

Dunsmore of Georgia
 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
 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
 Keogh of Burlington
 Klein of East Montpelier
 Koch of Barre Town

Komline of Dorset
 Krawczyk of Bennington
 Kupersmith of S. Burlington
 Larocque of Barnet
 Larson of Burlington
 Leriche of Hardwick
 Lippert of Hinesburg
 Livingston of Manchester
 Lorber of Burlington
 Maier of Middlebury
 Marek of Newfane
 Marron of Stowe
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston
 McFaun of Barre Town
 McLaughlin of Royalton
 Mikey of Brattleboro
 Miller of Shaftsbury
 Minter of Waterbury
 Molloy of Arlington
 Monti of Barre City
 Mook of Bennington
 Myers of Essex
 Nease of Johnson
 Niquette of Colchester

Nitka of Ludlow
 Nuovo of Middlebury
 Obuchowski of Rockingham
 O'Donnell of Vernon
 Orr of Charlotte
 Pellett of Chester
 Perry of Richford
 Peterson of Williston
 Pillsbury of Brattleboro
 Potter of Clarendon
 Pugh of S. Burlington
 Randall of Troy
 Reese of Pomfret
 Rodgers of Glover
 Rusten of Halifax
 Severance of Colchester
 Shand of Weathersfield
 Sharpe of Bristol
 Smith of Morristown
 Sweaney of Windsor
 Tracy of Burlington
 Trombley of Grand Isle
 Turner of Milton
 Westman of Cambridge
 Wright of Burlington
 Zuckerman of Burlington

Those who voted in the negative are:

Allaire of Rutland City
 Allard of St. Albans Town
 Baker of West Rutland
 Bartlett of Dover
 Bostic of St. Johnsbury
 Brennan of Colchester
 Clark of St. Johnsbury
 Clark of Vergennes
 DePoy of Rutland City
 Donaghy of Poultney
 Endres of Milton
 Errecart of Shelburne
 Flory of Pittsford

Houston of Ferrisburgh
 Hube of Londonderry
 Hudson of Lyndon
 Johnson of Canaan
 Kennedy of Chelsea
 Kilmartin of Newport City
 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
 Otterman of Topsham
 Parent of St. Albans City
 Peaslee of Guildhall
 Shaw of Derby
 Smith of New Haven
 Valliere of Barre City
 Winters of Swanton
 Winters of Williamstown
 Young of Orwell

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

Audette of S. Burlington
 Dowland of Holland
 Helm of Castleton
 Keenan of St. Albans City

Kiss of Burlington
 Kitzmiller of Montpelier
 Malcolm of Pawlet
 Martin of Springfield

Seibert of Norwich
 Sunderland of Rutland Town
 Symington of Jericho

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

“Madam Speaker:

I vote “no”. It has been said California will lead us into the “Promised Land” of energy efficiency. But its anti-business legislation and regulations are causing its massive deficits and energy shortages. What a poor example to follow....into “deficit land”.”

Rep. Young of Orwell explained his vote as follows:

“Madam Speaker:

Let’s all think hard of why there is a lack of affordable housing in this state.”

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

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.

H. 843

House bill, entitled

An act relating to miscellaneous tax policy amendments.

Bill Amended; Third Reading Ordered

H. 175

Rep. LaVoie of Swanton, for the committee on Education, to which had been referred House bill, entitled

An act relating to statewide school year calendar;

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. FINDINGS

(a) The general assembly finds:

(1) School districts need to find ways to collaborate in order to maintain concurrent schedules, improve student learning, and reduce costs through sharing of resources.

(2) Students learn best when provided educational services for uninterrupted periods of instructional time.

(3) Educators can deliver instructional services more efficiently and effectively when schools are following the same vacation, holiday, and statewide assessment schedules.

(4) Common professional development days provide educators the opportunity to participate in regional and statewide programs.

(5) A uniform statewide calendar ensures better attendance at regional programs, such as technical centers.

(6) The date on which a school year begins and ends has great impact on families and businesses.

(b) Therefore, it is the intent of this act to direct the commissioner of education to adopt a statewide calendar. It is not the intent that the statewide calendar shall deviate from the traditional summer vacation period.

Sec. 2. 16 V.S.A. § 1071 is amended to read:

§ 1071. SCHOOL YEAR AND SCHOOL DAY CALENDAR

(a) ~~Minimum number of days~~ Statewide school calendar. ~~Except as provided in this section, each public school shall be maintained and operated for~~ The commissioner shall develop a uniform statewide calendar using a public process which enables students, parents, educators, the business community, and other interested parties to participate. The primary purpose of the statewide calendar shall be to improve high quality learning opportunities for all Vermont students. The commissioner shall announce the uniform statewide calendar by October 1 for the ensuing school year. The calendar shall include:

(1) ~~at least one hundred seventy five~~ 175 student attendance days in each school year. For purposes of this section, a majority of students enrolled in a school must be recorded on the school roll as in attendance on any day counted as a student attendance day;

(2) ~~at least~~ five common teacher in-service education days, during which time activities shall be conducted without students present in order to increase the competency of the staff, improve the curriculum of the school, enable teachers to attend state educational meetings or disseminate student progress information to parents or the community;

(3) to the extent possible, common days for statewide assessments;

(4) periods of vacation and holidays so as to ensure uninterrupted periods of instructional time;

(5) a sufficient number of makeup days to compensate for unanticipated closings.

(b) Hours of operation. Within the minimum set by the state board, the school board shall fix the number of hours that shall constitute a school day, subject to change upon the order of the state board.

(c) Unanticipated closings. When a public school is closed for cause beyond the control of the school board it may petition the state board for a waiver of the requirements of this section. The petition shall be filed with the state board within 10 days of each occurrence and not later than June 15 of the school year involved; and the state board shall act on the petition at its next meeting held five or more business days following receipt of the petition. Action may include approval of the request, disapproval of the request, or postponement of a decision for a definite period in order to enable the district to schedule makeup days. If the petition is approved and a waiver granted, the school district shall be deemed to have satisfied the requirements of this section. If the state board fails to act at that meeting, the petition shall be deemed to have been approved and the waiver granted.

(d) Unique community situations. If a school district or group of school districts needs to deviate from the uniform calendar due to a circumstance unique to the community, the district or districts may petition the state board for a waiver by January 1 for the ensuing school year, and the state board shall act on the petition at its next meeting.

~~(e) Regional calendar. Before April 1 of each year, the superintendents of schools and the headmasters of public schools not managed by school boards in an area shall meet, and by majority vote, establish a uniform calendar within that area for the following school year. The calendar shall include student attendance days, periods of vacation, holidays and teacher in-service education days and shall comply with subsection (a) of this section. Unless permitted by the commissioner, no area served by a regional technical center shall be divided into two or more calendar regions.~~

~~(f) Additional days. Nothing in this section prohibits a school board from scheduling additional days for student attendance or teacher in-service education. However, those days shall not conflict with any applicable school the statewide calendar.~~

~~(g) Upon application of one or more school districts, after approval by the voters of each such district, the state board may grant a waiver of the requirements of subsection (a) if it is satisfied that equivalent educational~~

~~programming will be maintained or improved. The waiver may be granted for any purpose, including the conservation of energy.~~

Sec. 3. EFFECTIVE DATE

The statewide calendar developed under this act shall be voluntary for the 2007–2008 school year and shall be mandatory for the 2008–2009 school year and each year thereafter.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Education agreed to and third reading ordered.

