters of Williamstown
 Wright of Burlington
 Young of Orwell

Those members absent with leave of the House and not voting are:

Metzger of Milton
 Randall of Troy

Rep. Branagan of Georgia explained her vote as follows:

“Madam Speaker:

There has to be an opportunity for both conventional farmers and organic farmers to exist in Vermont. Strict liability is not the proper legal term for use in this matter. Any farmer suffering economic damage from any source already has adequate avenues for recovering loss.”

Rep. Grad of Moretown explained her vote as follows:

“Madam Speaker:

My no vote reflects my respect for the committee process and role as Vice Chair. My committee passed a bill that while it may not go far enough for some, does provide new protections and access for farmers including allowing for recovery of economic damages and change of venue, thus strengthening current law. The Judiciary bill paves the way for the conversation of GMO’s to continue in conference committee. My no vote on this amendment is not against the need for stringent protection against GMO’s but in favor of the committee process.”

Rep. Kilmartin of Newport City explained his vote as follows:

“Madam Speaker:

I have looked beyond the battle lines. I vote “yes” to allocate responsibility for injury and damage to where it belongs: on the back of the corporations owning the patents, technology, and the genes, who reap the profits of the GMO seeds.

I do not condemn GMO seeds or crops and believe the benefits are great.

However, the Uniform Commercial Code, the Consumer Fraud Act and the Judiciary Committee amendment are inadequate to the protection needed by Vermont farmers, especially Vermont farmers using GMO seeds.

For those who can prove both injury and damages, their damages should be borne by the patent holder/manufacturer, not the already overly burdened Vermont farmer.”

Rep. LaVoie of Swanton explained her vote as follows:

“Madam Speaker:

There are bound to be many more issues that confront agriculture in the State of Vermont. We will need to have many difficult conversations. However, if the basis upon which these conversation exists, continues to pit traditional against organic farmer; large farm against small farm; dairy against

crop, then agriculture in Vermont will cease to exist. We will lose the basis upon which this great State was formed.”

Thereupon, the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Judiciary? Was agreed to and third reading ordered.

Adjournment

At three o'clock and thirty minutes in the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

WEDNESDAY, JANUARY 4, 2006

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Reverend Mitchell V. Hay of Trinity United Methodist Church, Montpelier, VT.

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Sunderland of Rutland City**, the rules were suspended and the bills were read the first time by number and referred as follows:

H. 564

By Rep. McFaun of Barre Town,

An act relating to the Vermont Hospital Security Plan;

To the committee on Health Care.

H. 565

By Reps. Milkey of Brattleboro and Pillsbury of Brattleboro,

An act relating to extension of quarterly income tax withholding deadlines;

To the committee on Ways and Means.

H. 566

By Rep. Milkey of Brattleboro,

An act relating to increase in property tax rebates;

To the committee on Ways and Means.

H. 567

By Rep. Keenan of St. Albans City,

An act relating to exemption from CON and HMO requirements for PACE;

To the committee on Commerce.

H. 568

By Reps. Keenan of St. Albans City and Young of Orwell,

An act relating to applicability of an act regarding trustees;

To the committee on Commerce.

H. 569

By Rep. Larson of Burlington,

An act authorizing the issuance of gift certificates for the purchase of hunting and fishing licenses;

To the committee on Fish, Wildlife and Water Resources.

H. 570

By Reps. Shand of Weathersfield, Martin of Springfield, Emmons of Springfield and Pellett of Chester,

An act relating to reclaiming and resurfacing Town Highway 7 in Weathersfield and Springfield;

To the committee on Transportation.

H. 571

By Rep. Otterman of Topsham,

An act relating to lowering workers' compensation premiums;

To the committee on Commerce.

H. 572

By Reps. Louras of Rutland City, Condon of Colchester, Houston of Ferrisburgh, Howard of Rutland City, Keenan of St. Albans City, Kitzmiller of Montpelier, Marcotte of Coventry and Morley of Barton,

An act relating to placing a security freeze on a credit report;

To the committee on Commerce.

Joint Resolution Placed on Calendar

The Speaker placed before the House the following resolution which was read and in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

J.R.S. 44

By Senator Welch,

Joint resolution relating to Town Meeting adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 3, 2006, or Saturday, March 4, 2006, it be to meet again no later than Tuesday, March 14, 2006.

Rules Suspended; Bill Committed**H. 227**

On motion of **Rep. Brooks of Montpelier**, the rules were suspended and House bill, entitled

An act relating to safe staffing and quality patient care;

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending the reading of the report of the committee on General, Housing and Military Affairs, **Rep. Brooks of Montpelier** moved that the bill be committed to the committee on Human Services, which was agreed to.

Bill Read Third Time and Passed**H. 548**

House bill, entitled

An act relating to personal watercraft safety;

Was taken up and pending third reading of the bill, **Rep. Donahue of Northfield** moved to amend the bill as follows:

By striking all after the enacting clause and by inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 3312a is amended to read:

§ 3312a. OPERATION OF PERSONAL WATERCRAFT

(a) A person under the age of ~~16~~ 12 shall not operate a personal watercraft.

(b) All persons operating or riding on a personal watercraft shall wear a Type I, II, or III United States Coast Guard approved personal flotation device.

(c) Personal watercraft shall not be operated at any time during the hours between one-half hour after sunset and one-half hour before sunrise.

(d) Every person operating a personal watercraft equipped by the manufacturer with a lanyard type engine cut-off switch shall attach the lanyard to his or her wrist, clothing, or personal flotation device as appropriate for the specific craft.

(e) A personal watercraft livery operating in the state shall:

(1) Not lease, hire, or rent a personal watercraft to or for operation by any person under 18 years of age;

(2) Administer boating safety instruction to an operator of a leased, hired, or rented personal watercraft not having a valid safe boating certificate and valid identification; and

(3) Supply the following to an operator of a leased, hired, or rented personal watercraft in writing:

(A) The operational characteristics of personal watercraft;

(B) The requirements of this section and the boating regulations peculiar to the surface water in which the personal watercraft shall be operated; and

(C) An explanation of the common courtesies of operating a personal watercraft and the effect of the operation on wildlife, the environment, and other water users.

(f) In accordance with section 3316 of this title, the department of public safety may exempt public regattas, motorboat or other races, marine parades, tournaments, water skiing events, or other exhibitions from the requirements of this section.

(g) The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation, but nothing contained in this section shall be construed to require a person to meet the requirements of this section if the person holds a valid master's, mate's, or operator's license issued by the U.S. Coast Guard.

Sec. 2. 23 V.S.A. §3305a is amended to read:

§ 3305a. PRIVILEGE TO OPERATE A VESSEL; SUSPENSION OF PRIVILEGE; MINIMUM AGE FOR OPERATION OF ~~MOTORBOAT~~

(a) A person who meets the applicable requirements of this subchapter shall have the privilege to operate a vessel on the public waters of this state, as those waters are defined in 10 V.S.A. § 1422.

(b) A person whose privilege to operate a vessel has been suspended shall not operate, attempt to operate or be in actual physical control of a vessel on the public waters of this state until the privilege to operate a vessel has been reinstated by the commissioner of motor vehicles.

(c) A person under the age of 12 shall not operate a motorboat powered by more than six horsepower on the public waters of this state.

(d) If an operator of a vessel is under the age of 16 but at least 12 years of age, that operator must be under the direct supervision of a person 18 years of age or older.

Sec. 3. 23 V.S.A. §3305b (a) is amended to read:

§ 3305b. BOATING SAFETY EDUCATION; RULES

(a) When required. A person born after January 1, 1974 shall not operate a motorboat or a personal watercraft on the public waters of this state without first obtaining a certificate of boating education.

Thereupon, **Rep. Donahue of Northfield** asked and was granted leave of the House to withdraw her amendment and the bill was read the third time and passed.

Third Reading; Bill Passed in Concurrence With Proposals of Amendment

S. 18

Senate bill, entitled

An act relating to liability resulting from the use of genetically engineered seeds and plant parts;

Was taken up and pending third reading of the bill, **Reps. Kilmartin of Newport City and Jewett of Ripton** moved to propose to the Senate to amend the bill as follows:

In Sec. 3, in new Chapter 210 of Title 6, by striking §4718, and by inserting a new §4718 to read:

§4718. FORUM AND VENUE

(a) The forum for an action relating to goods for agricultural use in Vermont shall be the courts of the state of Vermont.

(b) The venue for an action relating to goods for agricultural use in Vermont shall be the Vermont county in which one of the parties resides. If neither party resides in the state, the venue may be any county in Vermont.

Which was agreed to on a Division vote. Yeas, 79. Nays, 42. The bill was read a third time and;

Pending the question, Shall the bill pass? **Rep. Sunderland of Rutland City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 137. Nays, 7.

Those who voted in the affirmative are:

Acinapura of Brandon	Endres of Milton	Krawczyk of Bennington
Adams of Hartland	Errecart of Shelburne	Kupersmith of S. Burlington
Allaire of Rutland City	Evans of Essex	Larocque of Barnet
Ancel of Calais	Fallar of Tinmouth	Larson of Burlington
Aswad of Burlington	Fisher of Lincoln	LaVoie of Swanton
Atkins of Winooski	Flory of Pittsford	Lawrence of Lyndon
Audette of S. Burlington	Frank of Underhill	Leriche of Hardwick
Baker of West Rutland	French of Randolph	Lippert of Hinesburg
Barnard of Richmond	Gervais of Enosburg	Livingston of Manchester
Bartlett of Dover	Grad of Moretown	Lorber of Burlington
Bohi of Hartford	Green of Berlin	Louras of Rutland City
Bostic of St. Johnsbury	Haas of Rochester	Maier of Middlebury
Botzow of Pownal	Head of S. Burlington	Malcolm of Pawlet
Branagan of Georgia	Heath of Westford	Marquette of Coventry
Brennan of Colchester	Helm of Castleton	Marek of Newfane
Brooks of Montpelier	Hosford of Waitsfield	Marron of Stowe
Canfield of Fair Haven	Houston of Ferrisburgh	Martin of Springfield
Chen of Mendon	Howard of Rutland City	Martin of Wolcott
Clark of St. Johnsbury	Howrigan of Fairfield	Masland of Thetford
Clarkson of Woodstock	Hube of Londonderry	McAllister of Highgate
Condon of Colchester	Hudson of Lyndon	McCullough of Williston
Copeland-Hanzas of	Hunt of Essex	McLaughlin of Royalton
Bradford	Hutchinson of Randolph	Milkey of Brattleboro
Corcoran of Bennington	Jerman of Essex	Miller of Shaftsbury
Cross of Winooski	Jewett of Ripton	Minter of Waterbury
Darrow of Dummerston	Johnson of South Hero	Molloy of Arlington
Dates of Shelburne	Johnson of Canaan	Monti of Barre City
DePoy of Rutland City	Kainen of Hartford	Mook of Bennington
Donaghy of Poultney	Keenan of St. Albans City	Morley of Barton
Donahue of Northfield	Kennedy of Chelsea	Morrissey of Bennington
Donovan of Burlington	Keogh of Burlington	Myers of Essex
Dostis of Waterbury	Kilmartin of Newport City	Nease of Johnson
Dowland of Holland	Kiss of Burlington	Niquette of Colchester
Dunsmore of Georgia	Kitzmiller of Montpelier	Nitka of Ludlow
Edwards of Brattleboro	Koch of Barre Town	Nuovo of Middlebury
Emmons of Springfield	Komline of Dorset	Obuchowski of Rockingham

O'Donnell of Vernon
 Orr of Charlotte
 Otterman of Topsham
 Parent of St. Albans City
 Partridge of Windham
 Pellett of Chester
 Perry of Richford
 Peterson of Williston
 Pillsbury of Brattleboro
 Potter of Clarendon

Pugh of S. Burlington
 Reese of Pomfret
 Rodgers of Glover
 Rusten of Halifax
 Seibert of Norwich
 Severance of Colchester
 Shand of Weathersfield
 Sharpe of Bristol
 Shaw of Derby
 Smith of New Haven

Sunderland of Rutland Town
 Sweaney of Windsor
 Tracy of Burlington
 Trombley of Grand Isle
 Valliere of Barre City
 Westman of Cambridge
 Winters of Swanton
 Winters of Williamstown
 Wright of Burlington
 Zuckerman of Burlington

Those who voted in the negative are:

Allard of St. Albans Town
 Deen of Westminster
 Larrabee of Danville

McFaun of Barre Town
 Miller of Elmore
 Smith of Morristown

Young of Orwell

Those members absent with leave of the House and not voting are:

Clark of Vergennes
 Klein of East Montpelier

Metzger of Milton
 Peaslee of Guildhall

Randall of Troy

Bill Read Second Time; Third Reading Ordered

H. 549

Rep. Evans of Essex spoke for the committee on Government Operations.

House bill entitled

An act relating to international trade;

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Senate Proposal of Amendment Not Concurred in; Committee of Conference Requested

H. 109

The Senate proposes to the House to amend House bill, entitled

An act relating to reauthorization of the human resources investment council;

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 541 is added to read:

§ 541. HUMAN RESOURCES INVESTMENT COUNCIL; STATE
 WORKFORCE INVESTMENT BOARD; MEMBERS, TERMS

(a) The human resources investment council is created as the successor to and the continuation of the governor's human resources investment council and shall be the state workforce investment board under Public Law 105-220, the Workforce Investment Act of 1998 and any reauthorization of that act. The council shall consist of members as required under the federal act, including a representative of the Abenaki Self-Help Association, and the following: two members of the study committee on international trade and state sovereignty established by 3 V.S.A. § 23; the president of the Vermont student assistance corporation; the president of the Association of Vermont Independent Colleges; the president of the University of Vermont; the chancellor of the Vermont state colleges; at least two representatives of labor appointed by the governor in addition to the two required under the federal act, at least one of whom shall be chosen from names submitted by labor organizations; one representative of the low income community appointed by the governor; two members of the senate appointed by the senate committee on committees; and two members of the house appointed by the speaker. In addition, the governor shall appoint enough other members who are representatives of business or employers so that one-half plus one of the members of the council are representatives of business or employers. At least one-third of those appointed by the governor as representatives of business or employers shall be chosen from a list submitted by the regional workforce investment boards. In this section, "representative of business" means a business owner, a chief executive operating officer, or other business executive, and "employer" means an individual with policy-making or hiring authority, including a public school superintendent or school board member and including representatives from the nonprofit, social services, and health sectors of the economy. If there is a dispute as to who is to represent an interest as required under the federal law, the governor shall decide who shall be the member of the council.

(b) Members representing business, employers, labor, and the low income community shall be appointed for terms of three years. Appointed members, except legislative appointees, shall serve at the pleasure of the governor.

(c) A vacancy shall be filled for the unexpired term in the same manner as the initial appointment.

(d) The governor shall appoint one of the business or employer members to chair the council.

(e) The human resources investment council shall appoint four other members who, in addition to the chair, shall be the executive committee.

(f) Members, other than legislative members, shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010. Legislative

members shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406.

(g) The commissioner of labor shall appoint an executive director to the council, which shall be an exempt position and shall provide the council with administrative support.

(h) The human resources investment council shall be subject to subchapters 2 and 3 of chapter 5 of Title 1, relating to public meetings and access to public records.

(i) The human resources investment council shall:

(1) Meet at least three times per year. Members missing more than two consecutive meetings may be replaced.

(2) Advise the governor on the establishment of an integrated network of workforce education and training for Vermont.

(3) Coordinate planning and services for an integrated network of workforce education and training and oversee its implementation.

(4) Establish and oversee workforce investment boards as provided in section 542 of this title.

(5) Establish performance goals for regional workforce investment boards.

(6) Establish goals for and coordinate the state's workforce education and training policies.

(7) Receive annual reports from the department of employment and training on the workforce education and training revenues and expenditures of agencies and institutions which are members of the council.

(8) Annually review and comment on workforce education and training revenues and expenditures of member agencies and institutions.

(9) Negotiate memoranda of understanding between the council and agencies and institutions involved in Vermont's integrated network of workforce education and training in order to ensure that each is working to achieve annual objectives developed by the council.

(10) Carry out the duties assigned to the state workforce investment board, as required for a single-service delivery state, under P.L. 105-220, the Workforce Investment Act of 1998, and any amendments that may be made to it.

(11) Collaborate with the study committee on international trade and state sovereignty with respect to the effects of international agreements on the state's work force, and make recommendations on those matters to the governor and the general assembly to assist in determinations as to whether the state should consent to participate in various international treaties negotiated by the United States Government;

Sec. 2. STUDY; REPORT

The human resources investment council shall study and recommend a legislative proposal to reorganize the workforce investment boards into geographic regions aligned with the flow of commerce in the state. The council shall report its recommendation to the house committee on commerce and the senate committee on economic development and general affairs on or before January 15, 2006.

Sec. 3. 21 V.S.A. § 1306a is added to read:

§ 1306a. LABOR MANAGEMENT ADVISORY COUNCIL; MEMBERS; TERMS

(a) The commissioner shall appoint a state labor advisory council composed of eight members to include four employer representatives and four employee representatives who may fairly be regarded as representative because of their vocations, employment, and affiliations. Appointment of the four employee representatives, at least one of whom shall have experience in workers' compensation law, shall be made from qualified names submitted by the Vermont State Labor Council, the Vermont State Employees' Association, and the Vermont National Education Association. Appointment of the four employer representatives shall be made from qualified names submitted by the Vermont Chamber of Commerce, Associated General Contractors of Vermont, and the Vermont Business Roundtable.

(b) The council shall advise the commissioner in formulating policies by discussing problems relating to the administration of duties and functions assigned to the department in order to bring impartiality and freedom from political influences to the solution of these issues.

(c) The commissioner may establish subcommittees composed solely of labor or management representatives and use a portion of the council's meeting time to meet with these subcommittees.

(d) The council shall meet at least six times per year.

(e) Each member of the council who is not a salaried official or state employee or is not otherwise compensated through employment while

attending council meetings is entitled to per diem compensation and reimbursement for expenses as provided in 32 V.S.A. § 1010.

(f) The members of the council shall be appointed by the commissioner for staggered terms of four years. Of the first members appointments, one employer and one employee representative shall be for a one-year term, one employer and one employee representative for a two-year term, one employer and employee representative for a three-year term, and one employer and one employee representative for a four-year term. Any appointment to a vacancy shall be for the unexpired term.

* * * Vocational Rehabilitation Rule * * *

Sec. 4. 21 V.S.A. § 641(a) is amended to read:

(a) When as a result of an injury covered by this chapter, an employee is unable to perform work for which the employee has previous training or experience, the employee shall be entitled to vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore the employee to suitable employment. Vocational rehabilitation services shall be provided as follows:

* * *

(3) The commissioner shall adopt rules to assure that a worker who requests services or who has received more than 90 days of continuous temporary total disability benefits is timely and cost-effectively screened for benefits under this section. The rules shall:

(A) Provide that all vocational rehabilitation work, except for initial screenings, be performed by a Vermont-certified vocational rehabilitation counselor including counselors currently certified pursuant to the rules of the department. Initial screenings shall be performed by an individual with sufficient knowledge or experience to perform adequately the vocational rehabilitation screening functions.

(B) Provide for an initial screening to determine whether a full assessment is appropriate. An injured worker who is determined to be eligible for ~~benefits shall have an appropriate initial vocational~~ a full assessment shall be timely assessed and be offered appropriate vocational rehabilitation services.

(C) ~~The commissioner shall adopt rules to provide~~ Provide a mechanism for a periodic review and timely screening of injured workers who are initially found not to be ready or eligible for ~~vocational rehabilitation~~

services a full assessment to determine whether a full assessment has become appropriate.

(D) Protect against potential conflicts of interest in the assignment and performance of initial screenings.

(E) Assure the injured worker has a choice of a vocational rehabilitation counselor.

* * *

(5) The commissioner may set by rule reasonable reimbursement rates for vocational rehabilitation benefits and services, provided access to vocational rehabilitation services is not diminished, and reasonable choices and access to benefits and services are maintained. The reimbursement shall reflect the current market hourly rate of vocational rehabilitation services as determined by a survey of vocational rehabilitation providers, including solo practitioners, small firms, and large firms. The fee schedule shall require the individual vocational rehabilitation counselor who provides services to review, initial, and certify the accuracy of the billing.

(6) The commissioner shall make annual reports to the general assembly on the success and status of the workers' compensation vocational rehabilitation program.

* * * Discontinuance of Benefits * * *

Sec. 5. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the commissioner and the employee prior to terminating benefits under either section 642 or ~~section~~ 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the commissioner and shall include the date of the proposed discontinuance and the reasons for it. The liability for the payments shall continue for ~~7~~ seven days after the notice is received by the commissioner and the employee. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the commissioner determines that the discontinuance is warranted or if otherwise ordered by the commissioner. Every notice shall be reviewed by the commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, upon review, the commissioner finds that the evidence does not reasonably support the proposed discontinuance, the commissioner ~~may~~ shall order that payments continue until a hearing is held and a decision is rendered. If the commissioner's decision, after a hearing, is that the employee

was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce such a repayment order in any court of law having jurisdiction of the amount involved.

* * * Failure to Pay Benefits * * *

Sec. 6. 21 V.S.A. § 650(e) is amended to read:

(e) If weekly compensation benefits or weekly accrued benefits are not paid within 21 days after becoming due and payable pursuant to an order of the commissioner, or in cases in which the overdue benefit is not in dispute, ten percent of the overdue amount shall be added and paid to the employee, in addition to interest and any other penalties. In the case of an initial claim, benefits are due and payable upon entering into an agreement pursuant to subsection 662(a) of this title, upon issuance of an order of the commissioner pursuant to subsection 662(b) of this title, or if the employer has not denied the claim within 21 days after the claim is filed. Benefits are in dispute if the claimant has been provided actual written notice of the dispute within 21 days of the benefit being due and payable and the evidence reasonably supports the denial. Interest shall accrue and be paid on benefits that are found to be compensable during the period of nonpayment. The commissioner shall promptly review requests for payment under this section and, consistent with the criteria in department rule 10.13, shall allow for the recovery of reasonable attorney fees associated with an employee's successful request for payment under this subsection.

* * * Interim Orders * * *

Sec. 7. 21 V.S.A § 662(b) is amended to read:

(b) In the absence of an agreement pursuant to subsection (a) of this section, the employer or insurance carrier shall notify the commissioner and the employee in writing that the claim is denied and the reasons therefore. Upon the employee's application for a hearing under section 663 of this title, within 60 days, the commissioner ~~may~~ shall review the evidence upon which denial is based and if the evidence does not reasonably support the denial, the commissioner ~~may~~ shall order that payments be made until a hearing is held and a decision is rendered. Payments pursuant to this subsection shall not be deemed an admission of liability by the employer nor shall such payments preclude subsequent agreement under subsection (a) of this section or prejudice the rights of either party to hearing or appeal under this chapter. If the commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the initial denial and the final

decision, upon request of the employer, the commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce such a repayment order in any court of law having jurisdiction of the amount involved. Nothing in this section shall require the commissioner to order payments pending a hearing if the commissioner concludes that the benefit at issue is not compensable regardless of the lack of evidence supporting the denial. For the purposes of this section, any written communication by an unrepresented claimant that questions the denial of any benefit shall be deemed to be an application for hearing under section 663 of this title.

*** * * Lump Sum Payment * * ***

Sec. 8. 21 V.S.A. § 652(c) is added to read:

(c) Unless otherwise requested by the claimant, an order for a lump sum payment of permanent partial or permanent total disability benefits or a lump sum settlement of a disputed claim shall include a provision accounting for excludable expenses and prorating the remainder of the lump sum payment in the manner set forth by the Social Security Administration in order to protect the claimant's entitlement to Social Security benefits.

Sec. 9. REPEAL

(a) 10 V.S.A. § 542 (workforce investment boards) shall be repealed on July 1, 2008.

(b) 21 V.S.A. § 1306 (advisory council for the department of employment and training) is repealed as of the effective date of this act.

Sec. 9a. 21 V.S.A. §384(a), as amended by Sec. 1 of S. 80 of the 2005 session, is further amended to read:

(a) An employer shall not employ an employee at a rate less than \$7.00 an hour and, beginning January 1, 2006, at a rate less than \$7.25, and, beginning January 1, 2007, and on each subsequent January 1, the minimum wage rate shall be increased by the lesser of five percent or the average of: the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller. The minimum wage shall be rounded off to the nearest \$0.01. An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than \$3.65 an hour and beginning January 1, 2006, and every January 1 thereafter that rate shall be increased by the same percentage as the minimum wage under this section. For the purposes of this subsection, "a service or tipped employee" means an

employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$30.00 per month in tips for direct and personal customer service. If the minimum wage rate established by the United States government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the United States government.

Sec. 10. 3 V.S.A. §§ 23 is added to read:

§ 23. STATE ENTRY INTO OBLIGATIONS UNDER TREATY OR TRADE AGREEMENT; STUDY COMMITTEE ON INTERNATIONAL TRADE AND STATE SOVEREIGNTY

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

(1) "International Trade Agreement" means a trade agreement between the federal government and a foreign country to which the state, at the request of the federal government, is or may be a party.

(2) "International Trade Agreement" does not include a trade agreement between the state and a foreign country to which the federal government is not a party.

(b) Limitations. Except as provided in subsection (c) of this section, no state official, including the governor, may:

(1) Bind the state to an international trade agreement; or

(2) Give consent to the federal government to bind the state to an international trade agreement.

(c) State policy in general. It is the policy of the State of Vermont to decline to participate in an international trade agreement until the overall effects of that participation are fully and adequately considered, and are determined to be beneficial to the state. The governor may bind the state or give consent to the federal government to bind the state to an international trade agreement only after receiving the formal recommendations of the study committee on international trade and state sovereignty with respect to that specific agreement, and only in situations in which the general assembly, after receiving those recommendations gives its assent by joint resolution or act of legislation or fails to enact an act or joint resolution to prohibit the governor from making that specific commitment.

(d) State policy on specific trade agreements.

(1) The State of Vermont declines to participate in the CAFTA agreement, and formally withdraws the Governor's consent, as expressed in a

letter dated October 30, 2003 to Trade Representative Robert B. Zoellick, to the state's participation in trade agreements with Morocco, Australia, the countries of the Central American Common Market and the South African Customs Union.

(e) There is created a study committee on international trade and state sovereignty, to consist of the following: two members of the Senate, appointed by the Committee on Committees; two members of the House, appointed by the Speaker; the designated state point of contact; the attorney general or a designee; one representative of the state's municipalities, appointed by the governor; four members of the public appointed by the governor as follows: a small business person, a small farmer, a representative of a nonprofit organization that promotes fair trade policies, and a representative of a Vermont based corporation that is active in international trade; three members of the public appointed by the Speaker of the House as follows: a health care professional, a person active in the organized labor community, and a member of a non-profit environmental organization; three members of the public appointed by the President Pro Tem of the Senate: one member of a nonprofit human rights organization, one representative of a Vermont based manufacturing business with 25 or more employees, and a representative of an economic development organization.

(f) The committee shall assess and monitor the legal and economic impacts of trade agreements on state and local laws, state sovereignty, working conditions and the business environment. It shall provide a mechanism for citizens and legislators to voice their concerns and recommendations and make policy recommendations to the general assembly and to the trade representatives of the United States government, which shall be designed to protect Vermont's job, business environment and state sovereignty from any negative impact of trade agreements. It may recommend legislation or preferred practices and shall work with interested groups in other states to develop means to resolve the conflicting goals and tension inherent in the relationship between international trade and state sovereignty.

(g) In response to a request from the governor or the general assembly, or on its own initiative the committee shall consider and develop formal recommendations with respect to how the state should best respond to challenges and opportunities posed by a particular international agreement. Formal recommendations on a specific international agreement shall be submitted to the governor and to the house and senate committees on judiciary, on government operations, and on natural resources and energy, and to the house committee on commerce and the senate committees on finance and on economic development, housing and general affairs.

(h) The committee shall be entitled to staff services of the agency of commerce, the attorney general, the legislative council, the joint fiscal committee.

*** * * Wood Products Manufacturing * * ***

Sec. 11. WOOD PRODUCTS MANUFACTURING TAX CREDITS; FINDINGS

The general assembly finds that the economic vitality within certain adjacent counties in the state with the highest unemployment rates is dependent on a limited number of employers that manufacture finished wood products. In order to support the sustainability and vitality of the finished wood products industry, the general assembly further finds that income tax credits will provide financial assistance needed to maintain the economic well-being of the communities that rely so heavily on this industry for the health of their economies.

Sec. 12. 32 V.S.A. § 5930y is added to read:

§ 5930y. WOOD PRODUCTS MANUFACTURER CREDIT

(a) Annually on or before February 1, the secretary of commerce and community development shall designate any two adjacent counties having at least five percent of their jobs provided by employers that manufacture finished wood products and having the highest unemployment rate in the state for at least one month in the previous calendar year. Upon making a designation, the secretary shall send a written notice to the commissioner of taxes identifying the designated counties.

(b) A credit against the income tax liability is available as follows:

(1) There shall be a credit of two percent of the wages paid in the taxable year by an employer for services performed in a designated county or an adjacent county associated with the manufacture of finished wood products. The credit shall be available to the employer in any year the county qualifies and for one year after a qualification ends.

(2) The credit, either alone or in combination with any other credit allowed by this chapter, shall not reduce the income tax liability of the employer by more than 80 percent.

(3) The recapture of development incentives established in subchapter 6 of chapter 47 of Title 3 shall apply to the tax credits in this section, except that the provisions of subsection 2512(c) of that title shall not apply to business relocation outside the designated counties.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Keenan of St. Albans City** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to.

Governor's Veto Sustained

H. 524

House bill, entitled

An act relating to universal access to health care in Vermont;

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. 524** to the House is as follows:

"June 22, 2005

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, Vermont 05633-5401

Dear Mr. Milne:

I am returning H.524, *An Act Relating to Universal Access to Health Care in Vermont*, without my signature because of my objections described herein.

I remain fully committed to working collaboratively with all interested parties to achieve thoughtful and lasting reform of our health care system. Our system does face many complex and difficult challenges, but we must meet these challenges.

Overall health care spending in Vermont and the nation is increasing at an unsustainable rate. Unless we take time to enact contemplative and meaningful reforms, higher health care costs are likely to result in a dramatically reduced public capacity to offer coverage in existing programs like Medicaid. These same pressures are likely to result in reduced employee participation rates, fewer private options and greater numbers of uninsured Vermonters.

Slightly more than 90 percent of Vermonters are insured, and while Vermont's insured rate is among the highest in the nation, I will not be satisfied until all Vermonters have access to health care coverage they can afford.

There is much that is commendable about Vermont's health care system—most notably the efforts of our dedicated providers—but there is still much that can be done to improve quality, enhance safety and lower costs.

As we move forward with necessary reforms, it is important that the means chosen to address these problems are consistent with the values and expectations of the people of this state, and are financially sustainable for the employees, employers and families paying taxes.

Accordingly, last year I set forth the principles that should guide efforts to achieve meaningful reform of Vermont's health care system:

- Our efforts to achieve universal access to affordable health care coverage for all Vermonters must include policies that reduce costs for Vermonters who are currently insured and struggling to keep up with ever-increasing insurance premiums.
- Meaningful health care reform must be comprehensive and patient-centered, putting decisions in the hands of doctors and patients, not politicians and bureaucrats.
- Our reforms must increase choices and encourage a significant degree of personal responsibility.
- Reform of both public and private health care coverage systems must be financially sustainable and supportive of a prosperous economy.

I am pleased that the General Assembly agreed with many of my Administration's initiatives, which will result in real progress and help Vermont turn its attention back toward the need to lower costs.

Two related initiatives included in the fiscal year 2006 budget—the Chronic Care and Health Care Information Technology initiatives—will positively impact both the cost and quality of care delivered in Vermont over time. Both efforts have tremendous promise for improving Vermont's health care infrastructure.

Two provisions included in H.524—the Healthy Lifestyles Discount and the Consumer Price and Quality Information Program—would provide incentives for individual Vermonters to engage in healthy behavior, give them the tools they need to make cost-effective choices about health care and also help drive down cost and improve quality.

I regret, however, that in most other respects H.524 falls far short of my Administration's goals and principles for meaningful health care reform.

H.524 would create a new, government-run, taxpayer financed health care program that would lead Vermont toward a system of fewer choices, fewer benefits and fewer health care providers.

H.524 would also impose new payroll taxes on small businesses and non-profit organizations, and a regressive income tax surcharge on the working poor to finance the limited health care coverage it proposes. Such a financing mechanism punishes low and moderate-income workers who are least able to afford these regressive taxes.

This health care tax proposal would be extraordinarily harmful to Vermont's small businesses and economy, and fails to account for the necessary revenue needed for its intended expansion in future years. Moreover, throughout the legislative process concerns of health care providers, private sector employers, individual residents, and Executive Branch officials were ignored.

The bill also fails to address the so-called Wal-Mart issue.

In fact, the Legislature's proposal creates a tax scheme that benefits Wal-Mart sized multi-state and multi-national corporations at the expense of Vermont's small, homegrown businesses.

The measure fails to adequately define key phrases and intent, calls for unrealistic and unfunded demands on government personnel and leaves far too many questions unanswered.

In addition, and somewhat ironically, H.524 calls for a study commission intended to justify the millions of dollars in decisions the Legislature has already made, actions it has already taken and decisions it appears destined to make.

Such a study—with predefined outcomes—does not constitute the collaborative discussion required to achieve meaningful and lasting reform. Such a study is also, if nothing else, an indication that this legislation has been advanced in great haste.

Finally, the bill would impose inflexible caps on our regional hospitals. These caps might well force these important health care and economic resources to reduce services and eliminate jobs.

The bottom line is that the numerous technical deficiencies and conceptual flaws of H.524—including an effort to commandeer Executive Branch functions—render it incapable of achieving its publicly stated goals.

These principal deficiencies are enumerated in greater detail below.

I. H. 524 Would Create a Government-Run Program that Limits Health Care Choices

H.524 proposes to create a new government-run program to provide taxpayer-financed health care coverage to Vermonters. As a first step this program would begin in July 2006 by offering a “bare bones” policy of primary and preventive care for all currently uninsured Vermonters.

The bill’s schedule makes clear, however, that the legislation is intended to offer primary and preventive care for all Vermonters by July 2007, hospital and primary and preventive care to all Vermonters by October 2008, and comprehensive benefits to all Vermonters by July 2009.

The result of the legislation would therefore be a system of insurance dominated by the government that competes with, and eventually eliminates, private health insurance options—an outcome with particularly negative consequences for the thousands of Vermonters currently covered by comprehensive private insurance plans.

II. H. 524 Would Increase Premiums for Vermonters with Private Insurance and Hurt Providers

During the three-year transition from the current coverage system to the full government-run program, Vermonters left in the private market will face higher and higher premiums as more and more costs are shifted from the Legislature’s plan to individuals paying insurance premiums.

If, as expected, the government’s provider payments are less than health insurance provider payments the difference will be cost-shifted to those Vermonters who pay premiums. Such an exacerbation of the cost shift is fundamentally unfair.

Notwithstanding the words in the legislation that promise not to exacerbate the cost shift by providing “reasonable payments to health care professionals,” the history of the Medicaid and Medicare programs demonstrates that a public health care program always underpays health care professionals. Additionally, the word “reasonable” is not defined to guarantee reimbursements that would in fact approach market rates.

The notion that this proposal would reduce the cost shift related to uncompensated care is incorrect. Vermonters paying premiums will see no relief from the extra costs embedded in their premiums to pay for care for the uninsured. The Legislature’s plan will not offer hospital care until 2008 at the

earliest, a date subject to available state revenues and contingent upon various conditions and benchmarks established in the bill.

As the Legislature's proposal expands, less competitive reimbursement rates will make the recruitment and retention of doctors and other health care professionals increasingly difficult. As a result, Vermonters will have fewer options when choosing a doctor or other provider, and greater limitations on treatment and benefits. Sacrificing access to quality care is not an effective or desirable way to reduce costs.

In the end, this proposal would worsen the cost shift, increase costs for Vermonters who are currently insured, and reduce treatment options for Vermonters. Such results are counter to my goal of lowering costs and increasing access, and therefore unacceptable.

III. H. 524 Leads to Health Care Rationing

Concentrated power in a dominant government program, combined with the financial pressures to meet the annual costs of coverage, will result in government rationing of health care under this proposal.

While there is some measure of truth in the assertion that all health care coverage systems contain some degree of "rationing" because no system can afford to provide unlimited health care benefits, a system where all participants (including patients, providers, and payers) face constraints and must be accountable to other participants, is far more likely to be responsive than a single government agency with near absolute power constrained only by the General Assembly.

Presumably, the reason for the minimal coverage offered at the outset is because that is all the General Assembly believes it can afford to offer, given the program's dependence on public financing. However, offering a minimal preventive plan has a limited cost containment benefit considering the fact that a majority of health insurance spending is for specialty care and hospital claims.

Nevertheless, similar decisions and trade-offs regarding the scope of benefits can be expected in the future as the program is forced to reduce benefits and treatment choices to fit expenditures within somewhat unpredictable annual state revenues.

IV. H. 524 Hurts Local Hospitals, Reduces the Quality of Care and Costs Regional Jobs

One of the primary cost containment tools authorized by H.524 is an inflexible, annual cap on hospital budgets.

Based on the Legislature's formula, the cap could be as low as 3 percent in some years. This could result in salary freezes and layoffs, as well as the possibility of not allowing any medical technology purchases like new dialysis equipment or other advances that improve quality.

Expenditures, such as financing health care information technology systems that might very well save money, as well as improve quality in the long run, could be prohibited under the spending cap. This is deeply flawed public policy and counter to our efforts to enact reforms that lower costs and increase access.

Since the spending cap is also to be applied on a statewide basis, it will pit hospital against hospital, and region against region every year. It is possible that the largest hospitals would fare the best, winning a disproportionate percentage of the limited resources.

Ironically, the legislation seems to acknowledge some of the flaws identified above by offering the agency charged with administering and regulating the spending cap system the authority to adjust an individual hospital's spending cap based on "exceptional or unforeseen circumstances," and a further exception is made for "significant unbudgeted increase in volume." This sizeable loophole illustrates the failed reasoning behind arbitrary and inflexible caps.

Under the Legislature's proposal, residents of each region of the state would face the prospect of not knowing from year to year how the hospital they rely on will fare in its annual competition for resources with other regions. If the spending cap is administered as strictly as it appears in the bill, it is likely that hospitals will be forced to dramatically reduce their services—forcing Vermonters to travel long distances for necessary treatment.

V. H. 524 May Limit Where Residents Can Go for Care

The legislation also proposes a "global hospital payment" and "organizational structures that integrate the delivery of care" on a regional basis.

A global payment would likely require a defined territory for each hospital. Carrying this to its logical conclusion, it would mean that a resident in one region would be required to go to the hospital serving that area, and to a physician practice also located there.

Vermonters want to be able to choose the hospital where their child is born, and where they see their doctor—unfortunately, H.524 fails to account for this.

VI. Ultimately, Cost Increases Would Render the Program Unsustainable

It is highly unlikely that the proposed program could achieve any reasonable cost containment without jeopardizing the viability of community hospitals, lowering reimbursements to providers and forcing Vermonters into rationed care plans.

The burden on taxpayers of maintaining the program would as a result become unsustainable. Given the history of Vermont's other public health care program, this scenario is very possible.

This year Vermont faced an \$80 million deficit in the Medicaid program. The structural problems in Medicaid have been apparent for many years, but the General Assembly has been reluctant to act until the problem reaches a crisis level.

Plainly put, it would be irresponsible to impose on Vermonters another government health care system with similarly unpredictable and unsustainable management and structural designs.

VII. Policies of the Past are not the Solutions of the Future

For more than a decade, the Vermont Legislature enacted many health care mandates over the objection of state regulators and others who expressed concerns about the cost of health insurance.

Many of these decisions, as predicted by the same regulators, have resulted in fewer choices and higher health insurance costs—moving Vermont further from its goal of universal access to affordable health insurance coverage. In many ways, most notably in the intent to create a new government-run system, H.524 is a continuation of this failed public policy.

VIII. H. 524 Imposes Punitive Payroll and Regressive Income Taxes

The health care coverage proposed by H.524 is financed by punitive payroll taxes on small businesses and non-profit organizations, and a highly regressive income tax surcharge on individuals who presently cannot afford health insurance.

While the tax rates may seem relatively low at the outset, the legislation makes clear that it will quickly expand its scope and offer broader benefits to all Vermonters by 2009. The Legislature's proposal would, at a minimum, need new tax revenue sufficient to pay for the cost of their yet to be defined health care benefits in 2009.

The greatest burden imposed by the individual income tax surcharge will be on those uninsured Vermonters least able to afford the tax. While some may not be covered because they have not yet enrolled in Medicaid, most are not

covered because they simply cannot afford it. It therefore follows that they cannot afford a tax increase.

Many of the uninsured also work for small businesses that cannot afford coverage. It makes little sense to increase taxes on these low and moderate income Vermonters, and offer in return an extremely limited policy that fails to offer some degree of protection from catastrophic health care expenses.

IX. H. 524 Helps Wal-Mart Size Business and Hurts Small Homegrown Business

Small businesses are a crucial economic engine for Vermont's economy. They will suffer if unreasonable taxation stifles growth in this sector. Furthermore, imposing a payroll tax on small employers with slim profit margins is likely to result in lower wages for low and moderate-income employees, further exposing the regressive nature of the proposed tax.

Contrary to the oft-stated view of some legislators that large, retail employers are the primary culprits for the plight of uninsured Vermonters, survey data show that small businesses with fewer than 25 employees constitute the bulk of firms which do not offer coverage to their employees.

Consequently, a payroll tax on small businesses that can least afford to offer coverage and least afford to pay the new taxes will very likely force many of them to eliminate jobs, lower wages, or leave Vermont altogether.

Larger firms, like Wal-Mart, if they are even subject to this tax, are far more capable of paying it. As small homegrown companies close, larger multi-state and multi-national corporations stand to benefit significantly from the increase in market share.

State government cannot be all things to all people and still sustain a vibrant economy that allows individuals and small businesses the freedom and flexibility to pursue their own non-governmental pursuits and create jobs.