Action on Bill Postponed

H. 258

House bill, entitled

An act relating to the disclosure of rates of hospital-acquired infections;

Was taken up and pending the reading of the report of the committee on Human Services, on motion of **Rep. Pugh of South Burlington**, action on the bill was postponed until the next legislative day.

Action on Bill Postponed

H. 576

House bill, entitled

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

Was taken up and pending the reading of the report of the committee on Government Operations, on motion of **Rep. Sweaney of Windsor**, action on the bill was postponed until the next legislative day.

Message from the Senate No. 21

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. 138. An act relating to use value enrollment of municipal watershed land.

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

The Governor has informed the Senate that on the eighth day of February, 2006, he approved and signed a bill originating in the Senate of the following title:

S. 248. An act relating to Good Time.

Adjournment

At four o'clock and twenty-five minutes in the afternoon, on motion of **Rep. Flory of Pittsford**, the House adjourned until tomorrow at one o'clock and fifteen minutes in the afternoon.

THURSDAY, FEBRUARY 9, 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 Timothy Forester of the Congregational Church and United Church of Christ, South Hero, VT.

Message from the Senate No. 22

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. 50. An act relating to riots.

S. 184. An act relating to the arrest of a person for a violation of sex offender registry requirements.

S. 250. An act relating to cropping a dog's ears.

S. 284. An act relating to the protection of personal information.

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

J.R.S. 55. Joint resolution relating to weekend adjournment.

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

Committee Bill Introduced**H. 851**

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

An act relating to extending VPHARM coverage for individuals eligible for Medicare Part D;

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

Senate Bill Referred**S. 138**

Senate bill, entitled

An act relating to use value enrollment of municipal watershed land;

Was taken up, read the first time and referred to the committee on Natural Resources and Energy.

**Rules Suspended; Bill Read Second Time; Bill Amended;
Rules Suspended; Bill Placed on all Remaining Stages of Passage;
Bill Read Third Time and Passed; Rules Suspended; Bill Ordered
Messaged to the Senate Forthwith**

H. 851

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Flory of Pittsford**, the rules were suspended and House bill, entitled

An act relating to extending VPHARM coverage for individuals eligible for Medicare Part D;

Was taken up for immediate consideration.

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

By striking Sec. 2 in its entirety and by inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. Sec. 3 of No. 84 of the Acts of the 2005 Adj. Sess. (2006) is amended to read:

Sec. 3. APPROPRIATION

(a) The sum of ~~\$7 million~~ \$11,000,000 is appropriated from the general fund to the ~~Agency of Human Services~~ agency of human services to provide coverage of pharmaceuticals under this act. Notwithstanding section 308b of Title 32, the sum of \$11,000,000 shall be reduced from the human services caseload reserve for this purpose. Any unused funds appropriated for this act shall revert to the general fund and shall not be used for any other purpose. Any funds received by the state as repayment for the coverage of pharmaceuticals under VPharm as provided for in this act and for any additional administrative expenses related to this act shall be deposited into the general fund. Any unused and the repaid amounts up to \$11,000,000 shall be reserved in the human services caseload reserve.

(b) The sum of ~~\$400,000.00~~ \$400,000 is appropriated from the ~~general~~ Global Commitment 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.

Which was agreed to and third reading was 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.

Bill Amended; Third Reading Ordered**H. 258**

Rep. Niquette of Colchester, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to the disclosure of rates of hospital-acquired infection;

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:

§ 9405b. HOSPITAL COMMUNITY REPORTS

(a) The commissioner, in consultation with representatives from the public oversight commission, hospitals, ~~and~~ other groups of health care professional*s, 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:

(1) measures of quality, including process and outcome measures, that are valid, reliable, and useful, including comparisons to appropriate national benchmarks for high quality and successful outcomes;

(2) measures of patient safety that are valid, reliable, and useful, including comparisons to appropriate industry benchmarks for safety;

(3) measures of hospital-acquired infections that are valid, reliable, and useful, including comparisons to appropriate industry benchmarks;

~~(3)~~(4) measures of the hospital's financial health, including comparisons to appropriate national benchmarks for efficient operation and fiscal health;

~~(4)~~(5) a summary of the hospital's budget, including revenue by source and quantification of cost shifting to private payers;

~~(5)~~(6) measures that provide valid, reliable, useful, and efficient information for payers and the public for the comparison of charges for higher volume health care services;

~~(6)~~(7) the hospital's process for achieving openness, inclusiveness, and meaningful public participation in its strategic planning and decision-making;

~~(7)~~(8) the hospital's consumer complaint resolution process, including identification of the hospital officer or employee responsible for its implementation;

~~(8)~~(9) information concerning recently completed or ongoing quality improvement and patient safety projects;

~~(9)~~(10) 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)~~(11) 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.

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.

Favorable Report; Third Reading Ordered**H. 576**

Rep. Kennedy of Chelsea, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to reorganization of the Vermont department of labor;

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.

Third Reading; Bill Passed**H. 175**

House bill, entitled

An act relating to statewide school year calendar;

Was taken up, read the third time and passed.

Bill Amended, Read Third Time and Passed**H. 845**

House bill, entitled

An act relating to cable television tariff requirements;

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

In Sec. 1, 30 V.S.A. § 516(c), after the third sentence, by adding a new sentence to read as follows: If the federal government allows the states to regulate cable television rates, the board shall reimpose any regulatory provisions modified, reduced, or suspended pursuant to this section.

Which was agreed to. Thereupon, the bill was read the third time and passed.

**Bill Read Second Time; Amendment Agreed to;
Consideration Interrupted by Adjournment****H. 294**

Rep. Kupersmith of South Burlington, for the committee on Fish, Wildlife and Water Resources, to which had been referred House bill, entitled

An act relating to groundwater management;

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. 10 V.S.A. chapter 48, subchapter 5 is added to read:

Subchapter 5. Groundwater Withdrawal Moratorium

§ 1415. GROUNDWATER MORATORIUM

(a) As used in this section:

(1) "Groundwater" means water below the land surface.

(2) "Person" means any individual, partnership, company, corporation, cooperative, association, unincorporated association, joint venture, trust, the state of Vermont or any department, agency, subdivision, or municipality, the United States government or any department, agency or subdivision, or any other legal or commercial entity.

(3)(A) "Public water system" means any system or combination of systems owned or controlled by a person which provides drinking water through pipes or other constructed conveyances to the public and which:

(i) has at least 15 service connections; or

(ii) serves an average of at least 25 individuals for at least 60 days a year.

(B) "Public water system" shall not mean a system which bottles drinking water for public distribution.

(4) "Withdraw" means the removal of groundwater by any method or instrument, including the bottling of drinking water from an underground spring that percolates to the surface.

(b) As of July 1, 2006, a moratorium is established on a new withdrawal of groundwater in excess of 50,000 gallons a day for commercial or industrial purposes, including bottling drinking water for public distribution. Groundwater withdrawal by a public water system or for use by agriculture, fire safety, or public sanitation shall be exempt from the moratorium established under this subsection.

(c) The secretary of natural resources may authorize a new groundwater withdrawal in excess of 50,000 gallons a day if, after review of the factors set forth in subdivisions 1410(e)(1) to (e)(9) of this title, the secretary determines that such withdrawal would be in the public good.

Sec. 2. STUDY OF GROUNDWATER REGULATION AND FUNDING

(a) A committee is established to examine potential regulatory programs to protect the groundwater resources of the state. The committee shall report its findings to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture by January 15, 2007. The report shall include:

(1) A recommendation from the committee as to whether the groundwater resources of the state of Vermont should be declared a public trust resource;

(2) A proposed schedule for the groundwater mapping of the state by the agency of natural resources;

(3) A proposed appropriation to the agency of natural resources for the groundwater mapping of the state, including any proposed new or existing revenue sources that may be used by the agency to aid in funding the groundwater mapping;

(4) Proposed legislation for the regulation of groundwater withdrawals in the state.

(b) The committee shall consist of the following members:

(1) the secretary of natural resources or his or her designee;

(2) the state geologist or his or her designee;

(3) the secretary of agriculture, food and markets or his or her designee;

(4) one member each from the house committees on agriculture and on fish, wildlife and water resources, and the senate committees on agriculture and on natural resources and energy as appointed respectively by the speaker of the house and the committee on committees; and

(5) a representative appointed by the governor from each of the following: the business community, municipalities, the farming community, two environmental organizations, and the general public.

(c) The committee may elect a chair and a vice chair and may hold public hearings. Legislative council shall provide professional and administrative support for the committee.

(d) All members of the committee shall serve on the committee for the duration of the study unless circumstances dictate a permanent replacement. Vacancies shall be appointed in the same manner as original appointments.

Sec. 3. GROUNDWATER MAPPING

The agency of natural resources shall explore all available alternatives for the immediate initiation of groundwater mapping in the state, including

working in cooperation with the U.S. Geologic Survey and obtaining the necessary funding from the U.S. Environmental Protection Agency. The agency shall report its findings to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture by January 15, 2007.

Sec. 4. SUNSET

10 V.S.A. chapter 48, subchapter 5 (groundwater withdrawal moratorium) is repealed July 1, 2011.

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? **Rep. Johnson of Canaan** asked that the question be divided and Sec. 2 be taken up first.

Pending the question, Shall the House amend the bill as recommended in Sec. 2 of the recommendation of amendment offered by the committee on Fish, Wildlife and Water Resources? **Rep. Johnson of Canaan** 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 in Sec. 2 of the recommendation of amendment offered by the committee on Fish, Wildlife and Water Resources? was decided in the affirmative. Yeas, 93. Nays, 43.

Those who voted in the affirmative are:

Adams of Hartland
Ancel of Calais
Aswad of Burlington
Atkins of Winooski
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
Donahue of Northfield
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
Green of Berlin
Haas of Rochester
Head of S. Burlington
Heath of Westford
Hosford of Waitsfield
Howard of Rutland City
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
Klein of East Montpelier
Koch of Barre Town
Komline of Dorset
Krawczyk of Bennington
Kupersmith of S. Burlington
Larson of Burlington
Leriché of Hardwick
Lippert of Hinesburg
Lorber of Burlington
Maier of Middlebury
Marek of Newfane
Marron of Stowe
Martin of Wolcott
Masland of Thetford
McCullough of Williston
McFaun of Barre Town
McLaughlin of Royalton
Milkey of Brattleboro

Miller of Shaftsbury
 Miller of Elmore
 Minter of Waterbury
 Molloy of Arlington
 Monti of Barre City
 Mook of Bennington
 Myers of Essex
 Nease of Johnson
 Niquette of Colchester
 Nitka of Ludlow
 Nuovo of Middlebury
 Obuchowski of Rockingham

Orr of Charlotte
 Partridge of Windham
 Pellett of Chester
 Perry of Richford
 Peterson of Williston
 Pillsbury of Brattleboro
 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
 Shaw of Derby
 Smith of Morristown
 Sweaney of Windsor
 Tracy of Burlington
 Trombley of Grand Isle
 Wright of Burlington
 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
 Brennan of Colchester
 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

Flory of Pittsford
 Helm of Castleton
 Houston of Ferrisburgh
 Howrigan of Fairfield
 Hube of Londonderry
 Hudson of Lyndon
 Johnson of Canaan
 Kennedy of Chelsea
 Kilmartin of Newport City
 Larocque of Barnet
 Larrabee of Danville
 LaVoie of Swanton
 Lawrence of Lyndon
 Livingston of Manchester
 Louras of Rutland City

Malcolm of Pawlet
 Marcotte of Coventry
 McAllister of Highgate
 Morrissey of Bennington
 O'Donnell of Vernon
 Otterman of Topsham
 Parent of St. Albans City
 Smith of New Haven
 Turner of Milton
 Westman of Cambridge
 Winters of Swanton
 Winters of Williamstown
 Young of Orwell

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

Audette of S. Burlington
 Branagan of Georgia
 Clark of St. Johnsbury
 Donovan of Burlington
 Grad of Moretown

Kiss of Burlington
 Kitzmiller of Montpelier
 Martin of Springfield
 Morley of Barton
 Peaslee of Guildhall

Rodgers of Glover
 Sunderland of Rutland Town
 Valliere of Barre City

Pending the question, Shall the House amend the bill as recommended by the committee on Fish, Wildlife and Water Resources in Secs. 1, 3 and 4?

Adjournment

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

FRIDAY, FEBRUARY 10, 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 Speaker Gaye Symington of Jericho, VT.

Colors Presented by Eagle Scouts

Colors presented by the Eagle Scout Color Guard.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the Speaker recognized the following named Pages who are completing their service today and presented them with commemorative pins:

Ethan Barrett of Braintree
Bridget Bishop of Montpelier
Emma Broderick of Charlotte
Craig A. Camara of Starksboro
Rebecca W. Green of Essex Jct.
Mari Jarris of Shelburne
Elizabeth Kane of Swanton
Dylan Legus-sleigh of Hardwick
Hanna Miyake of Guilford
Anders Newbury of Fairfield

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. 852

By Rep. Branagan of Georgia,

An act relating to tax credits for employer contributions to employer-assisted housing purchases;

To the committee on Ways and Means.

H. 853

By the committee on Government Operations,

An act relating technical amendments to the Vermont Statutes Annotated related to restructuring the Agency of Human Services;

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. 50

Senate bill, entitled

An act relating to riots;

To the committee on Judiciary.

S. 184

Senate bill, entitled

An act relating to the arrest of a person for a violation of sex offender registry requirements;

To the committee on Judiciary.

S. 250

Senate bill, entitled

An act relating to cropping a dog's ears;

To the committee on Agriculture.

S. 284

Senate bill, entitled

An act relating to the protection of personal information;

To the committee on Commerce.

Joint Resolution Adopted in Concurrence

J.R.S. 55

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 10, 2006, it be to meet again no later than Tuesday, February 14, 2006.

Was taken up read and adopted in concurrence.