X. H. 524 Jeopardizes Other State Services

The fiscal risks of the approach taken in H.524 for taxpayers and non-health care state programs alike are enormous. The Legislature's proposal would soon follow in the path of Medicaid and become the largest expense in the state budget, absorbing an ever-increasing share of tax revenues and denying resources to other priorities such as the environment, law enforcement and higher education programs, among others.

XI. H. 524 Does Not Represent a True Consensus

H. 524 demonstrates a disappointing disregard for the need to collaborate and reach a broad non-partisan consensus.

This bill would have benefited from the expert opinion and point of view of individuals, employers, health care providers and Executive Branch personnel. Instead, the Legislature chose to ignore much of this counsel.

For example, H.524 includes a provision mandating hospitals to charge uninsured Vermonters, no matter how wealthy, no more than the average discount rate of payment received from health insurers and other third party payers. This provision was approved by the General Assembly despite the apparent absence of formal committee testimony and deliberation.

If testimony from hospitals and hospital regulators had been taken, the General Assembly would have learned that there might be more appropriate and effective ways to address what the legislators believe to be a problem.

XII. H. 524 Ignores the Technical Concerns and Sets Unrealistic Expectations of Executive Branch Agencies and Departments

Many other provisions of H.524 were approved by the General Assembly without serious consideration of the conceptual and technical concerns of the state agencies charged with implementing the bill.

For example, H.524 calls for the Office of Vermont Health Access (OVHA) to take the first steps needed to implement the new program in October 2005, to propose a budget for the plan in January 2006, to adopt payment methodology rules by February 2006, and to offer the benefit plan to uninsured Vermonters by July 2006.

The Tax Department is required by April 1, 2006 to create an entirely new tax system and program for the new payroll tax and the income tax surcharge, including the adoption of rules, the writing and printing of new and expanded forms, outreach and education to individuals and employers who would be paying the new tax, and actual collection of the new taxes.

H.524 calls for the Department of Banking, Insurance, Securities and Health Care Administration (BISHCA) to establish a new regulatory program to implement the hospital spending cap and global budget law, and to develop mechanisms to monitor whether employers are dropping coverage of employees because of the new government program.

Each of these agencies repeatedly expressed explicit concerns to the General Assembly that the time lines and expectations imposed by H.524 were unrealistic, and that the agencies charged with implementing the new programs had not been appropriated the resources needed to accomplish the intent of the legislation.

H.524 also includes an extraordinary grant of authority to the Legislative Commission on Health Care Reform. According to the bill, all Executive Branch agencies would be obligated to "report to the Commission at such times and with such information as the Commission determines is necessary to fulfill its oversight responsibilities." This constitutes unlimited power to demand whatever information, services and analysis the Commission wants from the Executive Branch, regardless of the cost or demands upon staff resources and implications for other essential programs.

These are not issues of health care policy debate, or matters of partisan dispute, yet the General Assembly refused to listen and ignored the facts, choosing instead to push ahead with great haste.

XIII. Provisions of H. 524 Ignore the Traditional Separation of Powers

The Vermont Constitution, Chapter II, Article 3, provides that the Governor and his or her Executive Branch agencies shall exercise the executive power of the State of Vermont. Portions of H.524 appear to cross the line separating the legitimate lawful role of the Legislative and Executive Branches of government.

One section of H. 524 confers on the Legislative Commission on Health Care Reform the power to use \$20 million in taxpayer funds beginning in 2007 to issue requests for proposals, and to administer grants for the development of "integrated systems of care" pilot projects. This section goes far beyond the traditional and appropriate role of the Legislative Branch.

H.524 also exhibits a desire by the General Assembly to discount the expertise of the Executive Branch in health care policy. The reform of Vermont's health care system is too important to be left only to the Legislature. Real reform requires the collaboration of the Legislative and Executive Branches of government, employers, health care providers, and individual Vermonters who will be affected.

XIV. H. 524 Refuses to Recognize the Role of the Executive Branch in Reform

H.524 creates the Legislative Commission on Health Care Reform and delegates to the Commission the critical functions of the Legislature's plan, in particular a series of studies intended to justify decisions already made, actions they have already taken and decisions they intend to make.

The studies to be conducted by this Commission are crafted in a manner that would appear to have a preordained result—a new government-run, taxpayer financed health care rationing plan.

The economic impact study directs a comparison of their proposal with the effect of the current system, without including in the comparison more realistic and responsible reforms that have been proposed. Furthermore, it is irresponsible to hastily impose a new system of taxation without first studying its full economic impact.

The financing study is designed to focus on public, taxpayer financing as the preferred means of financing health care in Vermont and suggests a reluctance to consider alternatives.

In addition, the General Assembly had a choice of whether to include on the Commission members appointed by the Governor on an equal footing, and individuals from outside of government. The General Assembly chose to constitute the Commission with eight legislators.

The Executive will appoint two members, but these appointees are considered so insignificant that they are not given any authority to vote on the critical decisions of the Commission. No private individuals or health policy experts were included.

Broad representation and participation is not only fair, but also would have made the process of health care reform far more likely to succeed.

If the General Assembly seeks a health care reform outcome that will be successful, and that reflects a broad consensus among the many individuals and groups affected, it must include all interested parties in the dialogue.

Instead, the General Assembly has appropriated to itself \$775,000 to create a legislative bureaucracy and fund a public relations campaign promoting the preordained outcome of its studies.

XV. H. 524 Would Not Reduce Administrative Costs Because it Fails to Account for ERISA, Medicare & Medicaid

In 2003, 27 percent of Vermonters were insured by ERISA plans that are exempt from state regulation, and 35 percent of Vermonters were insured by Medicare or Medicaid.

Even if the Legislature's plan offers a comprehensive benefit to all Vermonters by 2009, federal ERISA law still allows large employers to design and fund their own employee benefit plans, and Medicare and other federal coverage programs will still exist.

As a result, there is unlikely to be any reduction in administrative costs at the level anticipated by advocates of new or consolidated government health care programs; a multi-payer system will still exist. For the same reasons, it is likely that cost shifting to other Vermonters will continue to be a problem.

XVI. H. 524 Would Lead to Numerous Legal Challenges

The sections of H.524 outlining the limited benefit regime provide that “an individual aggrieved by an adverse decision” has a legal right to appeal the decision to the Human Services Board.

While the section lacks a reasonable degree of specificity as to the standards and process for review, presumably this means that any beneficiary who wants a health care service, or services, not covered by the Legislature’s plan may appeal the decision to the eight-member Board.

In addition, any hospital or specialist physician that believes they should be paid more than the Legislature’s plan allows can seek higher compensation through the same process. Likewise, any pharmaceutical company that wants its drugs to be covered by their proposal will also have a legal right to seek a better deal.

Needless to say such a process could result in unnecessary and unreasonable increases in the programs expenditures, and substantially higher legal fees for the state—an observation that further exposes the unrealistic cost containment claims of this proposal.

XVII. Definitions of “Uninsured” and “Resident” are Too Vague

In H.524 the definition of “uninsured” is very vague, and the definition of “Vermont resident” is very broad.

An uninsured Vermonter might include someone who decides to drop his or her existing coverage to join the artificially less expensive government plan. As a result, individuals with self-insured and private market plans will experience higher costs as Vermonters migrate to it. Unfortunately, as the limits of the government plan become apparent to those who switch, there will be fewer and fewer affordable options to return to—eventually the only option for those individuals may be the government’s rationing program.

Also, if Vermonters insured in the private market decide to drop current coverage, or if businesses decide to drop coverage and pay the tax instead, or if residents from out of state decide to move to Vermont in order to receive expensive treatment not covered by insurance in their home state, there may be many more individuals enrolled in the program than estimated, and revenues may be inadequate to pay for their coverage without raising tax rates.

XVIII. The Negotiated Payments Section is Flawed

H. 524 contemplates that payment amounts will be “negotiated” with hospitals and health care professionals. The section as approved by the General Assembly is an unclear and flawed concept.

What if OVHA and the hospitals, and health care professionals cannot reach an agreement? It does not appear that the legislation delegates to OVHA the authority, at the end of failed negotiations, to set a payment amount.

Does this mean OVHA is obligated to pay providers whatever they want? Or does it mean that OVHA will set a payment amount, but the hospital or health care professional is authorized to appeal the decision to the Human Services Board? Could a basis for appeal be that OVHA failed to adequately consider the “actual costs” of the hospital or health care professional?

If so, this provision has the potential to be the source of significant medical inflation.

XIX. The Payroll Tax is Open to an ERISA Challenge

The payroll tax in H.524 is vulnerable to an ERISA challenge.

A plausible and persuasive claim can be made that because, as a practical matter, the tax will be imposed principally on businesses that do not offer health coverage, the tax is nothing less than a legal mandate to offer coverage, or to offer a higher level of coverage than the business would otherwise offer. ERISA prohibits states from requiring employers to offer health care coverage, or from requiring employers to offer a prescribed level of benefits.

XX. H. 524 Payroll Tax Revenue Estimates are Incomplete

The revenue estimate of the health care tax on employers (\$28.3 million in 2006) is a conservative approximation. The analysis is restricted only to private employers offering no health insurance, and should also include the application of the tax on entities that offer a low level of health insurance at a cost less than the 3 percent tax.

In addition, it is difficult to determine how many firms offering health insurance to their employees will be affected by the tax, and how much additional revenue will be collected. More time should be taken, and more in-depth analysis conducted, to evaluate the impact of the payroll tax on Vermont’s small businesses and non-profits, and to develop a more accurate estimate of the revenue that will be raised from the tax.

XXI. H. 524 Income Surcharge Tax Revenue is Likely Overstated

The administration has found that assumptions of income growth in the uninsured population are too high and the assumed growth in the base due to increases in the uninsured pool is likely to be far too generous. Therefore, the revenue estimate of \$15.6 million from the income tax surcharge is very likely overstated.

By utilizing more conservative assumptions of income inflation (1 percent vs. 3.2 percent) and income growth resulting from increases in the number of uninsured (assuming only 80 percent of new uninsured have a positive Adjusted Gross Income), the revenue estimate could be overstated by as much as \$2 million.

As with the payroll tax calculations, and other areas of this bill, this legislation would have benefited from a more complete analysis of the income tax surcharge on the low and moderate income Vermonters who would be obligated to pay it. Likewise, the Legislature should have developed a more accurate estimate of the revenue that will be raised from the tax.

A key unresolved question for the income tax surcharge is how it addresses the many individuals who are not required to file income returns. H. 524 would impose a health care tax filing requirement on virtually every resident who is subject to income tax, regardless of whether they are required to file under the current tax code.

Many individuals who work may not have a current requirement to file. Many individuals who file are not required to file except to obtain a withholding refund. Also, many people with low Adjusted Gross Income are required to file because of low thresholds for certain types of income. For example, married couples are usually not required to file if their gross income is less than \$15,900, but a couple with \$400 of self employment income is required to file, even if they have no other income. More thought should have been given to these, and other, implications—and the resulting complications—before moving forward with a regressive income tax surcharge on the working poor.

XXII. H. 524 Calls for an Unrealistic Insurance Policing System

H.524 directs BISHCA to “monitor whether persons who enroll in the Green Mountain Health insurance program were formerly covered by health insurance, and whether former insurance was self-paid or paid by an in-state or out-of-state employer.”

The legislation does not, however, indicate how this monitoring activity is to be accomplished, what resources are available to conduct such activity, or what authority has been conferred on BISHCA to carry out this task.

XXIII. H. 524 Contains Many Other Poorly Designed Provisions

The Pharmacy Cost Control section of the legislation, proposes a statewide preferred drug list (PDL) to include all Vermont health benefit plans. There is no certainty of any savings here, especially for the Medicaid program, because the number of Vermont-only lives will not generate the same rebates as the Medicaid pool that Vermont participates in that now includes ten states and 3.5 million lives.

In addition, Pharmacy Benefit Managers (PBMs) serving other Vermont insurers may not be able to duplicate rebates for all products in a single, Vermont PDL if they are not able to pool lives from other, out-of-state lines of business.

The legislation also proposes negotiating with manufacturers for lower prices including negotiating supplemental rebates. Approval of Vermont's supplemental rebates by the federal Centers for Medicare and Medicaid Services (CMS) prohibited using Medicaid to leverage rebates in any other program including publicly funded programs. CMS has since allowed that they will consider permitting the inclusion of publicly funded programs but there has been no response to the formal request, and approval is unlikely for coverage for state employees or coverage under other state programs.

The Pharmacy Benefit Management section of the bill is modeled after legislation enacted in Maine. The Maine law is the subject of a pending lawsuit claiming that the statute violates the federal ERISA law. Litigation in Vermont can therefore be anticipated.

PBMs have been very effective at consolidating consumer and payer bargaining power to achieve cost savings through negotiations with pharmaceutical manufacturers. While many individuals argue that PBMs have abused their market power, PBMs claim that directives such as the Maine law will cost consumers more. It would be more responsible to take the time needed to fully evaluate the impact of this section on Vermont's health care costs.

Conclusion

We are indeed very fortunate to have a medical community that provides high quality care; and when we need them most, they are there for us. The doctors, nurses, nurse practitioners, aides, technicians, and the administrative staffs at our hospitals, practices and clinics are intelligent, competent, hardworking, and dedicated to providing the highest quality patient care possible.

Complementing our primary care system is a family of community health services, and pro bono services so that no one who needs immediate care is turned away for lack of insurance.

Vermont must, however, continue to confront a serious health care crisis. Health care costs are simply too high for many Vermonters. For working families and their employers, insurance premiums have skyrocketed while low cost options are being eliminated as insurance providers abandon Vermont's burdensome regulatory regime.

Patients are at risk of losing more direct control of their care and government is already failing to reimburse doctors and hospitals for the cost of treating the nearly one in four Vermonters covered by the state Medicaid program. As a result, those costs are shifted to the overwhelming majority of Vermonters who pay escalating private insurance premiums.

Vermont has the second most generous Medicaid program in the nation, and as a result we are headed for an unsustainable, multi-million deficit in the Health Access Trust Fund. This deficit represents a serious threat to the most vulnerable Vermonters who rely on this program and the taxpayers who fund it.

The worst thing we could do is rely entirely on expanded government programs for reform, a course that would cause Medicaid, and perhaps the health care system as a whole, to crumble under the burden of its own weight. Instead, we must save Medicaid in a responsible way and develop reforms that will lower costs, improve quality and achieve universal access to affordable health care coverage.

True reform must be comprehensive. We need to do more than just change the financing method. If costs continue to increase at the current rate, it won't matter what pocket the money comes from because they'll all be empty.

We need to tackle the root causes of rising health care costs, open our system up to low cost options, encourage healthy decisions and preventive care, and attack health concerns at their inception. And we need to maintain a patient-centered system that offers more individual choice and keeps health care decisions in the hands of patients and doctors, not government bureaucrats.

Working together, universal access to affordable health insurance is a goal we can achieve in our state, but H.524 moves Vermont in the wrong direction.

Therefore, based on my objections to H.524 as outlined above, and others, I am returning the bill unsigned to the House pursuant to Chapter II, §11 of the Vermont Constitution.

Sincerely,

s/s James H. Douglas
Governor"

The bill was taken up and pursuant to Chapter II, Section 11, of the Vermont Constitution the Clerk proceeded to call the roll and the question, Shall the bill pass, the failure of the Governor to approve notwithstanding? was decided in the negative. Yeas, 81. Nays, 63. A 2/3 vote of 96 needed.

Those who voted in the affirmative are:

Ancel of Calais	Green of Berlin	McCullough of Williston
Aswad of Burlington	Haas of Rochester	McLaughlin of Royalton
Atkins of Winooski	Head of S. Burlington	Milkey of Brattleboro
Audette of S. Burlington	Heath of Westford	Miller of Shaftsbury
Barnard of Richmond	Hosford of Waitsfield	Minter of Waterbury
Bohi of Hartford	Howard of Rutland City	Monti of Barre City
Botzow of Pownal	Howrigan of Fairfield	Nease of Johnson
Brooks of Montpelier	Hunt of Essex	Nitka of Ludlow
Chen of Mendon	Hutchinson of Randolph	Nuovo of Middlebury
Clarkson of Woodstock	Jerman of Essex	Obuchowski of Rockingham
Condon of Colchester	Jewett of Ripton	Orr of Charlotte
Copeland-Hanzas of Bradford	Johnson of South Hero	Partridge of Windham
Cross of Winooski	Keenan of St. Albans City	Pellett of Chester
Darrow of Dummerston	Keogh of Burlington	Perry of Richford
Deen of Westminster	Kiss of Burlington	Pillsbury of Brattleboro
Donovan of Burlington	Kitzmiller of Montpelier	Potter of Clarendon
Dostis of Waterbury	Klein of East Montpelier	Pugh of S. Burlington
Dowland of Holland	Kupersmith of S. Burlington	Reese of Pomfret
Edwards of Brattleboro	Larson of Burlington	Seibert of Norwich
Emmons of Springfield	Leriche of Hardwick	Shand of Weathersfield
Evans of Essex	Lippert of Hinesburg	Sharpe of Bristol
Fallar of Tinmouth	Lorber of Burlington	Smith of Morristown
Fisher of Lincoln	Maier of Middlebury	Sweaney of Windsor
Frank of Underhill	Malcolm of Pawlet	Tracy of Burlington
French of Randolph	Marek of Newfane	Trombley of Grand Isle
Gervais of Enosburg	Martin of Springfield	Zuckerman of Burlington
Grad of Moretown	Martin of Wolcott	
	Masland of Thetford	

Those who voted in the negative are:

Acinapura of Brandon	Baker of West Rutland	Brennan of Colchester
Adams of Hartland	Bartlett of Dover	Canfield of Fair Haven
Allaire of Rutland City	Bostic of St. Johnsbury	Clark of St. Johnsbury
Allard of St. Albans Town	Branagan of Georgia	Corcoran of Bennington

Dates of Shelburne
 DePoy of Rutland City
 Donaghy of Poultney
 Donahue of Northfield
 Dunsmore of Georgia
 Endres of Milton
 Errecart of Shelburne
 Flory of Pittsford
 Helm of Castleton
 Houston of Ferrisburgh
 Hube of Londonderry
 Hudson of Lyndon
 Johnson of Canaan
 Kainen of Hartford
 Kennedy of Chelsea
 Kilmartin of Newport City
 Koch of Barre Town

Komline of Dorset
 Krawczyk of Bennington
 Larocque of Barnet
 Larrabee of Danville
 LaVoie of Swanton
 Lawrence of Lyndon
 Livingston of Manchester
 Louras of Rutland City
 Marcotte of Coventry
 Marron of Stowe
 McAllister of Highgate
 McFaun of Barre Town
 Miller of Elmore
 Molloy of Arlington
 Mook of Bennington
 Morley of Barton
 Morrissey of Bennington

Myers of Essex
 Niquette of Colchester
 O'Donnell of Vernon
 Otterman of Topsham
 Parent of St. Albans City
 Peterson of Williston
 Rusten of Halifax
 Severance of Colchester
 Shaw of Derby
 Smith of New Haven
 Sunderland of Rutland Town
 Valliere of Barre City
 Westman of Cambridge
 Winters of Swanton
 Winters of Williamstown
 Wright of Burlington
 Young of Orwell

Those members absent with leave of the House and not voting are:

Clark of Vergennes
 Metzger of Milton

Peaslee of Guildhall
 Randall of Troy

Rodgers of Glover

Remarks Journalized

Rep. Partridge of Windham moved that the remarks by **Reps. Symington of Jericho and Tracy of Burlington**, be journalized, which was agreed to on a Division vote. Yeas, 74. Nays, 53.

Governor's Veto of H. 524 Reflects Differences in Approach to Health Care Reform

The message accompanying the veto of the Green Mountain Health Plan can be boiled down to two underlying themes. One, the Governor would like Vermonters to believe the outcome of the legislature's ongoing work is a forgone conclusion (and he characterizes that conclusion in terms that Vermonters find objectionable). Secondly, the Governor and the legislature define health care reform in fundamentally different terms.

Legislators have determined that if Vermont is to control the sky-rocketing cost of health care we must reconfigure a health care system so that it is built around maintaining health, not fixing illness, and so that it is accessible to all Vermonters, regardless of their income or employment status. Prior to passage of H.524 we didn't have a pre-determined means of achieving that end and we are now approaching the challenge with fresh eyes and new analysis. Legislators are willing to consider different approaches to achieving the goal of a coordinated system of care serving all Vermonters.

The Governor has simply decided to characterize the legislature's work as leading to government controlled rationed health care. He raised this flag with each proposal the legislature put forward this past year, despite the various changes and accommodations legislators made throughout the winter.

Second, the Governor and legislative leaders define the problem with health care in fundamentally different ways. The administration believes that any health care crisis is confined to a limited number of Vermonters who can't afford insurance and to the Medicaid program's deficit. The administration's answer to the lack of insurance is to subsidize a certain kind of insurance for those who don't have it now and who fit a certain income category. Their answer to the Medicaid program deficit is to reduce benefits, cut provider payments, and seek more help from the federal government.

In contrast, legislators define the health care crisis as one that affects all Vermonters because the system's costs are out of control and because, without fundamental restructuring of how we deliver and pay for health care, more Vermonters will lose access to health care. Either they will have no insurance or they will only be able to afford insurance that doesn't provide access to health care they need when they need it.

Access to health *insurance* does not assure access to health *care*. Subsidizing health insurance doesn't get at the underlying costs of the current system. Cutting Medicaid or reducing payments to providers would be likely to result in less health care provided to low income Vermonters and a greater shift of costs onto those who do have health insurance.

Many Vermonters still have traditional and generous health care insurance. But, more and more Vermonters who had thought their health insurance was a reliable term of their employment or retirement, are finding that is no longer true. More and more Vermonters have experienced the insecurity of going without health insurance or the risk of being in that position. They no longer feel immune to the risks of continuing with the current system of delivering and paying for health care. And even those with "good insurance" understand they are paying more than they should for this complex system.

Vermonters have asked their political leaders to take this challenge head-on and they are willing to listen to proposals for change. They know that doing nothing is not an option any more because the problem is getting worse too fast to permit denial.

A point by point response to the Governor's veto comments is provided below. Many of the assertions are simply false or discount the legislature as an independent branch of government that has and will continue to respond to our constituents' challenge to reform Vermont's health care system. Some of the

concerns echo our own questions and will form the subject of ongoing analysis.

Legislative committees and the newly formed legislative commission on health care reform will carry out serious work during the summer and fall of 2005 to continue the work to control health care costs and assure that all Vermonters have access to health care. In an effort to include the Douglas administration as an active participant in these discussions we have taken the unusual step of assigning two seats at the legislative health care reform commission's table to the administration. We are confident Vermonters will appreciate and will fully participate in the discussions and hearings ahead.

H.524 - Point by point Response to the Veto Message

I. Under H.524 state government will not "run" the health care system, and Vermonters will have the same choices of providers and treatments that they have now -- if not more choice. In fact, H.524 offers health care coverage to the 35,000 Vermonters who do not currently have health care insurance or qualify for Medicaid. These Vermonters will now have a choice not currently available to them. H.524 does begin a process of public financing of health care. It increases the fairness (all pay in order for all to be covered) and predictability of revenue. How future expansions of coverage are to be paid for is the subject of careful analysis and future decisions.

II. There is no analysis on which to base the claim that H.524 "would increase premiums for Vermonters with private insurance and hurt providers." The Commission's work will include analysis of impact on insurance premiums. Under H.524, reimbursement levels would be subject to negotiation, but initial estimates of program costs assumed that reimbursement would be 50% above current Medicaid rates. In 2003, Vermont Medicaid physician reimbursement was 83% of Medicare ¹, so reimbursement would be about 25% above Medicare. While this figure may be below commercial rates (there is no source of comparison), it would be speculative at best to assume that it would increase the cost shift or decrease provider revenue. First, to the extent that the uninsured are not paying their bills currently, H.524 would reduce, rather than increase costs shifting by reducing bad debt and free care (an issue that is not limited to hospitals). Second, it is not accurate to assume that any reimbursement below "market rates," however that term is defined, increases cost shifting.

III. As the Governor acknowledges, under the current system, there already is rationing based on ability to pay and available benefit packages offered. Any health care system will involve rationing on some basis. Currently there are people who have no health insurance. To the extent that the uninsured get coverage under H.524 they have greater access and less rationing.

IV. The Governor claims H.524 would hurt local hospitals and reduce jobs. According to BISHCA, Vermont community hospital revenue will grow at an average annual rate of 8% per year from 1999 to 2007². During this same period, gross state product is projected to grow at an average annual rate of 4.5%. When CPI is added in, the projected effect of the cap will be a growth rate of 6.5-7.5% which will link spending with Vermont's ability to pay, rather than to slash growth rates dramatically from where they are now.

It is unclear how the Governor calculated the 3% cap he projects. It is also unclear how the areas he predicted to be cut were selected. Finally, providing flexibility to the regulatory process does not "acknowledge some of the flaws identified above," but instead recognized the complexity and unpredictability of the health care system.

Additionally, it is ironic that the Governor would claim that lower hospital revenue could result in job losses and salary freezes for hospital employees in the context of the recent 2006 budget debates where the legislature refused to cut Medicaid reimbursement to providers as dramatically as the administration had proposed in their budget. Clearly, the legislature is committed to the health and effectiveness of Vermont's local hospitals.

V. There is nothing in H.524 that limits where residents can go for care. Care will be provided in a variety of locales depending on patient needs and where services are offered, just as it is currently.

VI. *Current* health care spending is unsustainable. Vermont's health care costs are growing at a rate approaching \$1 million per day – this is unsustainable. We cannot continue with the current system. Doing nothing, or just saying no to every proposal that the legislature puts forward is not a sustainable approach to health care reform.

VII. Future success is built on past successes. H.524 is designed to build a system that will carry us into the future in a positive way. Policies of the past include covering Vermont's children and youth and establishing a coordinated and regulated system of home health care. These are important achievements and have achieved better and more efficient care. The cost of mandates is a small fraction of health insurance premiums and contributes minimally to annual increases.

VIII. The proposed payroll tax is only on companies that are paying less than 3% of their payroll for health insurance premiums – this 3% is much lower than the cost of health insurance for these employees. These are typically companies that do not provide health insurance or that just provide health insurance for a few employees. This payroll tax will help make sure that everyone contributes to health care.

The income tax is much more progressive than health insurance premiums and H.524 will allow people to buy health insurance based on their ability to pay. For example, on a \$30,000 income family, the 1% tax on income would be \$300, much lower than the cost of insurance for a family of 4 which could be \$5,000 to \$10,000.

IX. H.524 helps smaller employers by exempting the first \$25,000 of payroll from the proposed payroll tax. Additionally, while small employers are “the bulk of firms which do not offer coverage to their employees,” it does not necessarily mean that they have the majority of uninsured employees: large businesses (e.g. Wal-Mart) have more employees and may represent the bulk of uninsured employees. Further, the payroll tax in H.524 is not based on whether the employer offers insurance, but on how much the employer spends (as a percent of payroll). The payroll tax is meant to make sure that all help to pay for health insurance, including “Wal-Mart type” businesses.

Additionally, the size of a company does not determine its profitability – there are some “small businesses” that are extraordinarily profitable and some “large businesses” that have a small profit margin.

The legislature would welcome the opportunity to work with the administration on addressing the goal of taxing free-riders (e.g. Wal-Mart) and help protect homegrown businesses.

X. It is the current health care system that is jeopardizing other state services. For example the cost of health insurance for state and local government employees is escalating and is forcing changes in state and local services. H.524 will help by asking all to pay and thereby reducing the cost shift to those who currently pay.

XI. The legislature had an extraordinarily extensive process that listened to many different points of view including the administration, health care providers, individuals, employers and others. H.524 reflects proposals that were suggested by the business community and others proposed by the administration. The House set up a new committee exclusively devoted to health care. Just in preparing the original House version of the bill the House Health Care committee waded through over 283 documents and heard from over 160 witnesses. H.524 and the 2006 budget include a public engagement process for the fall to make sure that input continues to come in from all Vermonters.

Regarding the provision mandating hospitals to charge uninsured Vermonters the average discount rate: Currently hospitals often charge uninsured Vermonters a very high rate that no insured people pay as insurance companies negotiate lower prices for their beneficiaries. H.524 gives the uninsured the

benefit of the same discounts as the insured. Several other states have established similar policies to benefit their uninsured.

XII. Some of H.524's implementation dates and administrative functions were, in fact, changed in response to the administration's concerns. However, at some point if we are going to deal with our health care crisis, the executive branch will have to make some changes. The legislature would be open to working with the administration to develop timetables that are more acceptable and also allow change to occur.

XIII. With respect to constitutionally required separation of powers, the actions the Governor complains of are fundamentally legislative in character; they are designed and intended to provide the Legislature with the information it deems it will need in order to legislate intelligently to provide access to health care. This is in accord with the Constitution's grant to the Legislature of the "powers necessary for the legislature of a free and sovereign state." (Ch II, §6). The Governor's criticism, that these actions exceed "traditional" separation of powers, even if true, is not restrictive. The Vermont Supreme Court has recognized that "there must be a certain amount of overlapping or blending of the powers exercised by the different departments ... and that we must construe the constitutional command (separation of powers) consistent with the efficient and effective governmental structures that are able to respond to the complex problems and challenges faced by today's state government." (*Hunter v. Kitchel*, 2004)

XIV. The role of the Executive branch in health care reform, as in any public policy-making, is to inform the debate and to implement the policy selected. The role of the Legislative branch is to be the forum for the debate and to determine the policy. In the 2005 Legislative Session both branches fulfilled their respective roles, and must continue to do so through the 2005 interim and the 2006 session. In order to foster collaboration and communication, the Legislature added two gubernatorial appointees to its Legislative Commission on Health Care Reform. Although it is not unprecedented, it is unusual for a legislative committee to contain members other than legislators. Legislative leadership is hopeful that the legislature and executive branch will develop an increasingly cooperative process in the year ahead.

XV. While administrative savings in H.524 do not approach what might be possible under a single payer system, we believe some savings will be achieved and we hope further work will identify new opportunities for efficiencies.

XVI. Recipients of Green Mountain Health would be entitled to appeal administrative decisions to the seven-member Human Services Board in the same manner and under the same standards and procedures as other individuals

who are aggrieved by decisions or policies of the various departments and programs throughout the Agency of Human Services.

XVII. A better definition of “Uninsured”, “Resident” and other terms is needed, and that is why the Legislature has established long range time lines and will commission and conduct several comprehensive studies to, among other things, refine and revise terminology.

XVIII. There are valid concerns with the section concerning negotiated payments and the Legislature would welcome the opportunity to work with the administration on improving it.

XIX. It is true the payroll tax is susceptible to an ERISA challenge. It was drafted, however, with the parameters of ERISA case law in mind. In large measure, the legality of the proposed tax depends on whether it is viewed as a mandate upon employers to offer coverage or, at most, a mere incentive. Because the proposed tax is relatively modest, a legally sound argument can be made that it will not function as a legal mandate on employers and therefore would not be held to be in violation of ERISA. Either way, it should be observed that this is a very unsettled area of law and that the threat of litigation alone should not be a reason to dismiss this financing option.

XX. The legislature chose to make a conservative estimate of revenue from the payroll tax in order to make sure the revenue would cover spending. As more information is available, the legislature will revisit its estimates.

XXI. Like any estimate, it is possible that the estimate of revenue from the income tax surcharge is overstated. However there may also be factors that would moderate the potential overstatement of possible revenue, such as the actual growth of the number of uninsured in Vermont.

The suggestions in items XX and XXI that additional analysis would be beneficial are good ones, and we welcome the administration’s cooperation.

XXII. Monitoring the effect of any new program is a critical role for state government. Health care is no different. The legislature would welcome the opportunity to work with BISHCA to give more specific guidance as to how this monitoring can be done effectively.

XXIII. The administration raised concerns about the pharmaceutical provisions of the bill. H.524 creates a state-wide preferred drug list because pharmaceuticals are the fastest growing sector in health care and will continue to be a critical part of health care spending. As such, we need to work together to help manage these costs.

Regarding drug company rebates, a recent opinion issued by the United States Supreme Court, *PhRMA v. Walsh*, 538 U.S. 644 (2003) (lifting injunction on

Maine Rx), indicates that using Medicaid leverage to extend drug rebates to beneficiaries of other publicly funded programs may not be preempted under the federal Medicaid law, especially if the rebates are being offered to low and moderate income level individuals who do not qualify for Medicaid coverage. Moreover, Maine began implementing Maine Rx Plus in January 2004 and since then, drug companies have voluntarily agreed to participate in the program by offering rebates to additional Maine residents, even though the state has stated its intent not to use its leverage under Medicaid, making the legal preemption challenge moot.

Regarding the PBM section, it is true this section was modeled after the Maine legislation which is the subject of a federal lawsuit. However, on April 13, 2005, a federal district court judge held that the Maine law did not violate ERISA 's preemption provision.

¹Zuckerman S, "Changes in Medicaid Physician Fees, 1998-2003, Implications for Physician Participation" Health Affairs, June, 2004.

²"Technical Documentation to the Vermont Health Care Expenditure Analysis Forecast: 2003-2007", December 2004. JFO calculation.

From the legislative website, Speaker of the House"

Adjournment

At three o'clock and ten minutes in the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

THURSDAY, JANUARY 5, 2006

At one o'clock and fifteen minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Tom Harty of the United Church of Bethel, Bethel, VT.

Message from the Senate No. 2

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part adopted a joint resolution of the following title:

J.R.S. 46. Joint resolution relating to weekend adjournment.

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

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Flory of Pittsford**, the rules were suspended and the bills were read the first time by number and referred as follows:

H. 573

By Rep. Obuchowski of Rockingham,

An act relating to calculation of school district spending adjustment;

To the committee on Education.

H. 574

By Rep. Pillsbury of Brattleboro,

An act relating to possession of a weapon on school grounds;

To the committee on Education.

H. 575

By Rep. Obuchowski of Rockingham,

An act relating to homeowner's insurance and domestic dogs;

To the committee on Commerce.

H. 576

By Reps. Keenan of St. Albans City and Young of Orwell,

An act relating to a reorganization of the Vermont Department of Labor;

To the committee on Government Operations.

H. 577

By Reps. Keenan of St. Albans City and Howrigan of Fairfield,

An act relating to safety standards for swimming pools;

To the committee on Judiciary.

H. 578

By Rep. Obuchowski of Rockingham,

An act relating to a unified economic development budget and report;
To the committee on Commerce.

H. 579

By Reps. Krawczyk of Bennington, Acinapura of Brandon, Adams of Hartland, Audette of S. Burlington, Baker of West Rutland, Bartlett of Dover, Bostic of St. Johnsbury, Botzow of Pownal, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Corcoran of Bennington, Dates of Shelburne, Donaghy of Poultney, Donahue of Northfield, Dowland of Holland, Dunsmore of Georgia, Endres of Milton, Errecart of Shelburne, Flory of Pittsford, French of Randolph, Green of Berlin, Head of S. Burlington, Helm of Castleton, Houston of Ferrisburgh, Howrigan of Fairfield, Hube of Londonderry, Hunt of Essex, Jewett of Ripton, Johnson of Canaan, Kennedy of Chelsea, Kitzmiller of Montpelier, Klein of East Montpelier, Koch of Barre Town, Larocque of Barnet, Larrabee of Danville, LaVoie of Swanton, Lawrence of Lyndon, Malcolm of Pawlet, Marcotte of Coventry, Marron of Stowe, Martin of Springfield, McAllister of Highgate, McCullough of Williston, McFaun of Barre Town, Miller of Shaftsbury, Molloy of Arlington, Mook of Bennington, Morley of Barton, Morrissey of Bennington, Myers of Essex, Nease of Johnson, Niquette of Colchester, Otterman of Topsham, Parent of St. Albans City, Potter of Clarendon, Severance of Colchester, Shaw of Derby, Smith of New Haven, Tracy of Burlington, Valliere of Barre City, Westman of Cambridge, Winters of Swanton, Winters of Williamstown, Wright of Burlington and Young of Orwell,

An act relating to Vermont Service Medals;
To the committee on General, Housing and Military Affairs.

H. 580

By Rep. Klein of East Montpelier,

An act relating to requiring the public service board to act within eight and one-half months on any application for a certificate of public good to build a wind turbine;

To the committee on Natural Resources and Energy.

H. 581

By Rep. Sunderland of Rutland Town (By request),

An act relating to transporting untethered dogs in open pickup trucks;

To the committee on Transportation.

**Committee Bill Introduced;
Rules Suspended; Bill Read Second Time; Third Reading Ordered;
Bill Read Third Time and Passed; Rules Suspended and
Bill Ordered Messaged to Senate Forthwith**

H. 582

Rep. Pugh of South Burlington, for the committee on Human Services, introduced a bill, entitled

An act relating to Medicare Part D prescription drug benefit and VPHARM;

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Flory of Pittsford**, the rules were suspended and the bill was taken up for immediate consideration.

Thereupon, the bill was read the second time and pending the question, Shall the bill be read a third time? **Rep. Heath of Westford** moved to amend the bill as follows:

First: In Sec. 1, by striking subdivision (3) and inserting in lieu thereof:

(3) Information about VPharm beneficiaries auto-enrolled into four of 11 prescription drug plans is not accessible to pharmacists, and at least 2,000 Vermonters are unable to receive coverage for drugs at the pharmacy at this time because of this problem.

Second: In Sec. 2, by inserting at the end of subsection (d) the following sentence:

Any reimbursement received by the Agency of Human Services under this subsection shall revert to the general fund.

Third: In Sec. 3, by striking subsections (b) and (c) in their entirety and inserting in lieu thereof a new subsection (b) to read:

(b) The sum of \$400,000.00 is appropriated from the general fund to the department of disabilities, aging, and independent living to increase funding for the area agencies on aging for assistance to individuals in addressing Medicare Part D enrollment and operational issues.

Fourth: In Sec. 3 (a) by striking the words "office of Vermont Health Access" and inserting in lieu thereof the words Agency of Human Services.

Which was agreed to and third reading ordered.

On motion of **Rep. Flory of Pittsford**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and

passed and, on motion of **Rep. Flory of Pittsford** the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Third Reading; Bill Passed

H. 549

House bill, entitled

An act relating to international trade;

Was taken up, read the third time and passed.

Joint Resolution Adopted in Concurrence

J.R.S. 44

Joint resolution, entitled

Joint resolution relating to Town Meeting adjournment;

Was taken up read and adopted in concurrence.

Adjournment

At one o'clock and forty minutes in the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

FRIDAY, JANUARY 6, 2006

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Father Skip Baltz, Joint Forces State Chaplain, St. Mary's Church, Brandon, VT.

Memorial Service

The Speaker placed before the House the following names of members of past sessions of the Vermont General Assembly who had passed away recently:

Alof A. Carlson of Proctor	Session 1975 and 1988
David M. Clarkson of Newfane	Sessions 1990 – 1995
Robert T. Corley of Wolcott	Session 1959 – 1965
James E. Fitzpatrick of Burlington	Session 1975
Arthur Gibb of Weybridge	Sessions 1963 – 1969 Senate 1971 – 1985

Henry P. Godin of Montgomery	Session 1949
James W. Lounsbury of Pownal	Sessions 1959 – 1967 House Doorkeeper–10 yrs
Norman F. Smith of North Hero	Sessions 1981 and 1983
Melvin H. Mandigo of Glover Bethel	Sessions 1965 – 1973 Senate 1974 - 1980
Thomas J. McCormick of Winooski	Session 1991
Helen Wakefield of Brookfield	Sessions 1973 – 1979
Robert H. Wood, Jr. of Brandon	Sessions 1981 – 2005
Hon. Wynn Underwood of Middlebury	Sessions 1947 & 1971

Thereupon, the members of the House rose for a moment of prayer in memory of the deceased members. The Clerk was thereupon directed to send a copy of the House Journal to the bereaved families.

Message from the Senate No. 3

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has considered a bill originating in the House of the following title:

H. 582. An act relating to Medicare part D prescription drug benefit and VPHARM.

And has passed the same in concurrence.

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Flory of Pittsford**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 583

By Rep. Niquette of Colchester,

An act relating to cost-effectiveness of state board of education rules;

To the committee on Education.

H. 584

By Reps. Hosford of Waitsfield, Adams of Hartland, Bohi of Hartford, Chen of Mendon, Edwards of Brattleboro, Errecart of Shelburne, French of Randolph, Haas of Rochester, Head of S. Burlington, Kainen of Hartford, Kiss of Burlington, Maier of Middlebury, Martin of Springfield, McFaun of Barre Town, McLaughlin of Royalton, Minter of Waterbury, Niquette of Colchester, Pellett of Chester and Sharpe of Bristol

An act relating to idling school bus engines on school property;

To the committee on Natural Resources and Energy.

H. 585

By Reps. Donahue of Northfield and Grad of Moretown (By request),

An act relating to renewal fees for special registration plates;

To the committee on Transportation.

H. 586

By Reps. Rusten of Halifax, Fallar of Tinmouth, Hube of Londonderry and Komline of Dorset,

An act relating to common levels of appraisal;

To the committee on Ways and Means.

H. 587

By Reps. Rusten of Halifax, Fallar of Tinmouth, Hube of Londonderry and Komline of Dorset, Livingston of Manchester, Nitka of Ludlow and Peterson of Williston,

An act relating to education finance reform;

To the committee on Ways and Means.

H. 588

By Rep. Koch of Barre Town,

An act relating to licensure of junior reserve officer training corps instructors;

To the committee on Education.

H. 589

By Reps. Jerman of Essex, Barnard of Richmond, Clarkson of Woodstock, Cross of Winooski, Dowland of Holland, Evans of Essex, Fisher of Lincoln,

Johnson of South Hero, Maier of Middlebury, McLaughlin of Royalton and Shand of Weathersfield

An act relating to screening of members of military for depleted uranium;

To the committee on General, Housing and Military Affairs.