**Consideration Resumed; Action Postponed
until the end of the Orders of the Day**

H. 294

Consideration resumed on House bill, entitled

An act relating to groundwater management;

Pending the recurring question, Shall the bill be amended as recommended by the committee on Fish, Wildlife and Water Resources? **Rep. Deen of Westminster** moved to postpone action until the end of the Orders of the Day, which was agreed to.

Consideration Interrupted by Recess

H. 617

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

An act relating to fiscal year budget adjustments;

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. SHORT TITLE

(a) This Act shall be known as and shall be cited as the "Budget Adjustment Act - Fiscal Year 2006."

Sec. 1a. GIRLS' STATE; BOYS' STATE FUNDING

(a) The sum of \$10,000 in general funds is appropriated to the secretary of administration to be granted to the American Legion Department of Vermont, of which \$5,000 shall be to support Girls' State and \$5,000 shall be used to support Boys' State.

**Sec. 1b. EMERGENCY RELIEF AND ASSISTANCE FUND;
APPROPRIATION**

(a) The sum of \$100,000 in general funds shall be appropriated and transferred to the emergency relief and assistance fund, established in 20 V.S.A. § 45.

Sec. 2. Sec. 11 of No. 71 of the Acts of 2005 is amended to read:

Sec. 11. Human resources - operations

Personal services	<u>1,606,082</u>	1,746,652
Operating expenses	<u>314,842</u>	<u>314,842</u>
Total	<u>1,920,924</u>	2,061,494
Source of funds		
General fund	<u>1,281,126</u>	1,401,037
Transportation fund	<u>347,778</u>	368,437
Interdepartmental transfer	<u>292,020</u>	<u>292,020</u>
Total	<u>1,920,924</u>	2,061,494

Sec. 3. Sec. 12 of No. 71 of the Acts of 2005 is amended to read:

Sec. 12. Human resources - HR workforce planning & employment services

Personal services	<u>841,435</u>	789,435
Operating expenses	<u>301,357</u>	<u>301,357</u>
Total	<u>1,142,792</u>	1,090,792
Source of funds		
General fund	<u>708,084</u>	667,524
Transportation fund	<u>199,708</u>	188,268
Special funds	<u>235,000</u>	<u>235,000</u>
Total	<u>1,142,792</u>	1,090,792

Sec. 4. Sec. 16 of No. 71 of the Acts of 2005 is amended to read:

Sec. 16. Tax - administration/collection

Personal services	<u>11,477,404</u>	11,502,404
Operating expenses	<u>2,684,071</u>	<u>2,684,071</u>
Total	<u>14,161,475</u>	14,186,475
Source of funds		
General fund	<u>13,167,874</u>	13,192,874
Transportation fund	213,601	213,601
Tobacco fund	58,000	58,000
Special funds	542,000	542,000
Interdepartmental transfer	<u>180,000</u>	<u>180,000</u>
Total	<u>14,161,475</u>	14,186,475

Sec. 5. Sec. 44 of No. 71 of the Acts of 2005 is amended to read:

Sec. 44. Legislature

Personal services	<u>2,925,702</u>	3,308,202
Operating expenses	<u>2,191,219</u>	<u>2,453,719</u>
Total	<u>5,116,921</u>	5,761,921
Source of funds		
General fund	<u>4,414,316</u>	5,059,316
Transportation fund	<u>702,605</u>	<u>702,605</u>

Total	5,116,921	5,761,921
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Sec. 6. Sec. 53 of No. 71 of the Acts of 2005 is amended to read:

Sec. 53. Total general government	125,912,602	126,781,172
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Source of funds

General fund	39,130,842	39,990,193
Transportation fund	10,040,473	10,049,692
Special funds	5,148,680	5,148,680
Tobacco fund	58,000	58,000
Federal funds	2,835,018	2,835,018
Enterprise funds	2,470,807	2,470,807
Internal service funds	40,039,703	40,039,703
Pension trust funds	22,818,733	22,818,733
Private purpose trust funds	879,236	879,236
Interdepartmental transfer	<u>2,491,110</u>	<u>2,491,110</u>
Total	125,912,602	126,781,172

Sec. 6a. GRAND LIST APPEALS; FUNDING

(a) The sum of \$7,000 in general funds shall be appropriated to the office of the attorney general for costs incurred by the Town of Williamstown for litigation regarding the Washington electric cooperative grand list appeals.

Sec. 7. Sec. 56 of No. 71 of the Acts of 2005 is amended to read:

Sec. 56. Center for crime victim services

Personal services	1,035,455	1,055,100
Operating expenses	220,612	238,467
Grants	7,425,277	<u>8,125,277</u>
Total	8,681,344	9,418,844
Source of funds		
General fund	1,018,644	1,043,644
Special funds	3,541,155	4,253,655
Federal funds	4,058,345	4,058,345
Interdepartmental transfer	<u>63,200</u>	<u>63,200</u>
Total	8,681,344	9,418,844

* * *

Sec. 8. Sec. 62 of No. 71 of the Acts of 2005 is amended to read:

Sec. 62. Military - air service contract

Personal services	3,838,895	3,838,895
Operating expenses	<u>837,681</u>	<u>1,018,225</u>

Total	4,676,576	4,857,120
Source of funds		
General fund	322,658	367,794
Federal funds	<u>4,353,918</u>	<u>4,489,326</u>
Total	4,676,576	4,857,120

Sec. 9. Sec. 64 of No. 71 of the Acts of 2005 is amended to read:

Sec. 64. Military - building maintenance

Personal services	883,960	919,878
Operating expenses	<u>383,512</u>	<u>408,351</u>
Total	1,267,472	1,328,229
Source of funds		
General fund	1,267,472	1,312,165
<u>Federal funds</u>		<u>16,064</u>
Total		1,328,229

Sec. 10. Sec. 65 of No. 71 of the Acts of 2005 is amended to read:

Sec. 65. Military - veterans' affairs

Personal services	246,316	259,331
Operating expenses	108,740	108,740
Grants	<u>121,165</u>	<u>121,165</u>
Total	476,221	489,236
Source of funds		
General fund	476,221	489,236

* * *

Sec. 10a. Sec. 77 of No. 71 of the Acts of 2005 is amended to read:

Sec. 77. Banking, insurance, securities, and health care administration - health care administration

Personal services	3,609,269	3,609,269
Operating expenses	<u>358,002</u>	<u>358,002</u>
Total	3,967,271	3,967,271
Source of funds		
General fund	469,832	3,666
Special funds	<u>3,397,439</u>	2,732,933
<u>Global commitment fund</u>		1,130,672
Interdepartmental transfer	<u>100,000</u>	<u>100,000</u>
Total	3,967,271	3,967,271

Sec. 10b. Sec. 18 V.S.A. Sec 9415(a) is amended to read:

(a) Expenses incurred to obtain information and to analyze expenditures, review hospital budgets and for any other related contracts authorized by the commissioner shall be borne as follows: 40 percent by the state from ~~general fund~~ state monies, 15 percent by the hospitals, 15 percent by nonprofit hospital and medical service corporations licensed under chapter 123 or 125 of Title 8, 15 percent by health insurance companies licensed under chapter 101 of Title 8, and 15 percent by health maintenance organizations licensed under chapter 139 of Title 8.

Sec. 11. Sec. 83 of No. 71 of the Acts of 2005 is amended to read:

Sec. 83. Public safety - emergency management

Personal services	1,495,775	1,331,241
Operating expenses	532,443	439,850
Grants	<u>630,012</u>	<u>630,012</u>
Total	2,658,230	2,401,103
Source of funds		
Transportation fund	63,969	63,969
Special funds	367,903	110,776
Federal funds	2,223,858	2,223,858
Interdepartmental transfer	<u>2,500</u>	<u>2,500</u>
Total	2,658,230	2,401,103

Sec. 12. Sec. 85 of No. 71 of the Acts of 2005 is amended to read:

Sec. 85. Public safety - fire safety

Personal services	3,356,644	3,521,178
Operating expenses	<u>1,099,628</u>	<u>1,192,221</u>
Total	4,456,272	4,713,399
Source of funds		
General fund	582,688	582,688
Transportation fund	80,964	80,964
Special funds	3,481,236	3,738,363
Federal funds	92,384	92,384
Interdepartmental transfer	<u>219,000</u>	<u>219,000</u>
Total	4,456,272	4,713,399

* * *

Sec. 13. Sec. 96 of No. 71 of the Acts of 2005 is amended to read:

Sec. 96. Judiciary

Personal services	24,276,133	24,276,133
Operating expenses	<u>6,576,667</u>	<u>6,591,667</u>

Total	30,852,800	30,867,800
Source of funds		
General fund	24,803,705	24,818,705
Transportation fund	3,028,595	3,028,595
Special funds	622,500	622,500
Tobacco fund	40,000	40,000
Federal funds	333,000	333,000
Interdepartmental transfer	<u>2,025,000</u>	<u>2,025,000</u>
Total	30,852,800	30,867,800

* * *

Sec. 14. Sec. 99 of No. 71 of the Acts of 2005 is amended to read:

Sec. 99. Total protection to persons and property ~~219,880,467~~ 220,894,283

Source of funds		
General fund	78,248,797	77,932,475
Transportation fund	28,038,314	28,038,314
Special funds	51,738,826	51,786,820
Tobacco fund	619,768	619,768
<u>Global commitment fund</u>		1,130,672
Federal funds	50,101,089	50,252,561
Enterprise funds	3,908,080	3,908,080
Interdepartmental transfer	<u>7,225,593</u>	<u>7,225,593</u>
Total	219,880,467	220,894,283

Sec. 14a. Sec. 100 of No. 71 of the Acts of 2005 is amended to read:

Sec. 100. Human Services - agency of human services - secretary's office

Personal services	3,746,236	3,746,236
Operating expenses	1,245,070	1,245,070
Grants	<u>7,633,936</u>	<u>7,633,936</u>
Total	12,625,242	12,625,242
Source of funds		
General fund	4,507,196	3,826,168
Tobacco fund	1,375,845	1,375,845
Federal funds	5,742,201	4,990,616
Interdepartmental transfer	<u>1,000,000</u>	<u>2,432,613</u>
Total	12,625,242	12,625,242

(i) Of the above appropriation, a total of ~~\$4,004,547~~ \$4,004,538 consisting of \$1,838,720 in general funds, \$811,845 in tobacco funds, and \$1,353,973 in federal funds shall be used for the comprehensive substance abuse prevention

and treatment component of the drug education treatment enforcement and rehabilitation program (DETER).

(1) The amount of ~~\$1,440,660~~ \$1,440,651, of which ~~\$619,677~~ \$619,647 is from general funds and ~~\$141,682~~ \$141,703 is tobacco funds, shall be used to support the outpatient treatment, case management, and drug court component of the program. Of the general and tobacco funds, \$189,831 shall be allocated to the Rutland County drug court and shall be reserved to provide appropriate drug testing, case management, and other outpatient and inpatient treatment consistent with the design of the Rutland County drug court. These are the state funds the agency of human services shall use as match for year 2 federal funds from the 2003 Department of Justice drug court implementation grant award.

* * *

Sec. 15. Sec. 100a of No. 71 of the Acts of 2005 is added to read:

Sec. 100a. Global commitment

<u>Grants</u>	581,266,091
<u>Source of funds</u>	
<u>General fund</u>	107,472,271
<u>Special funds</u>	121,812,584
<u>Tobacco fund</u>	1,050,208
<u>Federal funds</u>	<u>350,931,028</u>
Total	581,266,091

(a) The agency of human services shall use the funds appropriated in this section for payment of the actuarially certified premium required under the intergovernmental agreement between the agency of human services and the managed care organization in the office of Vermont health Access as provided for in the global commitment to health waiver ("global commitment") approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) The agency of human services may transfer funds appropriated in this section to fund other appropriations for Medicaid administration and program expenditures within the agency, as long as these other appropriations are allowable under the global commitment terms and conditions and not included in the services contracted for in the intergovernmental agreement between the agency of human services and the managed care organization in the office of Vermont health access.

(c) In addition to the state funds appropriated in this section, the estimated sum of \$16,254,932 is expected to be certified as state funds available from

local education agencies. This amount combined with \$22,810,034 of federal funds appropriated in this section equal a total estimated expenditure of \$39,064,966 for eligible special education school based Medicaid services under the global commitment.

(d) In addition to the state funds appropriated in this section, the estimated sum of \$439,509 is expected to be certified as state funds available from local education agencies. This amount combined with \$629,855 of federal funds appropriated in this section equal a total estimated expenditure of \$1,069,364 for eligible services under the global commitment provided to students under Section 504 of the Rehabilitation Act of 1973.

(e) In addition to the state funds appropriated in this section, the estimated sum of \$2,189,790 is expected to be certified as state funds available from local education agencies. This amount combined with \$3,138,165 of federal funds appropriated in this section equal a total estimated expenditure of \$5,327,955 for eligible services under the global commitment provided to students through school based health services.

Sec. 16. REPEAL

(a) 33 V.S.A. § 1972 (Vermont health access trust fund established) shall be repealed effective July 1, 2006.

Sec. 16a. 33 V.S.A. § 1901d. is added to read:

Sec. 1901d. STATE HEALTH CARE RESOURCES FUND

(a) The state health care resources fund is established in the treasury as a special fund to be a source of financing health care coverage for beneficiaries of the state health care assistance programs under the global commitment to health care waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) Into the fund shall be deposited:

(1) revenue from the cigarette and tobacco products tax established in chapter 205 of Title 32;

(2) revenue from health care provider assessments pursuant to subchapter 2 of chapter 19 of this title; and

(3) the proceeds from grants, donations, contributions, taxes, and any other sources of revenue as may be provided by statute, rule, or act of the general assembly.

(c) The fund shall be administered pursuant to subchapter 5 of chapter 7 of Title 32, except that interest earned on the fund and any remaining balance

shall be retained in the fund. The agency shall maintain records indicating the amount of money in the fund at any time.

(d) All monies received by or generated to the fund shall be used only as allowed by appropriation of the general assembly for the administration and delivery of health care covered through state health care assistance programs administered by the agency under the global commitment waiver.