H. 590

By Reps. Flory of Pittsford, Acinapura of Brandon, Adams of Hartland, Allaire of Rutland City, Allard of St. Albans Town, Audette of S. Burlington, Baker of West Rutland, Barnard of Richmond, Bartlett of Dover, Bostic of St. Johnsbury, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Clark of St. Johnsbury, Clark of Vergennes, Clarkson of Woodstock, Corcoran of Bennington, Cross of Winooski, Darrow of Dummerston, Dates of Shelburne, Deen of Westminster, DePoy of Rutland City, Donaghy of Poultney, Donahue of Northfield, Dostis of Waterbury, Dunsmore of Georgia, Endres of Milton, Errecart of Shelburne, Fisher of Lincoln, Frank of Underhill, Gervais of Enosburg, Grad of Moretown, Haas of Rochester, Helm of Castleton, Houston of Ferrisburgh, Hube of Londonderry, Hudson of Lyndon, Jewett of Ripton, Johnson of Canaan, Kainen of Hartford, Kennedy of Chelsea, Kilmartin of Newport City, Koch of Barre Town, Komline of Dorset, Krawczyk of Bennington, Larocque of Barnet, Larrabee of Danville, LaVoie of Swanton, Livingston of Manchester, Louras of Rutland City, Maier of Middlebury, Marcotte of Coventry, Marek of Newfane, Marron of Stowe, Martin of Springfield, Masland of Thetford, McAllister of Highgate, McCullough of Williston, McFaun of Barre Town, Miller of Elmore, Morley of Barton, Morrissey of Bennington, Nease of Johnson, Niquette of Colchester, Nuovo of Middlebury, O'Donnell of Vernon, Orr of Charlotte, Parent of St. Albans City, Pugh of S. Burlington, Reese of Pomfret, Rodgers of Glover, Severance of Colchester, Sharpe of Bristol, Shaw of Derby, Smith of New Haven, Sunderland of Rutland Town, Tracy of Burlington, Valliere of Barre City, Westman of Cambridge, Winters of Swanton and Young of Orwell

An act relating to workers' compensation compensability of heart attacks suffered by firefighters;

To the committee on General, Housing and Military Affairs.

H. 591

By Reps. Koch of Barre Town, Heath of Westford, Niquette of Colchester and Pugh of South Burlington,

An act relating to teen consent for tobacco cessation programs;

To the committee on Human Services.

H. 592

By Reps. Keenan of St. Albans City, Acinapura of Brandon, Condon of Colchester, Houston of Ferrisburgh, Hutchinson of Randolph, Kitzmiller of Montpelier, Marcotte of Coventry, Morley of Barton, Reese of Pomfret, Shand of Weathersfield, Trombley of Grand Isle and Young of Orwell

An act relating to debit cards;

To the committee on Commerce.

H. 593

By the committee on Ways and Means,

An act relating to education property tax rate adjustments;

Under the rule, placed on the Calendar for notice tomorrow.

H. 594

By Reps. Botzow of Pownal, Endres of Milton, Barnard of Richmond, Clark of Vergennes, Cross of Winooski, Donaghy of Poultney, Jerman of Essex, Klein of East Montpelier, LaVoie of Swanton, Livingston of Manchester, Mook of Bennington, Morrissey of Bennington and Potter of Clarendon

An act relating to increases in school attendance rates;

To the committee on Education.

H. 595

By Reps. Emmons of Springfield, Heath of Westford and Flory of Pittsford,

An act relating to punishment of inmates;

To the committee on Institutions.

H. 596

By Reps. Emmons of Springfield and Flory of Pittsford,

An act relating to sexual exploitation of an inmate;

To the committee on Institutions.

H. 597

By Reps. Heath of Westford and Lippert of Hinesburg,

An act relating to sexual exploitation of an inmate;

To the committee on Institutions.

H. 598

By Rep. Adams of Hartland,

An act relating to coefficient of dispersion and common level of appraisal notice and appeal;

To the committee on Ways and Means.

H. 599

By Rep. Rusten of Halifax,

An act relating to a lemon law for large appliances;

To the committee on Commerce.

H. 600

By Reps. Marron of Stowe and Obuchowski of Rockingham,

An act relating to estimated tax safe harbor for pass-through entities;

To the committee on Ways and Means.

H. 601

By Reps. Emmons of Springfield, Heath of Westford, Flory of Pittsford, Kainen of Hartford, Lippert of Hinesburg, Marek of Newfane and Rodgers of Glover,

An act relating to good time;

To the committee on Institutions.

Joint Resolution Adopted in Concurrence**J.R.S. 46**

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Welch,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 6, 2006, it be to meet again no later than Tuesday, January 10, 2006.

Was taken up read and adopted in concurrence.

Adjournment

At nine o'clock and fifty-five minutes in the forenoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until Tuesday, January 10, 2006, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 46.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 183

House concurrent resolution in memory of Arthur Silvester of Vershire

H.C.R. 184

House concurrent resolution in memory of U.S. Army Sgt. 1st Class Michael A. Benson

H.C.R. 185

House concurrent resolution welcoming home the Kuwait members of the Vermont National Guard's Green Mountain Task Force, 2nd/172nd Airborne Battalion

H.C.R. 186

House concurrent resolution in memory of Thomas J. Donovan of Burlington

H.C.R. 187

House concurrent resolution in memory of former Representative Edward S. Soboleski

H.C.R. 188

House concurrent resolution in memory of the American military personnel who have died in the service of their nation in Iraq from May 28, 2005 to December 19, 2005

H.C.R. 189

House concurrent resolution honoring the Polaris Project for its innovative and continuing efforts to abolish modern-day slavery

H.C.R. 190

House concurrent resolution congratulating Southeastern Vermont Community Action on its 40th anniversary

H.C.R. 191

House concurrent resolution congratulating Bellows Falls Union High School football Coach Spaulding "Bis" Bisbee on the conclusion of his extraordinary coaching career

H.C.R. 192

House concurrent resolution congratulating Dr. Roger G. Reckis on the 25th anniversary of his Bellows Falls dentistry practice

H.C.R. 193

House concurrent resolution commemorating the 100th anniversary of the first Rockingham Meeting House pilgrimage

H.C.R. 194

Joint resolution congratulating the Bellows Falls Braves on winning the 2005 Fall Mountain Independent Babe Ruth League championship

H.C.R. 195

House concurrent resolution congratulating the 2005 Danville School Indians Division IV championship baseball team

H.C.R. 196

House concurrent resolution congratulating the Danville High School Indians 2005 Division IV championship girls' soccer team

H.C.R. 197

House concurrent resolution congratulating the 2005 U-32 High School Raiders Division II championship soccer team

H.C.R. 198

House concurrent resolution congratulating the U-32 High School Raiders 2005 Division II girls' cross-country championship team

S.C.R. 43

Senate concurrent resolution honoring Theodore Manazir of South Burlington

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2006, sixty-eighth Adjourned session]

TUESDAY, JANUARY 10, 2006

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Kids on the Block, Mary Kay Dennison and Adam Courville from Burlington, VT.

Pledge of Allegiance

Page Ethan Barrett of Braintree led the House in the Pledge of Allegiance.

Message from the Senate No. 4

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part adopted Senate concurrent resolution of the following titles:

S.C.R. 43. Senate concurrent resolution honoring Theodore Manazir of South Burlington for his exemplary career in state government.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 183. House concurrent resolution in memory of Arthur Silvester of Vershire.

H.C.R. 184. House concurrent resolution in memory of U.S. Army Sgt. 1st Class Michael A. Benson.

H.C.R. 185. House concurrent resolution welcoming home the Kuwait members of the Vermont National Guard's Green Mountain Task Force, 2nd/172nd Airborne Battalion.

H.C.R. 186. House concurrent resolution in memory of Thomas J. Donovan of Burlington.

H.C.R. 187. House concurrent resolution in memory of former Representative Edward S. Soboleski.

H.C.R. 188. House concurrent resolution in memory of the American military personnel who have died in the service of their nation in Iraq from May 28, 2005 to December 19, 2005.

H.C.R. 189. House concurrent resolution honoring the Polaris Project for its innovative and continuing efforts to abolish modern-day slavery.

H.C.R. 190. House concurrent resolution congratulating Southeastern Vermont Community Action on its 40th anniversary.

H.C.R. 191. House concurrent resolution congratulating Bellows Falls Union High School football Coach Spaulding "Bis" Bisbee on the conclusion of his extraordinary coaching career.

H.C.R. 192. House concurrent resolution congratulating Dr. Roger G. Reckis on the 25th anniversary of his Bellows Falls dentistry practice.

H.C.R. 193. House concurrent resolution commemorating the 100th anniversary of the first Rockingham Meeting House pilgrimage.

H.C.R. 194. House concurrent resolution congratulating the Bellows Falls Braves on winning the 2005 Fall Mountain Independent Babe Ruth League championship.

H.C.R. 195. House concurrent resolution congratulating the 2005 Danville School Indians Division IV championship baseball team.

H.C.R. 196. House concurrent resolution congratulating the Danville High School Indians 2005 Division IV championship girls' soccer team.

H.C.R. 197. House concurrent resolution congratulating the 2005 U-32 High School Raiders Division II championship soccer team.

H.C.R. 198. House concurrent resolution congratulating the U-32 High School Raiders 2005 Division II girls' cross-country championship team.

Message from Governor

A message was received from His Excellency, the Governor, by Mr. Neale Lunderville, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House that on the sixth day of January, 2006, he approved and signed a bill originating in the House of the following title:

H. 582 An act relating to Medicare Part D prescription drug benefit and VPARM

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Sunderland of Rutland Town**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar, as follows:

H. 602

By Reps. Hosford of Waitsfield, Johnson of South Hero, Baker of West Rutland, Botzow of Pownal, Branagan of Georgia, Clarkson of Woodstock, Evans of Essex, Haas of Rochester, Jewett of Ripton, Johnson of Canaan, Lawrence of Lyndon, Malcolm of Pawlet, Martin of Springfield, Martin of Wolcott, McLaughlin of Royalton, Orr of Charlotte, Otterman of Topsham,

Pellett of Chester, Severance of Colchester, Smith of New Haven and Zuckerman of Burlington

An act relating to agricultural food processing and fuel production;

To the committee on Agriculture.

H. 603

By Reps. Hosford of Waitsfield, Johnson of South Hero, Bartlett of Dover, Botzow of Pownal, Branagan of Georgia, Clarkson of Woodstock, Evans of Essex, Haas of Rochester, Jewett of Ripton, Lawrence of Lyndon, Malcolm of Pawlet, Martin of Wolcott, McLaughlin of Royalton, Orr of Charlotte, Otterman of Topsham, Severance of Colchester, Smith of New Haven and Zuckerman of Burlington,

An act relating to deferral of education loan repayments for farmers;

To the committee on Education.

H. 604

By Reps. Koch of Barre Town and McFaun of Barre Town,

An act relating to revoting of a school district budget and calculation of a homestead education tax rate;

To the committee on Ways and Means.

H. 605

By Rep. Jewett of Ripton,

An act relating to the repair and upgrade of stormwater systems;

To the committee on Fish, Wildlife and Water Resources.

H. 606

By Rep. Miller of Elmore,

An act relating to tobacco sales trade practices;

To the committee on General, Housing and Military Affairs.

H. 607

By Reps. Martin of Springfield, Donahue of Northfield, Emmons of Springfield, Fisher of Lincoln, Frank of Underhill, French of Randolph, Haas of Rochester, Koch of Barre Town, McAllister of Highgate, Niquette of Colchester, Pellett of Chester, Pugh of S. Burlington and Shand of Weathersfield,

An act relating to uniform provider credentialing;

To the committee on Judiciary.

H. 608

By Reps. Flory of Pittsford, Dostis of Waterbury, Minter of Waterbury, Barnard of Richmond, Keenan of St. Albans City, Lippert of Hinesburg, Acinapura of Brandon, Canfield of Fair Haven, Condon of Colchester, DePoy of Rutland City, Errecart of Shelburne, Grad of Moretown, Helm of Castleton, Jewett of Ripton, Kainen of Hartford, Komline of Dorset, Larrabee of Danville, LaVoie of Swanton, Livingston of Manchester, Marcotte of Coventry, Marek of Newfane, Morrissey of Bennington, Pillsbury of Brattleboro, Rusten of Halifax, Sunderland of Rutland Town and Young of Orwell,

An act relating to renewal of a junior operator's license past age 18;
To the committee on Judiciary.

H. 609

By Reps. Kilmartin of Newport City, Dowland of Holland, Marcitte of Coventry, Rodgers of Glover and Shaw of Derby,

An act relating to interference with or cruelty to a service animal;
To the committee on Judiciary.

H. 610

By Reps. Mook of Bennington, Barnard of Richmond, Botzow of Pownal, Clarkson of Woodstock, Donovan of Burlington, Endres of Milton, Evans of Essex, Howard of Rutland City, Jerman of Essex, Kainen of Hartford, Kilmartin of Newport City, Komline of Dorset, Livingston of Manchester, Pellett of Chester, Shand of Weathersfield and Trombley of Grand Isle

An act relating to raising the jurisdictional limit in small claims court;
To the committee on Judiciary.

H. 611

By Reps. Errecart of Shelburne, Zuckerman of Burlington, Barnard of Richmond, Edwards of Brattleboro, Endres of Milton, Head of S. Burlington, Jerman of Essex, Kilmartin of Newport City, Klein of East Montpelier, Livingston of Manchester, Marron of Stowe, McAllister of Highgate, Mook of Bennington, Niquette of Colchester, Pellett of Chester and Potter of Clarendon

An act relating to responsibilities of a principal and school policies when a student with a food allergy enrolls in a school;

To the committee on Education.

H. 612

By Reps. Hosford of Waitsfield, Branagan of Georgia, Houston of Ferrisburgh, Klein of East Montpelier, Martin of Wolcott, Miller of Shaftsbury and Otterman of Topsham,

An act relating to allowing pollution abatement monies to protect the public health from wastewater systems that fail to meet required isolation distances from drinking water supplies;

To the committee on Fish, Wildlife and Water Resources.

H. 613

By Reps. Sharpe of Bristol, Barnard of Richmond, Clarkson of Woodstock, Dowland of Holland, Emmons of Springfield, Haas of Rochester, Hosford of Waitsfield, Hunt of Essex, Livingston of Manchester, Maier of Middlebury, Nuovo of Middlebury and Pellett of Chester,

An act relating to sale of carbonated beverages in public schools;

To the committee on Education.

H. 614

By Reps. Larson of Burlington and Pugh of South Burlington,

An act relating to an appropriation for a parallel justice demonstration project;

To the committee on Human Services.

H. 615

By Reps. Klein of East Montpelier, Aricel of Calais, Barnard of Richmond, Botzow of Pownal, Clarkson of Woodstock, Deen of Westminster, Dostis of Waterbury, Edwards of Brattleboro, Errecart of Shelburne, Evans of Essex, Kiss of Burlington, Kupersmith of S. Burlington, Maier of Middlebury, Marek of Newfane, Masland of Thetford, McCullough of Williston, Nuovo of Middlebury, Pellett of Chester, Pillsbury of Brattleboro, Reese of Pomfret and Shand of Weathersfield,

An act relating to the public records act and application of the deliberative process privilege;

To the committee on Government Operations.

H. 616

By Reps. Frank of Underhill and Symington of Jericho,

An act relating to approval of the charter of the town of Jericho;

To the committee on Government Operations.

H. 617

By the committee on Appropriations,

An act relating to fiscal year 2006 budget adjustments;

Under the rule, placed on the calendar for notice tomorrow.

Message from the Senate No. 5

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title:

S. 190. An act relating to the number of witnesses required to attest to a will.

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

Adjournment

At ten o'clock and thirty minutes in the forenoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

WEDNESDAY, JANUARY 11, 2006

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Abraham Gross of Cavendish Baptist Church, Cavendish, VT.

Message from the Senate No. 6

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has considered House proposal of amendment to Senate bill entitled:

S. 18. An act relating to liability resulting from the use of genetically engineered seeds and plant parts.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Campbell
Senator Illuzzi
Senator White

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred as follows:

H. 618

By Reps. Pugh of South Burlington, Larson of Burlington and Martin of Springfield,

An act relating to increasing the age limit for children in need of care and supervision;

To the committee on Human Services.

H. 619

By Rep. Pillsbury of Brattleboro,

An act relating to public defenders;

To the committee on Judiciary.

H. 620

By Rep. Jewett of Ripton,

An act relating to limitations on liability for municipal and state landowners;

To the committee on Judiciary.

H. 621

By Reps. Rusten of Halifax, Chen of Mendon, Errecart of Shelburne, Hube of Londonderry, Komline of Dorset, Marron of Stowe and Nitka of Ludlow,

An act relating to option for local education property tax;

To the committee on Ways and Means.

Senate Bill Referred

S. 190

Senate bill, entitled

An act relating to the number of witnesses required to attest to a will;

Was taken up, read the first time and referred to the committee on Judiciary.

Third Reading Ordered

H. 593

Rep. Peterson of Williston, spoke for the committee on Ways and Means, on House bill, entitled

An act relating to education property tax rate adjustments;

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and pending the question, Shall the bill be read the third time? **Reps. Marron of Stowe and Hube of Londonderry** moved to amend the bill as follows:

By striking Sec. 1 and inserting in lieu thereof Secs. 1 and 2 to read:

Sec. 1. FISCAL YEAR 2007 REDUCTION OF EDUCATION PROPERTY TAX RATES AND APPLICABLE PERCENTAGE

For fiscal year 2007 only, the education property tax imposed under subsection 5402(a) of Title 32 shall be reduced from the rates of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.47 per \$100.00;
and

(2) the tax rate for homestead property shall be \$0.98 multiplied by the district spending adjustment for the municipality, per \$100.00;
of equalized education property value as most recently determined under section 5405 of Title 32.

Sec. 2. REPEAL

32 V.S.A. § 5402b(b) (requiring the commissioner to recommend a proportional adjustment to the applicable percentage if the commissioner recommends an adjustment to the nonresidential and homestead education property tax rates) is repealed.

Pending the question, Shall the House amend the bill as recommended by Reps. Marron of Stowe, et al? **Rep. Marron of Stowe** asked and was granted leave of the House to withdraw his amendment.

Thereupon, third reading was ordered.

Joint Resolution Referred to Committee**J.R.H. 52**

Reps. Wright of Burlington, Kilmartin of Newport City, Adams of Hartland, Allaire of Rutland City, Allard of St. Albans Town, Baker of West Rutland, Bartlett of Dover, Bostic of St. Johnsbury, Branagan of Georgia, Canfield of Fair Haven, Clark of Vergennes, Dates of Shelburne, DePoy of Rutland City, Donaghy of Poultney, Dunsmore of Georgia, Endres of Milton, Errecart of Shelburne, Helm of Castleton, Houston of Ferrisburgh, Hube of Londonderry, Hudson of Lyndon, Johnson of Canaan, Kennedy of Chelsea, Komline of Dorset, Krawczyk of Bennington, Larocque of Barnet, Larrabee of Danville, LaVoie of Swanton, Lawrence of Lyndon, Louras of Rutland City, Marcotte of Coventry, McAllister of Highgate, Miller of Elmore, Morley of Barton, Morrissey of Bennington, Niquette of Colchester, O'Donnell of Vernon, Parent of St. Albans City, Peaslee of Guildhall, Rodgers of Glover, Shaw of Derby, Sunderland of Rutland Town, Valliere of Barre City, Winters of Swanton and Winters of Williamstown offered a joint resolution, entitled

Joint resolution urging the resignation of Vermont District Court Judge Edward Cashman;

Whereas, Vermont District Court Judge Edward Cashman is currently sitting in Chittenden County, and

Whereas, on Wednesday, January 4, 2006, Judge Cashman sentenced a defendant to a minimum term of 60 days as punishment for the defendant's admitted repeated sexual assaults on a young girl during the time the child was 6-10 years old, and

Whereas, Judge Cashman stated that he issued this extraordinarily short sentence, despite the state's attorney's recommendation of a minimum eight-year prison term, to expedite the defendant's eligibility for the sexual offender rehabilitation program, and

Whereas, Judge Cashman also declared that after 25 years, he no longer believes in punishment, and

Whereas, in accordance with Chapter I, Article 6, of the Constitution of the State of Vermont, all officers of government are servants of the people and are accountable to the people in a legal way, and

Whereas, the Vermont Constitution, in Chapter II, § 64, recognizes that punishment of long duration can serve as a deterrent to crime, and

Whereas, Chapter II, § 64 of the Vermont Constitution also requires that the punishment consider the protection of the victim and the reparation of injuries done to the victim, which was specifically rejected in this sentence, and

Whereas, while judges may disagree over the specific duration of a criminal sentence, the minimum 60-day sentence issued in this case is so short that it is beyond the bounds of any degree of reasonability, and

Whereas, Judge Cashman's sentence, by expressly rejecting punishment and failing to provide for the protection of the victim, violated Chapter II, § 64, of the Vermont Constitution, and

Whereas, although Judge Cashman's sentence did not otherwise violate a sentencing guideline or statute, its failure to observe Vermont constitutional requirements and its total inappropriateness in this circumstance, in combination with the judge's public declaration that he no longer believes in punishment, makes him unfit to continue as a judge on the Vermont state bench, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges, in the strongest possible terms, that Judge Edward Cashman resign immediately from the Vermont state bench, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Judge Edward Cashman at the Chittenden County District Court in Burlington and to Chief Justice Paul Reiber at the Vermont Supreme Court.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Judiciary.

Joint Resolution Referred to Committee

J.R.H. 53

Reps. Hube of Londonderry, Allaire of Rutland City, Allard of St. Albans Town, Ancel of Calais, Audette of S. Burlington, Baker of West Rutland, Bartlett of Dover, Bostic of St. Johnsbury, Botzow of Pownal, Branagan of Georgia, Brooks of Montpelier, Chen of Mendon, Clark of St. Johnsbury, Cross of Winooski, Darrow of Dummerston, Deen of Westminster, Donahue of Northfield, Dostis of Waterbury, Dunsmore of Georgia, Emmons of Springfield, Errecart of Shelburne, Fallar of Tinmouth, Fisher of Lincoln, French of Randolph, Haas of Rochester, Heath of Westford, Howrigan of Fairfield, Hunt of Essex, Jewett of Ripton, Keogh of Burlington, Kilmartin of Newport City, Klein of East Montpelier, Komline of Dorset, Larocque of Barnet, Larrabee of Danville, Larson of Burlington, Leriche of Hardwick, Livingston of Manchester, Maier of Middlebury, Marron of Stowe, Miller of Shaftsbury, Minter of Waterbury, Monti of Barre City, Nease of Johnson, Niquette of Colchester, Nitka of Ludlow, O'Donnell of Vernon, Parent of St. Albans City, Partridge of Windham, Pillsbury of Brattleboro, Potter of

Clarendon, Pugh of S. Burlington, Reese of Pomfret, Rodgers of Glover, Rusten of Halifax, Smith of Morristown, Sunderland of Rutland Town, Sweaney of Windsor, Tracy of Burlington, Valliere of Barre City, Westman of Cambridge and Winters of Williamstown offered a joint resolution, entitled

Joint resolution urging the federal government to simplify the new Medicare Part D prescription drug benefit program;

Whereas, health care costs are a major expense for all Vermonters and especially for older Vermonters who often have limited incomes and many health care expenses, and

Whereas, one of the major methods for seniors to lower their health care costs is the federal Medicare program that since 1965 has paid a significant segment of hospital and physician outpatient services' expenses, and

Whereas, in response to a strong demand from across the country, Congress adopted, and on December 8, 2003, President Bush signed, Public Law No. 108-173, "An Act to amend Title XVIII of the Social Security Act to provide for a voluntary prescription drug benefit under the Medicare program" (the Act), and

Whereas, the Act did not establish a single or even a few prescription drug options, but rather it authorized a national total of hundreds of policy choices through Medicare Part D, starting on January 1, 2006, and

Whereas, over 40 million Americans are eligible to purchase a Medicare prescription drug policy, and

Whereas, unlike under the Veterans' Administration prescription drug program, Medicare Part D is prohibited from negotiating for the lowest possible prices, and

Whereas, the confusion that Vermont seniors now face as they select a prescription drug plan is mind boggling as they are confronted with 44 different plans with premium options ranging from \$7.32 to \$65.58 per month and a broad array of drug formularies and cost-sharing arrangements, and

Whereas, the federal Centers for Medicare and Medicaid Services (CMS) preliminary administration of the Medicare prescription drug program has been problematic as the website intended to provide information to consumers was late in going online, the center has been unable to process all of the applications received, and the CMS senior helpline has directed callers to local area agencies on aging which are already inundated with prescription inquiries, and

Whereas, according to a scientifically designed national survey of eligible subscribers that the respected and nonpartisan Kaiser Family Foundation

conducted, only 20 percent of seniors intend to enroll in a plan, 37 percent will not enroll in a plan, and 43 percent are too confused to decide, and

Whereas, the many available options are confusing the persons the federal legislation was designed to help, and even health care experts are at times confused, and

Whereas, a much simplified administrative structure would be a far more efficient and sane method to deliver Medicare prescription drug services, and

Whereas, it is imperative that the confusion, disappointment, and frustration that the potential beneficiaries are experiencing be halted, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the federal government to redesign and simplify the new Medicare Part D prescription drug benefit program, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to President George Bush, Secretary of Health and Human Services Mike Leavitt, and the members of the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Human Services.

Adjournment

At two o'clock the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

THURSDAY, JANUARY 12, 2006

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor John Heath of Green Mountain Baptist Church Association, Essex Junction, VT.

Message from the Senate No. 7

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title:

S. 202. An act relating to sex offender registration for offenders under the age of 18.

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

The Senate has on its part adopted a joint resolution of the following title:

J.R.S. 47. Joint resolution relating to weekend adjournment.

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

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Sunderland of Rutland Town**, the rules were suspended and the bills were read the first time by number and referred as follows:

H. 622

By Rep. Ancel of Calais,

An act relating to a victim obtaining a free copy of a crime incident report;

To the committee on Judiciary.

H. 623

By Reps. Grad of Moretown, Gervais of Enosburg, Kainen of Hartford, Komline of Dorset, Larson of Burlington, Marek of Newfane and Pugh of South Burlington,

An act relating to domestic assault;

To the committee on Judiciary.

H. 624

By Rep. Deen of Westminster,

An act relating to posting notices at mixing zones;

To the committee on Fish, Wildlife and Water Resources.

H. 625

By Rep. Louras of Rutland City,

An act relating to short-term refunds for cigarettes that are not reduced ignition propensity cigarettes;

To the committee on General, Housing and Military Affairs.

H. 626

By Reps. Pugh of South Burlington, Branagan of Georgia and Donovan of Burlington,

An act relating to financial literacy and asset building of low income Vermonters;

To the committee on Human Services.

H. 627

By Reps. Perry of Richford and Randall of Troy,

An act relating to the special environmental revolving fund;

To the committee on Fish, Wildlife and Water Resources.

H. 628

By Rep. Hube of Londonderry,

An act relating to municipal services;

To the committee on Government Operations.

H. 629

By Rep. Obuchowski of Rockingham,

An act relating to elevator safety;

To the committee on Government Operations.

H. 630

By Reps. Donahue of Northfield, Potter of Clarendon and Rusten of Halifax,

An act relating to teaching about signs of and responses to depression and risk of suicide in public schools;

To the committee on Education.

H. 631

By Reps. Morrissey of Bennington, Acinapura of Brandon, Allaire of Rutland City, Allard of St. Albans Town, Ancel of Calais, Audette of S. Burlington, Bartlett of Dover, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Clark of St. Johnsbury, Clark of Vergennes, Clarkson of Woodstock, Condon of Colchester, Cross of Winooski, DePoy of Rutland City, Donaghy of Poultney, Dostis of Waterbury, Endres of Milton, Flory of Pittsford, Frank of Underhill, Helm of Castleton, Houston of Ferrisburgh, Howrigan of Fairfield, Hube of Londonderry, Hudson of Lyndon, Hunt of Essex, Hutchinson of Randolph, Jewett of Ripton, Johnson of South Hero, Johnson of Canaan, Kennedy of Chelsea, Keogh of Burlington, Koch of Barre Town, Larocque of Barnet, Larrabee of Danville, LaVoie of Swanton, Lawrence of Lyndon, Livingston of Manchester, Malcolm of Pawlet, Marron

of Stowe, Miller of Elmore, Myers of Essex, Nitka of Ludlow, Otterman of Topsham, Peaslee of Guildhall, Pillsbury of Brattleboro, Potter of Clarendon, Rusten of Halifax, Shaw of Derby, Smith of New Haven, Smith of Morristown, Sunderland of Rutland Town, Sweaney of Windsor, Valliere of Barre City and Wright of Burlington,

An act relating to an appropriation for the Vermont State Council Service Officer Program;

To the committee on General, Housing and Military Affairs.

H. 632

By Reps. Grad of Moretown, Green of Berlin, Hosford of Waitsfield, Larson of Burlington, Pillsbury of Brattleboro and Pugh of South Burlington,

An act relating to the establishment of a victims' rights study committee;

To the committee on Judiciary.

H. 633

By Reps. Grad of Moretown, Gervais of Enosburg, Kainen of Hartford and Larson of Burlington,

An act relating to sexual activity between a school employee and a student;

To the committee on Judiciary.

Senate Bill Referred

S. 202

Senate bill, entitled

An act relating to sex offender registration for offenders under the age of 18;

Was taken up, read the first time and referred to the committee on Judiciary.

Communication from Representative Doran Metzger

"January 11, 2006

Clerk of the House, Madame Speaker and my colleagues in the House of Representatives:

I hope the New Year has found you all to be well in both health and spirit. I am sure you have already begun to tackle some of the state's most pressing issues in this new legislative session. The opening weeks of a legislative session was always my favorite time of the year, both as a new legislator filled with anticipation; and as a veteran being able to get reacquainted with old friends. I only wish I could be there with you now to share in the excitement. Instead, I must settle to find my excitement in other ways.

As you know, I am currently deployed with C Co 3-126 Aviation (Air Ambulance) of the Vermont Army National Guard. We are serving under the 101st Airborne Division in Iraq providing Aero-medical evacuation across the country for injured or sick coalition forces, Iraqi civilians and enemy Prisoners of War. It is an important and rewarding mission; and we are helping to save lives every single day.

Unfortunately, it prevents me from doing my work with you. I have spent my entire adult life as a member of the House of Representatives. Serving in Montpelier has been the single most defining influence on my life outside the inspiration of my family. I can truly say that I treasured every day I was able to spend doing the "peoples' work in the peoples' house". See what I mean - even Obie has influenced me.

It has been a honor and a privilege to represent the people of Milton in the Vermont House of Representatives. To the best of my ability I tried to convey the sentiments and wishes of Milton's citizens with strength and clarity.

The people of Milton, who entrusted me as a "kid" to represent them a decade ago, deserve the same respect and appreciation they have shown me all these years. It is for that reason I feel compelled to resign from the House seat Chittenden-9 effective immediately to ensure their voice continues to be heard.

I want to specifically say thank you to Rep. Kevin Endres my district mate for all of his support and hard work over the years. It has been a true pleasure to work with you on behalf of our community. Oh, and I almost forgot, congratulations on finally becoming the senior member from Milton.

I also want to say thank you to all of you, my colleagues. I was truly blessed to have been exposed to so many wonderful and talented people. Many of the leadership skills that I am employing now as a Platoon Leader in Iraq were developed through my work and association with you. Many, of course does not include "time management" as my commander still refuses to recognize "legislative time" as an acceptable response for being late.

I wish you all the very best during this session and beyond. Everything is going well here. There is definitely more to the story than what you have been hearing, but that is a topic for another day. Keep your heads down and your powder dry.

Sincerely,

/s/ CPT Doran Metzger

C Co 3-126 AVN (Air Ambulance)

Ali Air Base

Tallil, Iraq"

Third Reading; Bill Passed**H. 593**

House bill, entitled

An act relating to education property tax rate adjustments;

Was taken up, read the third time and passed.

**Bill Read Second Time and Amended;
Consideration Interrupted by Recess****H. 617**

Rep. Heath of Westford, spoke for the committee on Appropriations, on House bill, entitled:

An act relating to fiscal year 2006 budget adjustment;

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Helm of Castleton** moved to amend the bill as follows:

First: In Sec. 87, on page 57, in line 1, by striking the word "legal", and by inserting in lieu thereof the words "otherwise authorized by law".

Second: In Sec 88, on page 57, in lines 16-17 by striking the words "for the duration of the grant" where it appears in the first instance.

Which was agreed to.

Pending the question, Shall the bill be read the third time? **Reps. Hube of Londonderry and Komline of Dorset** moved to amend the bill as follows:

By inserting a new Sec. 51a to read:

Sec. 51a. REPEAL

16 V.S.A. § 4011(f) relating to payment of for the adult diploma program and for adult education and literacy services from the education fund are repealed.

Recess

At two o'clock and thirty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At three o'clock and ten minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Third Reading Ordered**H. 617**

Consideration resumed on House bill, entitled

An act relating to fiscal year 2006 budget adjustment;

Pending the question, Shall the House amend the bill as recommended by Reps. Hube of Londonderry, et al? **Rep. Hube of Londonderry** asked and was granted leave of the House to withdraw his recommendation of amendment.

Thereupon, third reading was ordered.

Adjournment

At three o'clock and twenty minutes in the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

FRIDAY, JANUARY 13, 2006

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Rick Menard of New Beginnings Christian Church, St. Johnsbury, VT.

Memorial Service

The Speaker placed before the House the following names of members of past sessions of the Vermont General Assembly who had passed away recently:

Edward Soboleski of Windham
Al Stevens of Newberry
Cornelius F. Reed of Wolcott
Levi B. Pratt of Wells

Session 1998
Session 1999
Sessions 1951-1957
Sessions 1955-1961 and 1965

Thereupon, the members of the House rose for a moment of prayer in memory of the deceased members. The Clerk was thereupon directed to send a copy of the House Journal to the bereaved families.

Petition Referred to Committee

Impeachment Petition re Judge Howard E. VanBethuysen was referred to the committee on Judiciary.

Joint Resolution Placed on Calendar**J.R.H. 54**

Reps. Green of Berlin, Audette of S. Burlington, Brooks of Montpelier, Deen of Westminster, Haas of Rochester, Hosford of Waitsfield, Hunt of Essex, Kainen of Hartford, Kilmartin of Newport City, Kitzmiller of Montpelier, Klein of East Montpelier, Koch of Barre Town, McFaun of Barre Town, Monti of Barre City, Nease of Johnson, Niquette of Colchester, Orr of Charlotte, Valliere of Barre City and Zuckerman of Burlington offered a joint resolution, entitled

Joint resolution relating to Capital City Press;

Whereas, it is the policy of the state of Vermont to build a diverse and sustainable economy, to increase the well-being of Vermonters and their communities without compromising the quality of our environment, and to preserve good jobs that provide a decent wage for a family, and

Whereas, Capital City Press, a printing operation which has been a part of the central Vermont economy since 1908, has announced that it is closing its Vermont printing operation as of March 6, 2006, and

Whereas, this closure will result in the terminating of jobs for 145 Vermont employees who have enjoyed quality jobs providing a living wage, creating a hardship for the employees, and detrimentally affecting the economy of Vermont, and

Whereas, employees of Capital City Press seek to preserve the printing operation and these jobs in Vermont, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly believes that preservation of the printing operation and jobs of Capital City Press in Vermont is in the interest of the people of Vermont, and be it further

Resolved: That the General Assembly supports the governor's decision to authorize the expenditure of up to \$10,000.00 in order that a study may be conducted to determine the feasibility of continuing the printing operation and jobs in Vermont through a cooperative or other employee-owned entity, and be it further

Resolved: That the General Assembly urges Capital City Press to provide interested parties the information necessary to determine the feasibility of continuing the company's printing operations and associated jobs in Vermont through either a cooperative or another employee-owned entity, and be it further

Resolved: That if, after careful study, an employee managerial arrangement is demonstrated to be viable, Capital City Press is urged to continue its Vermont operations as currently constituted until a new employee managerial structure can be implemented, and be it further

Resolved: That the General Assembly urges Capital City Press to provide a fair and reasonable severance package for any employees who may be laid off as a result of the movement of any of its printing operation out of Vermont, and be it further

Resolved: That the attorney general be directed to investigate whether Capital City Press has followed the state's laws and administrative rules in its elimination of Vermont-based jobs and the closure of its facility in Berlin, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Governor James Douglas, Commissioner of Labor Patricia McDonald, to Attorney General William Sorrell, and to Capital City Press in Berlin.

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Joint Resolution Adopted in Concurrence

J.R.S. 47

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Welch,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 13, 2006, it be to meet again no later than Tuesday, January 17, 2006.

Was taken up read and adopted in concurrence.

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Sunderland of Rutland Town**, the rules were suspended and the bills were read the first time by number and referred or placed on Calendar as follows:

H. 634

By Reps. Fisher of Lincoln, Donahue of Northfield, French of Randolph, Haas of Rochester, Jewett of Ripton, Koch of Barre Town, Martin of Springfield and Pugh of South Burlington,

An act relating to health care for high school students under Dr. Dynasaur;
To the committee on Health Care.

H. 635

By Reps. Fisher of Lincoln, Donahue of Northfield, French of Randolph, Haas of Rochester, Jewett of Ripton, Koch of Barre Town, Martin of Springfield and Pugh of South Burlington,

An act relating to retroactive coverage under the Vermont Health Access Plan;

To the committee on Health Care.

H. 636

By Rep. O'Donnell of Vernon,

An act relating to health care coverage for uninsured individuals through the Vermont Health Access Plan;

To the committee on Health Care.

H. 637

By Reps. Minter of Waterbury, Dostis of Waterbury and Grad of Moretown,

An act relating to reconsideration or rescission of votes in local elections;

To the committee on Government Operations.

H. 638

By Reps. Hosford of Waitsfield, Botzow of Pownal, Clarkson of Woodstock, Deen of Westminster, Donahue of Northfield, French of Randolph, Grad of Moretown, Green of Berlin, Haas of Rochester, Head of S. Burlington, Johnson of South Hero, Keenan of St. Albans City, McCullough of Williston, McLaughlin of Royalton, Miller of Shaftsbury, Pellett of Chester, Reese of Pomfret, Seibert of Norwich and Sharpe of Bristol,

An act relating to mercury exposure reduction;

To the committee on Human Services.

H. 639

By Reps. Frank of Underhill, Atkins of Winooski, Canfield of Fair Haven, Chen of Mendon, Keogh of Burlington, McCullough of Williston and Smith of Morristown,

An act relating to notice of municipal actions on the internet;

To the committee on Government Operations.

H. 640

By Rep. Bartlett of Dover,

An act relating to prohibition against scopes on muzzle loading firearms;

To the committee on Fish, Wildlife and Water Resources.

H. 641

By Reps. Cross of Winooski, Baker of West Rutland, Brennan of Colchester, Clark of Vergennes, Condon of Colchester, Atkins of Winooski, Bartlett of Dover, Canfield of Fair Haven, Donaghy of Poultney, Kainen of Hartford, Larocque of Barnet, Miller of Elmore, Molloy of Arlington, Morrissey of Bennington, Obuchowski of Rockingham, Tracy of Burlington, Valliere of Barre City, Winters of Williamstown, Wright of Burlington and Zuckerman of Burlington,

An act relating to the use of dice in wagering pools;

To the committee on General, Housing and Military Affairs.

H. 642

By Reps. McAllister of Highgate, Niquette of Colchester, Brennan of Colchester, DePoy of Rutland City, Dates of Shelburne, Donahue of Northfield, Endres of Milton, Errecart of Shelburne, Frank of Underhill, Green of Berlin, Hutchinson of Randolph, Kennedy of Chelsea, Lawrence of Lyndon, Parent of St. Albans City, Perry of Richford, Pillsbury of Brattleboro, Potter of Clarendon, Shaw of Derby, Winters of Swanton and Wright of Burlington,

An act relating to consolidation of supervisory union school districts;

To the committee on Education.

H. 643

By Reps. Fisher of Lincoln and Sharpe of Bristol,

An act relating to youth deer hunting weekend;

To the committee on Fish, Wildlife and Water Resources.

H. 644

By Rep. O'Donnell of Vernon,

An act relating to the continuation of the mental health oversight committee;

To the committee on Human Services.

H. 645

By Reps. Myers of Essex, Donaghy of Poultney, Emmons of Springfield, Evans of Essex, Fallar of Tinmouth, Heath of Westford, Jerman of Essex, Kennedy of Chelsea, Lorber of Burlington, Morrissey of Bennington, Niquette of Colchester, Pillsbury of Brattleboro and Sweaney of Windsor,

An act relating to child support for education;

To the committee on Judiciary.

H. 646

By the committee on Judiciary,

An act relating to special investigative units for sex crimes;

Under the rule, placed on the Calendar for notice tomorrow.

**Third Reading; Bill Passed; Rules Suspended and
Bill Ordered Messaged to the Senate Forthwith**

H. 617

House bill, entitled

An act relating to fiscal year 2006 budget adjustments;

Was taken up, read the third time and passed.

On motion of **Rep. Sunderland of Rutland Town**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Committee of Conference Appointed

S. 18

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to liability resulting from the use of genetically engineered seeds and plant parts;

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Jewett of Ripton

Rep. Gervais of Enosburg

Rep. Kilmartin of Newport City

Adjournment

At ten o'clock and five minutes in the forenoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until Tuesday, January

13, 2006, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 47.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 199

House concurrent resolution congratulating the 2005 Division I championship Mount Mansfield Union High School golf team

H.C.R. 200

House concurrent resolution congratulating the 2005 Division I championship Mount Mansfield Union High School men's lacrosse team

H.C.R. 201

House concurrent resolution congratulating the 2005 Division I championship Mount Mansfield Union High School men's cross-country team

H.C.R. 202

House concurrent resolution congratulating Bill Eschholz on his winning a Milken Family Foundation teaching award

H.C.R. 203

House concurrent resolution congratulating the outstanding 2005 Vermont Principals' Association elementary and middle school spelling teams

H.C.R. 204

House concurrent resolution congratulating John Pandolfo on his winning a Milken Family Foundation national educator award

H.C.R. 205

House concurrent resolution congratulating Marilyn Rinker on her designation as the Vermont Nurses Association's 2005 Nurse of the Year

H.C.R. 206

House concurrent resolution congratulating Rick Hungerford for his Golden Carrot Award honorable mention recognition

H.C.R. 207

House concurrent resolution in memory of Daniel J. Barberis of Bridport

H.C.R. 208

House concurrent resolution congratulating Roger Boise on his retirement from Hendy Brothers, Incorporated

H.C.R. 209

House concurrent resolution congratulating Jim Matteau on winning the 2005 Northeast States Emergency Consortium Emergency Manager of the Year Award

H.C.R. 210

House concurrent resolution in memory of Bertha P. Frothingham of Windsor

H.C.R. 211

House concurrent resolution congratulating retiring Grafton Fire Chief Stanley A. Mack

H.C.R. 212

House concurrent resolution congratulating the Burlington Electric Department on its receipt of a 2005 national Star of Energy Efficiency award

S.C.R. 44

Senate concurrent resolution in memory of former Bennington County Sheriff and Assistant Judge John H. Maloney.