Sec. 16b. HEALTH ACCESS TRUST FUND TRANSFER AND CLOSE OUT

(a) The sum of \$15,000,000 shall be reserved in the health access trust fund and transferred to the state health care resources fund established by § 1901d of Title 33 upon its creation on July 1, 2006.

(b) Any balance remaining at the close of fiscal year 2006 in the health access trust fund after the transfer in Sec. 16b(a) of this act shall be transferred to the state health care resources fund established by § 1901d of Title 33. A detailed account of the health access trust for fiscal year 2006 shall be provided to the joint fiscal committee at the September 2006 meeting.

Sec. 16c. 33 V.S.A § 1901e is added to read:

§1901e. GLOBAL COMMITMENT FUND

(a) The global commitment fund is created in the treasury as a special fund. The fund shall consist of the revenues received by the treasurer as payment of the actuarially certified premium from the agency of human services to the managed care organization within the office of Vermont health access for the purpose of providing services under the global commitment to health care waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) The monies in the fund shall be disbursed as allowed by appropriation of the general assembly, and shall be disbursed by the treasurer on warrants issued by the commissioner of finance and management, when authorized by the director of the office of Vermont health access and approved by the commissioner consistent with the interdepartmental agreements between the managed care organization within the office of Vermont health access and departments delivering eligible services under the waiver.

Sec. 16d. Sec. 102 of No. 71 of the Acts of 2005 is amended to read:

Sec. 102. Human services board

Personal services	278,443	278,443
Operating expenses	<u>40,298</u>	<u>40,298</u>

Total	318,741	318,741
Source of funds		
General fund	129,693	32,423
Federal funds	134,679	37,409
Interdepartmental transfer	54,369	<u>248,909</u>
Total	318,741	318,741

Sec. 17. Sec. 104 of No. 71 of the Acts of 2005 is amended to read:

Sec. 104. Office of Vermont health access - administration

Personal services	27,263,444	27,263,444
Operating expenses	<u>681,014</u>	<u>681,014</u>
Total	27,944,458	27,944,458
Source of funds		
Special funds	13,585,633	3,397,783
<u>Global commitment fund</u>		20,686,247
<u>Interdepartmental transfer</u>		272,096
Federal funds	<u>14,358,825</u>	<u>3,588,332</u>
Total	27,944,458	27,944,458

* * *

(c) Of the above ~~special fund~~ appropriation, \$1,500,000 is to be used for increased administration expenses for actuarial needs required by the federal government, increased cost associated with conversion of existing pharmacy to wrap around services of the Medicare Part D benefit and for direct support of the coverage and services management and for global clinical record systems. These funds shall be matched with federal funds. The office may add at least ten (10) new positions which shall be transferred and converted from vacant positions in the executive branch of state government.

* * *

Sec. 18. Sec. 104a of No. 71 of the Acts of 2005 is amended to read:

Sec. 104a. Office of Vermont health access - Medicaid program /global commitment

Grants	589,599,773	390,373,943
Source of funds		
Special funds	243,284,425	40,236,201
<u>Global commitment fund</u>		292,780,457
Federal funds	<u>346,315,348</u>	<u>57,357,285</u>
Total	589,599,773	390,373,943

(a) The office of Vermont health access shall implement the following provisions relating to provider payments from the appropriations in this section.

(1) The office of Vermont health access shall reduce base Medicaid spending for hospital services by ~~\$16,500,000~~ \$16,094,403. In fiscal year 2006, the reduction in spending may be accomplished through a reduction in hospital reimbursement, an offset with payments from the hospitals made to the office in anticipation of the final settlement of outpatient costs for prior years, or a combination of both. The offset shall be the payment amount above the anticipated settlement of \$1,900,000, which the office has already included in its fiscal year 2006 outpatient projection, but the offset shall not offset spending reductions by more than \$5,000,000. Payments by hospitals shall be considered provisional and shall be adjusted as necessary based on final outpatient cost settlements. In fiscal year 2006, Vermont hospitals shall be allowed to increase charges to the extent necessary to offset the reduction in reimbursement that results from this section. Psychiatric hospitals licensed by the state of Vermont shall be exempt from this reduction.

(2) Home health agency fees shall be reduced by \$500,000.

(3) ~~Dentists' fees shall be amended, and other strategies, including a reduction to the cap on adult services, may be employed to reduce spending by \$243,309 reduced by six percent to lower spending by \$105,000. To the extent possible, the reduction shall be targeted to health services received by adults to minimize the impact on dental services for children.~~

(4) The amount of \$2,400,000 in reductions shall be made in reimbursement rates to providers who use Current Procedural Technology (CPT) codes, but shall be implemented to minimize impact on primary care services.

Sec. 19. Sec. 104c of No. 71 of the Acts of 2005 is amended to read:

Sec. 104c. ~~OTHER MEDICAID~~ GLOBAL COMMITMENT
APPROPRIATIONS; TRANSFER; REPORT

~~(a) In addition to the appropriations in this act, all other appropriations of state, federal and special fund amounts for Medicaid programs and purposes made in the fiscal year 2006 general appropriations act, or any other act appropriating funds in fiscal year 2006, shall be transferred to the health access trust fund established by section 1972 of Title 33 for use in fiscal year 2006 by the agency of human services for purposes of the trust fund. The agency shall submit reports on any transfers made in accordance with this section to the joint fiscal committee on July 1, September 1, and November 1 for committee~~

~~review and consideration at its July, September, and November 2005 committee meetings.~~ In order to account for the October 1, 2005 start date of the global commitment waiver, the secretary of the agency of human services, with approval from the secretary of administration, may make transfers among the appropriations authorized in this act for Medicaid and Medicaid-waiver program expenses under the global commitment waiver for fiscal year 2006. At least three business days prior to any transfer, the agency shall submit a proposal of transfers to be made pursuant to this section to the joint fiscal office. A final report on all transfers made under this section shall be made to the joint fiscal committee for review at the September 2006 meeting. The purpose of this section is to provide the agency with limited authority to modify the appropriations to comply with the terms and conditions of the global commitment for health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

Sec. 20. Sec. 104d of No. 71 of the Acts of 2005 is added to read:

Sec. 104d. Office of Vermont health access - Medicaid - long term care waiver programs

<u>Grants</u>	164,580,529
<u>Source of funds</u>	
<u>Special funds</u>	67,230,914
<u>Federal funds</u>	<u>97,349,615</u>
<u>Total</u>	164,580,529

Sec. 20a. Sec. 104e of No. 71 of the Acts of 2005 is added to read:

Sec. 104e. Office of Vermont health access - Medicaid - non waiver programs

<u>Grants</u>	40,801,686
<u>Source of funds</u>	
<u>Special funds</u>	16,254,090
<u>Federal funds</u>	<u>24,547,596</u>
<u>Total</u>	40,801,686

Sec. 21. Sec. 104f of No. 71 of the Acts of 2005 is added to read:

Sec. 104f. Office of Vermont health access - programs - state-only funded

<u>Grants</u>	15,784,183
<u>Source of funds</u>	
<u>Special funds</u>	13,696,013
<u>Global commitment fund</u>	<u>2,088,170</u>
<u>Total</u>	15,784,183

Sec. 22. Sec. 105 of No. 71 of the Acts of 2005 is amended to read:

Sec. 105. Health - administration and support

Personal services	5,606,480	5,605,480
Operating expenses	<u>1,477,930</u>	<u>2,294,658</u>
Total	7,084,410	7,900,138
Source of funds		
General fund	1,864,184	1,759,279
Special funds	1,701	20,701
<u>Global commitment fund</u>		358,763
Federal funds	5,214,525	5,757,395
Interdepartmental transfer	<u>4,000</u>	<u>4,000</u>
Total	7,084,410	7,900,138

Sec. 23. Sec. 106 of No. 71 of the Acts of 2005 is amended to read:

Sec. 106. Health - health protection

Personal services	3,561,696	2,662,996
Operating expenses	680,062	770,120
Grants	<u>1,574,400</u>	<u>1,574,400</u>
Total	5,816,158	5,007,516
Source of funds		
General fund	1,165,201	159,468
Special funds	942,000	948,000
<u>Global commitment fund</u>		41,320
Federal funds	3,321,732	3,471,503
Interdepartmental transfer	<u>387,225</u>	<u>387,225</u>
Total	5,816,158	5,007,516

Sec. 24. Sec. 107 of No. 71 of the Acts of 2005 is amended to read:

Sec. 107. Health - health surveillance

Personal services	7,258,188	8,135,888
Operating expenses	1,900,115	2,947,941
Grants	<u>2,461,560</u>	<u>2,461,560</u>
Total	11,619,863	13,545,389
Source of funds		
General fund	3,562,198	3,820,584
Special funds	1,254,750	1,273,750
<u>Global commitment fund</u>		648,025
Federal funds	6,672,515	7,672,630
Permanent trust funds	10,000	10,000
Interdepartmental transfer	<u>120,400</u>	<u>120,400</u>
Total	11,619,863	13,545,389

(a) The amount of \$250,000 of the above general fund/global commitment fund appropriation and at least \$50,000 of the above federal fund appropriation shall be appropriated to the Vermont AIDS service organizations for client-based support services. The grants in this section shall be awarded equitably on a per-client basis and shall be used for services. No more than 15 percent may be used for the administration of such services by the Vermont AIDS service organizations. The method by which AIDS service organizations' clients are counted shall be determined by mutual agreement of the department of health, the AIDS service organizations, and the HIV/AIDS service advisory council (HASAC). The department of health AIDS program shall be guided and advised by HASAC on an ongoing basis in prioritizing service needs in the disbursement of these funds. The department of health AIDS program shall meet at least quarterly with HASAC and shall provide HASAC with current information and data relating to service initiatives.

* * *

Sec. 25. Sec. 108 of No. 71 of the Acts of 2005 is amended to read:

Sec. 108. Health - health improvement

Personal services	8,355,130	8,349,130
Operating expenses	1,155,320	1,085,916
Grants	9,362,086	8,984,086
Total	18,872,536	18,419,132
Source of funds		
General fund	3,545,034	320,597
Special funds	733,502	733,502
<u>Global commitment fund</u>		4,930,543
Tobacco fund	3,481,423	3,481,423
Federal funds	11,105,577	8,946,067
Interdepartmental transfer	7,000	7,000
Total	18,872,536	18,419,132

* * *

Sec. 25a. MENS HEALTH RESOURCES

(a) Findings. The department of health has concluded that:

(1) A website is an appropriate and effective vehicle for reaching the target audience (sexually active young men age 18-24).

(2) The current "themanphone.org" website is text heavy and should be streamlined to make it easier for a person to quickly find health information.

(3) The current website "themanphone.org" has limited information on tobacco, alcohol and other drugs, and should be expanded in these areas.

(4) In 2004, a male dating site "manphone.com" was licensed and appeared on the internet. The two web addresses are easily confused, sending the wrong message to our target audience. To address this, the site should be renamed.

(b) Consistent with the memorandum from the commissioner of the department of health to the Senate appropriations committee on February 2, 2006, the General Assembly agrees with the department's recommendation and hereby directs the department of health to activate a website dealing with young men's health risk issues by March 1, 2006.

Sec. 26. Sec. 110 of No. 71 of the Acts of 2005 is amended to read:

Sec. 110. Health - community public health

Personal services	11,727,467	11,726,467
Operating expenses	1,620,114	2,109,748
Grants	11,782,520	11,782,520
Total	25,130,101	25,618,735
Source of funds		
General fund	4,138,477	2,674,760
Special funds	477,110	477,110
<u>Global commitment fund</u>		2,934,318
Federal funds	20,362,014	19,380,047
Interdepartmental transfer	152,500	152,500
Total	25,130,101	25,618,735

Sec. 27. Sec. 111 of No. 71 of the Acts of 2005 is amended to read:

Sec. 111. Health - alcohol and drug abuse programs

Personal services	2,391,227	2,390,227
Operating expenses	836,119	1,042,315
Grants	18,725,833	19,308,795
Total	21,953,179	22,741,337
Source of funds		
General fund	5,772,374	1,588,112
Special funds	157,000	157,000
Tobacco fund	3,171,266	2,121,058
<u>Global commitment fund</u>		10,566,945
Federal funds	12,394,539	7,850,222
Interdepartmental transfer	458,000	458,000
Total	21,953,179	22,741,337

* * *

Sec. 28. Sec. 112 of No. 71 of the Acts of 2005 is amended to read:

Sec. 112. Health - mental health

Personal services	<u>3,404,696</u>	3,815,099
Operating expenses	<u>507,616</u>	677,476
Grants	<u>106,674,609</u>	102,978,459
Total	<u>110,586,921</u>	107,471,034
Source of funds		
General fund	<u>44,492,587</u>	2,561,975
Special funds	<u>6,945,611</u>	2,618,692
<u>Global commitment fund</u>		84,813,096
Federal funds	<u>55,125,950</u>	13,454,498
Interdepartmental transfer	<u>4,022,773</u>	<u>4,022,773</u>
Total	<u>110,586,921</u>	107,471,034

* * *

Sec. 29. Sec. 113 of No. 71 of the Acts of 2005 is amended to read:

Sec. 113. Health - Vermont state hospital

Personal services	<u>16,580,497</u>	14,093,374
Operating expenses	<u>1,813,522</u>	1,813,522
Grants	<u>3,000</u>	<u>3,000</u>
Total	<u>18,397,019</u>	15,909,896
Source of funds		
General fund	<u>2,417,915</u>	15,499,896
Special funds	<u>110,000</u>	110,000
Federal funds	<u>572,426</u>	0
Interdepartmental transfer	<u>15,296,678</u>	<u>300,000</u>
Total	<u>18,397,019</u>	15,909,896

Sec. 30. Sec. 115 of No. 71 of the Acts of 2005 is amended to read:

Sec. 115. Health - medical practice board

Personal services	<u>669,764</u>	669,764
Operating expenses	<u>130,309</u>	<u>316,700</u>
Total	<u>800,073</u>	986,464
Source of funds		
Special funds	<u>800,073</u>	986,464

Sec. 31. Sec. 116 of No. 71 of the Acts of 2005 is amended to read:

Sec. 116. Department for children and families - administration & support services