S.C.R. 45

Senate concurrent resolution recognizing the Reverend Martin Luther King's contributions to racial equality and social justice in the United States.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2006, sixty-eighth Adjourned session]

TUESDAY, JANUARY 17, 2006

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Albert Bridge School Choir of Brownsville, VT.

Pledge of Allegiance

Page Mari Jarris of Shelburne led the House in the Pledge of Allegiance.

Communication from Governor

"January 17, 2006

The Honorable Gaye R. Symington
115 State Street
Montpelier, VT 05602

Dear Speaker Symington,

I have the honor to inform you that I have appointed Donald Turner, Jr. of Milton to serve the unexpired term of Representative Doran Metzger serving District Chittenden-9.

Sincerely,
/s/James H. Douglas
Governor"

New Member Seated

Rep. Donald Turner, Jr. of Milton, the newly appointed member, having taken and subscribed the oath administered by the Clerk, as required by the Constitution and laws of the State, was conducted to his seat by the Doorkeeper.

Message from the Senate No. 8

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 44. Senate concurrent resolution in memory of former Bennington County Sheriff and Assistant Judge John H. Maloney.

S.C.R. 45. Senate concurrent resolution recognizing the Reverend Martin Luther King's contributions to racial equality and social justice in the United States.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 199. House concurrent resolution congratulating the 2005 Division I championship Mount Mansfield Union High School golf team.

H.C.R. 200. House concurrent resolution congratulating the 2005 Division I championship Mount Mansfield Union High School men's lacrosse team.

H.C.R. 201. House concurrent resolution congratulating the 2005 Division I championship Mount Mansfield Union High School men's cross-country team.

H.C.R. 202. House concurrent resolution congratulating Bill Eschholz on his winning a Milken Family Foundation teaching award.

H.C.R. 203. House concurrent resolution congratulating the outstanding 2005 Vermont Principals' Association elementary and middle school spelling teams.

H.C.R. 204. House concurrent resolution congratulating John Pandolfo on his winning a Milken Family Foundation national educator award.

H.C.R. 205. House concurrent resolution congratulating Marilyn Rinker on her designation as the Vermont Nurses Association's 2005 Nurse of the Year.

H.C.R. 206. House concurrent resolution congratulating Rick Hungerford for his Golden Carrot Award honorable mention recognition.

H.C.R. 207. House concurrent resolution in memory of Daniel J. Barberis of Bridport.

H.C.R. 208. House concurrent resolution congratulating Roger Boise on his retirement from Hendy Brothers, Incorporated.

H.C.R. 209. House concurrent resolution congratulating Jim Matteau on winning the 2005 Northeast States Emergency Consortium Emergency Manager of the Year Award.

H.C.R. 210. House concurrent resolution in memory of Bertha P. Frothingham of Windsor.

H.C.R. 211. House concurrent resolution congratulating retiring Grafton Fire Chief Stanley A. Mack.

H.C.R. 212. House concurrent resolution congratulating the Burlington Electric Department on its receipt of a 2005 national Star of Energy Efficiency award.

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Sunderland of Rutland Town**, the rules were suspended and the bills were read the first time by number and referred as follows:

H. 647

By Reps. Niquette of Colchester, McAllister of Highgate, Dates of Shelburne, DePoy of Rutland City, Donahue of Northfield, Endres of Milton, Errecart of Shelburne, Green of Berlin, Hutchinson of Randolph, Kennedy of Chelsea, Koch of Barre Town, Marcotte of Coventry, Myers of Essex, Parent of St. Albans City, Perry of Richford, Pillsbury of Brattleboro, Potter of Clarendon, Winters of Swanton and Wright of Burlington,

An act relating to regional bargaining of teacher contracts;

To the committee on Education.

H. 648

By Reps. Masland of Thetford, Deen of Westminster and Kiss of Burlington,

An act relating to heavy cutting and the land gains tax for timber harvests;

To the committee on Fish, Wildlife and Water Resources.

H. 649

By Rep. Koch of Barre Town,

An act relating to health care system reform;

To the committee on Health Care.

H. 650

By Reps. Heath of Westford, Evans of Essex, Hunt of Essex, Jerman of Essex and Myers of Essex,

An act relating to technical center construction funding; the Center for Technology, Essex,

To the committee on Institutions.

H. 651

By Reps. DePoy of Rutland City, Acinapura of Brandon, Allaire of Rutland City, Brennan of Colchester, Donaghy of Poultney, Helm of Castleton, Hube of Londonderry, Koch of Barre Town, Larrabee of Danville, Marcotte of Coventry, McAllister of Highgate, Miller of Elmore, Myers of Essex, Niquette of Colchester, Parent of St. Albans City, Pillsbury of Brattleboro, Rodgers of Glover, Shaw of Derby, Valliere of Barre City, Westman of Cambridge, Winters of Williamstown and Wright of Burlington,

An act relating to mandatory minimum sentences for sexual offenders against a child;

To the committee on Judiciary.

H. 652

By Rep. Masland of Thetford,

An act relating to elimination of the statute of limitations for sexually based crimes;

To the committee on Judiciary.

H. 653

By Rep. Bartlett of Dover,

An act relating to the time within which the agency of natural resources must review a solid waste management plan;

To the committee on Natural Resources and Energy.

H. 654

By Reps. Masland of Thetford, Botzow of Pownal, Darrow of Dummerston, Deen of Westminster, Johnson of South Hero, Kiss of Burlington, Klein of East Montpelier, McCullough of Williston, McLaughlin of Royalton and Zuckerman of Burlington

An act relating to expanding emergency planning to address land use issues, including food supply planning, distributed power planning, and water supply planning;

To the committee on Agriculture.

H. 655

By Reps. Johnson of Canaan and Peaslee of Guildhall,

An act relating to the towns and gores of Essex county;

To the committee on Government Operations.

H. 656

By Rep. Heath of Westford,

An act relating to campaign signs;

To the committee on Government Operations.

H. 657

By Reps. Hunt of Essex, Audette of South Burlington, Cross of Winooski, Potter of Clarendon, Sharpe of Bristol and Sweaney of Windsor,

An act relating to loan forgiveness for teachers;

To the committee on Education.

H. 658

By Reps. Bostic of St. Johnsbury, Clark of St. Johnsbury, Hudson of Lyndon, Lawrence of Lyndon, Marcotte of Coventry and Morley of Barton,

An act relating to unclaimed museum property;

To the committee on Judiciary.

H. 659

By Reps. Hunt of Essex, Audette of South Burlington and Jerman of Essex,

An act relating to increasing the number of school-aged children in a family day care center;

To the committee on Human Services.

H. 660

By Reps. Masland of Thetford and Seibert of Norwich,

An act relating to recapture of abated taxes;

To the committee on Government Operations.

H. 661

By Reps. Johnson of Canaan, Allard of St. Albans Town, Bartlett of Dover, Bostic of St. Johnsbury, Brennan of Colchester, Condon of Colchester, Dunsmore of Georgia, Endres of Milton, Flory of Pittsford, Johnson of South Hero, Keenan of St. Albans City, Kennedy of Chelsea, Krawczyk of Bennington, Lawrence of Lyndon, Marcotte of Coventry, Morley of Barton, Peaslee of Guildhall, Shaw of Derby and Winters of Williamstown,

An act relating to property taxation of trailer coaches;

To the committee on Ways and Means.

H. 662

By Reps. Marron of Stowe, Perry of Richford and Pugh of South Burlington,

An act relating to gasoline tax municipal rebate;

To the committee on Transportation.

H. 663

By Reps. Pugh of South Burlington, Bostic of St. Johnsbury, French of Randolph, Lorber of Burlington, Martin of Springfield and Severance of Colchester,

An act relating to cigarette and tobacco products tax rate increases;

To the committee on Human Services.

H. 664

By Rep. LaVoie of Swanton,

An act relating to reporting of high school graduates who have entered an apprenticeship program;

To the committee on Education.

H. 665

By Reps. Livingston of Manchester, Morrissey of Bennington, Baker of West Rutland, Barnard of Richmond, Bartlett of Dover, Botzow of Pownal, Corcoran of Bennington, Cross of Winooski, Helm of Castleton, Houston of Ferrisburgh, Hube of Londonderry, Komline of Dorset, Krawczyk of Bennington, Malcolm of Pawlet, Marron of Stowe, Miller of Shaftsbury, Molloy of Arlington, Mook of Bennington, Trombley of Grand Isle and Valliere of Barre City,

An act relating to promoting gourmet food and beverage products by permitting wine tastings at Vermont food and wine events;

To the committee on General, Housing and Military Affairs.

H. 666

By Reps. Adams of Hartland and Krawczyk of Bennington,

An act relating to property tax exemption for family of armed forces member killed on active duty;

To the committee on General, Housing and Military Affairs.

H. 667

By Reps. Adams of Hartland and Krawczyk of Bennington,

An act relating to an appropriation for the boys and girls state programs;

To the committee on Appropriations.

H. 668

By Reps. Perry of Richford, Bostic of St. Johnsbury, Branagan of Georgia, Gervais of Enosburg, Larson of Burlington, LaVoie of Swanton, Malcolm of Pawlet, Marron of Stowe, McAllister of Highgate, Miller of Shaftsbury, Parent of St. Albans City and Severance of Colchester,

An act relating to universal use valuation;

To the committee on Ways and Means.

Bill Referred to Committee on Appropriations**H. 646**

House bill, entitled

An act relating to special investigative units for sex crimes;

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Placed on Calendar

The Speaker placed before the House the following resolution which was read and in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

J.R.H. 55

Joint resolution relating to the United States Fish and Wildlife Service and the unorganized towns and gores in Essex County

Offered by: Representatives Johnson of Canaan and Peaslee of Guildhall

Whereas, in 1999, the United States Fish and Wildlife Service (USFWS) acquired 20,000 acres in the unorganized Essex County towns of Ferdinand and Lewis to become part of the Silvio O. Conte National Fish & Wildlife Refuge, and

Whereas, 16 U.S.C. § 715s provides for a special fund consisting of national wildlife refuge-derived income and further directs that payments from the fund be made to counties in which national wildlife refuges are located in lieu of local property tax revenue, and

Whereas, for purposes of this federal law, the board of governors of the unorganized towns and gores of Essex County (the UTG board), as established in 24 V.S.A. § 1351a, serves as the county for purposes of funds received in accordance with 16 U.S.C. § 715s, and

Whereas, in accordance with a formula established in subsection (c) of the federal statute, the UTG board is to receive annually either 3/4 of one percent of the market value of the Conte Refuge land within its boundaries, 25 percent of USFWS receipts derived from this land, or 75 cents per acre, whichever is highest, but with the 75-cents-per-acre option serving as the minimum threshold, and

Whereas, the statute also provides that Congress is to appropriate the necessary funds to assure that the minimum threshold is paid to each county, and

Whereas, notwithstanding the law, the revenues remitted to the UTG Board have ranged from 57.95 percent of the minimum formula amount in fiscal year 1999 to a low of 41 percent in fiscal year 2004, and the UTG board has been warned to expect even lower percentages of the formula in the future, and

Whereas, the problems associated with this federal revenue shortfall are magnified by the fact that the market value of the Ferdinand and Lewis Conte land's market value has not been reassessed since 1999, while private landowners have borne an increasingly larger financial burden due to the requirements of Act No. 60 of 1997 and No. 68 of 2003, and

Whereas, in addition, the USFWS is considering purchasing additional lands in these towns and has not consulted with the UTG board contrary to the stated policy of Governor Douglas that the state of Vermont will not consent to either state or federal purchases in a municipality until the locality has given its consent, and

Whereas, the USFWS stated, at the time of the land acquisition in 1999, that revenues previously derived from property taxes would be made up by federal payments under 16 U.S.C. § 715s, and this has not proven to be the case, and

Whereas, the revenue shortfall and the need for the USFWS to consult with the UTG board prior to acquiring additional lands in Ferdinand and Lewis merit the attention of both the USFWS and our Congressional Delegation, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests the United States Fish and Wildlife Service to seek full funding for payments owed to the towns of Ferdinand and Lewis under 16 U.S.C. § 715s, that the service regularly reassess the market value of the lands in Ferdinand and Lewis that comprise part of the Silvio O. Conte National Fish & Wildlife Refuge, and that the service consult with the UTG board of governors prior to purchasing any additional land for the refuge in the towns of Ferdinand and Lewis, and be it further

Resolved: That the General Assembly requests the Vermont Congressional Delegation to work with the service to ensure that these policies are implemented, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to H. Dale Hall, director of the United States Fish and Wildlife Service, to Keith Weaver, Conte Refuge manager in Vermont, to David Snedaker in care of the UTG board of governors, and to the members of the Vermont Congressional Delegation.

Bill Amended; Third Reading Ordered**H. 567**

Rep. Shand of Weathersfield, for the committee on Commerce, to which had been referred House bill, entitled

An act relating to CON and HMO requirements for PACE;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 5102(f) is added to read:

(f) Upon request by a Program for All-Inclusive Care for the Elderly (PACE) authorized under federal Medicare law, the commissioner may approve the exemption of the PACE program from the provisions of this chapter and from any other provisions of this title if the commissioner determines that the purposes of this chapter and the purposes of any other provision of this title will not be materially and adversely affected by the exemption. In approving an exemption, the commissioner may prescribe such terms and conditions as the commissioner deems necessary to carry out the purposes of this chapter and this title.

Sec. 2. 18 V.S.A. § 9435(e) is added to read:

(e) Upon request under subsection 5102(f) of Title 8 by a Program for All-Inclusive Care for the Elderly (PACE) authorized under federal Medicare law, the commissioner may approve the exemption of the PACE program from the provisions of this subchapter and from any other provisions of this chapter if the commissioner determines that the purposes of this subchapter and the purposes of any other provision of this chapter will not be materially and adversely affected by the exemption. In approving an exemption, the commissioner may prescribe such terms and conditions as the commissioner deems necessary to carry out the purposes of this subchapter and this chapter.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Commerce agreed to and third reading ordered.

Joint Resolution Adopted**J.R.H. 54**

Joint resolution, entitled

Joint resolution relating to Capital City Press;

Was taken up and adopted on the part of the House.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 306

Rep. Lippert of Hinesburg moved that the committee on Judiciary be relieved of House bill, entitled

An act relating to transportation of children in the custody of the state;

And that the bill be committed to the committee on Human Services, which was agreed to.

Adjournment

At ten o'clock and fifty-five minutes in the forenoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

WEDNESDAY, JANUARY 18, 2006

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Reverend Michael Kriesel of Community Bible Church, South Burlington, VT.

Message from the Senate No. 9

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that The Senate has on its part passed Senate bill of the following title:

S. 90. An act relating to prescription drugs and substance abuse.

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

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Flory of Pittsford**, the rules were suspended and the bills were read the first time by number and referred as follows:

H. 669

By Reps. Jewett of Ripton, Acinapura of Brandon, DePoy of Rutland City, Flory of Pittsford, Johnson of South Hero, Potter of Clarendon, Shaw of Derby, Smith of New Haven and Trombley of Grand Isle,

An act relating to increasing motorboat registration fees for mosquito control;

To the committee on Transportation.

H. 670

By Reps. Evans of Essex, Keenan of St. Albans City, Perry of Richford, Atkins of Winooski, Barnard of Richmond, Bostic of St. Johnsbury, Botzow of Pownal, Branagan of Georgia, Cross of Winooski, Gervais of Enosburg, Haas of Rochester, Heath of Westford, Larson of Burlington, LaVoie of Swanton, Martin of Wolcott, McAllister of Highgate, Miller of Shaftsbury, Monti of Barre City, Parent of St. Albans City, Severance of Colchester, Shand of Weathersfield, Sweaney of Windsor and Trombley of Grand Isle,

An act relating to improving the provisions for tax increment financing districts;

To the committee on Ways and Means.

H. 671

By Reps. Pugh of South Burlington, Audette of South Burlington, Green of Berlin, Head of South Burlington, Endres of Milton, Johnson of South Hero, Kupersmith of South Burlington and Trombley of Grand Isle,

An act relating to tax increment financing districts for South Burlington, Milton and Berlin,

To the committee on Ways and Means.

H. 672

By Rep. Chen of Mendon,

An act to create a commission to effect the process for the town of Killington to become part of the state of New Hampshire;

To the committee on Government Operations.

H. 673

By Reps. Botzow of Pownal, Jerman of Essex, Clarkson of Woodstock, Copeland-Hanzas of Bradford, Evans of Essex, Haas of Rochester, Hosford of Waitsfield, Johnson of South Hero, Martin of Wolcott, Shand of Weathersfield and Sharpe of Bristol,

An act relating to use of weatherization funds;

To the committee on Natural Resources and Energy.

H. 674

By Reps. Pugh of South Burlington, Koch of Barre Town, Larson of Burlington, Maier of Middlebury and Tracy of Burlington,

An act relating to the health access oversight committee;

To the committee on Human Services.

H. 675

By Reps. Jewett of Ripton, Errecart of Shelburne, Fisher of Lincoln, Maier of Middlebury, Nuovo of Middlebury, Orr of Charlotte and Sharpe of Bristol,

An act relating to hazardous air pollutant emissions standard for zinc;

To the committee on Natural Resources and Energy.

H. 676

By Reps. Perry of Richford, Bostic of St. Johnsbury, Branagan of Georgia, Gervais of Enosburg, Howrigan of Fairfield, Keenan of St. Albans City, Larson of Burlington, McAllister of Highgate and Rodgers of Glover,

An act relating to contracts for deeds;

To the committee on Commerce.

H. 677

By Reps. Cross of Winooski, Barnard of Richmond, Clark of Vergennes, Endres of Milton, Jerman of Essex, Kilmartin of Newport City, LaVoie of Swanton, Livingston of Manchester, McLaughlin of Royalton, Mook of Bennington and Potter of Clarendon, .

An act relating to a standards board and licensing hearing panels for professional educators;

To the committee on Education.

H. 678

By Reps. Keenan of St. Albans City and Young of Orwell,

An act relating to the department of banking, insurance, securities and health care administration;

To the committee on Commerce.

Senate Bill Referred**S. 90**

Senate bill, entitled

An act relating to prescription drugs and substance abuse;

Was taken up, read the first time and referred to the committee on Human Services.

Third Reading; Bill Passed**H. 567**

House bill, entitled

An act relating to CON and HMO requirements for PACE;

Was taken up, read the third time and passed.

Joint Resolution Adopted**J.R.H. 55**

Joint resolution, entitled

Joint resolution relating to the United States Fish and Wildlife Service and the unorganized towns and gores in Essex County;

Was taken up and adopted on the part of the House.

Adjournment

At one o'clock and thirty minutes in the afternoon, on motion of Rep. **Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

THURSDAY, JANUARY 19, 2006

At one o'clock and fifteen minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Mike Murray of New Beginnings Christian Church, St. Johnsbury, VT.

Message from the Senate No. 10

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has considered a joint resolution originating in the House of the following title:

J.R.H. 54. Joint resolution relating to the Capital City Press.

And has adopted the same in concurrence.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred as follows:

H. 679

By Rep. Obuchowski of Rockingham,

An act relating to sales tax exemption for beer and sales tax rate reduction;

To the committee on Ways and Means.

H. 680

By Reps. Jewett of Ripton, Fisher of Lincoln, Maier of Middlebury, Nuovo of Middlebury, Sharpe of Bristol, Clark of Vergennes, Houston of Ferrisburgh, Smith of New Haven and Young of Orwell,

An act relating to nursing home reimbursement from Medicaid;

To the committee on Human Services.

H. 681

By Reps. Ancel of Calais and Helm of Castleton,

An act relating to hunting with a firearm while under the influence of alcohol or drugs;

To the committee on Fish, Wildlife and Water Resources.

Message from the Senate No. 11

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title:

S. 248. An act relating to relating to good time.

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

The Senate has on its part adopted a joint resolution of the following title:

J.R.S. 49. Joint resolution relating to weekend adjournment.

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

Joint Resolution Adopted in Concurrence

J.R.S. 49

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Welch,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 20, 2006, it be to meet again no later than Tuesday, January 24, 2006.

Was taken up read and adopted in concurrence.

Adjournment

At one o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

FRIDAY, JANUARY 20, 2006

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Peter Plagge of Waterbury Congregational Church, Waterbury, VT.

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Flory of Pittsford**, the rules were suspended and the bills were read the first time by number and referred as follows:

H. 682

By Reps. Bohi of Hartford and Kainen of Hartford,

An act relating to Vermont breweries;

To the committee on General, Housing and Military Affairs.

H. 683

By Reps. Perry of Richford, Atkins of Winooski, Baker of West Rutland, Corcoran of Bennington, Donaghy of Poultney, Gervais of Enosburg, Howrigan of Fairfield, Kennedy of Chelsea, Krawczyk of Bennington,

McAllister of Highgate, Molloy of Arlington, Parent of St. Albans City, Valliere of Barre City and Wright of Burlington,

An act relating to permitting smoking in private clubs for members only;
To the committee on Human Services.

H. 684

By Reps. Sharp[e of Bristol and Endres of Milton,

An act relating to transportation of students in a small vehicle by a school employee;

To the committee on Education.

H. 685

By Reps. Botzow of Pownal and Jerman of Essex,

An act relating to an appropriation for the senior farmers' market nutrition program;

To the committee on Agriculture.

H. 686

By Rep. Deen of Westminster,

An act relating to noise which disturbs the peace;

To the committee on Judiciary.

H. 687

By Reps. Brooks of Montpelier and Kitzmiller of Montpelier,

An act relating to post-retirement COLA's and social security withholdings;

To the committee on Government Operations.

H. 688

By Reps. Marcotte of Coventry, Canfield of Fair Haven, Clark of St. Johnsbury, Dates of Shelburne, Donaghy of Poultney, Flory of Pittsford, Gervais of Enosburg, Houston of Ferrisburgh, Howrigan of Fairfield, Hudson of Lyndon, Kennedy of Chelsea, Kilmartin of Newport City, Larocque of Barnet, Lawrence of Lyndon, Louras of Rutland City, Otterman of Topsham, Parent of St. Albans City, Pillsbury of Brattleboro, Shaw of Derby, Sunderland of Rutland Town, Valliere of Barre City and Winters of Swanton,

An act to require parental notification prior to performing an abortion on an unemancipated minor;

To the committee on Human Services.

H. 689

By Rep. Klein of East Montpelier,

An act relating to freeze on homestead property taxes for low income elderly;

To the committee on Ways and Means.

H. 690

By Reps. Clarkson of Woodstock, Haas of Rochester, Barnard of Richmond, Bohi of Hartford, Botzow of Pownal, Chen of Mendon, Deen of Westminster, Edwards of Brattleboro, Evans of Essex, Frank of Underhill, French of Randolph, Head of S. Burlington, Hosford of Waitsfield, Howard of Rutland City, Hutchinson of Randolph, Jerman of Essex, Jewett of Ripton, Johnson of South Hero, Kainen of Hartford, Kennedy of Chelsea, Kiss of Burlington, Kitzmiller of Montpelier, Koch of Barre Town, Leriche of Hardwick, Maier of Middlebury, Martin of Springfield, Martin of Wolcott, Masland of Thetford, McCullough of Williston, McLaughlin of Royalton, Milkey of Brattleboro, Nuovo of Middlebury, Pellett of Chester, Pugh of S. Burlington, Randall of Troy, Reese of Pomfret, Shand of Weathersfield, Sweaney of Windsor and Trombley of Grand Isle,

An act relating to the identification, documentation, and advancement of the creative sector of the state's economy;

To the committee on Commerce.

H. 691

By Rep. Perry of Richford,

An act relating to municipalities delegated the administration of the wastewater chapter and their options for allowing sewerage connections;

To the committee on Natural Resources and Energy.

Senate Bill Referred**S. 248**

Senate bill, entitled

An act relating to good time;

Was taken up, read the first time and referred to the committee on Institutions.

Bill Referred to Committee on Ways and Means**H. 665**

House bill, entitled

An act relating to promoting gourmet food and beverage products by permitting wine tastings at Vermont food and wine events;

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Rules Suspended; Bill Committed**H. 456**

On motion of **Rep. Flory of Pittsford**, the rules were suspended and House bill, entitled

An act relating to use of Vermont products and nutrition education in schools;

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending the reading of the report of the committee on Agriculture **Rep. Flory of Pittsford** moved that the bill be committed to the committee on Education, which was agreed to.

Bill Referred to Committee on Ways and Means**H. 627**

House bill, entitled

An act relating to the special environmental revolving fund;

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Bill Committed**H. 612**

House bill, entitled

An act relating to allowing pollution abatement monies to protect the public health from wastewater systems that fail to meet required isolation distance from drinking water supplies;

Appearing on the Calendar for action, was taken up and pending the reading of the report of the committee on Fish, Wildlife and Water Resources, on motion of **Rep. Hosford of Waitsfield**, the bill was committed to the committee on Institutions.

**Committee Relieved of Consideration
and Bill Placed on Calendar for Notice; Rules Suspended;
Bill Read Second Time and Third Reading Ordered**

H. 627

Rep. Perry of Richford moved that the Committee on Ways and Means be relieved of House bill entitled

An act relating to the special environmental revolving fund;

Which was agreed to. Thereupon, under the rule, the bill was placed on the Calendar for notice tomorrow.

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Deen of Westminster**, the rules were suspended and the bill was taken up for immediate consideration.

Rep. Randall of Troy, for the Committee on Fish, Wildlife and Water Resources, to which the bill had been referred, reported in favor of its passage.

Thereupon, the bill was read the second time and third reading ordered.

Message from the Senate No. 12

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 46. Senate concurrent resolution in memory of Professor "Jim" B. Petersen of Williston.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 213. House concurrent resolution congratulating the 2005 Woodstock Union high School Wasps Division II girls' championship soccer team.

H.C.R. 214. House concurrent resolution congratulating the 2005 Woodstock Union High School Wasps Division III champion football team.

H.C.R. 215. House concurrent resolution honoring East Montpelier Town Clerk and Treasurer and 2005 Citizen of the Year Sylvia Tosi.

Adjournment

At ten o'clock and thirty-five minutes in the forenoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until Tuesday, January 24, 2006, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 49.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 213

House concurrent resolution congratulating the 2005 Woodstock Union High School Wasps Division II girls' championship soccer team;

H.C.R. 214

House concurrent resolution congratulating the 2005 Woodstock Union High School Wasps Division III champion football team;

H.C.R. 215

House concurrent resolution honoring East Montpelier Town Clerk and Treasurer and 2005 Citizen of the Year Sylvia Tosi;

S.C.R. 46

Senate concurrent resolution in memory of Professor James "Jim" B. Petersen of Williston.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2006, sixty-eighth Adjourned session]

TUESDAY, JANUARY 24, 2006

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Assistant Minister, Roddy O'Neil Cleary of the Unitarian Universalist Society, Burlington, VT.

Pledge of Allegiance

Page Anders Newbury of Fairfield led the House in the Pledge of Allegiance.

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Sunderland of Rutland Town**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar, as follows:

H. 692

By Reps. Klein of East Montpelier, Corcoran of Bennington, Donovan of Burlington, Edwards of Brattleboro, Evans of Essex, Marek of Newfane, Masland of Thetford, McCullough of Williston, Mook of Bennington, Pellett of Chester, Sharpe of Bristol, Smith of Morristown and Sweaney of Windsor

An act relating to affordable health insurance for Vermonters;

To the committee on Health Care.

H. 693

By Reps. Masland of Thetford and McCullough of Williston,

An act relating to state highway municipal and village zones;

To the committee on Transportation.

H. 694

By Reps. Masland of Thetford, Bostic of St. Johnsbury, Livingston of Manchester and Seibert of Norwich,

An act relating to exemption of capital construction costs for an independent school designated as the public school of a school district from calculation of excess spending;

To the committee on Education.

H. 695

By Rep. Obuchowski of Rockingham,

An act relating to property tax abatement of penalties and interest due to family death or serious illness;

To the committee on Ways and Means.

H. 696

By Reps. Bartlett of Dover, Barnard of Richmond, Brennan of Colchester, Dunsmore of Georgia, Evans of Essex, Helm of Castleton, Hube of Londonderry, Larocque of Barnet, McAllister of Highgate, Morrissey of Bennington, O'Donnell of Vernon, Valliere of Barre City and Wright of Burlington,

An act relating to an appropriation to Valley Cares;
To the committee on Appropriations.

H. 697

By Reps. Flory of Pittsford, Errecart of Shelburne and Reese of Pomfret,
An act relating to workers' compensation coverage for members and
managers of limited liability companies;
To the committee on Commerce.

H. 698

By Rep. McCullough of Williston,
An act relating to expanding the allowable scope of net metering systems;
To the committee on Natural Resources and Energy.

H. 699

By Rep. Masland of Thetford,
An act relating to parental rights and responsibilities;
To the committee on Judiciary.

H. 700

By Reps. Deen of Westminster and Hosford of Waitsfield,
An act relating to the disposal of electronic waste;
To the committee on Fish, Wildlife and Water Resources.

H. 701

By the committee on Transportation,
An act relating to ancient roads to be known as identified corridors;
Under the rule, placed on the Calendar for notice tomorrow.

H. 702

By the committee on Ways and Means,
An act relating to executive branch fees;
Under the rule, placed on the Calendar for notice tomorrow.

H. 703

By Reps. McAllister of Highgate, Adams of Hartland, Bartlett of Dover,
Corcoran of Bennington, Donaghy of Poultney, Donahue of Northfield,

Dunsmore of Georgia, Fisher of Lincoln, Hube of Londonderry, Krawczyk of Bennington, LaVoie of Swanton, Martin of Springfield, Molloy of Arlington, Pillsbury of Brattleboro, Turner of Milton and Winters of Williamstown,

An act relating to outdoor wood-fired boilers;

To the committee on Natural Resources and Energy.

H. 704

By Reps. Minter of Waterbury, LaVoie of Swanton, Aswad of Burlington, Keenan of St. Albans City, Dostis of Waterbury, Hosford of Waitsfield, Masland of Thetford and Barnard of Richmond,

An act relating to prohibiting cell phone use by persons with a learner permit or junior operator license;

To the committee on Judiciary.

H. 705

By Reps. Endres of Milton and Turner of Milton,

An act relating to sales tax exemption for juvenile and young adult books;

To the committee on Ways and Means.

H. 706

By the committee on Ways and Means,

An act relating to miscellaneous technical tax amendments;

Under the rule, placed on the Calendar for notice tomorrow.

H. 707

By Reps. Marron of Stowe, Hube of Londonderry, Livingston of Manchester, O'Donnell of Vernon, Pugh of South Burlington and Smith of Morristown,

An act relating to limitation on drop in common levels of appraisal;

To the committee on Ways and Means.

H. 708

By Reps. Marcotte of Coventry, Howrigan of Fairfield, Sweaney of Windsor and Young of Orwell,

An act relating to providing that junkyards shall be regulated by the Secretary of Natural Resources instead of the agency of transportation;

To the committee on Natural Resources and Energy.

H. 709

By Reps. Smith of Morristown, Marron of Stowe, Martin of Wolcott, Miller of Edmore, Nease of Johnson and Westman of Cambridge,

An act relating to local election petitions;

To the committee on Government Operations.

H. 710

By Reps. Myers of Essex and Heath of Westford,

An act relating to organization of supervisory districts;

To the committee on Education.

H. 711

By Reps. Canfield of Fair Haven, Acinapura of Brandon, Allaire of Rutland City, Baker of West Rutland, Barnard of Richmond, Branagan of Georgia, Condon of Colchester, Donaghy of Poultney, Dostis of Waterbury, Dowland of Holland, Dunsmore of Georgia, Endres of Milton, Evans of Essex, Flory of Pittsford, Helm of Castleton, Klein of East Montpelier, Koch of Barre Town, Komline of Dorset, Krawczyk of Bennington, Larrabee of Danville, LaVoie of Swanton, Livingston of Manchester, Malcolm of Pawlet, Marcotte of Coventry, Martin of Springfield, Masland of Thetford, McFaun of Barre Town, Mook of Bennington, Morley of Barton, Morrissey of Bennington, Parent of St. Albans City, Pillsbury of Brattleboro, Potter of Clarendon, Pugh of S. Burlington, Randall of Troy and Tracy of Burlington,

An act relating to a prescription drug and medical supply repository program;

To the committee on Health Care.

H. 712

By Reps. Marron of Stowe, Deen of Westminster, Dunsmore of Georgia, Livingston of Manchester, McAllister of Highgate, O'Donnell of Vernon, Perry of Richford, Severance of Colchester, Smith of New Haven, Winters of Swanton and Zuckerman of Burlington,

An act relating to use of alcoholic beverages by individuals who are the age of majority;

To the committee on General, Housing and Military Affairs.

H. 713

By Rep. Baker of West Rutland,

An act relating to health care reform;

To the committee on Health Care.

H. 714

By Reps. McAllister of Highgate, Bartlett of Dover, DePoy of Rutland City, Parent of St. Albans City and Perry of Richford,

An act relating to establishing mandatory minimums for selling or dispensing illegal drugs;

To the committee on Judiciary.

Third Reading; Bill Passed

H. 627

House bill, entitled

An act relating to the special environmental revolving fund;

Was taken up, read the third time and passed.

Bill Amended; Third Reading Ordered

H. 644

Rep. French of Randolph, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to the continuation of the mental health oversight committee;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Sec. 141c(a) is amended to read:

(a) The mental health oversight committee is created to oversee the development and implementation of the secretary of human services' strategic plan to develop alternatives for services currently provided by the Vermont state hospital and to ensure that consumers have access to a comprehensive and adequate continuum of care and Vermont has a financially sustainable department of developmental and mental health services designated agency provider system. The committee shall be composed of one member from each of the house committees on ~~health and welfare~~ human services, institutions, and appropriations and a member-at-large to be appointed by the speaker of the house, not all from the same party, and one member from each of the senate committees on health and welfare, institutions, and appropriations and one member-at-large to be appointed by the committee on committees, not all from the same party. Initial appointments shall be made upon passage.

Sec. 2. Sec. 141a(j) of No. 122 of the Acts of the 2003 Adj. Sess. (2004) is amended to read:

(j) For purposes of this section, the state hospital future planning advisory group shall cease to exist on July 1, ~~2006~~ 2011.

Sec. 3. Sec. 141c(h) of No. 122 of the Acts of the 2003 Adj. Sess. (2004) is amended to read:

(h) The committee shall cease to exist on July 1, ~~2006~~ 2011.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Human Services agreed to and third reading ordered.

Adjournment

At ten o'clock and thirty minutes in the forenoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

WEDNESDAY, JANUARY 25, 2006

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Father Andre Houle of St. Peter's Parish, Rutland, VT.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred as follows:

H. 715

By Reps. Barnard of Richmond, Clarkson of Woodstock, Evans of Essex, Haas of Rochester, Hosford of Waitsfield, Jerman of Essex, Komline of Dorset, Livingston of Manchester, McLaughlin of Royalton, Mook of Bennington, O'Donnell of Vernon, Acinapura of Brandon, Allaire of Rutland City, Baker of West Rutland, Bartlett of Dover, Bostic of St. Johnsbury, Botzow of Pownal, Branagan of Georgia, Brooks of Montpelier, Canfield of Fair Haven, Condon of Colchester, Corcoran of Bennington, Cross of Winooski, Donahue of Northfield, Donovan of Burlington, Edwards of Brattleboro, Emmons of Springfield, Endres of Milton, Fallar of Tinmouth, Fisher of Lincoln, Flory of Pittsford, Frank of Underhill, French of Randolph, Heath of Westford, Helm of Castleton, Houston of Ferrisburgh, Hunt of Essex,

Jewett of Ripton, Keenan of St. Albans City, Kiss of Burlington, Kitzmiller of Montpelier, Klein of East Montpelier, Koch of Barre Town, Kupersmith of S. Burlington, Larocque of Barnet, Lorber of Burlington, Louras of Rutland City, Marcotte of Coventry, Marron of Stowe, Martin of Springfield, Martin of Wolcott, Masland of Thetford, McAllister of Highgate, McCullough of Williston, Milkey of Brattleboro, Miller of Shaftsbury, Minter of Waterbury, Monti of Barre City, Morley of Barton, Myers of Essex, Nease of Johnson, Niquette of Colchester, Nitka of Ludlow, Orr of Charlotte, Perry of Richford, Peterson of Williston, Pillsbury of Brattleboro, Potter of Clarendon, Pugh of S. Burlington, Reese of Pomfret, Seibert of Norwich, Shand of Weathersfield, Smith of New Haven, Smith of Morristown, Sweaney of Windsor, Tracy of Burlington, Trombley of Grand Isle, Turner of Milton, Westman of Cambridge, Young of Orwell and Zuckerman of Burlington,

An act relating to the eradication of cervical cancer;

To the committee on Human Services.

H. 716

By Rep. Keenan of St. Albans City,

An act relating to protecting the rights of shareholders in publicly traded corporations and providing for the public corporation franchise fee;

To the committee on Commerce.

Rules Suspended; Bill Committed

H. 701

On motion of **Rep. Sweaney of Windsor**, the rules were suspended and House bill, entitled

An act relating to ancient roads to be known as identified corridors;

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending second reading of the bill, on motion of **Rep. Sweaney of Windsor**, the bill was committed to the committee on Government Operations.

Third Reading; Bill Passed

H. 644

House bill, entitled

An act relating to the continuation of the mental health oversight committee;

Was taken up, read the third time and passed.

Adjournment

At one o'clock and fifty-three minutes in the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

THURSDAY, JANUARY 26, 2006

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Reverend Roberta Hodge of Free Methodist Church, Burlington, VT.

Message from the Senate No. 13

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title:

S. 251. An act relating to workers' compensation compensability of heart attacks suffered by firefighters.

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

Message from the Senate No. 14

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part adopted joint resolutions of the following titles:

J.R.S. 50. Joint resolution relating to international trade agreements and pharmaceutical drug programs.

J.R.S. 51. Joint resolution relating to weekend adjournment.

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

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Sunderland of Rutland Town**, the rules were suspended and the bills were read the first time by number and referred as follows:

H. 717

By Reps. Young of Orwell and Keenan of St. Albans City,
An act relating to direct sellers and unemployment insurance;
To the committee on Commerce.

H. 718

By Reps. Helm of Castleton, Acinapura of Brandon, Allaire of Rutland City, Allard of St. Albans Town, Atkins of Winooski, Bartlett of Dover, Bostic of St. Johnsbury, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Clark of Vergennes, Dates of Shelburne, Donaghy of Poultney, Dunsmore of Georgia, Endres of Milton, Flory of Pittsford, Houston of Ferrisburgh, Hube of Londonderry, Hunt of Essex, Johnson of Canaan, Kennedy of Chelsea, Kilmartin of Newport City, Komline of Dorset, Krawczyk of Bennington, Larocque of Barnet, McAllister of Highgate, Miller of Shaftsbury, Monti of Barre City, O'Donnell of Vernon, Perry of Richford, Pillsbury of Brattleboro, Rodgers of Glover, Shaw of Derby, Valliere of Barre City and Winters of Williamstown,

An act relating to prohibiting picketing at funerals;
To the committee on General, Housing and Military Affairs.

H. 719

By Reps. Brooks of Montpelier, Allaire of Rutland City, Brennan of Colchester, Chen of Mendon, Copeland-Hanzas of Bradford, Cross of Winooski, Dates of Shelburne, Endres of Milton, Fallar of Tinmouth, Frank of Underhill, Haas of Rochester, Howard of Rutland City, Kitzmiller of Montpelier, Klein of East Montpelier, Kupersmith of S. Burlington, Louras of Rutland City, Maier of Middlebury, Martin of Springfield, Niquette of Colchester, Nuovo of Middlebury, O'Donnell of Vernon, Pillsbury of Brattleboro and Trombley of Grand Isle,

An act relating to a Legislative summer study committee on public libraries;
To the committee on Education.

H. 720

By Reps. Pugh of South Burlington, Ancel of Calais and Fisher of Lincoln,
An act relating to payment of education debt for social workers;
To the committee on Human Services.

H. 721

By Rep. Edwards of Brattleboro,
An act relating to increasing the gasoline tax by one-half cent to fund
renewable energy in Vermont businesses and residences;
To the committee on Transportation.

H. 722

By Reps. Maier of Middlebury, Deen of Westminster, Edwards of
Brattleboro, Klein of East Montpelier, Masland of Thetford, McCullough of
Williston, Pellett of Chester and Sweaney of Windsor,
An act relating to establishing a universal thermal energy efficiency
program;
To the committee on Natural Resources and Energy.

H. 723

By Reps. Pugh of South Burlington, French of Randolph, Donahue of
Northfield, Fisher of Lincoln and Haas of Rochester,
An act relating to home-and community-based care workforce issues;
To the committee on Human Services.

H. 724

By Rep. Deen of Westminster,
An act relating to verification of personal identity prior to the suspension of
a motor vehicle operator's license;
To the committee on Judiciary.

H. 725

By Reps. Head of South Burlington and Grad of Moretown,
An act relating to special motor vehicle registration plates for military
retirees;
To the committee on Transportation.

H. 726

By Rep. Edwards of Brattleboro,

An act relating to an exemption from the safety belt and child restraint laws for emergency evacuations;

To the committee on Transportation.

H. 727

By Reps. Masland of Thetford, Barnard of Richmond, McCullough of Williston and Seibert of Norwich,

An act relating to all-terrain vehicles;

To the committee on Transportation.

H. 728

By Rep. Keogh of Burlington,

An act relating to authority of local liquor control commissions;

To the committee on General, Housing and Military Affairs.

H. 729

By Rep. Edwards of Brattleboro,

An act relating to public safety and Vermont Yankee;

To the committee on Government Operations.

H. 730

By Reps. Masland of Thetford, McCullough of Williston and Shand of Weathersfield,

An act relating to emergency management of all hazards;

To the committee on Government Operations.

H. 731

By Reps. LaVoie of Swanton and Errecart of Shelburne,

An act relating to public school choice;

To the committee on Education.

H. 732

By Rep. Wright of Burlington,

An act relating to liquor control identification cards and issuance of tobacco licenses;

To the committee on General, Housing and Military Affairs.

Senate Bill Referred

S. 251

Senate bill, entitled

An act relating to workers' compensation compensability of heart attacks suffered by firefighters;

Was taken up, read the first time and referred to the committee on General, Housing and Military Affairs.

Rules Not Suspended to Take up Resolution

J.R.H. 52

Pending entrance of the bill on the Calendar for notice, **Rep. Partridge of Windham** moved that rules be suspended and Joint Resolution, entitled

Joint resolution urging the resignation of Vermont District court Judge Edward Cashman

Be taken up for immediate consideration.

Pending the question, Shall the House suspend the rules to take up J.R.H. 52 for immediate consideration? **Rep. Partridge of Windham** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House suspend the rules to take up J.R.H. 52 for immediate consideration? was decided in the negative. Yeas, 86. Nays, 52. A $\frac{3}{4}$ vote of 104 needed.

Those who voted in the affirmative are:

Ancl of Calais
Aswad of Burlington
Atkins of Winooski
Audette of S. Burlington
Barnard of Richmond
Bohi of Hartford
Botzow of Pownal
Brooks of Montpelier
Chen of Mendon
Clarkson of Woodstock
Condon of Colchester
Copeland-Hanzas of
Bradford
Corcoran of Bennington

Cross of Winooski
Darrow of Dummerston
Deen of Westminster
Donovan of Burlington
Dotis of Waterbury
Edwards of Brattleboro
Emmons of Springfield
Evans of Essex
Fallar of Tinmouth
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gervais of Enosburg
Grad of Moretown

Haas of Rochester
Head of S. Burlington
Heath of Westford
Hosford of Waitsfield
Howard of Rutland City
Howrigan of Fairfield
Hunt of Essex
Hutchinson of Randolph
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Kainen of Hartford
Keenan of St. Albans City
Keogh of Burlington

Kiss of Burlington
 Kitzmiller of Montpelier
 Klein of East Montpelier
 Kupersmith of S. Burlington
 Larson of Burlington
 Leriche of Hardwick
 Lippert of Hinesburg
 Lorber of Burlington
 Maier of Middlebury
 Marek of Newfane
 Martin of Springfield
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston
 McLaughlin of Royalton

Milkey of Brattleboro
 Miller of Shaftsbury
 Minter of Waterbury
 Molloy of Arlington
 Monti of Barre City
 Mook of Bennington
 Nease of Johnson
 Nitka of Ludlow
 Nuovo of Middlebury
 Obuchowski of Rockingham
 Otterman of Topsham
 Partridge of Windham
 Pellett of Chester
 Perry of Richford
 Peterson of Williston

Potter of Clarendon
 Pugh of S. Burlington
 Randall of Troy
 Reese of Pomfret
 Rodgers of Glover
 Rusten of Halifax
 Seibert of Norwich
 Severance of Colchester
 Shand of Weathersfield
 Sharpe of Bristol
 Smith of Morristown
 Sweaney of Windsor
 Tracy of Burlington
 Trombley of Grand Isle
 Zuckerman of Burlington

Those who voted in the negative are:

Acinapura of Brandon
 Allaire of Rutland City
 Allard of St. Albans Town
 Baker of West Rutland
 Bartlett of Dover
 Bostic of St. Johnsbury
 Branagan of Georgia
 Brennan of Colchester
 Canfield of Fair Haven
 Clark of St. Johnsbury
 Clark of Vergennes
 Dates of Shelburne
 DePoy of Rutland City
 Donaghy of Poultney
 Donahue of Northfield
 Endres of Milton
 Errecart of Shelburne
 Flory of Pittsford

Helm of Castleton
 Houston of Ferrisburgh
 Hube of Londonderry
 Hudson of Lyndon
 Johnson of Canaan
 Kennedy of Chelsea
 Kilmartin of Newport City
 Koch of Barre Town
 Komline of Dorset
 Krawczyk of Bennington
 Larocque of Barnet
 Larrabee of Danville
 LaVoie of Swanton
 Livingston of Manchester
 Louras of Rutland City
 Marcotte of Coventry
 Marron of Stowe
 Miller of Elmore

Morley of Barton
 Morrissey of Bennington
 Myers of Essex
 Niquette of Colchester
 O'Donnell of Vernon
 Parent of St. Albans City
 Peaslee of Guildhall
 Pillsbury of Brattleboro
 Shaw of Derby
 Sunderland of Rutland Town
 Turner of Milton
 Valliere of Barre City
 Winters of Swanton
 Winters of Williamstown
 Wright of Burlington
 Young of Orwell

Those members absent with leave of the House and not voting are:

Adams of Hartland
 Dowland of Holland
 Dunsmore of Georgia
 Green of Berlin

Lawrence of Lyndon
 Malcolm of Pawlet
 McAllister of Highgate
 McFaun of Barre Town

Orr of Charlotte
 Smith of New Haven
 Westman of Cambridge

Rep. Wright of Burlington explained his vote as follows:

“Madam Speaker:

Those of us who co-sponsored the original resolution waited patiently for reconsideration and are gratified that reconsideration has occurred. We should

not now suspend rules to pass a replacement resolution that has been put together with little input and behind closed doors.”

Rep. Flory of Pittsford explained her vote as follows:

“Madam Speaker:

I appreciate the Judiciary committee taking up this resolution and look forward to the opportunity to vote on it. However, on an issue of this much importance, we deserve the opportunity to at least be able to read the Judge’s decision and the proposed Resolution.”

Rep. Klein of East Montpelier explained his vote as follows:

“Madam Speaker:

I voted yes so Bill O’Reilly, who seems to have a huge affect on shaping public policy in Vermont, would know that we tried to expedite the procedure To bring the Cashman resolution to a quick vote.”

Bill Read Second Time; Consideration Interrupted by Recess

H. 702

Rep. Branagan of Georgia spoke for the committee on Ways and Means.

House bill entitled

An act relating to executive branch fees;

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read a third time?

Recess

At two o’clock and thirty minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At three o’clock and twenty-five minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Third Reading Ordered

H. 702

Consideration resumed on House bill entitled

An act relating to executive branch fees;

Thereupon, third reading was ordered.

Bill Read Second Time; Third Reading Ordered**H. 706**

Rep. Otterman of Topsham spoke for the committee on Ways and Means.

House bill entitled

An act relating to miscellaneous technical tax amendments;

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Amended; Third Reading Ordered**H. 227**

Rep. Head of South Burlington, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to safe staffing and quality patient care;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 9405b(a) is amended to read:

(a) The commissioner, in consultation with representatives from the public oversight commission, hospitals, and other groups of health care professionals shall adopt rules establishing a standard format for community reports, as well as the contents, which shall include:

* * *

(9) a summary of the community needs assessment, including a description of strategic initiatives discussed with or derived from the assessment; the one-year and four-year capital expenditure plans; and the depreciation schedule for existing facilities; ~~and~~

(10) information on membership and governing body qualifications, a listing of the current governing body members, and means of obtaining a schedule of meetings of the hospital's governing body, including times scheduled for public participation; and

(11) information about nurse staffing levels and how the levels compare to appropriate industry safety benchmarks such as the skill mix of the nursing staff, the hours of nursing care per patient per day, the rate of voluntary turnover, the number of registered nurses providing direct care, and the number of beds in each of the medical-surgical, intensive care, and obstetrics-gynecology units. As reliable industry benchmarks become

available, the commissioner may also require information about additional hospital units, measures to address systemic issues, and numbers of other providers of direct patient care.

Sec. 2. 18 V.S.A. § 1854 is added to read:

§ 1854. STAFFING LEVELS; NURSES; POSTING

(a) In this section:

(1) "Licensed nursing assistant" means a person registered and licensed under subchapter 2 of chapter 28 of Title 26.

(2) "Licensed practical nurse" means a person registered and licensed to practice as a licensed practical nurse under subchapter 1 of chapter 28 of Title 26.

(3) "Registered nurse" means a person registered and licensed to practice as a registered nurse under subchapter 1 of chapter 28 of Title 26.

(b) Each day at the end of each shift, a hospital shall post in each unit in a prominent place readily accessible to patients and visitors the following information:

(1) the number of registered nurses who provided direct patient care and the maximum number of patients assigned to a registered nurse in that unit for that shift;

(2) the number of licensed practical nurses who provided direct patient care and the maximum number of patients assigned to a licensed practical nurse in that unit for that shift; and

(3) the number of licensed nursing assistants who provided direct patient care and the maximum number of patients assigned to a licensed nursing assistant in that unit for that shift.

(c) The information listed in subsection (b) of this section shall be provided to a member of the public upon request.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2006.

Rep. Donahue of Northfield for the committee on Human Services, recommended the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 9405b(a) is amended to read:

(a) The commissioner, in consultation with representatives from the public oversight commission, hospitals, and other groups of health care professionals, and members of the public representing patient interests shall adopt rules establishing a standard format for community reports, as well as the contents, which shall include:

* * *

(9) a summary of the community needs assessment, including a description of strategic initiatives discussed with or derived from the assessment; the one-year and four-year capital expenditure plans; and the depreciation schedule for existing facilities; ~~and~~

(10) information on membership and governing body qualifications, a listing of the current governing body members, and means of obtaining a schedule of meetings of the hospital's governing body, including times scheduled for public participation; and

(11) valid, reliable, and useful information on nurse staffing, including comparisons to appropriate industry benchmarks for safety. This information may include system-centered measures, such as skill mix, nursing care hours per patient day, and other such system-centered measures as reliable industry benchmarks become available in the future.

Sec. 2. 18 V.S.A. § 1852(a) is amended to read:

§ 1852. PATIENTS' BILL OF RIGHTS; ADOPTION

(a) The general assembly hereby adopts the "Bill of Rights for Hospital Patients" as follows:

* * *

(18) The patient has the right to know the maximum patient census and the full-time equivalent numbers of registered nurses, licensed practical nurses, and licensed nursing assistants who provide direct care for each shift on the unit where the patient is receiving care.

Sec. 3. 18 V.S.A. § 1854 is added to read:

§ 1854. PUBLIC ACCESS TO INFORMATION

(a) A hospital shall make public the maximum patient census and the number of registered nurses, licensed practical nurses, and licensed nursing assistants providing direct patient care in each unit during each shift. The number of nurses shall be reported in full-time equivalents, with every eight hours worked by a registered nurse, licensed practical nurse, or licensed nursing assistant during the shift as one full-time equivalent. Each unit's information shall be posted in a prominent place that is readily accessible to

patients and visitors in that unit at least once each day. The posting shall include the information for the preceding seven days.

(b) The hospital shall provide a telephone number to the public for requesting public information, including information required under this section, and sections 1852 and 9405b of this title.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Thereupon, **Rep. Head of South Burlington** asked and was granted leave of the House to withdraw the report of the committee on General, Housing and Military Affairs.

Pending the question, Shall the House amend the bill as recommended by the committee on Human Services? **Rep. Parent of St. Albans City** moved to amend the recommendation of amendment of the committee on Human Services as follows:

By striking Sec. 3, 18 V.S.A. § 1854, in its entirety.

Pending the question, Shall the House amend the recommendation of amendment offered by the committee on Human Services as offered by Rep. Parent of St. Albans City? **Rep. DePoy of Rutland City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the recommendation of amendment offered by the committee on Human Services as offered by Rep. Parent of St. Albans City? was decided in the negative. Yeas, 58. Nays, 81.

Those who voted in the affirmative are:

Acinapura of Brandon
Allard of St. Albans Town
Baker of West Rutland
Bartlett of Dover
Bostic of St. Johnsbury
Branagan of Georgia
Brennan of Colchester
Canfield of Fair Haven
Clark of St. Johnsbury
Clark of Vergennes
Corcoran of Bennington
Dates of Shelburne
DePoy of Rutland City
Donaghy of Poultney
Dunsmore of Georgia
Endres of Milton
Errecart of Shelburne

Flory of Pittsford
Frank of Underhill
Helm of Castleton
Houston of Ferrisburgh
Hube of Londonderry
Hudson of Lyndon
Johnson of Canaan
Kennedy of Chelsea
Koch of Barre Town
Komline of Dorset
Krawczyk of Bennington
Larocque of Barnet
LaVoie of Swanton
Lawrence of Lyndon
Livingston of Manchester
Louras of Rutland City
Marcotte of Coventry

Marron of Stowe
McAllister of Highgate
Molloy of Arlington
Monti of Barre City
Mook of Bennington
Morley of Barton
Morrisey of Bennington
Niquette of Colchester
O'Donnell of Vernon
Otterman of Topsham
Parent of St. Albans City
Peaslee of Guildhall
Perry of Richford
Potter of Clarendon
Severance of Colchester
Shaw of Derby
Smith of New Haven

Smith of Morristown
Sunderland of Rutland Town
Turner of Milton

Westman of Cambridge
Winters of Swanton
Winters of Williamstown

Young of Orwell

Those who voted in the negative are:

Ancel of Calais
Aswad of Burlington
Atkins of Winooski
Audette of S. Burlington
Barnard of Richmond
Bohi of Hartford
Botzow of Pownal
Brooks of Montpelier
Chen of Mendon
Clarkson of Woodstock
Condon of Colchester
Cross of Winooski
Darrow of Dummerston
Deen of Westminster
Donahue of Northfield
Donovan of Burlington
Dostis of Waterbury
Edwards of Brattleboro
Emmons of Springfield
Evans of Essex
Fallar of Tinmouth
Fisher of Lincoln
French of Randolph
Gervais of Enosburg
Grad of Moretown
Green of Berlin
Haas of Rochester

Head of S. Burlington
Heath of Westford
Hosford of Waitsfield
Howard of Rutland City
Howrigan of Fairfield
Hunt of Essex
Hutchinson of Randolph
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Kiss of Burlington
Kitzmiller of Montpelier
Klein of East Montpelier
Kupersmith of S. Burlington
Larson of Burlington
Leriche of Hardwick
Lippert of Hinesburg
Lorber of Burlington
Maier of Middlebury
Malcolm of Pawlet
Marek of Newfane
Martin of Springfield
Martin of Wolcott
Masland of Thetford
McCullough of Williston
McLaughlin of Royalton
Milkey of Brattleboro

Miller of Shaftsbury
Miller of Elmore
Minter of Waterbury
Myers of Essex
Nease of Johnson
Nitka of Ludlow
Nuovo of Middlebury
Obuchowski of Rockingham
Orr of Charlotte
Partridge of Windham
Pellett of Chester
Peterson of Williston
Pillsbury of Brattleboro
Pugh of S. Burlington
Randall of Troy
Reese of Pomfret
Rodgers of Glover
Rusten of Halifax
Seibert of Norwich
Shand of Weathersfield
Sharpe of Bristol
Sweaney of Windsor
Tracy of Burlington
Trombley of Grand Isle
Valliere of Barre City
Wright of Burlington
Zuckerman of Burlington

Those members absent with leave of the House and not voting are:

Adams of Hartland
Allaire of Rutland City
Copeland-Hanzas of
Bradford

Dowland of Holland
Kainen of Hartford
Keenan of St. Albans City
Keogh of Burlington

Kilmartin of Newport City
Larrabee of Danville
McFaun of Barre Town

Thereupon, the report of the committee on Human Services was agreed to and third reading ordered.

Adjournment

At four o'clock and forty minutes in the afternoon, on motion of Rep. **Sunderland of Rutland Town**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

FRIDAY, JANUARY 27, 2006

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Representative Carolyn Partridge of Windham .

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred as follows:

H. 733

By Rep. Frank of Underhill,

An act relating to Medicaid coverage for circumcisions of male children;

To the committee on Human Services.

H. 734

By Reps. Lawrence of Lyndon, Branagan of Georgia, Clark of St. Johnsbury, Dunsmore of Georgia, Green of Berlin, Hudson of Lyndon, Malcolm of Pawlet, McAllister of Highgate and Randall of Troy

An act relating to a Department of Forests, Parks and Recreation study of the forest industry in Vermont;

To the committee on Fish, Wildlife and Water Resources.

Joint Resolution Referred to Committee**J.R.S. 50**

The Speaker placed before the House a joint resolution, entitled

Joint resolution relating to international trade agreements and pharmaceutical drug programs;

By Senators Lyons, Ayer, Bartlett, Campbell, Collins, Condos, Cummings, Dunne, Gander, Giard, Illuzzi, Kitchel, Kittell, Leddy, MacDonald, Miller, Mullin, Scott, Sears, Welch and White,

Whereas, Vermont is a recognized national leader among states in the provision of quality health care to all citizens, and

Whereas, managing health care costs is an essential component of state efforts to ensure continued citizen access to a broad range of health care services, and

Whereas, prescription drug purchases are the fastest-growing component of state health care spending, and

Whereas, of all states, Vermont has one of the highest percentages of populations who are served by Medicaid or state-funded drug-purchasing programs, and

Whereas, states have taken the lead in developing innovative solutions to combating the steep rise in prescription drug costs, and

Whereas, recent state and federal court decisions have reaffirmed the ability of states to adopt policies designed to manage prescription drug costs, and

Whereas, language of the recent trade agreements into which the United States has entered with Australia, including Annex 2-C on pharmaceuticals, uses a definition of a "federal health care program" that is ambiguous and that creates uncertainty in the management of state health care administration, and

Whereas, United States Trade Representative Robert Portman has assured states in writing that state programs are "not covered" by recent trade agreements signed by the United States, and

Whereas, this written assurance itself has no legal power in the case of a complaint filed by a trading partner of the United States regarding state administration of health care programs, and

Whereas, all trade agreements into which the United States has entered include the potential for an exchange of interpretive notes through which a party to the agreement can clarify the scope of a measure included in a trade treaty or an annex to that treaty, and

Whereas, such interpretive notes have the force of international law, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly urges the United States Trade Representative (USTR), following appropriate consultation with states to pursue the exchange of an interpretive note with the government of Australia clarifying that state administration of Medicaid programs and pharmaceutical assistance programs under the Medicare Modernization Act is *not* included in the definition of a "federal health care program" under Annex 2-C of the United States-Australia Free Trade Agreement, *and it be further*

Resolved: That the General Assembly urges the USTR to discuss with the general assembly and Vermont state health care officials what health care programs are covered by the Annex 2-C definition of "federal health care program" as found in Annex 2-C of the Australia Free Trade Agreement, *and be it further*

Resolved: That the General Assembly urges the USTR to carve out and protect state administration of health care programs, including the purchase of prescription drugs, in all current and future negotiations of trade agreements, *and be it further*

Resolved: That a copy of this resolution be sent to Senator Charles Grassley, chair of the Senate Finance Committee; Senator Orrin Hatch, chair of the Senate Subcommittee on International Trade; Representative Bill Thomas, chair of the House Ways and Means Committee; Representative Clay Shaw, chair of the House Subcommittee on Trade; Senator Judd Gregg, chair of the Senate Committee on Health, Education, Labor, and Pensions; Senator Bill Frist, chair of the Senate Subcommittee on Public Health; the Congressional delegation of the State of Vermont; United States Trade Representative Robert Portman; Assistant United States Trade Representative and chief negotiator on pharmaceuticals Barbara Weisel; and Vermont Attorney General William Sorrell.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the Committee on Health Care.

Joint Resolution Adopted in Concurrence

J.R.S. 51

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Welch,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 27, 2006, it be to meet again no later than Tuesday, January 31, 2006.

Was taken up read and adopted in concurrence.

**Rules Suspended; Action Postponed
Until the End of the Orders of the Day**

J.R.H. 52

On motion of **Rep. Flory of Pittsford**, the rules were suspended and Joint resolution, entitled

Joint resolution urging the resignation of Vermont District Court Judge Edward Cashman

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Lippert of Hinesburg, for the Committee on Judiciary, to which the bill had been referred, reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Joint resolution regarding the Vermont district court case State v Hulett and the General Assembly's commitment to reduce crimes of sexual violence in Vermont

Whereas, sexual violence in Vermont is a serious safety, criminal justice, and health issue for Vermont families and communities, and

Whereas, many of the victims of sexual violence are women and children, often the most vulnerable in our communities, and

Whereas, a high percentage of the victims of sexual violence know their offenders, who are often either relatives or close acquaintances, and

Whereas, although many members of the General Assembly disagree strongly with the sentence issued recently in the Vermont district court case State v. Hulett, in light of the compelling nature of this case, they also recognize the importance of an independent judiciary to the rule of law in our constitutional system of government, and

Whereas, just as it would be inappropriate for the judiciary to legislate from the bench, it would be equally inappropriate for the legislature to adjudicate criminal sentences from the state house, and

Whereas, the rule of law in an ordered society requires that our judges be accountable to the people, and our constitution and statutes mandate that each judge's conduct and performance, including that of Judge Edward Cashman, be reviewed and evaluated every six years through the judicial retention process, which process encourages public testimony, comment, criticism, and praise on and for each judge seeking retention, and

Whereas, if a member of the public is concerned about a specific instance of improper conduct of a particular judge, he or she may file a complaint with the judicial conduct board, and

Whereas, if a state's attorney or the attorney general believes a criminal sentence is illegal or clearly erroneous, the state's attorney or attorney general may seek redress in the Vermont courts, and

Whereas, the appropriate legislative response to the Hulett sentence is to revise sentencing and corrections statutes and policy to preclude the likelihood of a similar sentence being issued in a comparable future case, and

Whereas, the General Assembly is concerned about the extensive life scarring impact of sexual violence on our communities and is committed to addressing this issue during the 2006 legislative session building on laws passed in 2005 that included: establishing a new crime of voyeurism; amending the stalking law; affirming the right of law enforcement to engage in active community notification regarding sex offenders; requiring the department of corrections to identify all high risk sex offenders under its supervision and adding them to the internet sex offender registry; authorizing the expansion of special investigation units for sex crimes; requiring all felons to submit a DNA sample upon conviction; increasing penalties for lewd and lascivious conduct with a child and establishing a maximum life in prison sentence for recidivists; prohibiting a person convicted of aggravated sexual assault from eligibility for early release or furlough until the expiration of the minimum sentence imposed; increasing the sentence for aggravated sexual assault of up to life in prison; streamlining the process for designating an offender as a sexually violent predator and requiring prior to sentence a presentence investigation and a psychosexual evaluation; and appropriating \$50,000 to state's attorneys and the department of corrections for the purpose of funding psychosexual evaluations, and

Whereas, it is imperative that all incarcerated sex offenders be given prison sentences commensurate with their crimes, and also be provided sex offender treatment that protects our citizens from victimization, and

Whereas, in pursuit of these urgent objectives, the General Assembly is now developing legislation addressing effective prevention, investigation, treatment, and sentencing of sex offenders with the goals of creating sentences that take into consideration punishment, deterrence, restitution, and treatment, now therefore be it

Resolved by the Senate and House of Representatives:

That criminals convicted of sexual offenses should receive sentences commensurate with the severity of their crimes, imposed by a judiciary that is independent of political influences, and be it further

Resolved: That it is critical that the victims of sex crimes be treated with the utmost respect and support, and that the serious problem of revictimization be eliminated, and be it further

Resolved: That the state of Vermont should allocate more resources to strategic incarceration of sex offenders, including treatment for all incarcerated sex offenders who are assessed as being even a low-risk to reoffend, and be it further

Resolved: That members of the public should be informed of their opportunities to file a complaint with the judicial conduct board regarding conduct that violates the legal and ethical standards for judges, and be it further

Resolved: That the General Assembly is committed to passing before the final adjournment of the 2006 legislative session legislation addressing effective prevention, investigation, treatment, and sentencing of sex offenders with the ultimate goal of eliminating sexual violence in the state of Vermont.

Thereupon, the resolution was read the second time.

Pending the question, Shall the House amend the resolution as recommended by the committee on Judiciary? **Rep. Lippert of Hinesburg** moved to postpone action until the end of the Orders of the Day, which was agreed to.

Third Reading; Bill Passed

H. 227

House bill, entitled

An act relating to safe staffing and quality patient care;

Was taken up, read the third time and passed.

Third Reading; Bill Passed

H. 702

House bill, entitled

An act relating to executive branch fees;

Was taken up read a third time and pending the question, Shall the bill pass? **Rep. Baker of West Rutland** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 111. Nays, 30.

Those who voted in the affirmative are:

Adams of Hartland

Allaire of Rutland City

Ancel of Calais

Aswad of Burlington
 Atkins of Winooski
 Barnard of Richmond
 Bohi of Hartford
 Bostic of St. Johnsbury
 Botzow of Pownal
 Branagan of Georgia
 Brooks of Montpelier
 Chen of Mendon
 Clark of St. Johnsbury
 Clarkson of Woodstock
 Corcoran of Bennington
 Cross of Winooski
 Darrow of Dummerston
 Dates of Shelburne
 Deen of Westminster
 Donahue of Northfield
 Donovan of Burlington
 Dostis of Waterbury
 Dowland of Holland
 Dunsmore of Georgia
 Edwards of Brattleboro
 Emmons of Springfield
 Errecart of Shelburne
 Evans of Essex
 Fallar of Tinmouth
 Fisher of Lincoln
 Flory of Pittsford
 Frank of Underhill
 French of Randolph
 Gervais of Enosburg
 Grad of Moretown
 Green of Berlin
 Haas of Rochester
 Head of S. Burlington
 Heath of Westford

Hosford of Waitsfield
 Houston of Ferrisburgh
 Hudson of Lyndon
 Hunt of Essex
 Hutchinson of Randolph
 Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Kainen of Hartford
 Keenan of St. Albans City
 Kennedy of Chelsea
 Keogh of Burlington
 Kiss of Burlington
 Kitzmiller of Montpelier
 Klein of East Montpelier
 Koch of Barre Town
 Komline of Dorset
 Kupersmith of S. Burlington
 Larocque of Barnet
 LaVoie of Swanton
 Lawrence of Lyndon
 Leriche of Hardwick
 Lippert of Hinesburg
 Lorber of Burlington
 Maier of Middlebury
 Malcolm of Pawlet
 Marek of Newfane
 Marron of Stowe
 Martin of Springfield
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston
 McFaun of Barre Town
 McLaughlin of Royalton
 Milkey of Brattleboro
 Miller of Shaftsbury

Minter of Waterbury
 Monti of Barre City
 Mook of Bennington
 Morley of Barton
 Myers of Essex
 Nease of Johnson
 Nitka of Ludlow
 Nuovo of Middlebury
 Obuchowski of Rockingham
 O'Donnell of Vernon
 Orr of Charlotte
 Otterman of Topsham
 Parent of St. Albans City
 Partridge of Windham
 Pellett of Chester
 Peterson of Williston
 Potter of Clarendon
 Pugh of S. Burlington
 Randall of Troy
 Reese of Pomfret
 Rusten of Halifax
 Seibert of Norwich
 Severance of Colchester
 Shand of Weathersfield
 Sharpe of Bristol
 Smith of New Haven
 Smith of Morristown
 Sunderland of Rutland Town
 Sweaney of Windsor
 Tracy of Burlington
 Trombley of Grand Isle
 Valliere of Barre City
 Westman of Cambridge
 Winters of Williamstown
 Wright of Burlington
 Zuckerman of Burlington

Those who voted in the negative are:

Acinapura of Brandon
 Baker of West Rutland
 Bartlett of Dover
 Brennan of Colchester
 Canfield of Fair Haven
 Clark of Vergennes
 Condon of Colchester
 DePoy of Rutland City
 Donaghy of Poultney
 Endres of Milton

Helm of Castleton
 Howrigan of Fairfield
 Hube of Londonderry
 Johnson of Canaan
 Kilmartin of Newport City
 Krawczyk of Bennington
 Livingston of Manchester
 Louras of Rutland City
 McAllister of Highgate
 Miller of Elmore

Molloy of Arlington
 Morrissey of Bennington
 Niquette of Colchester
 Peaslee of Guildhall
 Pillsbury of Brattleboro
 Rodgers of Glover
 Shaw of Derby
 Turner of Milton
 Winters of Swanton
 Young of Orwell

Those members absent with leave of the House and not voting are:

Allard of St. Albans Town
Audette of S. Burlington
Copeland-Hanzas of
Bradford

Howard of Rutland City
Larrabee of Danville
Larson of Burlington
Marcotte of Coventry

Perry of Richford

Rep. Kilmartin of Newport City explained his vote as follows:

“Madam Speaker:

A tax increase by any pseudonym is a tax increase nonetheless. This is a regressive anti-elderly, anti-business and anti-education tax.”

Rep. Rusten of Halifax explained his vote as follows:

“Madam Speaker:

I felt it appropriate to support the administrations fee bill, including the fee reductions suggested by your House Ways and Means committee.”

Rep. Young of Orwell explained his vote as follows:

“Madam Speaker:

It would appear that we collectively claim to be finding ways to stop the ever-increasing costs of health care and education while increasing nursing and teacher’s registration fees and adding mandates to both fields.”

Third Reading; Bill Passed

H. 706

House bill, entitled

An act relating to miscellaneous technical tax amendments;

Was taken up, read the third time and passed.

Bill Amended; Third Reading Ordered

H. 616

Rep. Clark of St. Johnsbury, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of the Charter of the town of Jericho;

Reported in favor of its passage when amended as follows:

In Sec. 1, 24 App. V.S.A. § 124-2(b)(1), second sentence, after the words “Constitution of the State of Vermont”, by adding the following: “, laws of the State of Vermont.”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

Bill Read Second Time; Action on Bill Postponed

S. 248

Senate bill, entitled

An act relating to Good Time;

Was taken up and read the second time.

Pending the question, Shall the bill be read the third time? on motion of **Rep. Rodgers of Glover**, action on the bill was postponed until the next legislative day.

Recess

At ten o'clock and forty-five minutes in the forenoon, the Speaker declared a recess until eleven o'clock and fifteen minutes in the forenoon.

At twelve o'clock and fifteen minutes in the afternoon, the Speaker called the House to order.

Message from the Senate No. 15

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title:

S. 122. An act relating to local sales tax options for all municipalities.

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

The Senate has considered bills originating in the House of the following titles:

H. 279. An act relating to location of the office of veterans' affairs.

H. 280. An act relating to the patriot's medal.

And has passed the same in concurrence.

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 47. Senate concurrent resolution congratulating Lake View Grange #359 on its centennial anniversary.

S.C.R. 48. Senate concurrent resolution congratulating the Milbank Memorial Fund on its centennial anniversary.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 216. House concurrent resolution congratulating The Falls Playschool in Bellows Falls on its 35th anniversary.

H.C.R. 217. House concurrent resolution in memory of Representative Robert "Bob" Wood of Brandon.

H.C.R. 218. House concurrent resolution congratulating the 2005 Division IV championship Otter Valley Union High School football team.

H.C.R. 219. House concurrent resolution honoring St. Peter's Parish in Rutland on its 150th anniversary.

H.C.R. 220. House concurrent resolution congratulating the Girl Scout Council of Vermont's 2005 Girl Scout Gold Award and Silver Award winners.

H.C.R. 221. House concurrent resolution in memory of former Supreme Court Justice and Representative Wynn Underwood.

H.C.R. 222. House concurrent resolution recognizing national nurse anesthetists' week.

**Consideration Resumed; Resolution Amended
and Third Reading Ordered**

J.R.H. 52

Consideration resumed on Joint resolution, entitled

Joint resolution urging the resignation of Vermont District Court Judge Edward Cashman

Pending the question, Shall the House amend the resolution as recommended by the committee on Judiciary? **Rep. Sunderland of Rutland Town** moved to amend the recommendation of amendment offered by the committee on Judiciary as follows:

By striking it in its entirety and inserting in lieu thereof the following:

Joint resolution regarding the Vermont District Court case State v. Hulett and the General Assembly's commitment to reduce crimes of sexual violence in Vermont

Whereas, sexual violence in Vermont is a serious safety, criminal justice, and health issue for Vermont families and communities, and

Whereas, many of the victims of sexual violence are women and children, often the most vulnerable in our communities, and

Whereas, a high percentage of the victims of sexual violence know their offenders, who are often either relatives or close acquaintances, and

Whereas, many members of the General Assembly disagree strongly with the sentence issued recently in the Vermont district court case State v. Hulett, and

Whereas, the General Assembly is concerned about the extensive life scaring impact of sexual violence on our communities and is committed to addressing this issue during the 2006 legislative session, and

Whereas, it is imperative that all incarcerated sex offenders be given prison sentences commensurate with their crimes, and also be provided sex offender treatment aimed at protecting our citizens from victimization, and

Whereas, in pursuit of these urgent objectives, the General Assembly is now developing legislation addressing effective prevention, investigation, treatment, and sentencing of sex offenders with the goals of creating sentences that take into consideration punishment, deterrence, restitution, treatment, and public safety, and

Whereas, The Vermont Legislature can enact laws to assure that a crime as heinous as that committed by Mr. Hulett never again receives an inappropriately light sentence, now therefore be it

Resolved by the Senate and House of Representatives:

That criminals convicted of sexual offenses should receive sentences commensurate with the severity of their crimes, imposed by a judiciary that is independent of political influences, and be it further

Resolved: That it is critical that the victims of sex crimes be treated with the utmost respect and support, and that the serious problem of re-victimization be eliminated, and be it further

Resolved: That the state of Vermont should allocate more resources to strategic incarceration of sex offenders, including treatment for all incarcerated

sex offenders who are assessed as being even a low-risk to reoffend, and be it further

Resolved: That members of the public should be informed of their opportunities to file a complaint with the judicial conduct board regarding conduct that violates the legal and ethical standards for judges, and be it further

Resolved: That the Vermont Legislature should immediately consider proposed laws that would provide for mandatory minimum sentences for those who commit sexual crimes against children under the age of twelve, and be it further

Resolved: That the Vermont Legislature should immediately consider proposed laws that provide for the involuntary civil commitment of sex offenders that are deemed highly likely to re-offend and have not successfully completed a mental health treatment program; and be it further

Resolved: That the General Assembly is committed to passing before the final adjournment of the 2006 legislative session legislation addressing effective prevention, investigation, treatment, and sentencing of sex offenders with the ultimate goal of eliminating sexual violence in the state of Vermont.

Pending the question, Shall the House amend the recommendation of amendment offered by the committee on Judiciary as recommended by Rep. Sunderland of Rutland town? **Rep. Flory of Pittsford** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the recommendation of amendment offered by the committee on Judiciary as recommended by Rep. Sunderland of Rutland town? was decided in the negative. Yeas, 51. Nays, 92.

Those who voted in the affirmative are:

Acinapura of Brandon
Adams of Hartland
Allaire of Rutland City
Allard of St. Albans Town
Baker of West Rutland
Bartlett of Dover
Bostic of St. Johnsbury
Branagan of Georgia
Brennan of Colchester
Canfield of Fair Haven
Clark of St. Johnsbury
Clark of Vergennes
Dates of Shelburne
DePoy of Rutland City
Donaghy of Poultney

Dunsmore of Georgia
Endres of Milton
Errecart of Shelburne
Flory of Pittsford
Helm of Castleton
Hube of Londonderry
Hudson of Lyndon
Johnson of Canaan
Kennedy of Chelsea
Kilmartin of Newport City
Komline of Dorset
Krawczyk of Bennington
Larocque of Barnet
LaVoie of Swanton
Lawrence of Lyndon

Livingston of Manchester
Louras of Rutland City
Marcotte of Coventry
McAllister of Highgate
Miller of Elmore
Morley of Barton
Morrissey of Bennington
Myers of Essex
Niquette of Colchester
O'Donnell of Vernon
Parent of St. Albans City
Peaslee of Guildhall
Shaw of Derby
Smith of New Haven
Sunderland of Rutland Town

Turner of Milton
Valliere of Barre City

Winters of Swanton
Winters of Williamstown

Wright of Burlington
Young of Orwell

Those who voted in the negative are:

Ancel of Calais
Aswad of Burlington
Atkins of Winooski
Audette of S. Burlington
Barnard of Richmond
Bohi of Hartford
Botzow of Pownal
Brooks of Montpelier
Chen of Mendon
Clarkson of Woodstock
Condon of Colchester
Corcoran of Bennington
Cross of Winooski
Darrow of Dummerston
Deen of Westminster
Donahue of Northfield
Donovan of Burlington
Dostis of Waterbury
Dowland of Holland
Edwards of Brattleboro
Emmons of Springfield
Evans of Essex
Fallar of Tinmouth
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gervais of Enosburg
Grad of Moretown
Green of Berlin
Haas of Rochester
Head of S. Burlington

Heath of Westford
Hosford of Waitsfield
Howrigan of Fairfield
Hunt of Essex
Hutchinson of Randolph
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Kainen of Hartford
Keenan of St. Albans City
Keogh of Burlington
Kiss of Burlington
Kitzmiller of Montpelier
Klein of East Montpelier
Koch of Barre Town
Kupersmith of S. Burlington
Larson of Burlington
Leriche of Hardwick
Lippert of Hinesburg
Lorber of Burlington
Maier of Middlebury
Malcolm of Pawlet
Marek of Newfane
Marron of Stowe
Martin of Springfield
Martin of Wolcott
Masland of Thetford
McCullough of Williston
McFaun of Barre Town
McLaughlin of Royalton
Milkey of Brattleboro

Miller of Shaftsbury
Minter of Waterbury
Molloy of Arlington
Monti of Barre City
Mook of Bennington
Nease of Johnson
Nitka of Ludlow
Nuovo of Middlebury
Obuchowski of Rockingham
Orr of Charlotte
Otterman of Topsham
Partridge of Windham
Pellett of Chester
Perry of Richford
Peterson of Williston
Potter of Clarendon
Pugh of S. Burlington
Randall of Troy
Reese of Pomfret
Rodgers of Glover
Rusten of Halifax
Seibert of Norwich
Severance of Colchester
Shand of Weathersfield
Sharpe of Bristol
Smith of Morristown
Sweaney of Windsor
Tracy of Burlington
Trombley of Grand Isle
Zuckerman of Burlington

Those members absent with leave of the House and not voting are:

Copeland-Hanzas of
Bradford
Houston of Ferrisburgh

Howard of Rutland City
Larrabee of Danville
Pillsbury of Brattleboro

Westman of Cambridge

Rep. Kilmartin of Newport City explained his vote as follows:

"Madam Speaker:

Reluctantly I vote yes. However, I believe any resolution at this time is unnecessary and imprudent."

Pending the question, Shall the House amend the resolution as recommended by the committee on Judiciary? **Rep. Myers of Essex** moved to

amend the recommendation of amendment offered by the committee on Judiciary as follows:

By striking the Fifth Whereas clause.

Which was agreed to.

Pending the question, Shall the House amend the resolution as recommended by the committee on Judiciary? **Rep. Flory of Pittsford** moved to amend the recommendation of amendment offered by the committee on Judiciary as follows:

By adding at the end thereof a new resolved clause to read:

Resolved: That, should the judiciary - or any individual judge - determine that there are inadequacies in the state's sentencing laws or policies, or in the policies or programs of the Department of Corrections, or in other state law or policy relating to criminal justice, sentencing and treatment, it be encouraged to recommend any revisions to such state laws or policies to the policy-making branch of government - the legislature.

Which was agreed to.

Pending the question, Shall the House amend the resolution as recommended by the committee on Judiciary? **Rep. Wright of Burlington** moved to amend the recommendation of amendment offered by the committee on Judiciary as follows:

By striking in the fourth Whereas clause through the words "State v. Hulett" and inserting in lieu thereof the following:

Whereas, in Vermont district court case State v. Hulett, several issues have been identified that need to be reviewed by the legislature, but those issues notwithstanding the Vermont general assembly agrees that the original sentence, in this case a 60 day minimum, was totally inappropriate and we are gratified that the Court has reconsidered and granted a more appropriate sentence, and

Pending the question, Shall the House amend the recommendation of amendment offered by the committee on Judiciary as offered by Rep. Wright of Burlington? **Rep. Komline of Dorset** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the recommendation of amendment offered by the committee on Judiciary as offered by Rep. Wright of Burlington? was decided in the negative. Yeas, 52. Nays, 87.

Those who voted in the affirmative are:

Acinapura of Brandon

Adams of Hartland

Allaire of Rutland City

Allard of St. Albans Town
 Baker of West Rutland
 Bartlett of Dover
 Branagan of Georgia
 Brennan of Colchester
 Canfield of Fair Haven
 Clark of St. Johnsbury
 Clark of Vergennes
 Corcoran of Bennington
 Dates of Shelburne
 DePoy of Rutland City
 Donaghy of Poultney
 Dunsmore of Georgia
 Endres of Milton
 Errecart of Shelburne
 Flory of Pittsford

Helm of Castleton
 Hube of Londonderry
 Hudson of Lyndon
 Johnson of Canaan
 Kennedy of Chelsea
 Kilmartin of Newport City
 Komline of Dorset
 Krawczyk of Bennington
 Larocque of Barnet
 LaVoie of Swanton
 Lawrence of Lyndon
 Livingston of Manchester
 Louras of Rutland City
 Marcotte of Coventry
 McAllister of Highgate
 Miller of Elmore

Morley of Barton
 Morrissey of Bennington
 Myers of Essex
 Niquette of Colchester
 O'Donnell of Vernon
 Parent of St. Albans City
 Peaslee of Guildhall
 Potter of Clarendon
 Shaw of Derby
 Smith of New Haven
 Sunderland of Rutland Town
 Turner of Milton
 Valliere of Barre City
 Winters of Swanton
 Winters of Williamstown
 Wright of Burlington

Those who voted in the negative are:

Ancel of Calais
 Aswad of Burlington
 Atkins of Winooski
 Audette of S. Burlington
 Barnard of Richmond
 Bohi of Hartford
 Bostic of St. Johnsbury
 Botzow of Pownal
 Brooks of Montpelier
 Chen of Mendon
 Clarkson of Woodstock
 Condon of Colchester
 Cross of Winooski
 Darrow of Dummerston
 Deen of Westminster
 Donahue of Northfield
 Donovan of Burlington
 Dostis of Waterbury
 Dowland of Holland
 Edwards of Brattleboro
 Emmons of Springfield
 Evans of Essex
 Fallar of Tinnmouth
 Fisher of Lincoln
 Frank of Underhill
 French of Randolph
 Gervais of Enosburg
 Grad of Moretown
 Green of Berlin
 Haas of Rochester

Head of S. Burlington
 Heath of Westford
 Hosford of Waitsfield
 Howrigan of Fairfield
 Hunt of Essex
 Hutchinson of Randolph
 Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Kainen of Hartford
 Keogh of Burlington
 Kiss of Burlington
 Kitzmiller of Montpelier
 Klein of East Montpelier
 Koch of Barre Town
 Kupersmith of S. Burlington
 Larson of Burlington
 Leriche of Hardwick
 Lippert of Hinesburg
 Lorber of Burlington
 Maier of Middlebury
 Malcolm of Pawlet
 Marek of Newfane
 Martin of Springfield
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston
 McFaun of Barre Town
 McLaughlin of Royalton
 Milkey of Brattleboro

Miller of Shaftsbury
 Minter of Waterbury
 Molloy of Arlington
 Monti of Barre City
 Mook of Bennington
 Nease of Johnson
 Nitka of Ludlow
 Nuovo of Middlebury
 Obuchowski of Rockingham
 Orr of Charlotte
 Otterman of Topsham
 Partridge of Windham
 Pellett of Chester
 Perry of Richford
 Peterson of Williston
 Pugh of S. Burlington
 Randall of Troy
 Reese of Pomfret
 Rusten of Halifax
 Seibert of Norwich
 Severance of Colchester
 Shand of Weathersfield
 Sharpe of Bristol
 Smith of Morristown
 Sweaney of Windsor
 Tracy of Burlington
 Trombley of Grand Isle
 Zuckerman of Burlington

Those members absent with leave of the House and not voting are:

Copeland-Hanzas of
Bradford
Houston of Ferrisburgh
Howard of Rutland City

Keenan of St. Albans City
Larrabee of Danville
Marron of Stowe
Pillsbury of Brattleboro

Rodgers of Glover
Westman of Cambridge
Young of Orwell

Rep. Wright of Burlington explained his vote as follows:

"Madam Speaker:

This was a sentence that the Chittenden County State's Attorney's office called "illegal and stated that it undermined confidence in the Judicial system. It also would have created a chilling effect on future victims coming forward. I am profoundly disappointed in our failure to at least make a strong statement on this.

Rep. DePoy of Rutland City explained his vote as follows:

"Madam Speaker:

I vote yes because I don't see any reason not to be as direct as possible, that the opinion of this legislature is that we, as a whole, feel the original minimum portion of the sentence was totally inappropriate, unless there is not unity amongst us in this regard."

Pending the question, Shall the House amend the resolution as recommended by the committee on Judiciary? **Rep. Koch of Barre Town** moved to amend the recommendation of amendment offered by the committee on Judiciary as follows:

By striking the fourth "Whereas" clause, and by inserting in lieu thereof the following:

Whereas: in the recent Vermont District Court case, State v. Hulett, the court originally imposed a sentence for a terrible sexual assault upon a minor, which many in the General Assembly find to have been inappropriate and to have given insufficient consideration to punishment; and

Whereas: although the General Assembly is gratified that the Court has reconsidered and has imposed a more appropriate sentence, the issues of appropriate sentencing and correctional policy for sexual offenders that have been highlighted by this case remain, and

Whereas: the General Assembly recognizes the importance of an independent judiciary to the rule of law in our constitutional system of government, and

Pending the question, Shall the House amend the recommendation of amendment offered by the committee on Judiciary as offered by Rep. Koch of Barre Town? **Rep. Lippert of Hinesburg** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the recommendation of amendment offered by the committee on Judiciary as offered by Rep. Koch of Barre Town? was decided in the affirmative. Yeas, 130. Nays, 7.

Those who voted in the affirmative are:

Acinapura of Brandon	Fisher of Lincoln	Louras of Rutland City
Adams of Hartland	Flory of Pittsford	Maier of Middlebury
Allaire of Rutland City	Frank of Underhill	Malcolm of Pawlet
Allard of St. Albans Town	French of Randolph	Marcotte of Coventry
Aswad of Burlington	Gervais of Enosburg	Marek of Newfane
Audette of S. Burlington	Grad of Moretown	Marron of Stowe
Baker of West Rutland	Green of Berlin	Martin of Springfield
Barnard of Richmond	Haas of Rochester	Masland of Thetford
Bartlett of Dover	Head of S. Burlington	McAllister of Highgate
Bohi of Hartford	Heath of Westford	McCullough of Williston
Bostic of St. Johnsbury	Helm of Castleton	McFaun of Barre Town
Botzow of Pownal	Hosford of Waitsfield	McLaughlin of Royalton
Branagan of Georgia	Howrigan of Fairfield	Milkey of Brattleboro
Brennan of Colchester	Hube of Londonderry	Miller of Shaftsbury
Brooks of Montpelier	Hudson of Lyndon	Miller of Elmore
Canfield of Fair Haven	Hunt of Essex	Minter of Waterbury
Chen of Mendon	Hutchinson of Randolph	Molloy of Arlington
Clark of St. Johnsbury	Jewett of Ripton	Monti of Barre City
Clark of Vergennes	Johnson of South Hero	Morley of Barton
Clarkson of Woodstock	Johnson of Canaan	Morrissey of Bennington
Condon of Colchester	Kainen of Hartford	Myers of Essex
Corcoran of Bennington	Kennedy of Chelsea	Nease of Johnson
Cross of Winooski	Keogh of Burlington	Niquette of Colchester
Darrow of Dummerston	Kilmartin of Newport City	Nitka of Ludlow
Dates of Shelburne	Kiss of Burlington	Nuovo of Middlebury
Deen of Westminster	Kitzmiller of Montpelier	Obuchowski of Rockingham
DePoy of Rutland City	Klein of East Montpelier	O'Donnell of Vernon
Donaghy of Poultney	Koch of Barre Town	Orr of Charlotte
Donahue of Northfield	Krawczyk of Bennington	Parent of St. Albans City
Donovan of Burlington	Kupersmith of S. Burlington	Partridge of Windham
Dostis of Waterbury	Larocque of Barnet	Peaslee of Guildhall
Dunsmore of Georgia	Larson of Burlington	Pellett of Chester
Edwards of Brattleboro	LaVoie of Swanton	Perry of Richford
Emmons of Springfield	Lawrence of Lyndon	Peterson of Williston
Endres of Milton	Leriche of Hardwick	Potter of Clarendon
Errecart of Shelburne	Lippert of Hinesburg	Pugh of S. Burlington
Evans of Essex	Livingston of Manchester	Randall of Troy
Fallar of Tinnmouth	Lorber of Burlington	Reese of Pomfret

Rusten of Halifax
Seibert of Norwich
Severance of Colchester
Shand of Weathersfield
Sharpe of Bristol
Shaw of Derby

Smith of New Haven
Smith of Morristown
Sunderland of Rutland Town
Sweaney of Windsor
Tracy of Burlington
Trombley of Grand Isle

Turner of Milton
Valliere of Barre City
Wright of Burlington
Zuckerman of Burlington

Those who voted in the negative are:

Atkins of Winooski
Dowland of Holland
Jerman of Essex

Mook of Bennington
Otterman of Topsham
Winters of Swanton

Winters of Williamstown

Those members absent with leave of the House and not voting are:

Ancel of Calais
Copeland-Hanzas of
Bradford
Houston of Ferrisburgh
Howard of Rutland City

Keenan of St. Albans City
Komline of Dorset
Larrabee of Danville
Martin of Wolcott
Pillsbury of Brattleboro

Rodgers of Glover
Westman of Cambridge
Young of Orwell

Thereupon, the recommendation of amendment of the committee on Judiciary, as amended, was agreed to.

Pending the question, Shall the resolution be read a third time? **Rep. DePoy of Rutland City** moved to amend the resolution as follows:

In the Fourth Whereas clause by striking the words "many in" and by striking the word "find" and inserting in lieu thereof the word finds

Pending the question, Shall the House amend the resolution as offered by Rep. DePoy of Rutland City? **Rep. Sunderland of Rutland Town** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the resolution as offered by Rep. DePoy of Rutland City? was decided in the negative. Yeas, 47. Nays, 84.

Those who voted in the affirmative are:

Acinapura of Brandon
Adams of Hartland
Allard of St. Albans Town
Baker of West Rutland
Bartlett of Dover
Bostic of St. Johnsbury
Brennan of Colchester
Canfield of Fair Haven
Clark of St. Johnsbury
DePoy of Rutland City
Donaghy of Poultney
Donahue of Northfield

Dunsmore of Georgia
Endres of Milton
Errecart of Shelburne
Flory of Pittsford
Helm of Castleton
Hube of Londonderry
Hudson of Lyndon
Johnson of Canaan
Kennedy of Chelsea
Kilmartin of Newport City
Krawczyk of Bennington
Larocque of Barnet

LaVoie of Swanton
Lawrence of Lyndon
Louras of Rutland City
Marcotte of Coventry
Marron of Stowe
McAllister of Highgate
McFaun of Barre Town
Miller of Elmore
Morley of Barton
Morrissey of Bennington
Myers of Essex
Niquette of Colchester

O'Donnell of Vernon
Parent of St. Albans City
Peaslee of Guildhall
Shaw of Derby

Smith of New Haven
Sunderland of Rutland Town
Turner of Milton
Valliere of Barre City

Winters of Swanton
Winters of Williamstown
Wright of Burlington

Those who voted in the negative are:

Ancel of Calais
Atkins of Winooski
Audette of S. Burlington
Barnard of Richmond
Bohi of Hartford
Botzow of Pownal
Branagan of Georgia
Brooks of Montpelier
Chen of Mendon
Clarkson of Woodstock
Condon of Colchester
Corcoran of Bennington
Cross of Winooski
Darrow of Dummerston
Dates of Shelburne
Deen of Westminster
Donovan of Burlington
Dostis of Waterbury
Dowland of Holland
Edwards of Brattleboro
Emmons of Springfield
Evans of Essex
Fallar of Tinmouth
Fisher of Lincoln
French of Randolph
Gervais of Enosburg
Grad of Moretown
Green of Berlin

Haas of Rochester
Head of S. Burlington
Heath of Westford
Hosford of Waitsfield
Howrigan of Fairfield
Hunt of Essex
Hutchinson of Randolph
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Kainen of Hartford
Keogh of Burlington
Kitzmiller of Montpelier
Klein of East Montpelier
Kupersmith of S. Burlington
Larson of Burlington
Leriche of Hardwick
Lippert of Hinesburg
Lorber of Burlington
Maier of Middlebury
Malcolm of Pawlet
Marek of Newfane
Martin of Springfield
Masland of Thetford
McCullough of Williston
McLaughlin of Royalton
Milkey of Brattleboro
Miller of Shaftsbury

Minter of Waterbury
Molloy of Arlington
Monti of Barre City
Mook of Bennington
Nease of Johnson
Nitka of Ludlow
Nuovo of Middlebury
Obuchowski of Rockingham
Orr of Charlotte
Otterman of Topsham
Partridge of Windham
Pellett of Chester
Perry of Richford
Peterson of Williston
Potter of Clarendon
Pugh of S. Burlington
Randall of Troy
Reese of Pomfret
Rusten of Halifax
Seibert of Norwich
Severance of Colchester
Shand of Weathersfield
Sharpe of Bristol
Smith of Morristown
Sweaney of Windsor
Tracy of Burlington
Trombley of Grand Isle
Zuckerman of Burlington

Those members absent with leave of the House and not voting are:

Allaire of Rutland City
Aswad of Burlington
Clark of Vergennes
Copeland-Hanzas of
Bradford
Frank of Underhill
Houston of Ferrisburgh

Howard of Rutland City
Keenan of St. Albans City
Kiss of Burlington
Koch of Barre Town
Komline of Dorset
Larrabee of Danville
Livingston of Manchester

Martin of Wolcott
Pillsbury of Brattleboro
Rodgers of Glover
Westman of Cambridge
Young of Orwell

Rep. Endres of Milton explained his vote as follows:
"Madam Speaker"

I am deeply disappointed that this chamber could not set aside partisan politics and provide a unanimous voice that expresses our belief that 60 days was an inappropriate sentence for this terrible assault on an innocent young girl."

Rep. Smith of Morristown explained his vote as follows:

"Madam Speaker:

I hope that we can put as much energy in fixing the perceived problems in the system as we have in expressing our outrage."

Rep. Wright of Burlington explained his vote as follows:

"Madam Speaker:

The General Assembly is divided on whether a 60 day minimum is an appropriate sentence for aggravated sexual assault on a child. What a shame."

Rep. Zuckerman of Burlington explained his vote as follows:

"Madam Speaker:

What makes me sad is that the victim has been lost in this discussion. I am also deeply troubled that this level of political exploitation has been made of what is a very serious plague in our "civilized" society.

We must put more emphasis on prevention. No matter what the sentence, 60 days of life, this girl and many others who suffer these crimes will never be the same.

Let's address the underlying problems."

Pending the question, Shall the bill be read the third time? **Rep. Kilmartin of Newport City** moved the resolution be ordered to lie.

Pending the question, Shall the resolution be ordered to lie? **Rep. Kilmartin of Newport City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the resolution be ordered to lie was decided in the negative. Yeas, 7. Nays, 120.

Those who voted in the affirmative are:

Bartlett of Dover
Branagan of Georgia
Canfield of Fair Haven

Dunsmore of Georgia
Errecart of Shelburne
Kilmartin of Newport City

Miller of Elmore

Those who voted in the negative are:

Acinapura of Brandon
Adams of Hartland

Allard of St. Albans Town
Atkins of Winooski

Audette of S. Burlington
Baker of West Rutland

Barnard of Richmond	Hudson of Lyndon	Morrissey of Bennington
Bohi of Hartford	Hunt of Essex	Myers of Essex
Bostic of St. Johnsbury	Hutchinson of Randolph	Nease of Johnson
Botzow of Pownal	Jerman of Essex	Niquette of Colchester
Brennan of Colchester	Jewett of Ripton	Nitka of Ludlow
Brooks of Montpelier	Johnson of South Hero	Nuovo of Middlebury
Chen of Mendon	Johnson of Canaan	Obuchowski of Rockingham
Clark of St. Johnsbury	Kainen of Hartford	O'Donnell of Vernon
Clarkson of Woodstock	Kennedy of Chelsea	Orr of Charlotte
Condon of Colchester	Kitzmiller of Montpelier	Otterman of Topsham
Corcoran of Bennington	Klein of East Montpelier	Parent of St. Albans City
Cross of Winooski	Krawczyk of Bennington	Partridge of Windham
Darrow of Dummerston	Kupersmith of S. Burlington	Peaslee of Guildhall
Dates of Shelburne	Larocque of Barnet	Pellett of Chester
Deen of Westminster	Larson of Burlington	Perry of Richford
DePoy of Rutland City	LaVoie of Swanton	Peterson of Williston
Donaghy of Poultney	Lawrence of Lyndon	Potter of Clarendon
Donahue of Northfield	Leriche of Hardwick	Pugh of S. Burlington
Donovan of Burlington	Lippert of Hinesburg	Randall of Troy
Dostis of Waterbury	Livingston of Manchester	Reese of Pomfret
Dowland of Holland	Lorber of Burlington	Rusten of Halifax
Edwards of Brattleboro	Louras of Rutland City	Seibert of Norwich
Emmons of Springfield	Maier of Middlebury	Severance of Colchester
Endres of Milton	Malcolm of Pawlet	Shand of Weathersfield
Evans of Essex	Marcotte of Coventry	Sharpe of Bristol
Fallar of Tinmouth	Marek of Newfane	Shaw of Derby
Fisher of Lincoln	Marron of Stowe	Smith of New Haven
Flory of Pittsford	Martin of Springfield	Smith of Morristown
French of Randolph	Masland of Thetford	Sunderland of Rutland Town
Gervais of Enosburg	McAllister of Highgate	Sweaney of Windsor
Grad of Moretown	McCullough of Williston	Tracy of Burlington
Green of Berlin	McFaun of Barre Town	Trombley of Grand Isle
Haas of Rochester	McLaughlin of Royalton	Turner of Milton
Head of S. Burlington	Miller of Shaftsbury	Valliere of Barre City
Heath of Westford	Minter of Waterbury	Winters of Swanton
Helm of Castleton	Molloy of Arlington	Winters of Williamstown
Hosford of Waitsfield	Mook of Bennington	Wright of Burlington
Hube of Londonderry	Morley of Barton	Zuckerman of Burlington

Those members absent with leave of the House and not voting are:

Allaire of Rutland City	Howard of Rutland City	Martin of Wolcott
Ancel of Calais	Howrigan of Fairfield	Milkey of Brattleboro
Aswad of Burlington	Keenan of St. Albans City	Monti of Barre City
Clark of Vergennes	Keogh of Burlington	Pillsbury of Brattleboro
Copeland-Hanzas of Bradford	Kiss of Burlington	Rodgers of Glover
Frank of Underhill	Koch of Barre Town	Westman of Cambridge
Houston of Ferrisburgh	Komline of Dorset	Young of Orwell
	Larrabee of Danville	

Thereupon, third reading was ordered.

Adjournment

At three o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until Tuesday, January 31, 2006, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 51.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 216

House concurrent resolution congratulating The Falls Playschool in Bellows Falls on its 35th anniversary

H.C.R. 217

House concurrent resolution in memory of Representative Robert "Bob" Wood of Brandon

H.C.R. 218

House concurrent resolution congratulating the 2005 Division IV championship Otter Valley Union High School football team

H.C.R. 219

House concurrent resolution honoring St. Peter's Parish in Rutland on its 150th anniversary

H.C.R. 220

House concurrent resolution congratulating the Girl Scout Council of Vermont's 2005 Girl Scout Gold Award and Silver Award winners

H.C.R. 221

House concurrent resolution in memory of former Supreme Court Justice and Representative Wynn Underwood

H.C.R. 222

House concurrent resolution recognizing national nurse anesthetists' week

S.C.R. 47

Senate concurrent resolution congratulating Lake View Grange #359 on its centennial anniversary.

S.C.R. 48

Senate concurrent resolution congratulating the Milbank Memorial Fund on its centennial anniversary.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2006, sixty-eighth Adjourned session]

TUESDAY, JANUARY 31, 2006

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Representative Francis Brooks of Montpelier.

Pledge of Allegiance

Page Craig Camara of Starksboro led the House in the Pledge of Allegiance.

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Flory of Pittsford**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 735

By Reps. Keenan of St. Albans City and Young of Orwell,

An act relating to statutory reorganization of the boards, councils, and divisions within the department of labor;

To the committee on Commerce.

H. 736

By Rep. Edwards of Brattleboro

An act relating to registration surcharge for motor vehicles;

To the committee on Transportation.

H. 737

By Reps. Perry of Richford, Ancel of Calais, Baker of West Rutland, Barnard of Richmond, Bohi of Hartford, Botzow of Pownal, Branagan of Georgia, Brooks of Montpelier, Chen of Mendon, Cross of Winooski, Deen of

Westminster, Donahue of Northfield, Donovan of Burlington, Emmons of Springfield, Evans of Essex, Fallar of Tinmouth, Frank of Underhill, French of Randolph, Gervais of Enosburg, Green of Berlin, Haas of Rochester, Head of S. Burlington, Heath of Westford, Helm of Castleton, Hosford of Waitsfield, Hunt of Essex, Hutchinson of Randolph, Jerman of Essex, Keenan of St. Albans City, Keogh of Burlington, Larson of Burlington, Leriche of Hardwick, Malcolm of Pawlet, Marron of Stowe, Martin of Springfield, Martin of Wolcott, Orr of Charlotte, Randall of Troy, Reese of Pomfret, Shand of Weathersfield, Sweaney of Windsor and Young of Orwell,

An act relating to expanding the scope of the bottle bill to include all beverages except milk, dairy-derived products, and products made from Vermont fruit or vegetables;

To the committee on Natural Resources and Energy.

H. 738

By Reps. Edwards of Brattleboro, Milkey of Brattleboro and Pillsbury of Brattleboro

An act relating to the creation of planned unit development distributed power systems;

To the committee on Natural Resources and Energy.

H. 739

By Reps. Klein of East Montpelier, Darrow of Dummerston, Edwards of Brattleboro, Masland of Thetford, McCullough of Williston and Pellett of Chester

An act relating to authorizing intervenor funding for proceedings before the public service board.

To the committee on Natural Resources and Energy.

H. 740

By Rep. Hosford of Waitsfield,

An act relating to the establishment of a new holiday celebrating indigenous people.

To the committee on General, Housing and Military Affairs.

H. 741

By Reps. Representatives French of Randolph, Canfield of Fair Haven, Helm of Castleton, Hudson of Lyndon, Hutchinson of Randolph, Kennedy of Chelsea, Lawrence of Lyndon and Nease of Johnson,

An act relating to state college property tax exemption and payment in lieu of taxes;

To the committee on Ways and Means.

H. 742

By Rep. Larson of Burlington,

An act relating to permitting same-sex marriage and the clergy's right to refuse to solemnize a marriage;

To the committee on Judiciary.

H. 743

By Reps. Howrigan of Fairfield, Bartlett of Dover, Clark of Vergennes, Dunsmore of Georgia, Flory of Pittsford, Shaw of Derby and Valliere of Barre City,

An act relating to pharmacological treatment of sex offenders;

To the committee on Judiciary.

H. 744

By Reps. Young of Orwell, Acinapura of Brandon, Canfield of Fair Haven, Helm of Castleton, Parent of St. Albans City and Trombley of Grand Isle,

An act relating to nonresident motorboat fees;

To the committee on Transportation.

H. 745

By Rep. Young of Orwell,

An act relating to prohibiting coyote-hunting competitions;

To the committee on Fish, Wildlife and Water Resources.

H. 746

By Rep. Edwards of Brattleboro,

An act relating to the chair of the nuclear advisory panel;

To the committee on Government Operations.

H. 747

By Reps. Dowland of Holland and Randall of Troy,

An act relating to municipal regulation of public shade trees;

To the committee on Government Operations.

H. 748

By Reps. LaVoie of Swanton, Winters of Swanton and Young of Orwell,
An act relating to home security systems and false alarms;
To the committee on General, Housing and Military Affairs.

H. 749

By Reps. Donovan of Burlington, Branagan of Georgia, Head of South
Burlington and Lorber of Burlington,
An act relating to women offenders;
To the committee on Institutions.

H. 750

By Reps. Donahue of Northfield, Errecart of Shelburne and Pillsbury of
Brattleboro,
An act relating to admissions to designated mental health hospitals;
To the committee on Human Services.

H. 751

By Rep. Donovan of Burlington,
An act relating to requirements for financial assistance for caretakers or
relatives of children;
To the committee on Human Services.

H. 752

By Reps. Smith of New Haven, Clark of Vergennes and Houston of
Ferrisburgh,
An act relating to vulnerable adults;
To the committee on Judiciary.

H. 753

By Reps. Donovan of Burlington, Aswad of Burlington, Keogh of
Burlington, Kiss of Burlington, Larson of Burlington, Lorber of Burlington,
Tracy of Burlington, Wright of Burlington and Zuckerman of Burlington,
An act relating to education property tax on multi-rental housing and
expansion of renter rebate program;
To the committee on Ways and Means.

H. 754

By Reps. Pugh of South Burlington and Barnard of Richmond,
An act relating to sales tax holiday for major building materials;
To the committee on Ways and Means.

H. 755

By Rep. Howard of Rutland City,
An act relating to active duty income tax credit;
To the committee on Ways and Means.

H. 756

By Rep. Howard of Rutland City,
An act relating to increasing the Vermont earned income tax credit;
To the committee on Ways and Means.

H. 757

By Reps. Branagan of Georgia and Chen of Mendon,
An act relating to safety of children and electrical outlets;
To the committee on General, Housing and Military Affairs.

H. 758

By Reps. Keenan of St. Albans City, Head of S. Burlington, Howard of Rutland City, Howrigan of Fairfield, Reese of Pomfret, Shand of Weathersfield and Trombley of Grand Isle,

An act relating to licensing of plumbers;
To the committee on Government Operations.

H. 759

By Reps. Howard of Rutland City and DePoy of Rutland City,
An act relating to expedited evictions for drug offenses or disturbing the peace;
To the committee on Judiciary.

H. 760

By Rep. Howard of Rutland City,
An act relating to the legislative research fund;

To the committee on Government Operations.

H. 761

By Rep. Howard of Rutland City,

An act relating to campaign finance expenditure limit exemption;

To the committee on Government Operations.

H. 762

By Reps. Obuchowski of Rockingham, Atkins of Winooski, Chen of Mendon, Hunt of Essex, Jewett of Ripton and McFaun of Barre Town,

An act relating to price gouging of petroleum products, heating fuel products, and electricity, requirements for pre-buy contracts, and notice of acquisition;

To the committee on Commerce.

H. 763

By Reps. Botzow of Pownal, Jerman of Essex, Clarkson of Woodstock, Edwards of Brattleboro, Evans of Essex, Haas of Rochester, Hosford of Waitsfield, Johnson of South Hero, Martin of Wolcott, Milkey of Brattleboro, Minter of Waterbury, Nease of Johnson, Shand of Weathersfield and Sharpe of Bristol,

An act relating to inventors' assistance;

To the committee on Commerce.

H. 764

By Reps. Klein of East Montpelier, French of Randolph and Pugh of South Burlington,

An act relating to essential support services for individuals with developmental disabilities;

To the committee on Human Services.

H. 765

By Rep. Howard of Rutland City,

An act relating to transitional housing for offenders; notification;

To the committee on Institutions.

H. 766

By Rep. Young of Orwell,

An act relating to real estate transfer pursuant to strict foreclosure not voidable as fraudulent conveyance;

To the committee on Judiciary.

H. 767

By Reps. Obuchowski of Rockingham, Morrissey of Bennington, Flory of Pittsford, Ancel of Calais, Bohi of Hartford, Darrow of Dummerston, Fisher of Lincoln, Howard of Rutland City, Masland of Thetford, Nitka of Ludlow, Johnson of Canaan, Keenan of St. Albans City, Kiss of Burlington, Kupersmith of S. Burlington, Miller of Shaftsbury, Otterman of Topsham, Parent of St. Albans City, Acinapura of Brandon, Adams of Hartland, Allaire of Rutland City, Allard of St. Albans Town, Audette of S. Burlington, Baker of West Rutland, Barnard of Richmond, Bartlett of Dover, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Chen of Mendon, Clark of St. Johnsbury, Clark of Vergennes, Condon of Colchester, Cross of Winooski, DePoy of Rutland City, Donaghy of Poultney, Dostis of Waterbury, Endres of Milton, Evans of Essex, Frank of Underhill, Helm of Castleton, Howrigan of Fairfield, Hudson of Lyndon, Hunt of Essex, Hutchinson of Randolph, Johnson of South Hero, Kainen of Hartford, Kennedy of Chelsea, Koch of Barre Town, Krawczyk of Bennington, Larocque of Barnet, Larrabee of Danville, LaVoie of Swanton, Lawrence of Lyndon, Livingston of Manchester, Malcolm of Pawlet, Marcotte of Coventry, Marron of Stowe, Miller of Elmore, Myers of Essex, Peaslee of Guildhall, Pillsbury of Brattleboro, Potter of Clarendon, Rusten of Halifax, Shaw of Derby, Smith of New Haven, Smith of Morristown, Sweaney of Windsor, Valliere of Barre City, Wright of Burlington and Young of Orwell,

An act relating to eminent domain;

To the committee on Judiciary.

H. 768

By Reps. Howard of Rutland City and DePoy of Rutland City,

An act relating to using drugs in the presence of a minor;

To the committee on Judiciary.

H. 769

By Reps. Howard of Rutland City and DePoy of Rutland City,

An act relating to execution of search warrants;

To the committee on Judiciary.

H. 770

By Howard of Rutland City,

An act relating to forfeiture of property seized in connection with drug offense;

To the committee on Judiciary.

H. 771

By Reps. Howard of Rutland City and Orr of Charlotte,

An act relating to naming the Rutland District and Family Court Building for Judge Francis B. McCaffrey;

To the committee on Institutions.

H. 772

By Reps. Botzow of Pownal, Clarkson of Woodstock, Donovan of Burlington, Edwards of Brattleboro, Haas of Rochester and Milkey of Brattleboro,

An act relating to graduated property transfer tax rates;

To the committee on Ways and Means.

H. 773

By Rep. Fisher of Lincoln (by request),

An act relating to school construction interest-free state loans in the form of tax credits;

To the committee on Institutions.

H. 774

By Rep. Keenan of St. Albans City,

An act relating to the Vermont economic development authority;

To the committee on Agriculture.

H. 775

By Reps. Brooks of Montpelier and Kitzmiller of Montpelier,

An act relating to accessibility to electronic information for the blind and disabled;

To the committee on Human Services.

H. 776

By Reps. Botzow of Pownal, Jerman of Essex, Audette of S. Burlington, Barnard of Richmond, Clarkson of Woodstock, Donovan of Burlington, Edwards of Brattleboro, Emmons of Springfield, Endres of Milton, Evans of

Essex, Fallar of Tinmouth, French of Randolph, Green of Berlin, Haas of Rochester, Hosford of Waitsfield, Johnson of South Hero, Leriche of Hardwick, Martin of Wolcott, Masland of Thetford, Milkey of Brattleboro, Minter of Waterbury, Nuovo of Middlebury, Orr of Charlotte, Pillsbury of Brattleboro, Potter of Clarendon, Reese of Pomfret, Shand of Weathersfield, Sharpe of Bristol, Trombley of Grand Isle and Zuckerman of Burlington,

An act relating to an appropriation for community development;

To the committee on Commerce.

H. 777

By Reps. Head of S. Burlington, Dostis of Waterbury, Errecart of Shelburne, Keenan of St. Albans City, Klein of East Montpelier, Leriche of Hardwick and Minter of Waterbury,

An act relating to resident ownership of mobile home parks using cooperative and condominium structures;

To the committee on General, Housing and Military Affairs.

H. 778

By Reps. Botzow of Pownal, Copeland-Hanzas of Bradford, Jerman of Essex, Atkins of Winooski, Clarkson of Woodstock, Donovan of Burlington, Edwards of Brattleboro, Evans of Essex, Frank of Underhill, French of Randolph, Haas of Rochester, Head of S. Burlington, Hutchinson of Randolph, Johnson of South Hero, Klein of East Montpelier, Martin of Springfield, Martin of Wolcott, McAllister of Highgate, McLaughlin of Royalton, Minter of Waterbury, Mook of Bennington, Pugh of S. Burlington and Shand of Weathersfield,

An act relating to support for early education services;

To the committee on Human Services.

H. 779

By Reps. Nitka of Ludlow and O'Donnell of Vernon,

An act relating to the awarding of high school diplomas to veterans of the Vietnam War;

To the committee on General, Housing and Military Affairs.

H. 780

By Rep. Sweaney of Windsor,

An act relating to teaching English as a second language to students who do not speak English well;

To the committee on Education.

H. 781

By Reps. Kiss of Burlington and Haas of Rochester;

An act relating to the personal needs allowance for low income individuals in nursing homes, residential care homes, or assisted living residences;

To the committee on Human Services.

H. 782

By Rep. Howard of Rutland City,

An act relating to municipally enforced motor vehicle violations and fines;

To the committee on Transportation.

H. 783

By Reps. Hutchinson of Randolph and French of Randolph,

An act relating to the local match for a bridge project in Randolph;

To the committee on Transportation.

H. 784

By Rep. Howard of Rutland City,

An act relating to municipal authorization to use town highway aid for traffic enforcement;

To the committee on Transportation.

H. 785

By Reps. Pugh of S. Burlington, Fisher of Lincoln, Copeland-Hanzas of Bradford, Hosford of Waitsfield, Botzow of Pownal, Branagan of Georgia, DePoy of Rutland City, Donovan of Burlington, Dostis of Waterbury, Edwards of Brattleboro, Emmons of Springfield, Evans of Essex, Frank of Underhill, French of Randolph, Head of S. Burlington, Hutchinson of Randolph, Kiss of Burlington, Klein of East Montpelier, Larocque of Barnet, Leriche of Hardwick, Livingston of Manchester, Lorber of Burlington, Malcolm of Pawlet, Martin of Springfield, Martin of Wolcott, McCullough of Williston, McFaun of Barre Town, McLaughlin of Royalton, Milkey of Brattleboro, Minter of Waterbury, Mook of Bennington, O'Donnell of Vernon, Pillsbury of Brattleboro, Smith of Morristown and Sweaney of Windsor,

An act relating to child care subsidies for low income working families;

To the committee on Human Services.

H. 786

By Reps. Parent of St. Albans City and Howrigan of Fairfield,

An act relating to municipal impact fees;

To the committee on Government Operations.

H. 787

By Reps. Kupersmith of S. Burlington, Ancel of Calais, Clarkson of Woodstock, Cross of Winooski, Grad of Moretown, Head of S. Burlington, Jewett of Ripton, Peterson of Williston, Reese of Pomfret and Sweaney of Windsor,

An act relating to uniform child custody jurisdiction and enforcement;

To the committee on Judiciary.

H. 788

By Reps. Winters of Swanton, Bartlett of Dover, Brennan of Colchester, Kilmartin of Newport City and Parent of St. Albans City,

An act relating to emergency vehicle operators making use of flashing lights and sirens;

To the committee on Transportation.

H. 789

By Reps. Kupersmith of S. Burlington, Adams of Hartland, Aswad of Burlington, Barnard of Richmond, Branagan of Georgia, Clarkson of Woodstock, Cross of Winooski, Deen of Westminster, Evans of Essex, Masland of Thetford, McCullough of Williston, Milkey of Brattleboro, Parent of St. Albans City, Randall of Troy, Shaw of Derby, Smith of Morristown and Sweaney of Windsor,

An act relating to establishing a speed limit of under 25 mile per hour on class 3 town highways;

To the committee on Transportation.

H. 790

By Reps. Representatives Marron of Stowe, Klein of East Montpelier, Kupersmith of S. Burlington, Martin of Springfield, O'Donnell of Vernon, Pugh of S. Burlington, Reese of Pomfret, Shand of Weathersfield and Wright of Burlington,

An act relating to the moderate income heating assistance trust;

To the committee on Human Services.

H. 791

By Rep Masland of Thetford,

An act relating to allocation of funds from the solid waste management assistance account of the waste management assistance fund to the environmental contingency fund,

To the committee on Natural Resources and Energy.

H. 792

By Reps. Atkins of Winooski and Marcotte of Coventry,

An act relating to the protection of personal information;

To the committee on Commerce.

H. 793

By Rep. LaVoie of Swanton,

An act relating to the regulation of home inspectors;

To the committee on Government Operations.

H. 794

By committee on General, Housing and Military Affairs,

An act relating to military service and professional regulation;

Under the rule, placed on calendar for notice.

H. 795

By Reps. Representatives Wright of Burlington, Branagan of Georgia, Bartlett of Dover, Brennan of Colchester, Clark of Vergennes, Dates of Shelburne, Dunsmore of Georgia, Flory of Pittsford, Helm of Castleton, Koch of Barre Town, Krawczyk of Bennington, Obuchowski of Rockingham, Sunderland of Rutland Town and Winters of Williamstown,

An act relating to the involuntary and civil commitment of sexually violent predators and violent predators;

To the committee on Judiciary.

H. 796

By Rep Pugh of South Burlington,

An act relating to legislative approval of and oversight over Medical waivers;

To the committee on Human Services.

H. 797

By Rep. Masland of Thetford,

An act relating to health care education program;

To the committee on Health Care.

H. 798

By Reps. Wright of Burlington and Parent of St. Albans City,

An act relating to first and second degree murder;

To the committee on Judiciary.

H. 799

By Reps. Pugh of S. Burlington, Frank of Underhill, French of Randolph and Klein of East Montpelier,

An act relating to respite care for children with special health care needs;

To the committee on Human Services.

H. 800

By Rep. Chen of Mendon,

An act relating to pharmaceutical drugs for use by free health care clinics;

To the committee on Health Care.

H. 801

By the committee on General, Housing and Military Affairs,

An act relating to veterans' service officer;

Under the rule, placed on calendar for notice.

H. 802

By Reps. Johnson of South Hero and Trombley of Grand Isle,

An act relating to eviction for nonpayment of rent and abandoned property;

To the committee on General, Housing and Military Affairs.

H. 803

By Reps. Representatives Green of Berlin, Orr of Charlotte, Botzow of Pownal, Chen of Mendon, Haas of Rochester, Johnson of South Hero, Lawrence of Lyndon, Livingston of Manchester, Malcolm of Pawlet, Randall of Troy and Smith of New Haven,

An act relating to agricultural tourism;

To the committee on Agriculture.

H. 804

Rep. Edwards of Brattleboro,

An act relating to encouraging the use of alternative fuels by municipalities;

To the committee on Natural Resources and Energy.

H. 805

By Reps. Koch of Barre Town, Keogh of Burlington and McFaun of Barre Town,

An act relating to health insurance affordability;

To the committee on Health Care.

H. 806

By Reps. Donovan of Burlington and McLaughlin of Royalton,

An act relating to limiting the ability to prohibit the use of clotheslines for the drying of clothes;

To the committee General, Housing and Military Affairs.

H. 807

By Reps. Peaslee of Guildhall, Hube of Londonderry, Obuchowski of Rockingham and Rodgers of Glover,

An act relating to regulating industrial wind turbine construction under Act 250;

To the committee on Natural Resources and Energy.

H. 808

By Reps. Fallar of Tinmouth and Miller of Shaftsbury,

An act relating to limitations on municipal bylaws, adoption of those bylaws, and notice of appeal with respect to those bylaws;

To the committee on Government Operations.

H. 809

By Reps. Masland of Thetford, Klein of East Montpelier, Maier of Middlebury and McCullough of Williston,

An act relating to municipal acquisition of street lights;

To the committee on Government Operations.

Senate Bill Referred**S. 122**

Senate bill, entitled

An act relating to local sales tax option for all municipalities;

Was taken up, read the first time and referred to the committee on Rules.

Message from the Senate No. 16

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bills of the following titles:

S. 30. An act relating to unemployment compensation and newspaper carriers.

S. 209. An act relating to an exemption from the safety belt and child restraint laws for emergency evacuations.

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

Action on Bill Postponed**S. 248**

Senate bill, entitled

An act relating to Good Time;

Was taken up and pending the question, Shall the bill be read the third time?, on motion of **Rep. Rodgers of Glover**, action on the bill was postponed until the next legislative day.

Third Reading; Bill Passed**H. 616**

House bill, entitled

An act relating to approval of the Charter of the Town of Jericho;

Was taken up, read the third time and passed.

**Favorable Report; Bill Read Second Time; Third Reading Ordered;
Rules Suspended; Bill Read Third Time; Passed; Rules Suspended;
Bill Ordered Messaged to Senate Forthwith**

H. 608

Rep. Komline of Dorset, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to renewal of a junior operator's license past age 18;

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

On motion of **Rep. Flory of Pittsford**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed and, on motion of **Rep. Flory of Pittsford** the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Third Reading; Resolution Adopted

J.R.H. 52

Joint resolution, entitled

Joint resolution regarding the Vermont district court case State v. Hulett and the General Assembly's commitment to reduce crimes of sexual violence in Vermont;

Was taken up, read the third time and adopted.

Text of J.R.H. 52 as Adopted

J.R.H. 52

Joint resolution regarding the Vermont district court case State v Hulett and the General Assembly's commitment to reduce crimes of sexual violence in Vermont

Whereas, sexual violence in Vermont is a serious safety, criminal justice, and health issue for Vermont families and communities, and

Whereas, many of the victims of sexual violence are women and children, often the most vulnerable in our communities, and

Whereas, a high percentage of the victims of sexual violence know their offenders, who are often either relatives or close acquaintances, and

Whereas: in the recent Vermont District Court case, State v. Hulett, the court originally imposed a sentence for a terrible sexual assault upon a minor.

which many in the General Assembly find to have been inappropriate and to have given insufficient consideration to punishment; and

Whereas: although the General Assembly is gratified that the Court has reconsidered and has imposed a more appropriate sentence, the issues of appropriate sentencing and correctional policy for sexual offenders that have been highlighted by this case remain, and

Whereas: the General Assembly recognizes the importance of an independent judiciary to the rule of law in our constitutional system of government, and

Whereas, the rule of law in an ordered society requires that our judges be accountable to the people, and our constitution and statutes mandate that each judge's conduct and performance, including that of Judge Edward Cashman, be reviewed and evaluated every six years through the judicial retention process, which process encourages public testimony, comment, criticism, and praise on and for each judge seeking retention, and

Whereas, if a member of the public is concerned about a specific instance of improper conduct of a particular judge, he or she may file a complaint with the judicial conduct board, and

Whereas, if a state's attorney or the attorney general believes a criminal sentence is illegal or clearly erroneous, the state's attorney or attorney general may seek redress in the Vermont courts, and

Whereas, the appropriate legislative response to the Hulett sentence is to revise sentencing and corrections statutes and policy to preclude the likelihood of a similar sentence being issued in a comparable future case, and

Whereas, the General Assembly is concerned about the extensive life scarring impact of sexual violence on our communities and is committed to addressing this issue during the 2006 legislative session building on laws passed in 2005 that included: establishing a new crime of voyeurism; amending the stalking law; affirming the right of law enforcement to engage in active community notification regarding sex offenders; requiring the department of corrections to identify all high risk sex offenders under its supervision and adding them to the internet sex offender registry; authorizing the expansion of special investigation units for sex crimes; requiring all felons to submit a DNA sample upon conviction; increasing penalties for lewd and lascivious conduct with a child and establishing a maximum life in prison sentence for recidivists; prohibiting a person convicted of aggravated sexual assault from eligibility for early release or furlough until the expiration of the minimum sentence imposed; increasing the sentence for aggravated sexual assault of up to life in prison; streamlining the process for designating an

offender as a sexually violent predator and requiring prior to sentence a presentence investigation and a psychosexual evaluation; and appropriating \$50,000 to state's attorneys and the department of corrections for the purpose of funding psychosexual evaluations, and

Whereas, it is imperative that all incarcerated sex offenders be given prison sentences commensurate with their crimes, and also be provided sex offender treatment that protects our citizens from victimization, and

Whereas, in pursuit of these urgent objectives, the General Assembly is now developing legislation addressing effective prevention, investigation, treatment, and sentencing of sex offenders with the goals of creating sentences that take into consideration punishment, deterrence, restitution, and treatment, now therefore be it

Resolved by the Senate and House of Representatives:

That criminals convicted of sexual offenses should receive sentences commensurate with the severity of their crimes, imposed by a judiciary that is independent of political influences, and be it further

Resolved: That it is critical that the victims of sex crimes be treated with the utmost respect and support, and that the serious problem of revictimization be eliminated, and be it further

Resolved: That the state of Vermont should allocate more resources to strategic incarceration of sex offenders, including treatment for all incarcerated sex offenders who are assessed as being even a low-risk to reoffend, and be it further

Resolved: That members of the public should be informed of their opportunities to file a complaint with the judicial conduct board regarding conduct that violates the legal and ethical standards for judges, and be it further

Resolved: That the General Assembly is committed to passing before the final adjournment of the 2006 legislative session legislation addressing effective prevention, investigation, treatment, and sentencing of sex offenders with the ultimate goal of eliminating sexual violence in the state of Vermont

Resolved: That, should the judiciary - or any individual judge - determine that there are inadequacies in the state's sentencing laws or policies, or in the policies or programs of the Department of Corrections, or in other state law or policy relating to criminal justice, sentencing and treatment, it be encouraged to recommend any revisions to such state laws or policies to the policy-making branch of government - the legislature.

**Bill Read Second Time:
Consideration Interrupted by Recess;**

H. 547

Rep. Atkins of Winooski, spoke for the committee on Government Operations.

Rep. O'Donnell of Vernon, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to adjustments to the retirement systems of state employees and teachers;

Reported in favor of its passage when amended as follows:

First: In Sec. 1, 3 V.S.A. § 455(a)(9)(B), by striking "2005" and inserting in lieu thereof "2006" and in (C), by striking "2005" and inserting in lieu thereof "2006"

Second: In Sec. 4, 3 V.S.A. § 459, by striking subsection (f) in its entirety

Third: In Sec. 10, 3 V.S.A. § 479, by striking "2005" in every instance and inserting in lieu thereof "2006" in every instance

Fourth: In Sec. 12, by striking "2005" in every instance and inserting in lieu thereof "2006" in every instance, and in (c), and by striking "2006" and inserting in lieu thereof "2007"

Fifth: By striking Sec. 13 in its entirety

Sixth: In the original Sec. 14, 16 V.S.A. § 1944(c)(12)(G), by striking "2005" and inserting in lieu thereof "2006"

An by renumbering the remaining section to be numerically correct.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House amend the bill as recommended by the committee on Appropriations?

Recess

At ten o'clock and fifty-five minutes in the forenoon, the Speaker declared a recess until eleven o'clock and forty minutes in the forenoon.

At eleven o'clock and fifty-five minutes in the forenoon, the Speaker called the House to order.

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

H. 547

Consideration resumed on House bill, entitled

An act relating to adjustments to the retirement systems of state employees and teachers;

Thereupon, the report of the committee on Appropriations was agreed to and third reading ordered.

Bill Read Second Time; Action Postponed

H. 554

Rep. Deen of Westminster, for the committee on Fish, Wildlife and Water Resources, to which had been referred House bill, entitled

An act relating to the classification of state waters;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) It is the settled policy of the state as set forth in section 1250 of this title to protect and enhance the existing quality, character, and usefulness of surface water and to seek over the long term to upgrade the quality of the surface waters of the state.

(2) The adoption of any water management types within the classifications of state surface waters shall conform to the state water policy.

(3) Procedures or rules adopted by the water resources panel of the natural resources board relating to the designation of water management types shall maximize public participation and public input in a manner consistent with the department of conservation's 2001 Vermont watershed initiative guidelines for watershed planning.

(4) Basin plans and water management type designations and redesignations proposed by the agency of natural resources shall include sufficient information and documentation to ensure transparency regarding agency decision-making.

(5) Because the agency of natural resources has consistently violated both the federal Clean Water Act requirement that the state engage in a continuing planning process for state surface waters and the state requirement

in subsection 1253(d) of Title 10 that all 17 basin plans be updated every five years, the further extension of the deadline by which the agency shall update all 17 basin plans is granted reluctantly and subject to the insistence that the agency update all basin plans by 2009 as required by this act.

Sec. 2. 10 V.S.A. § 1251a(c) is added to read:

(c) The secretary of natural resources shall propose to the water resources panel of the board an implementation process for the antidegradation policy in the water quality standards of the state. Upon submittal of the implementation process by the secretary, the panel shall promptly initiate rulemaking for adoption of an implementation process in the water quality standards of the state.

Sec. 3. 10 V.S.A. § 1252(i) is added to read:

(i) The board may adopt by rule water management types representing subcategories of water quality criteria for designated uses within the classes of waters set forth in subsection (a) of this section to achieve and maintain a level of quality that fully supports the attainable uses and water quality protection of all or any portion of a water body. The designation or redesignation of a water body as a water management type by the board shall be done by rule according to chapter 25 of Title 3.

Sec. 4. 10 V.S.A. § 1253(d) is amended to read:

(d) The board shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by it before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The secretary shall revise all 17 basin plans by ~~January 1, 2006~~ December 31, 2009, and update them every five years thereafter. On or before January 1 ~~of each year~~, the secretary shall report to the house committees on agriculture and ~~natural resources and energy~~ fish, wildlife and water resources and to the senate committees on agriculture and natural resources and energy regarding the progress made and difficulties encountered in revising basin plans. By January 1, 1993, the secretary shall prepare an overall management plan to ensure that the water quality standards are met in all state waters.

Sec. 5. EFFECTIVE DATE

This act shall take effect upon passage.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House amend the bill as recommended by the committee on Fish, Wildlife and Water Resources? On motion of Rep.

Deen of Westminster, action on the bill was postponed until the next legislative day.

Adjournment

At twelve o'clock and five minutes in the after, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

WEDNESDAY, FEBRUARY 1, 2006

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Representative Thomas Koch of Barre Town.

House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Sunderland of Rutland Town**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 810

By Rep. LaVoie of Swanton,

An act relating to board of civil authority quorum requirement for tax abatement purposes;

To the committee on Government Operations.

H. 811

By Rep. LaVoie of Swanton,

An act relating to state administration of Vermont's special education system;

To the committee on Education.

H. 812

By Reps. Keenan of St. Albans City and Pugh of South Burlington,

An act relating to increasing the number of preschool and school-aged children in a family day care center;

To the committee on Human Services.

H. 813

By Reps. Allaire of Rutland City, Branagan of Georgia, DePoy of Rutland City and Flory of Pittsford

An act relating to sustainable school spending and property tax burdens;
To the committee on Ways and Means.

H. 814

By Rep. Masland of Thetford,

An act relating to income tax film production investment credit;
To the committee on Ways and Means.

H. 815

By Reps. Wright of Burlington and Audette of South Burlington,

An act relating to an option to vote to increase an annual school budget by the consumer price index;

To the committee on Education.

H. 816

By Rep. Baker of West Rutland,

An act relating to limiting participation in youth hunting weekend;
To the committee on Fish, Wildlife and Water Resources.

H. 817

By Reps. Kupersmith of S. Burlington, Adams of Hartland, Audette of S. Burlington, Deen of Westminster, Head of S. Burlington, Hosford of Waitsfield, Pugh of S. Burlington and Randall of Troy,

An act relating to stormwater management;

To the committee on Fish, Wildlife and Water Resources.

H. 818

By Reps. Allard of St. Albans Town, Audette of S. Burlington, Brennan of Colchester, Canfield of Fair Haven, Howrigan of Fairfield, Kilmartin of Newport City, Parent of St. Albans City and Westman of Cambridge,

An act relating to use of restraints on offenders while in the courtroom;

To the committee on Judiciary.

H. 819

By Reps. Pillsbury of Brattleboro, Allard of St. Albans Town, Atkins of Winooski, Darrow of Dummerston, Deen of Westminster, Dowland of Holland, Edwards of Brattleboro, Flory of Pittsford, Kilmartin of Newport City, Larocque of Barnet, Marek of Newfane, Milkey of Brattleboro, Molloy of Arlington, O'Donnell of Vernon and Randall of Troy,

An act relating to the Windham Regional Career Center;
To the committee on Education.

H. 820

By Rep. Nitka of Ludlow,

An act relating to exempting from Act 250 shooting club improvements that would protect the public safety;

To the committee on Natural Resources and Energy.

H. 821

By Rep. Edwards of Brattleboro,

An act relating to the filing of applications to extend the operation of Vermont Yankee, and the related certificate of public good process;

To the committee on Natural Resources and Energy.

H. 822

By Reps. Hube of Londonderry, Peaslee of Guildhall and Rodgers of Glover,

An act relating to town representation regarding wind turbines and establishing a moratorium on authorization of wind turbine construction;

To the committee on Natural Resources and Energy.

H. 823

By Reps. Hube of Londonderry,

An act relating to wind turbine construction by Act 250 permit holders;

To the committee on Natural Resources and Energy.

H. 824

By Reps. Lorber of Burlington, Baker of West Rutland, Branagan of Georgia, Cross of Winooski, Fisher of Lincoln, Haas of Rochester, Komline of Dorset, Larson of Burlington and Pillsbury of Brattleboro,

An act relating to a ten-year plan to decrease both crime and the incarcerated population;

To the committee on Institutions.

- H. 825

By Rep. Masland of Thetford,

An act relating to expansion of the human rights commission;

To the committee on Government Operations.

H. 826

By Reps. Allard of St. Albans Town (by request), Fallar of Tinmouth (by request), and Howrigan of Fairfield (by request),

An act relating to no preference option in general elections;

To the committee on Government Operations.

H. 827

By Rep. Chen of Mendon,

An act relating to a screening panel for medical injury claims;

To the committee on Judiciary.

H. 828

By Reps. Kilmartin of Newport City, Koch of Barre Town, Marcotte of Coventry and Pillsbury of Brattleboro,

An act relating to authorizing a jury sentence of life for aggravated sexual assault and life without parole for first degree aggravated sexual assault and preventing conviction of innocent persons;

To the committee on Judiciary.

H. 829

By Reps. Kilmartin of Newport City, Acinapura of Brandon, Allard of St. Albans Town, Bartlett of Dover, Clark of Vergennes, Dates of Shelburne, DePoy of Rutland City, Donaghy of Poultney, Dunsmore of Georgia, Flory of Pittsford, Helm of Castleton, Houston of Ferrisburgh, Hube of Londonderry, Kennedy of Chelsea, Krawczyk of Bennington, Marcotte of Coventry, McAllister of Highgate, Parent of St. Albans City, Peaslee of Guildhall, Pillsbury of Brattleboro, Shaw of Derby, Valliere of Barre City, Winters of Swanton, Winters of Williamstown and Wright of Burlington,

An act relating to denial of release on bail;

To the committee on Judiciary.

H. 830

By Rep. Kilmartin of Newport City,

An act relating to capital punishment and preventing conviction of innocent persons;

To the committee on Judiciary.

H. 831

By Rep. Deen of Westminster,

An act relating to establishing a legislative commission on global climate change;

To the committee on Natural Resources and Energy.

H. 832

By Rep. Klein of East Montpelier,

An act relating to job start program;

To the committee on Government Operations.

H. 833

By Rep. Kitzmiller of Montpelier,

An act relating to optional waivers of liability in a contract from A provider of communications services;

To the committee on Commerce.

H. 834

By Reps. Bostic of St. Johnsbury and Clark of St. Johnsbury,

An act relating to municipal fees for water and sewer services;

To the committee on Government Operations.

H. 835

By Rep. Obuchowski of Rockingham,

An act relating to improvident transfers of property by a vulnerable adult;

To the committee on Judiciary.

H. 836

By Rep. O'Donnell of Vernon,

An act relating to sex offender registration;

To the committee on Judiciary.

H. 837

By Rep. Milkey of Brattleboro, -

An act relating to the practice of acupuncture;

To the committee on Government Operations.

H. 838

By Rep. LaVoie of Swanton,

An act relating to driving prerequisites for obtaining a junior operator license;

To the committee on Transportation.

H. 839

By Reps. Head of S. Burlington, Edwards of Brattleboro, Donahue of Northfield, Donovan of Burlington, Emmons of Springfield, French of Randolph and Sweaney of Windsor,

An act relating to paid sick days;

To the committee on General, Housing and Military Affairs.

H. 840

By Rep. Zuckerman of Burlington,

An act relating to lactation consultants;

To the committee on Government Operations.

H. 841

By the committee on Commerce,

An act relating to underground utility damage prevention system;

Under the rule, placed on the Calendar for Notice tomorrow.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 30

Senate bill, entitled

An act relating to unemployment compensation and newspaper carriers;

To the committee on Commerce.

Bill Referred to Committee on Appropriations

H. 801

House bill, entitled

An act relating to veteran's service officer;

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Joint Resolution Referred to Committee

J.R.H. 56

Reps. Fisher of Lincoln, Aswad of Burlington, Cross of Winoski, Deen of Westminster, Donovan of Burlington, Dowland of Holland, Edwards of Brattleboro, French of Randolph, Haas of Rochester, Head of S. Burlington, Kiss of Burlington, Klein of East Montpelier, Larson of Burlington, Lippert of Hinesburg, Lorber of Burlington, Marek of Newfane, Masland of Thetford, McCullough of Williston, McLaughlin of Royalton, Milkey of Brattleboro, Minter of Waterbury, Nuovo of Middlebury, Randall of Troy, Seibert of Norwich, Shand of Weathersfield, Sharpe of Bristol and Zuckerman of Burlington offered a joint resolution, entitled

Joint house resolution urging the withdrawal of American military forces from Iraq;

Whereas, in March 2003, the United States initiated a military incursion into Iraq, and

Whereas, every member of the General Assembly has only the greatest respect for our military forces now deployed in Iraq and the surrounding nations, and any criticism of our nation's policy in the region must not be interpreted as lack of support for the men and women in our armed forces who are risking their lives every day, and

Whereas, at the time the Iraq conflict started, the American public was told that the primary reason for this incursion was to eliminate weapons of mass destruction that the Iraqi leader, Saddam Hussein, had allegedly stockpiled, and

Whereas, the Downing Street Memos reflect the British government's wariness regarding the validity of American intentions in Iraq and their justification in the months preceding the March 2003 invasion, and

Whereas, as has been confirmed in the ensuing months and years since March 2003, there were no weapons of mass destruction stockpiled in Iraq at the time the American military forces entered that country, and

Whereas, the continuing and nearly daily onslaught of destructive terrorist activities has proven disruptive to nearly all aspects of Iraqi society, and

Whereas, over 2,100 American military personnel have died since March 2003 including a disproportionately large number of Vermonters from the active and reserve armed forces as well as the Vermont National Guard, and

Whereas, the enormous sympathy for the United States that was felt across the world following September 11, 2001 has been largely obliterated during the last two years as documented evidence of widespread abusive and torturous treatment of prisoners under United States control has come to light, and

Whereas, it is now clearly apparent that the Department of Defense did not develop an exit strategy prior to the invasion, assuming falsely that the Iraqi people would welcome United States forces with open arms, and that withdrawal would not be a difficult problem, and

Whereas, the cost of this war, according to the nonpartisan Congressional Research Service, is \$258 billion so far, and

Whereas, Vermont's share of that cost exceeds \$542 million, and

Whereas, these numbers will have a significant impact on Vermont households and the Vermont state budget process for years to come, and

Whereas, according to an Army survey, 28 percent of the U.S. military veterans — equaling some 50,000 this year alone — returned home from Iraq with problems ranging from lingering physical problems to suicidal thoughts to strained marriages; and last year, the *New England Journal of Medicine* published research that found that 15 to 17 percent of front-line troops suffered depression, anxiety, or post-traumatic stress disorder, also known as PTSD, and

Whereas, the Veterans' Administration (VA) is so underfunded that the President authorized barring over 160,000 veterans from receiving VA medical care, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly believes that the continued presence of United States troops in Iraq is not contributing to the stability or security of that nation or the region or the security of Americans at home or abroad, and be it further

Resolved: That the General Assembly urges the President and Congress to commence the immediate and orderly withdrawal of American military forces from Iraq, and be it further

Resolved: That the General Assembly calls on the Bush administration in consultation with the veterans' service organizations to request full funding for the necessary programs to assure that our valued veterans receive the health care and benefits that they were promised, and be it further

Resolved: That the General Assembly commends the members of the United States armed forces and their family members for their service and dedication to the nation and the grave sacrifices they continue to endure, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the President of the United States, the secretary of defense, and the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on General, Housing and Military Affairs.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 480

Rep. Lippert of Hinesburg moved that the committee on Judiciary be relieved of House bill, entitled

An act relating to precursor drugs of methamphetamine;

And that the bill be committed to the committee on Human Services, which was agreed to.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 766

Rep. Lippert of Hinesburg moved that the committee on Judiciary be relieved of House bill, entitled

An act relating to real estate transfer pursuant to strict foreclosure not voidable as fraudulent conveyance ;

And that the bill be committed to the committee on Commerce, which was agreed to.

Action on Bill Postponed

H. 678

House bill, entitled

An act relating to the department of banking, insurance, securities and health care administration;

Was taken up and pending the reading of the report of the committee on Commerce, on motion of **Rep. Kitzmiller of Montpelier**, action on the bill was postponed until the next legislative day.

Rep. Partridge of Windham in Chair.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 554

Consideration resumed on House bill, entitled

An act relating to the classification of state waters;

Rep. Deen of Westminster, for the committee on Fish, Wildlife and Water Resources, recommended the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) It is the settled policy of the state as set forth in section 1250 of this title to protect and enhance the existing quality, character, and usefulness of surface water and to seek over the long term to upgrade the quality of the surface waters of the state.

(2) The adoption of any water management types within the classifications of state surface waters shall conform to the state water policy.

(3) Procedures or rules adopted by the water resources panel of the natural resources board relating to the designation of water management types shall maximize public participation and public input in a manner consistent with the department of conservation's 2001 Vermont watershed initiative guidelines for watershed planning.

(4) Basin plans and water management type designations and redesignations proposed by the agency of natural resources shall include sufficient information and documentation to ensure transparency regarding agency decision-making.

(5) Because the agency of natural resources has consistently violated both the federal Clean Water Act requirement that the state engage in a continuing planning process for state surface waters and the state requirement in subsection 1253(d) of Title 10 that all 17 basin plans be updated every five years, the further extension of the deadline by which the agency shall update

all 17 basin plans is granted reluctantly and subject to the insistence that the agency update all basin plans by 2009 as required by this act.

Sec. 2. 10 V.S.A. § 1251a(c) is added to read:

(c) The secretary of natural resources shall propose to the water resources panel of the board an implementation process for the antidegradation policy in the water quality standards of the state. Upon submittal of the implementation process by the secretary, the panel shall promptly initiate rulemaking for adoption of an implementation process in the water quality standards of the state.

Sec. 3. 10 V.S.A. § 1252(i) is added to read:

(i) The board may adopt by rule water management types representing subcategories of water quality criteria for designated uses within the classes of waters set forth in subsection (a) of this section to achieve and maintain a level of quality that fully supports the attainable uses and water quality protection of all or any portion of a water body. The designation or redesignation of a water body as a water management type by the board shall be done by rule according to chapter 25 of Title 3.

Sec. 4. 10 V.S.A. § 1253(d) is amended to read:

(d) The board shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by it before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The secretary shall revise all 17 basin plans by ~~January 1, 2006~~ December 31, 2009, and update them every five years thereafter. On or before January + 15 of each year, the secretary shall report to the house committees on agriculture and ~~natural resources and energy~~ fish, wildlife and water resources and to the senate committees on agriculture and natural resources and energy regarding the progress made and difficulties encountered in revising basin plans. By January 1, 1993, the secretary shall prepare an overall management plan to ensure that the water quality standards are met in all state waters.

Sec. 5. EFFECTIVE DATE

This act shall take effect upon passage.

Pending the question, Shall the House amend the bill as recommended by the committee on Fish, Wildlife and Water Resources? **Rep. Adams of Hartland** moved to amend the recommendation of amendment offered by the committee on Fish, Wildlife and Water Resources as follows:

In Sec. 1 by striking (5) and inserting in lieu thereof the following:

(5) The agency of natural resources is expected to and should strive to update all 17 basin plans for the state by the 2009 deadline authorized by this act.

Which was agreed to.

Thereupon, the report of the committee on Fish, Wildlife and Water Resources, as amended, was agreed to and third reading ordered.

**Bill Read Third Time; Rules Suspended;
Bill Read Third Time; Passed in Concurrence; Rules Suspended
and Bill was Ordered Messaged to the Senate Forthwith**

S. 248

Consideration resumed on Senate bill, entitled

An act relating to Good Time;

Thereupon, the pending question, Shall the bill be read a third time? was agreed to.

On motion of **Rep. Sunderland of Rutland Town**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence. The bill was read the third time and passed in concurrence and, on motion of **Rep. Sunderland of Rutland Town**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Speaker Symington back in Chair.

Bill not Amended, Read Third Time and Passed

H. 547

House bill, entitled

An act relating to adjustments to the retirement systems of the state employees and teachers;

Was taken up and pending third reading of the bill, **Rep. Kilmartin of Newport City** moved to amend the bill by inserting a new Sec. 15 to read:

Sec. 15. Appropriation

There is appropriated from the general fund in fiscal year 2007 the amount of \$1,800,000.00 to the Vermont State Employees Retirement System.

Pending the question, Shall the House amend the bill as recommended by **Rep. Kilmartin of Newport City**? **Rep. Kilmartin of Newport City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number.

The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by Rep. Kilmartin of Newport City? was decided in the negative. Yeas, 31. Nays, 99.

Those who voted in the affirmative are:

Acinapura of Brandon	Hudson of Lyndon	Morrissey of Bennington
Adams of Hartland	Johnson of Canaan	Parent of St. Albans City
Allard of St. Albans Town	Kennedy of Chelsea	Peaslee of Guildhall
Branagan of Georgia	Kilmartin of Newport City	Shaw of Derby
Clark of St. Johnsbury	Krawczyk of Bennington	Smith of New Haven
Corcoran of Bennington	LaVoie of Swanton	Sunderland of Rutland Town
Dates of Shelburne	Lawrence of Lyndon	Valliere of Barre City
Donaghy of Poultney	McAllister of Highgate	Winters of Swanton
Donahue of Northfield	McFaun of Barre Town	Winters of Williamstown
Dunsmore of Georgia	Miller of Elmore	
Howrigan of Fairfield	Morley of Barton	

Those who voted in the negative are:

Allaire of Rutland City	Grad of Moretown	Martin of Springfield
Ancel of Calais	Green of Berlin	Martin of Wolcott
Atkins of Winooski	Haas of Rochester	Masland of Thetford
Baker of West Rutland	Head of S. Burlington	McCullough of Williston
Barnard of Richmond	Heath of Westford	McLaughlin of Royalton
Bohi of Hartford	Helm of Castleton	Milkey of Brattleboro
Bostic of St. Johnsbury	Hosford of Waitsfield	Miller of Shaftsbury
Botzow of Pownal	Howard of Rutland City	Molloy of Arlington
Brennan of Colchester	Hunt of Essex	Monti of Barre City
Brooks of Montpelier	Hutchinson of Randolph	Mook of Bennington
Canfield of Fair Haven	Jerman of Essex	Myers of Essex
Chen of Mendon	Jewett of Ripton	Nease of Johnson
Clark of Vergennes	Johnson of South Hero	Nitka of Ludlow
Clarkson of Woodstock	Kainen of Hartford	Nuovo of Middlebury
Copeland-Hanzas of Bradford	Keogh of Burlington	Obuchowski of Rockingham
Cross of Winooski	Kitzmiller of Montpelier	O'Donnell of Vernon
Darrow of Dummerston	Klein of East Montpelier	Orr of Charlotte
Deen of Westminster	Koch of Barre Town	Otterman of Topsham
DePoy of Rutland City	Komline of Dorset	Partridge of Windham
Donovan of Burlington	Kupersmith of S. Burlington	Pellett of Chester
Dostis of Waterbury	Larocque of Barnet	Perry of Richford
Dowland of Holland	Larrabee of Danville	Peterson of Williston
Edwards of Brattleboro	Larson of Burlington	Pillsbury of Brattleboro
Emmons of Springfield	Leriche of Hardwick	Pugh of S. Burlington
Endres of Milton	Lippert of Hinesburg	Randall of Troy
Evans of Essex	Livingston of Manchester	Reese of Pomfret
Fallar of Tinmouth	Lorber of Burlington	Rodgers of Glover
Fisher of Lincoln	Louras of Rutland City	Rusten of Halifax
Frank of Underhill	Maier of Middlebury	Seibert of Norwich
French of Randolph	Malcolm of Pawlet	Sharpe of Bristol
Gervais of Enosburg	Marcotte of Coventry	Sweaney of Windsor
	Marek of Newfane	Trombley of Grand Isle

Turner of Milton
Westman of Cambridge

Wright of Burlington
Zuckerman of Burlington

Those members absent with leave of the House and not voting are:

Aswad of Burlington
Audette of S. Burlington
Bartlett of Dover
Condon of Colchester
Errecart of Shelburne
Flory of Pittsford

Houston of Ferrisburgh
Hube of Londonderry
Keenan of St. Albans City
Kiss of Burlington
Marron of Stowe
Niquette of Colchester

Severance of Colchester
Shand of Weathersfield
Smith of Morristown
Tracy of Burlington
Young of Orwell

Reps. Minter of Waterbury and Potter of Clarendon abstained from voting pursuant to Rule 75.

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

Bill Amended; Third Reading Ordered

H. 468

Rep. Lawrence of Lyndon, for the committee on Agriculture, to which had been referred House bill, entitled

An act relating to the designation of Randall Lineback cattle as the state heritage breed of livestock;

Reported in favor of its passage when amended as follows:

First: In Sec. 1, by striking "should recognize" where it appears in the last sentence of the section and inserting in lieu thereof "recognizes"

Second: In Sec. 2, by striking "the" after "shall be" and before "official state heritage breed" and inserting in lieu thereof "an"
and upon passage, the title of the bill shall be amended to read:

AN ACT RELATING TO THE DESIGNATION OF RANDALL
LINEBACK CATTLE AS A STATE HERITAGE BREED OF LIVESTOCK

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Agriculture agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

H. 579

Rep. Valliere of Barre City, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to Vermont service medals;

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Message from the Senate No. 17

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title:

S. 127. An act relating to Vermont housing finance agency.

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

The Senate has on its part adopted joint resolutions of the following titles:

J.R.S. 52. Joint resolution providing for a Joint Assembly for the election of two legislative trustees of the Vermont State Colleges Corporation.

J.R.S. 53. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2006.

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

Adjournment

At three o'clock in the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

THURSDAY, FEBRUARY 2, 2006

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Reverend Diane Root of the Church of Our Savior, Killington, VT .

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred or placed on the Calendar as follows:

H. 842

By Reps. Condon of Colchester, Canfield of Fair Haven, McFaun of Barre Town, Reese of Pomfret and Shand of Weathersfield,

An act relating to transparency in hospital rates;

To the committee on Health Care.

H. 843

By the committee on Ways and Means,

An act relating to miscellaneous tax policy amendments;

Under the rule, placed on the Calendar for Notice tomorrow.

H. 844

By the committee on Commerce,

An act relating to a title insurance surcharge;

Under the rule, placed on the Calendar for Notice tomorrow.

H. 845

By the committee on Commerce,

An act relating to cable television tariff requirements;

Under the rule, placed on the Calendar for Notice tomorrow.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 127

Senate bill, entitled

An act relating to Vermont Housing Finance Agency;

To the committee on General, Housing and Military Affairs.

S. 209

Senate bill, entitled

An act relating to an exemption from the safety belt and child restraint laws for emergency evacuations;

Was taken up, read the first time and referred to the committee on Judiciary.

Joint Resolutions Placed on Calendar

The Speaker placed before the House the following resolutions which were read and in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

J.R.S. 52.

By Senator Welch,

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

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 16, 2006, at ten o'clock and thirty minutes in the forenoon to elect two legislative Trustees of the Vermont State Colleges Corporation to serve a four year term commencing March 1, 2006, and expiring on March 1, 2010. In case election of all such Trustees 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 in such election, until all such Trustees are elected.

J.R.S. 53.

By Senator Welch,

Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2006.

Whereas, in recent years it has become increasingly necessary to shorten the length of time spent by the General Assembly in joint session for the election of various officials, and

Whereas, if elections for multiple vacancies were to be decided by a plurality vote, then a great savings of time can be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of two legislative trustees of the Vermont State Colleges Corporation at a Joint Assembly to be held on February 16, 2006, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be two.

(2) The two candidates receiving the greater number of votes shall be declared elected to fill the two vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for one or more of the two vacant positions, then voting shall continue on successive ballots until the vacancies have been filled, again by election declared of the two candidates receiving the greater number of votes.

Committee of Conference Appointed

H. 109

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on House bill, entitled

An act relating to reauthorization of the human resources investment council;

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Keenan of St. Albans City

Rep. Morley of Barton

Rep. Kitzmiller of Montpelier

Bill Amended; Third Reading Ordered

H. 678

Rep. Kitzmiller of Montpelier, for the committee on Commerce, to which had been referred House bill, entitled

An act relating to the department of banking, insurance, securities and health care administration;

Reported in favor of its passage when amended as by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4818 is amended to read:

§ 4818. CONTRACT REQUIRED

(a) No person shall transact business with a managing general agent, a reinsurance intermediary-manager, a reinsurance intermediary-broker, or a controlling producer as qualified by section 4816 of this title unless there is in force a written contract between the parties which sets forth the respective responsibilities of each party and where both parties share responsibility for a particular function, specifies the division of such responsibilities. The contract must be approved by the board of directors of a reinsurer represented by a reinsurance intermediary-manager, or reinsurance intermediary-broker, or the board of directors of a controlled insurer. At least 30 days before such

reinsurer assumes or cedes business through such manager, or reinsurance intermediary, a true copy of the approved contract shall be filed with the commissioner for approval.

(b) The contract required under subsection (a) of this section shall contain the following minimum provisions:

* * *

(11) The managing general agent, reinsurance intermediary-manager, reinsurance intermediary-broker, or controlling producer shall not bind or cede reinsurance on behalf of the insurer, reinsurer or controlled insurer, except for facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract contains reinsurance underwriting guidelines for reinsurance ceded and assumed. The guidelines must list the reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules.

Sec. 2. 8 V.S.A. § 4249 is amended to read:

§ 4249. PROOF OF FINANCIAL STABILITY

(a) In order to ensure the performance of a provider's obligations to its contract holders, each provider shall continue to possess and file with the commissioner the following documents as proof of financial stability:

~~(1)(A) a surety bond, securities of the type eligible for deposit by an authorized insurer in this state, cash, or letter of credit in a form acceptable to the commissioner, which shall have at all times a value of not less than five percent of the gross annual consideration from all service contracts issued and in force, but in no case to be less than \$25,000.00. Such bond, securities, cash, or letter of credit shall be maintained unimpaired as long as the provider continues to do business in this state. When the provider ceases to do business in this state and has furnished the commissioner proof that it has discharged all its obligations to its service contract holders in this state, the commissioner shall release said bond, cash or letter of credit; and~~

~~(B) a funded reserve account for its liability under its service contracts issued and outstanding in this state. Such reserve shall at all times be not less than 40 percent of all consideration received, less claims paid, on in force contracts. Such reserve accounts shall be subject to examination and review by the commissioner upon a request; or~~

~~(2) evidence that all of its service contracts are insured through the purchase of a service contract reimbursement policy issued by an insurer authorized to do business in this state, or by an approved surplus line insurer that files annually with the National Association of Insurance Commissioners a~~

financial statement prepared in accordance with the accounting practices and procedures required or permitted by their domiciliary regulatory authority and a corresponding audit report that reflects:

(A) capital and surplus of \$5,000,000.00 or more;

(B) written premiums not exceeding three times capital and surplus over the most recent five years; and

(C) profitable operations over the most recent five years; or

~~(3)(2)~~ a copy of the provider's financial statement or, if the provider's financial statement is consolidated with those of a parent company or affiliate, the provider's parent company or affiliate's financial statement, for the most recent calendar year which shows a net worth of the provider or its parent company or affiliate of at least \$50 million. The financial statement shall contain information relating to the general financial condition, ownership, and management of the provider and its controlling parent organization, the identity of the controlling entity, if applicable, and any reinsurance agreements covering all or substantially all of the ceded service contracts. A Form 10-K filed with the Securities and Exchange Commission within the last calendar year may be filed to meet the financial ~~stability~~ filing requirement.

(b) If the provider's parent or affiliate company's financial statement is filed ~~to meet the provider's financial stability requirement with the commissioner pursuant to subdivision (a)(2) of this section as evidence of a net worth of at least \$50 million, then~~ the parent or affiliate company shall agree, on a form prescribed by the commissioner, to guarantee the provider's obligations relating to service contracts sold by the provider in this state.

(c) The commissioner may, upon review of the business activities of a provider, determine that the amounts set forth in this section are inadequate for protection of the public, and may require additional assurances of financial stability.

(d) In the event that the department recovers funds from service contract providers, the commissioner in his or her discretion may distribute such funds in a manner that he or she determines is equitable and cost-effective, giving due consideration to the amount of funds recovered, the estimated amounts due to consumers, and the costs of administering any distribution. Distributions may be allocated based on claims made, premiums, or the number of consumers affected. If the commissioner determines that it would be prohibitively expensive or impossible to make restitution to consumers, the recovered funds will be remitted to the general fund.

Sec. 3. 8 V.S.A. § 6001(2) is amended to read:

§ 6001. DEFINITIONS

As used in this chapter, unless the context requires otherwise:

* * *

(2) "Association" means any legal association of individuals, corporations, limited liability companies, partnerships, associations, or other entities ~~that has been in continuous existence for at least one year~~, the member organizations of which or which does itself, whether or not in conjunction with some or all of the member organizations:

(A) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; or

(B) have complete voting control over an association captive insurance company incorporated as a mutual insurer; or

(C) constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer.

Sec. 4. 8 V.S.A. § 6031(b) is amended to read:

(b) A sponsored captive insurance company shall be incorporated as a stock insurer with its capital divided into shares and held by the stockholders, as a nonprofit corporation with one or more members, or as a manager-managed limited liability company.

Sec. 5. 8 V.S.A. § 6035 is amended to read:

§ 6035. QUALIFICATION OF SPONSORS

A sponsor of a sponsored captive insurance company shall be an insurer licensed under the laws of any state, a reinsurer authorized or approved under the laws of any state, ~~or a captive insurance company formed or licensed under this chapter, a broker-dealer registered with the department pursuant to chapter 150 of Title 9, a financial institution as defined under subdivision 11101(32) of this title, or a financial institution holding company as defined under subdivision 11101(33) of this title, including any affiliate or subsidiary of such financial institution holding company.~~ A risk retention group shall not be either a sponsor or a participant of a sponsored captive insurance company.

Sec. 6. 8 V.S.A. § 5102(b) is amended to read:

(b) Application for a certificate of authority shall be made to the commissioner and include such information and in such form as ~~he~~ the commissioner prescribes, including but not limited to the following:

* * *

~~(8) A power of attorney duly executed by such applicant, if not domiciled in this state, appointing the commissioner and his successors in office, and duly authorized deputies, as the true and lawful attorney of such applicant in and for this state upon whom all lawful process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this state may be served;~~

* * *

Sec. 7. 8 V.S.A. § 3361(c) is amended to read:

(c) If the commissioner is satisfied with the copies and statements that such insurer has complied with the provisions of this Part, he or she may grant a license authorizing it to do insurance business by lawfully constituted and licensed agents only, until April 1 thereafter, which license may be renewed. In granting or renewing such license to do business the commissioner shall consider the criteria established for the approval and certification of domestic insurers hereinabove set forth, within the context of the stated legislative policy. Notwithstanding the provisions of Title 11A, any insurer licensed by the commissioner under this section may transact insurance business in this state ~~upon the filing of a copy of such license with the secretary of state.~~ Such corporations shall not be required to make any annual report except as provided in this title. This section shall not be construed to prohibit residents of this state from procuring insurance at the home office of a foreign insurer.

Sec. 8. 9 V.S.A. § 5102(3)(C), (5)(B)(iii), (17)(B), and (28)(E) are amended to read:

(C) a bank or savings institution if its activities as a broker-dealer are limited to those specified in subdivisions ~~3(a)(4)(B)(i)~~ 15 U.S.C. § 78c(a)(4)(B)(i) through (vi), (viii) through (x), and (xi) if limited to unsolicited transactions; and 15 U.S.C. § 78c(a)~~(4)~~ and (5)(B) and (C) or a bank that satisfies the conditions described in 15 U.S.C. § 78c(a)(4)~~(E)~~;

(iii) an industrial loan company that is not an "insured depository institution" as defined in Section 3(c)(2) of the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c)(2), or any successor federal statute.

(B) The issuer of an equipment trust certificate or similar security serving the same purpose ~~is as~~ the person by which the property is or will be used or to which the property or equipment is or will be leased or conditionally sold or that is otherwise contractually responsible for assuring payment of the certificate.

(E) includes as an "investment contract" among other contracts, an interest in a limited partnership ~~and~~, a limited liability company ~~and~~, an investment in a viatical settlement, or similar agreement.

Sec. 9. 9 V.S.A. § 5412(c) is amended to read:

(c) If the commissioner finds that the order is in the public interest and subdivisions (d)(1) through (6), (8), (9), (10), ~~or~~ (12), ~~and~~ or (13) of this section authorize the action, an order under this chapter may censure, impose a bar on, or impose a civil penalty on a registrant in an amount not more than \$15,000.00 for each violation and not more than \$1,000,000.00 for more than one violation, and recover the costs of the investigation from the registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control of the broker-dealer or investment adviser. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements.

Sec. 10. 18 V.S.A. § 9410(i) is added to read:

(i) On or before January 15, 2008 and every three years thereafter, the commissioner shall submit a recommendation to the general assembly for conducting a survey of the health insurance status of Vermont residents.

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2006, except that the provisions adding 8 V.S.A. § 4249(d) shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Commerce agreed to and third reading ordered.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 468

House bill, entitled

An act relating to the designation of Randall Lineback cattle as the state heritage breed of livestock.

H. 554

House bill, entitled

An act relating to the classification of state waters.

H. 579

House bill, entitled

An act relating to Vermont service medals.

Bill Read Second Time; Bill Amended and Third Reading Ordered

H. 794

Rep. Howrigan of Fairfield spoke for the committee on General, Housing and Military Affairs.

House bill entitled

An act relating to military service and professional regulation;

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Morrissey of Bennington** moved that the bill be amended as follows:

In Sec. 1, 20 V.S.A. § 1547, after the first instance of the words "active duty", by inserting the following: ", as defined in 38 U.S.C. § 101(21)."

Which was agreed to and third reading of the bill ordered.

Action on Bill Postponed

H. 253

House bill, entitled

An act relating to establishing energy efficiency standards for certain appliances;

Was taken up and pending the reading of the report of the committee on Natural Resources and Energy, on motion of **Rep. Pellett of Chester**, action on the bill was postponed until the next legislative day.

Message from the Senate No. 18

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title:

S. 267. An act relating to placing a security freeze on a credit report.

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

The Senate has on its part adopted a joint resolution of the following title:

J.R.S. 54. Joint resolution relating to weekend adjournment.

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

Adjournment

At two o'clock in the afternoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

FRIDAY, FEBRUARY 3, 2006

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Elder Sam Shearer of Community Baptist Church Essex Junction, VT.

Memorial Service

The Speaker placed before the House the following name of a member of past sessions of the Vermont General Assembly who had passed away recently:

Robert B. Simpson of Braintree

Session 1969-1970

Thereupon, the members of the House rose for a moment of prayer in memory of the deceased members. The Clerk was thereupon directed to send a copy of the House Journal to the bereaved family.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred as follows:

H. 846

By Reps. DePoy of Rutland City, Allaire of Rutland City, Howard of Rutland City and Louras of Rutland City,

An act relating to jurisdiction of assistant judges;

To the committee on Judiciary.

H. 847

By Rep. Jewett of Ripton,

An act relating to medical malpractice insurance;

To the committee on Health Care.

Senate Bill Referred**S. 267**

Senate bill, entitled

An act relating to placing a security freeze on a credit report;

Was taken up, read the first time and referred to the committee on Commerce.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar, carrying appropriations, under the rule, were referred to the committee on Appropriations:

H. 310

House bill, entitled

An act relating to employee ownership of businesses;

H. 715

House bill, entitled

An act relating to the eradication of cervical cancer;

Joint Resolution Adopted in Concurrence**J.R.S. 54**

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Welch,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 3, 2006, it be to meet again no later than Tuesday, February 7, 2006.

Was taken up read and adopted in concurrence.

Action on Bill Postponed**H. 253**

House bill, entitled

An act relating to establishing energy efficiency standards for certain appliances;

Was taken up and pending the reading of the report of the committee on Natural Resources and Energy, on motion of **Rep. Pellett of Chester**, action on the bill was postponed until the next legislative day.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 678

House bill, entitled

An act relating to the department of banking, insurance, securities and health care administration.

H. 794

House bill, entitled

An act relating to military service and professional regulation.

Bill Read Second Time; Third Reading Ordered

H. 841

Rep. Trombley of Grand Isle spoke for the committee on Commerce.

House bill entitled

An act relating to underground utility damage prevention system;

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Amended; Third Reading Ordered

H. 568

Rep. Reese of Pomfret, for the committee on Commerce, to which had been referred House bill, entitled

An act relating to applicability of an act regarding trustees;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS; PURPOSE

(a) The general assembly finds that, in 2004, the general assembly determined during deliberations on H.747, an act relating to removal and replacement of trustees upon petition by a beneficiary or co-trustee, that there were problems in the administration of certain existing trusts and potentially with trusts created subsequent to the passage of the act. The general assembly

further finds that No. 106 of the Acts of the 2003 Adj. Sess. (2004) was enacted to solve those problems by tightening up the process and changing the venue of the decision to ensure the wishes of the grantor are honored, not by changing the obligations of the trust contract.

(b) The purpose of this bill is to make clear that the intent of the general assembly in enacting the act authorizing the replacement of trustees was to have the act apply to trusts in existence at the time as well as trusts created after the passage of the act.

Sec. 2. 14 V.S.A. § 2314(e) is added to read:

(e) A court may order trustees who are replaced pursuant to an action brought under this section to reimburse the trust for attorney fees and court costs paid by the trust relating to the action.

Sec. 3. TRUSTEE REMOVAL ACT APPLIES TO EXISTING TRUSTS

Sec. 2 of No. 106 of the Acts of the 2003 Adj. Sess. (2004) shall apply both to trusts existing at the time of the effective date of the act and to trusts created thereafter.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Commerce agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

H. 655

Rep. Evans of Essex, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to the towns and gores of Essex county;

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Joint Resolutions Adopted in Concurrence

Joint resolutions of the following titles were severally taken up and adopted in concurrence;

J. R. S. 52

Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporations.

J. R. S. 53

Joint resolution establishing procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2006.

**Committee Relieved of Consideration
and Bill Committed to Other Committee****H. 704**

Rep. Lippert of Hinesburg moved that the committee on Judiciary be relieved of House bill, entitled

An act relating to prohibiting cell phone use by persons with a learner permit or junior operator license;

And that the bill be committed to the committee on Commerce, which was agreed to.

Message from the Senate No. 19

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has on its part passed Senate bill of the following title:

S. 88. An act relating to the state labor relations board membership.

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

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

H. 567. An act relating to exemption from CON and HMO Requirements for PACE

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on House bill entitled:

H. 109. An act relating to reauthorization of the Human Resources Investment Council.

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Illuzzi
Senator MacDonald
Senator Mullin

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 49. Senate concurrent resolution congratulating Janet Swinton on her 100th birthday.

S.C.R. 50. Senate concurrent resolution recognizing the patriotic endeavors of the Ann Story chapter of the Daughters of the American revolution in Rutland and the 50th anniversary of Constitution Week.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 223. House concurrent resolution honoring Stephen A. Gray for his outstanding career as a public servant in the city of Montpelier and as a community leader.

H.C.R. 224. House concurrent resolution honoring Wes and Miriam Herwig and thanking Miriam Herwig for the gift to the state house of an historic clock.

H.C.R. 225. House concurrent resolution honoring Middlebury College Professor Sunhee Choi as the 2005 Vermont professor of the year.

H.C.R. 226. House concurrent resolution in memory of Vermont National Guard Sgt. Christopher S. Chapin of Proctor.

H.C.R. 227. House concurrent resolution recognizing the 30th anniversary of the Vermont Achievement center's Robert W. Mitchell therapy pool.

H.C.R. 228. House concurrent resolution congratulating the Camels hump middle School's 2003 – 2204 Sequoia team on winning the Vermont Governor's Award for Environmental excellence and Pollution Prevention.

H.C.R. 229. House concurrent resolution designating February 3, 2006 as "Wear Red for Women day".

H.C.R. 230. House concurrent resolution congratulating the Hinesburg Artist Series on its 10th anniversary.

Adjournment

At ten o'clock and twenty minutes in the forenoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until Tuesday, February 7, 2006, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 54.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 223

House concurrent resolution honoring Stephen A. Gray for his outstanding career as a public servant in the city of Montpelier and as a community leader

H.C.R. 224

House concurrent resolution honoring Wes and Miriam Herwig and thanking Miriam Herwig for the gift to the state house of an historic clock

H.C.R. 225

House concurrent resolution honoring Middlebury College Professor Sunhee Choi as the 2005 Vermont professor of the year

H.C.R. 226

House concurrent resolution in memory of Vermont National Guard Sgt. Christopher S. Chapin of Proctor

H.C.R. 227

House concurrent resolution recognizing the 30th anniversary of the Vermont Achievement Center's Robert W. Mitchell therapy pool

H.C.R. 228

House concurrent resolution congratulating the Camels Hump Middle School's 2003 - 2004 Sequoia Team on winning the Vermont Governor's Award for Environmental Excellence and Pollution Prevention

H.C.R. 229

House concurrent resolution designating February 3, 2006 as "Wear Red for Women Day"

H.C.R. 230

House concurrent resolution congratulating the Hinesburg Artist Series on its 10th anniversary

S.C.R. 49

Senate concurrent resolution congratulating Janet Swinton on her 100th birthday.

S.C.R. 50.

Senate concurrent resolution recognizing the patriotic endeavors of the Ann Story chapter of the Daughters of the American Revolution in Rutland and the 50th anniversary of Constitution Week.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2006, sixty-eighth Adjourned session]

TUESDAY, FEBRUARY 7, 2006

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Reverend Stephen Berry of New Covenant Church Assembly of God, Brookfield, VT.

Pledge of Allegiance

Page Dylan Legus-Sleigh of Hardwick led the House in the Pledge of Allegiance.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred as follows:

H. 848

By Reps. Rusten of Halifax, Chen of Mendon, Clarkson of Woodstock, Errecart of Shelburne, Fallar of Tinmouth, Hube of Londonderry, Komline of Dorset, Livingston of Manchester, Marron of Stowe, Nitka of Ludlow, Perry of Richford, Peterson of Williston, Pugh of S. Burlington and Shand of Weathersfield,

An act relating to preparation for a new education property tax structure in 2008;

To the committee on Ways and Means.

H. 849

By Rep. Rodgers of Glover,

An act relating to housesite acreage;

To the committee on Ways and Means.

H. 850

By Rep. Larocque of Barnet (by request),

An act relating to driving under the influence of alcohol or drugs;
To the committee on Judiciary.

Senate Bill Referred

S. 88

Senate bill, entitled

An act relating to the state labor relations board membership;

Was taken up, read the first time and referred to the committee on General, Housing and Military Affairs.

Joint Resolution Referred to Committee

J.R.H. 57

Reps. Marron of Stowe, Bostic of St. Johnsbury, Heath of Westford, Hunt of Essex, Miller of Shaftsbury, Nitka of Ludlow, O'Donnell of Vernon, Perry of Richford and Westman of Cambridge offered a joint resolution, entitled

Joint resolution opposing the implementation of the proposed rules under the Western Hemisphere Travel Initiative;

Whereas, the state of Vermont recognizes that the security of our shared border with Canada is critical to ensuring the security of Vermont and that of the entire nation, and that the safety and security of all Americans is of paramount importance, and

Whereas, although the state of Vermont supports the intent of the Western Hemisphere Travel Initiative (WHTI) to improve the security of Vermont's border crossings, it nevertheless has serious reservations about the efficiency and effectiveness of the proposed rules related to the WHTI that the U.S. Department of Homeland Security and the U.S. Department of State have developed jointly, and

Whereas, the state of Vermont greatly values the long-standing cultural, social, and economic ties it shares with Canada, especially the province of Quebec, and it is gravely concerned that provisions of WHTI, as currently written, have the potential to affect negatively those ties, and

Whereas, because the identifications provisions in the recently enacted Real-ID Drivers' License Act and those in the WHTI are so similar and timed to take effect at approximately the same time, they should be brought together and implemented in a consolidated and coordinated manner, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests the U.S. Department of Homeland Security and the Department of Defense to conduct a thorough analysis of the impact of both proposals on all sectors of the economy, particularly in border regions, and to allow the use of more readily available and less expensive secure identification documents, such as Real-ID, to satisfy the secure identification requirements of the WHTI, and be it further

Resolved: That the General Assembly urges the President of the United States, and the United States Congress to delay the implementation of the specific rule that the Department of Homeland Security and Department of State are proposing under WHTI, requiring that, as an alternative to a passport, a separate new identification card would be required of all citizens of the United States, Canada, Mexico, and Bermuda, regardless of age, to enter or reenter the United States, until such time as the necessary analysis can be done and a more efficient and effective means of accomplishing the desired outcome can be developed, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the President of the United States, Secretary of Defense Donald Rumsfeld, Secretary of Homeland Security Michael Chertoff, Secretary of State Condoleezza Rice, and to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Commerce.

Joint Resolution Referred to Committee

J.R.H. 58

Rep. Obuchowski of Rockingham offered a joint resolution, entitled

Joint resolution relating to Vermonter's payment of the proposed locational installed capacity electric power surcharge and the legal authority in Vermont of the Independent System Operator - New England;

Whereas, in 1971, the New England Power Pool (NEPOOL) was established "to assure that the bulk electric power supply of the New England region is provided reliably and economically through central dispatch of virtually all of the generation and transmission facilities," and

Whereas, in 1996, the Federal Energy Regulatory Commission (FERC) issued Order No. 888 (61 Fed. Reg. 21,540) requiring that all "tight power pools," including NEPOOL be organized to "establish open, nondiscriminatory membership provisions," and

Whereas, in 1997, FERC, in accordance with Order No. 888 and Section 203 of the Federal Power Act, 16 U.S.C. § 824(b) (1994), which requires FERC to approve a public utility's disposition of equipment under its

jurisdiction that is valued at greater than \$50,000.00 conditionally authorized the establishment of the Independent System Operator – New England (ISO-NE), a nonprofit corporation, as the successor owner of NEPOOL's electric generation transmission facilities, and

Whereas, as NEPOOL stated in its FERC filings related to the establishment of ISO-NE, the new entity would "provide a more open, competitive market for wholesale sales and purchases of electric energy in the New England region," and

Whereas, ISO-NE administers a pool-wide open access transmission tariff, and has a board of directors that, after initial NEPOOL and state regulatory authority input, is now self-sustaining, and

Whereas, more recently, FERC has stated its concern that New England, and especially parts of Massachusetts and Connecticut, does not have an adequate future energy supply, and

Whereas, in March 2004, ISO-NE's submitted to FERC its proposal for a locational installed capacity mechanism (LICAP) requiring electric ratepayers to pay a 20 percent fee increase over the next five years for the supposed purpose of encouraging "the construction of new electric generating plants, to assure an adequate future energy supply in New England," and

Whereas, the electric power generation companies would be under no obligation to use these additional funds for the construction of new power plants, and

Whereas, LICAP has been subjected to significant criticism and opposition from both the public and private sectors throughout the region, and

Whereas, on June 15, 2005, FEC issued an initial order authorizing LICAP to be implemented, and

Whereas, on September 20, 2005, FERC heard oral arguments from concerned parties on the question of whether the LICAP mechanism as adopted in June 2005 would provide for "just and reasonable wholesale prices" and whether alternative means to encourage new plant construction are viable, and

Whereas, in an order issued on October 21, 2005, FERC granted the parties until January 31, 2006 to develop an alternative proposal but indicated it would continue to review aspects of the initial order and alternatives that ISO-NE and others have already presented, and

Whereas, on December 19, 2005, FERC granted ISO-NE until February 10 to present its version of an alternative proposal, and

Whereas, even if a less costly alternative to LICAP is implemented, Vermonters should not have to bear the burden of subsidizing the electric power problems that exist in other states, and

Whereas, Vermonters are capable of developing their own electric power solutions, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly request the Federal Energy Regulatory Commission to reject the LICAP proposal or any substitute alternative, and at a minimum, to rebate to Vermonters any additional electric rate increases collected as a result of an interim or final order on this matter, and be it further

Resolved: That the public service department, in consultation with the public service board, is requested to develop a proposal for Federal Energy Regulatory Commission consideration that will terminate all jurisdiction and responsibility of ISO-New England for the distribution of electric energy either to or within Vermont, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Joseph Kelliher, chair of the Federal Energy Regulatory Commission, to Commissioner of Public Service, David O'Brien, and to Chair of the Public Service Board, James Volz.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Natural Resources and Energy.

Bill Amended; Third Reading Ordered

H. 253

Rep. Pellett of Chester, for the committee on Natural Resources and Energy, to which had been referred House bill, entitled

An act relating to establishing energy efficiency standards for certain appliances;

Reported in favor of its passage when amended as by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 74 is added to read:

CHAPTER 74. ENERGY EFFICIENCY STANDARDS

FOR APPLIANCES AND EQUIPMENT

§ 2791. GENERAL PURPOSE

This chapter establishes minimum efficiency standards for certain products sold or installed in the state.

§ 2792. FINDINGS

The general assembly finds that:

(1) Efficiency standards for certain products sold or installed in the state assure consumers and businesses that those products meet minimum efficiency performance levels, thus saving money on utility bills.

(2) These efficiency standards save energy and thus reduce pollution and other environmental impacts associated with the production, distribution, and use of electricity, natural gas, and oil.

(3) These efficiency standards can make electricity systems more reliable by reducing the strain on the electricity grid during peak demand periods. Furthermore, improved energy efficiency can reduce or delay the need for new power plants, power transmission lines, and power distribution system upgrades.

(4) Energy efficiency standards contribute to the economy of this state by helping to balance better energy supply and demand, thus reducing pressure for higher natural gas and electricity prices. By saving consumers and businesses money on energy bills, efficiency standards help the state and local economy since energy bill savings can be spent on local goods and services.

§ 2793. DEFINITIONS

As used in this chapter:

(1) "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions (voltage, current, and waveform) for starting and operating the lamp.

(2) "Commissioner" means the commissioner of the department of public service.

(3) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

(4) "Electricity ratio (ER)" is the ratio of furnace electricity use to total furnace energy use. $ER = (3.412 * E_{AE}) / (1000 * E_F + 3.412 E_{AE})$ where E_{AE} (average annual auxiliary electrical consumption) and E_F (average annual fuel energy consumption) are defined in 10 C.F.R. Part 430, Subpart B, Appendix N.

(5) "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas and in which the light-producing arc is stabilized by bulb wall temperature, and the arc tube has a bulb wall loading in excess of three watts per square centimeter.

(6) "Medium voltage dry-type distribution transformer" means a transformer that:

(A) has an input voltage of more than 600 volts but less than or equal to 34,500 volts;

(B) is air-cooled;

(C) does not use oil as a coolant; and

(D) is rated for operation at a frequency of 60 Hertz.

(7) "Metal halide lamp" means a high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(8) "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

(9) "Probe-start metal halide ballast" means a ballast used to operate metal halide lamps which does not contain an ignitor and which instead starts lamps by using a third starting electrode probe in the arc tube.

(10) "Residential boiler" means a self-contained appliance that is primarily designed for space heating by means of steam or hot water and that uses only single-phase electric current in conjunction with natural gas, propane, or home heating oil, and which has a heat input rate of less than 300,000 Btus per hour.

(11) "Residential furnace" means a self-contained space heater designed to supply heated air through ducts of more than 10 inches in length and which utilizes only single-phase electric current or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which:

(A) is designed to be the principal heating source for the living space of one or more residences;

(B) is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btus per hour; and

(C) has a heat input rate of less than 225,000 Btus per hour.

(12) "Single-voltage external AC to DC power supply" means a device that:

(A) is designed to convert line voltage AC input into lower voltage DC output;

(B) is able to convert to only one DC output voltage at a time;

(C) is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load;

(D) is contained within a separate physical enclosure from the end-use product;

(E) is connected to the end-use product via a removable or hard-wired male or female electrical connection, cable, cord, or other wiring;

(F) does not have batteries or battery packs, including those that are removable, that physically attach directly to the power supply unit;

(G) does not have a battery chemistry or type selector switch and indicator light; or does not have a battery chemistry or type selector switch and a state of charge meter; and

(H) has a nameplate output power less than or equal to 250 watts.

(13) "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, that has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, and a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and that falls into either of the following categories:

(A) a blown PAR (BPAR), bulged reflector (BR), or elliptical reflector (ER) bulb shape, with a diameter which equals or exceeds 2.25 inches; or

(B) a reflector (R), parabolic aluminized reflector (PAR), or similar bulb shape with a diameter of 2.25 to 2.75 inches.

(14)(A) "Transformer" means a device that consists of two or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from one coil to another, in order to change the original voltage or current value.

(B) The term "transformer" does not include:

(i) devices with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap; or

(ii) devices, such as those commonly known as drive transformers, rectifier transformers, auto transformers, uninterruptible power system transformers, impedance transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers.

grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications.

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the state:

(1) Medium voltage dry-type distribution transformers.

(2) Metal halide lamp fixtures.

(3) Residential furnaces and residential boilers.

(4) Single-voltage external AC to DC power supplies.

(5) State-regulated incandescent reflector lamps.

(6) Any other product that may be designated by the commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the state and sold outside the state.

(2) New products manufactured outside the state and sold at wholesale inside the state for final retail sale and installation outside the state.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

§ 2795. EFFICIENCY STANDARDS

Not later than June 1, 2007, the commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards:

(1) Medium voltage dry-type distribution transformers shall meet minimum efficiency levels three-tenths of a percentage point higher than the Class 1 efficiency levels for medium voltage distribution transformers specified in Table 4-2 of the "Guide for Determining Energy Efficiency for Distribution Transformers" published by the National Electrical Manufacturers Association (NEMA Standard TP-1-2002).

(2) Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall not contain a probe-start metal halide ballast.

(3)(A) Residential furnaces and residential boilers shall meet or exceed the following Annual Fuel Utilization Efficiency (AFUE) and electricity ratio values:

Product Type	Minimum AFUE	Maximum electricity ratio
Natural gas- and propane-fired furnaces	90%	2.0%
Oil-fired furnaces $\geq 94,000$ Btus/hour in capacity	83%	2.0%
Oil-fired furnaces $< 94,000$ Btus/hour in capacity	83%	2.3%
Natural gas-, oil-, and propane- fired hot water residential boilers	84%	Not applicable
Natural gas-, oil-, and propane-fired steam residential boilers	82%	Not applicable

(B) AFUE shall be measured in accordance with the federal test method for measuring the energy consumption of furnaces and boilers contained in Appendix N to subpart B of part 430, Title 10, Code of Federal Regulations.

(C) The commissioner may adopt rules to exempt compliance with these residential furnace or residential boiler AFUE standards at any building, site, or location where complying with these standards would be in conflict with any local zoning ordinance, building or plumbing code, or other rule regarding installation and venting of residential boilers or residential furnaces.

(4)(A) Single-voltage external AC to DC power supplies shall meet the energy efficiency requirements of the following table:

Nameplate output power	Minimum efficiency in Active Mode
0 to < 1 watt	0.49* Nameplate Output
≥ 1 watt and ≤ 49 watts	$0.09 * \ln(\text{Nameplate Output power}) + 0.49$
> 49 watts	0.84

	Maximum Energy Consumption in No-Load Mode
0 to < 10 watts	0.5 watts
≥ 10 watts and ≤ 250 watts	0.75 watts

* Where $\ln(\text{Nameplate Output})$ = Natural logarithm of the nameplate output expressed in watts.

(B) This standard applies to single voltage AC to DC power supplies that are sold individually and to those that are sold as a component of or in conjunction with another product.

(C) For purposes of this subdivision (4), the efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the test methodology specified by the U.S. Environmental Protection Agency's Energy Star Program, "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies (August 11, 2004)."

(5)(A) State-regulated incandescent reflector lamps shall meet the minimum average lamp efficacy requirements for federally regulated incandescent reflector lamps contained in 42 U.S.C. § 6295(i)(1)(A).

(B) The following types of incandescent reflector lamps are exempt from these requirements:

(i) lamps rated at 50 watts or less of the following types: BR30, ER30, BR40, and ER40;

(ii) lamps rated at 65 watts of the following types: BR30, BR40, and ER40; and

(iii) R20 lamps of 45 watts or less.

§ 2796. IMPLEMENTATION

(a) On or after January 1, 2008, no new medium voltage dry-type distribution transformer, state-regulated incandescent reflector lamp, or single-voltage external AC to DC power supply may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.

(b) On or after January 1, 2009, no new metal halide lamp fixture may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.

(c) No later than six months after the date of enactment of this chapter, the commissioner, in consultation with the attorney general, shall determine if implementation of state standards for residential furnaces and residential boilers requires a waiver from federal preemption. If the commissioner determines that a waiver from federal preemption is not needed, those state standards shall go into effect on June 1, 2008, or if this determination is made after June 1, 2007, those standards shall go into effect one year after the date of this determination. If the commissioner determines that a waiver from federal preemption is required, the commissioner shall apply for that waiver within one year of that determination and upon approval of that waiver application, the applicable standards shall go into effect at the earliest date permitted by federal law.

(d) One year after the date upon which the sale or offering for sale of certain products becomes subject to the requirements of subsection (a) or (b) of this section, no new products may be installed for compensation in the state unless the efficiency of a new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.

(e) Owners and operators of commercial and industrial facilities shall be allowed to utilize appliances and equipment that do not meet the requirements of section 2795 of this title for the repair or replacement of existing equipment, provided that the equipment being repaired or replaced was acquired before the implementation date determined according to the provisions of this section. At

the discretion of the owners and operators, these appliances and equipment may be used at any time before or after the effective date of those requirements.

(f) The standard for single-voltage external power supplies shall not go into effect until the commissioner determines that the California energy commission has adopted and put into effect a standard for single-voltage external power supplies. Vermont's standard shall mirror the standard adopted in California.

§ 2797. NEW AND REVISED STANDARDS

The commissioner may adopt rules, in accordance with the provisions of 3 V.S.A. chapter 25, to revise efficiency standards for the products listed in section 2794 of this title, in order to make the standards conform to standards in effect in other states, where to do so is in the interests of the electrical energy consumers of the state. The commissioner also may adopt rules that establish standards for one or more products not specifically mentioned in section 2794 of this title other than products that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications, provided that the rules pertaining to a product shall not take effect until equivalent or higher standards for that product have been adopted by and have taken effect in one or more New England states in addition to Vermont and in at least one of the following states: New York, Pennsylvania, or New Jersey. In considering new or increased standards, the commissioner shall set efficiency standards upon a determination that increased efficiency standards would serve to promote energy conservation in the state and would be cost-effective for consumers who purchase and use those products, provided no new or increased efficiency standards shall become effective within one year following the adoption of any amended rules establishing those new or increased efficiency standards. The commissioner may apply for a waiver of federal preemption in accordance with federal procedures (42 U.S.C.

§ 6297(d)) for state efficiency standards for any product regulated by the federal government.

§ 2798. TESTING, CERTIFICATION, LABELING, AND ENFORCEMENT

(a) The commissioner shall adopt test protocols for determining the energy efficiency of the new products covered by section 2794 of this title if those protocols are not provided for in section 2795 of this title or in the residential building energy standards adopted under 21 V.S.A. § 266. The commissioner shall require U.S. Department of Energy-approved test methods, or in the absence of those test methods, other appropriate nationally recognized test methods. The manufacturers of these products shall cause samples of their products to be tested in accordance with the test protocols adopted pursuant to

this chapter or those specified in the residential building energy standards. The commissioner may adopt updated test methods when new versions of test protocols become available.

(b) Manufacturers of new products covered by section 2794 of this title, except for single voltage external AC to DC power supplies, shall certify to the commissioner that these products are in compliance with the provisions of this chapter. These certifications shall be based on test results. The commissioner shall adopt rules governing the certification of those products and shall coordinate with the certification programs of other states with similar standards.

(c) Manufacturers of new products covered by section 2794 of this title shall identify each product offered for sale or installation in the state as being in compliance with the provisions of this chapter by means of a mark, label, or tag on the product and packaging at the time of sale or installation. The commissioner shall adopt rules governing the identification of these products and packaging, which shall be coordinated to the greatest practical extent with the labeling programs of other states and federal agencies with equivalent efficiency standards. The commissioner shall allow the use of existing marks, labels, or tags which connote compliance with the efficiency requirements of this chapter.

(d) The commissioner may test products covered by section 2794 of this title. If any product so tested is found not to be in compliance with the minimum efficiency standards established under section 2795 of this title, the commissioner shall:

(1) Charge the manufacturer of that product for the cost of product purchase and testing.

(2) Make available to the public information on products found not to be in compliance with the standards.

(e) With prior notice and at reasonable and convenient hours, the commissioner may cause periodic inspections to be made of distributors or retailers of new products covered by section 2794 of this title in order to determine compliance with the provisions of this chapter

(f) The commissioner shall investigate complaints received concerning violations of this chapter and shall report the results of those investigations to the attorney general. The attorney general may institute proceedings to enforce the provisions of this chapter. Any manufacturer, distributor, or any person who installs a product covered by this chapter for compensation, who violates any provision of this chapter shall be issued a warning by the commissioner for any first violation. Repeat violations shall be subject to a civil penalty of not

more than \$250.00. Each violation shall constitute a separate offense, and each day that such violation continues shall constitute a separate offense. Penalties assessed under this subsection are in addition to costs assessed under subsection (d) of this section.

(g) The commissioner is granted the authority to adopt further rules as necessary to ensure the proper implementation and enforcement of the provisions of this chapter.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the House amend the bill as recommended by the committee on Natural Resources and Energy, **Rep. Klein of East Montpelier** moved to amend the recommendation of amendment offered by the committee on Natural Resources and Energy as follows:

First: In Sec. 1, 9 V.S.A. § 2794(b)(1), before the period, by inserting the following: “and the equipment used in manufacturing those products”

Second: In Sec. 1, 9 V.S.A. § 2798, by striking subsection (f) and by relettering the remaining subsection to be alphabetically correct

Third: In Sec. 1, 9 V.S.A. § 2798(g), now relettered by this amendment to be subsection (f), by striking the words “and enforcement”

Fourth: by adding a new section to read:

Sec. 2. PUBLIC SERVICE DEPARTMENT RECOMMENDATIONS

The commissioner of public service shall consult with other state agencies and shall report to the legislative Committees on Natural Resources and Energy by no later than January 15, 2007, with recommendations as to how the state may best enforce the provisions of this chapter, which shall include identifying an entity to investigate suspected violations and bring appropriate actions, and identifying the judicial forum in which enforcement determinations would be made. The enforcement regimen shall anticipate that an original offense may be met with a warning, and that second and subsequent violations, whether related to the same appliance, or a different appliance, shall be subject to a civil penalty of not more than \$250.00. In addition, each violation shall constitute a separate offense, and each day that such violation continues shall constitute a separate offense. Penalties assessed under this subsection are in addition to costs assessed under subsection (d) of this section.

Which was agreed to.

Thereupon, the recommendation of amendment offered by the committee on Natural Resources and Energy, as amended, was agreed to and third reading ordered.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 568

House bill, entitled

An act relating to applicability of an act regarding trustees.

H. 655

House bill, entitled

An act relating to the towns and gores of Essex county.

H. 841

House bill, entitled

An act relating to underground utility damage prevention system.

Bill Read Second Time; Third Reading Ordered

H. 843

Rep. Smith of Morristown spoke for the committee on Ways and Means.

House bill entitled

An act relating to miscellaneous tax policy amendments;

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Committed

H. 844

House bill, entitled

An act relating to title insurance surcharge;

Appearing on the Calendar for action, was taken up and pending second reading of the bill, on motion of **Rep. Condon of Colchester**, the bill was committed to the committee on Government Operations.

Action on Bill Postponed

H. 845

House bill, entitled

An act relating to cable television tariff requirements;

Was taken up and pending second reading of the bill, on motion of **Rep. Reese of Pomfret**, action on the bill was postponed until the next legislative day.

Favorable Reports; Bill Amended; Third Reading Ordered

H. 665

Rep. Valliere of Barre City, for the committee on General, Housing and Military, to which had been referred House bill, entitled

An act relating to promoting gourmet food and beverage products by permitting wine tastings at Vermont food and wine events;

Reported in favor of its passage.

Rep. Nuovo of Middlebury, for the committee on Ways and Means, recommended the bill ought to pass.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read the third time? **Rep. Valliere of Barre City** moved to amend the bill as follows:

First: In Sec. 2, 7 V.S.A. § 225, in subsection (a), line 12, after the first sentence, by adding the following: Attendees at the educational sampling event shall be required to pay an entry fee of no less than \$5.00.

Second: In Sec. 2, 7 V.S.A. § 225, page 4, beginning on line 18, by striking subdivision (b)(1) and inserting in lieu thereof the following:

(1) May receive shipments directly from a manufacturer, bottler, certificate of approval holder, wholesale dealer, or importer licensed in Vermont or that provides evidence of licensure in another state or foreign country satisfactory to the board.

Third: In Sec. 2, 7 V.S.A. § 225, page 4, line 18, in subdivision (d)(3), by striking “\$5.50” and inserting in lieu thereof “\$19.80”

And after passage the Title shall be amended to read “AN ACT RELATING TO PROMOTING GOURMET FOOD AND BEVERAGE PRODUCTS BY PERMITTING TASTINGS OF ALCOHOLIC BEVERAGES AT VERMONT FOOD AND WINE EVENTS”

Which was agreed to and third reading of the bill ordered.

**Rules Suspended; Senate Proposal of Amendment Concurred in;
Rules Suspended; Action Ordered Messaged to Senate Forthwith
and Bill Delivered to the Governor Forthwith**

H. 567

On motion of **Rep. Hube of Londonderry**, the rules were suspended and House bill, entitled

An act relating to exemption from CON and HMO requirements for PACE;

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate proposed to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

Findings.

(1) A "Program of All-Inclusive Care for the Elderly" ("PACE") is an entity created in federal law.

(2) PACE programs are subject to significant federal regulation including requirements concerning required services and fiscal soundness.

(3) Federal regulations require that a PACE program have an agreement with the Center for Medicaid and Medicare Services (CMS) and with a state administering agency.

(4) Ongoing regulatory oversight of a PACE program is provided by both CMS and the state administering agency.

(5) PACE programs offer an opportunity for significant savings of state Medicaid expenditures for PACE program participants.

Sec. 2. 8 V.S.A. § 5102(f) is added to read:

(f) Upon request by a Program for All-Inclusive Care for the Elderly (PACE) authorized under federal Medicare law, the commissioner may approve the exemption of the PACE program from the provisions of this chapter and from any other provisions of this title if the commissioner determines that the purposes of this chapter and the purposes of any other provision of this title will not be materially and adversely affected by the exemption. In approving an exemption, the commissioner may prescribe such terms and conditions as the commissioner deems necessary to carry out the purposes of this chapter and this title.

Sec. 3. 18 V.S.A. § 9435(e) is added to read:

(e) Upon request under subsection 5102(f) of Title 8 by a Program for All-Inclusive Care for the Elderly (PACE) authorized under federal Medicare law, the commissioner may approve the exemption of the PACE program from the provisions of this subchapter and from any other provisions of this chapter if the commissioner determines that the purposes of this subchapter and the purposes of any other provision of this chapter will not be materially and adversely affected by the exemption. In approving an exemption, the commissioner may prescribe such terms and conditions as the commissioner deems necessary to carry out the purposes of this subchapter and this chapter.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

Which proposal of amendment was considered and concurred in.

On motion of **Rep. Hube of Londonderry**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

Message from the Senate No. 20

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that the Senate has considered a bill originating in the House of the following title:

H. 617. An act relating to fiscal year 2006 budget adjustments.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

Message from Governor

A message was received from His Excellency, the Governor, by Mr. Neale Lunderville, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House that on the seventh day of February, 2006, he approved and signed bills originating in the House of the following titles:

H. 279 An act relating to location of the office of Veterans' Affairs

H. 280 An act relating to the Patriot's Medal**Adjournment**

At eleven o'clock and thirty minutes in the forenoon, on motion of **Rep. Hube of Londonderry**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

WEDNESDAY, FEBRUARY 8, 2006

At one o'clock and fifteen minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Reverend Ralph Gerlach of Hunger Mountain Christian Assembly, Waterbury, VT.

Joint Resolution Referred to Committee**J.R.H. 59**

Reps. Fisher of Lincoln, Ancel of Calais, Botzow of Pownal, Chen of Mendon, Clarkson of Woodstock, Cross of Winooski, Darrow of Dummerston, Deen of Westminster, Donovan of Burlington, Dowland of Holland, Edwards of Brattleboro, Evans of Essex, Fallar of Tinmouth, Frank of Underhill, French of Randolph, Grad of Moretown, Green of Berlin, Haas of Rochester, Head of S. Burlington, Heath of Westford, Hosford of Waitsfield, Hutchinson of Randolph, Jewett of Ripton, Klein of East Montpelier, Kupersmith of S. Burlington, Larson of Burlington, Leriche of Hardwick, Lorber of Burlington, Maier of Middlebury, Malcolm of Pawlet, Marek of Newfane, Martin of Springfield, McCullough of Williston, McLaughlin of Royalton, Milkey of Brattleboro, Minter of Waterbury, Nease of Johnson, Nuovo of Middlebury, Pugh of S. Burlington, Randall of Troy, Reese of Pomfret, Shand of Weathersfield, Sharpe of Bristol, Smith of Morristown and Zuckerman of Burlington offered a joint resolution, entitled

Joint resolution relating to the National Security Agency's warrantless surveillance of Americans;

Whereas the safety and security of Vermonters depends upon the maintenance of a vigorous democracy under law, in which the branches of government work effectively and cooperatively together, and

Whereas, in Chapter II, Article 11, the Vermont Constitution states unequivocally that warrantless searches and seizures of the homes and papers of individuals are prohibited, and

Whereas, the Foreign Intelligence Surveillance Act of 1978 (FISA) comprehensively regulates electronic surveillance within the United States, with the goal of striking a proper constitutional balance between protection of civil liberties and safeguarding national security, and

Whereas, FISA provides a legal mechanism for the United States government to engage in surveillance of an agent of a foreign power in instances when it is likely that the surveillance will acquire the contents of a communication with a United States-based person, and

Whereas, FISA and specified provisions of the federal criminal code are the exclusive means by which electronic surveillance may be conducted, and federal law makes criminal any electronic surveillance not authorized by statute, and

Whereas, FISA provides specific exceptions that allow the President to authorize warrantless electronic surveillance for foreign intelligence purposes in emergency situations, provided an application for judicial approval from a FISA court is made within 72 hours and within 15 calendar days following a declaration of war by Congress, and

Whereas, President Bush has directed the National Security Agency (NSA) to conduct secret and warrantless electronic surveillance of persons within the United States without any plausible legal authority for such surveillance, and is in direct violation of FISA and the Fourth Amendment to the United States Constitution, and

Whereas, these actions diminish the rule of law and do not enhance national security, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly supports the vigorous pursuit and prosecution of persons and organizations that plan terrorist acts anywhere in the world, and be it further

Resolved: That the General Assembly expresses deep concern over President Bush's order to the National Security Agency to intercept telephone and e-mail exchanges between the United States and overseas without court authorization, as required under FISA, and be it further

Resolved: That the General Assembly requests the President to direct immediately the NSA to observe FISA's requirements, and be it further

Resolved: That the General Assembly urges the United States Congress to reaffirm that it did not authorize warrantless domestic surveillance of United States citizens in authorizing military action in Afghanistan, and be it further

Resolved: That the General Assembly urges all state and local government agencies in Vermont and each person and business entity that receives a request to cooperate in the electronic surveillance of a person within the United States to obtain an assurance from the state or federal government agency making the request that it is lawful under FISA or applicable provisions of the federal criminal code, and be it further

Resolved: That the General Assembly requests Attorney General Sorrell to assist, and if needed, intervene on behalf of, any person in Vermont who is asked to cooperate in the electronic surveillance of a person within the United States without receiving an assurance that the request is lawful under FISA or applicable provisions of the federal criminal code law, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the President, U.S. Attorney General Alberto Gonzales, to U.S. Senate Majority Leader Bill Frist, to U.S. Senators Pat Roberts, John D. Rockefeller IV, and Arlen Specter, to United States Speaker of the House of Representatives J. Dennis Hastert, to U.S. Representatives Peter Hoekstra, Jane Harman, F. James Sensenbrenner, and John Conyers, Jr., and to the members of the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Judiciary.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 773

Rep. Emmons of Springfield moved that the committee on Institutions be relieved of House bill, entitled

An act relating to school construction interest-free state loans in the form of tax credits;

And that the bill be committed to the committee on Ways and Means, which was agreed to.

Bill Read Second Time; Third Reading Ordered

H. 845

Rep. Young of Orwell spoke for the committee on Commerce.

House bill entitled

An act relating to cable television tariff requirements;

Having appeared on the Calendar, was taken up, read the second time and third reading ordered.

Bill Amended, Read Third Time and Passed

H. 253

House bill, entitled

An act relating to establishing energy efficiency standards for certain appliances;

Was taken up and pending third reading of the bill, **Rep. Masland of Thetford** moved to amend the bill as follows:

First: in Sec. 1, 9 V.S.A. § 2798, by adding a new subsection (g) to read as follows:

(g) Any manufacturer, or distributor, or any person who installs a product covered by this chapter for compensation, who violates any provision of this chapter shall be subject to a civil penalty of not more than \$250.00. Each violation shall constitute a separate offense, and each day that such violation continues shall constitute a separate offense. Penalties assessed under this subsection are in addition to costs assessed under subsection (d) of this section.

Second: by striking Sec. 2 in its entirety and by adding a new section to read:

Sec 2. 4 V.S.A. § 437 is amended to read:

§ 437. CIVIL JURISDICTION OF DISTRICT COURT

The district court shall have jurisdiction of the following actions:

(1) Appeals of final decisions of the judicial bureau.

* * *

(12) Proceedings to enforce 9 V.S.A. Chapter 74 relating to energy efficiency standards for appliances and equipment.

Pending the question, Shall the House amend the bill as recommended by Rep. Masland of Thetford? **Rep. Partridge of Windham** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by Rep. Masland of Thetford? was decided in the affirmative. Yeas, 87. Nays, 53.

Those who voted in the affirmative are:

Adams of Hartland
Ance of Calais

Aswad of Burlington
Atkins of Winooski

Audette of S. Burlington
Barnard of Richmond

Bohi of Hartford	Hosford of Waitsfield	Monti of Barre City
Botzow of Pownal	Howard of Rutland City	Mook of Bennington
Brooks of Montpelier	Howrigan of Fairfield	Nease of Johnson
Canfield of Fair Haven	Hunt of Essex	Nitka of Ludlow
Chen of Mendon	Hutchinson of Randolph	Nuovo of Middlebury
Clarkson of Woodstock	Jerman of Essex	Obuchowski of Rockingham
Copeland-Hanzas of Bradford	Jewett of Ripton	Orr of Charlotte
Corcoran of Bennington	Johnson of South Hero	Partridge of Windham
Cross of Winooski	Kainen of Hartford	Pellett of Chester
Darrow of Dummerston	Keogh of Burlington	Peterson of Williston
Deen of Westminster	Klein of East Montpelier	Pillsbury of Brattleboro
Donahue of Northfield	Komline of Dorset	Potter of Clarendon
Donovan of Burlington	Krawczyk of Bennington	Pugh of S. Burlington
Dostis of Waterbury	Kupersmith of S. Burlington	Randall of Troy
Edwards of Brattleboro	Larson of Burlington	Reese of Pomfret
Emmons of Springfield	Lerich of Hardwick	Rodgers of Glover
Evans of Essex	Lippert of Hinesburg	Rusten of Halifax
Fallar of Tinmouth	Lorber of Burlington	Severance of Colchester
Fisher of Lincoln	Maier of Middlebury	Shand of Weathersfield
Frank of Underhill	Marek of Newfane	Sharpe of Bristol
French of Randolph	Martin of Wolcott	Smith of Morristown
Gervais of Enosburg	Masland of Thetford	Sweaney of Windsor
Grad of Moretown	McCullough of Williston	Tracy of Burlington
Green of Berlin	McLaughlin of Royalton	Trombley of Grand Isle
Haas of Rochester	Milkey of Brattleboro	Westman of Cambridge
Head of S. Burlington	Miller of Shaftsbury	Zuckerman of Burlington
Heath of Westford	Minter of Waterbury	
	Molloy of Arlington	

Those who voted in the negative are:

Acinapura of Brandon	Houston of Ferrisburgh	Morley of Barton
Allaire of Rutland City	Hube of Londonderry	Morrissey of Bennington
Allard of St. Albans Town	Hudson of Lyndon	Myers of Essex
Baker of West Rutland	Johnson of Canaan	Niquette of Colchester
Bartlett of Dover	Kennedy of Chelsea	O'Donnell of Vernon
Bostic of St. Johnsbury	Kilmartin of Newport City	Otterman of Topsham
Branagan of Georgia	Koch of Barre Town	Parent of St. Albans City
Brennan of Colchester	Larocque of Barnet	Peaslee of Guildhall
Clark of St. Johnsbury	Larrabee of Danville	Perry of Richford
Clark of Vergennes	LaVoie of Swanton	Shaw of Derby
Condon of Colchester	Lawrence of Lyndon	Smith of New Haven
Dates of Shelburne	Livingston of Manchester	Turner of Milton
DePoy of Rutland City	Louras of Rutland City	Valliere of Barre City
Donaghy of Poultney	Marcotte of Coventry	Winters of Swanton
Dunsmore of Georgia	Marron of Stowe	Winters of Williamstown
Endres of Milton	McAllister of Highgate	Wright of Burlington
Errecart of Shelburne	McFaun of Barre Town	Young of Orwell
Flory of Pittsford	Miller of Elmore	

Those members absent with leave of the House and not voting are:

Dowland of Holland	Kiss of Burlington	Martin of Springfield
Helm of Castleton	Kitzmiller of Montpelier	Seibert of Norwich
Keenan of St. Albans City	Malcolm of Pawlet	Sunderland of Rutland Town

Rep. Koch of Barre Town explained his vote as follows:

"Madam Speaker:

I believe the member from Newport City has pointed out that the language we have just adopted is not well drafted and has some operational problems in it. It would have been better to postpone action for a day, work out the problems, and then complete action on this bill. I will still vote for this bill, but I believe we have just handed the Senate a minor problem to work on."

Rep. Kilmartin of Newport City explained his vote as follows:

"Madam Speaker:

I vote "no" because this amendment is unworkable, misleading, confusing and a waste of our time and energy. It reflects poorly on our deliberative process."

Rep. Louras of Rutland City explained his vote as follows:

"Madam Speaker:

This body has decriminalized driving with license suspended to free up the courts to try more important cases and now their precious time will be used to determine who is liable for installing a furnace."

Thereupon, the bill was read the third time.

Rep. Partridge of Windham in Chair.

Pending the question, Shall the bill pass? **Rep. Branagan of Georgia** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas 101. Nays, 37.

Those who voted in the affirmative are:

Acinapura of Brandon	Branagan of Georgia	Corcoran of Bennington
Adams of Hartland	Brooks of Montpelier	Cross of Winooski
Ancel of Calais	Canfield of Fair Haven	Darrow of Dummerston
Aswad of Burlington	Chen of Mendon	Dates of Shelburne
Atkins of Winooski	Clarkson of Woodstock	Deen of Westminster
Barnard of Richmond	Condon of Colchester	Donahue of Northfield
Bohi of Hartford	Copeland-Hanzas of	Donovan of Burlington
Botzow of Pownal	Bradford	Dostis of Waterbury