Personal services	26,563,475	26,887,205
Operating expenses	5,025,540	5,025,540
Grants	<u>1,414,675</u>	<u>1,414,675</u>
Total	33,003,690	33,327,420
Source of funds		
General fund	13,926,443	11,480,244
Special funds	1,401,422	670,161
<u>Global commitment fund</u>		5,996,003
Federal funds	17,675,825	14,498,095
<u>Interdepartmental transfer</u>		<u>682,917</u>
Total	33,003,690	33,327,420

Sec. 32. Sec. 118 of No. 71 of the Acts of 2005 is amended to read:

Sec. 118. Department for children and families - child development

Personal services	2,412,885	2,787,885
Operating expenses	468,401	468,401
Grants	<u>45,178,245</u>	<u>45,556,245</u>
Total	48,059,531	48,812,531
Source of funds		
General fund	19,269,419	19,003,544
Transportation fund	60,732	60,732
Special funds	1,230,722	1,230,722
<u>Global commitment fund</u>		740,249
Federal funds	27,272,906	27,551,532
<u>Interdepartmental transfer</u>	<u>225,752</u>	<u>225,752</u>
Total	48,059,531	48,812,531

* * *

Sec. 33. Sec. 119 of No. 71 of the Acts of 2005 is amended to read:

Sec. 119. Department for children and families - family services

Personal services	18,261,673	18,261,673
Operating expenses	2,870,402	2,870,402
Grants	<u>62,032,908</u>	<u>64,324,751</u>
Total	83,164,983	85,456,826
Source of funds		
General fund	38,442,431	28,487,311
Special funds	1,306,152	1,306,152
<u>Global commitment fund</u>		<u>25,373,247</u>

Tobacco fund	75,000	75,000
Federal funds	<u>43,341,400</u>	<u>30,215,116</u>
Total	<u>83,164,983</u>	<u>85,456,826</u>

* * *

Sec. 34. Sec. 120 of No. 71 of the Acts of 2005 is amended to read:

Sec. 120. Department for children and families - Woodside rehabilitation center

Personal services	<u>2,361,201</u>	2,469,201
Operating expenses	<u>432,306</u>	<u>482,306</u>
Total	<u>2,793,507</u>	2,951,507
Source of funds		
General fund	<u>2,738,615</u>	2,896,615
Interdepartmental transfer	<u>54,892</u>	<u>54,892</u>
Total	<u>2,793,507</u>	2,951,507

* * *

Sec. 35. Sec. 122 of No. 71 of the Acts of 2005 is amended to read:

Sec. 122. Department for children and families - aid to aged, blind and disabled

Personal services	<u>1,365,966</u>	1,418,063
Grants	<u>9,336,901</u>	<u>9,485,401</u>
Total	<u>10,702,867</u>	10,903,464
Source of funds		
General fund	<u>10,702,867</u>	5,350,601
<u>Global commitment fund</u>		<u>5,552,863</u>
Total		10,903,464

Sec. 36. Sec. 123 of No. 71 of the Acts of 2005 is amended to read:

Sec. 123. Department for children and families - general assistance

Grants	4,326,260	4,326,260
Source of funds		
General fund	<u>3,214,939</u>	2,652,439
Special funds	1	1
<u>Global commitment fund</u>		562,500
Federal funds	<u>1,111,320</u>	<u>1,111,320</u>
Total	<u>4,326,260</u>	<u>4,326,260</u>

* * *

Sec. 37. Sec. 124 of No. 71 of the Acts of 2005 is amended to read:

Sec. 124. Department for children and families - reach up

Grants	43,217,279	42,772,967
Source of funds		
General fund	14,290,063	13,845,751
Special funds	2,200,000	2,200,000
Federal funds	<u>26,727,216</u>	<u>26,727,216</u>
Total	43,217,279	42,772,967

* * *

Sec. 38. No. 71 of the Acts of 2005 is amended by adding Secs. 126a - 126d to read as follows:

Sec. 126a. 33 V.S.A. § 2602(c) is amended to read:

(c) The secretary shall engage in cost-effective purchasing practices to maximize the purchasing power of public funds used in connection with the home heating fuel assistance program. Such practices shall include, but not be limited to, preseason purchases of fuel, fixed price agreements, automatic fuel delivery, and negotiations with fuel suppliers on behalf of program ~~recipients~~ beneficiaries for additional fuel price discounts. The practices authorized by this subsection shall be used in connection with all applicable fuels purchased by program beneficiaries. The secretary shall make available to program recipients the list of fuel suppliers who have agreed to provide fuel discounts.

Sec. 126b. 33 V.S.A. § 2607(e) is amended to read:

(e) Certified fuel suppliers shall also agree to enter into budget agreements with beneficiaries for annualized monthly payments for fuel supplies provided the beneficiary meets accepted industry credit standards, and shall grant program beneficiaries such cash discounts, preseason delivery savings, automatic fuel delivery agreements, and any other discounts granted to any other heating fuel customer.

Sec. 126c. 33 V.S.A. § 2607(h) is amended to read:

(h) The director ~~may~~ shall negotiate with one or more certified fuel suppliers to obtain the most advantageous pricing and, payment terms, and delivery methods possible for eligible households.

Sec. 126d. REPORT

(a) The director of the office of home heating fuel assistance shall report to the house and senate committees on appropriations by April 1, 2006 on the following:

(1) Results of the efforts undertaken since 2003 to engage in cost-effective purchasing practices as required pursuant to 33 V.S.A. 2602(c), including efforts to inform recipients of best available prices.

(2) A description of cost effective purchasing practices utilized by fuel assistance programs in other cold weather states.

(3) An analysis of any differences in the pre buy program as they apply to and are utilized by LIHEAP recipients as compared to non LIHEAP households.

(4) An analysis of the adequacy of state resources and staff being devoted to cost effective purchasing practices and whether there has been any change in this level of resources and staff in recent years.

(5) Recommendations that can improve the purchasing power of the significant state and federal appropriations to Vermont's fuel assistance program. Such recommendations shall be made after consultation with interested parties, including but not limited to representatives of fuel oil and other suppliers of home heating fuels and program recipients. The recommendations should include proposals which can be implemented in the 2006-2007 heating season as well as longer term proposals, and shall further consider the potential of leveraging other funds expended by the state of Vermont for heating fuels.

Sec. 38a. FISCAL YEAR 2006 GENERAL FUND SUPPORT OF LIHEAP

(a) Notwithstanding the actions of the emergency board of November 1, 2005 any federal LIHEAP contingency funds received after January 31, 2006 in fiscal year 2006 shall be expended by the program in fiscal year 2006. Any corresponding amounts of general funds that would otherwise have been transferred from the LIHEAP program as required by the emergency board action shall remain in the LIHEAP program and be carried forward and available for use in fiscal year 2007.

Sec. 39. Sec. 127 of No. 71 of the Acts of 2005 is amended to read:

Sec. 127. Department for children and families - food stamp cash out

Grants	6,141,229	7,875,615
Source of funds		
Federal funds	6,141,229	7,875,615

Sec. 40. Sec. 132 of No. 71 of the Acts of 2005 is amended to read:

Sec. 132. Aging and independent living - administration & support

Personal services	20,691,990	20,691,990
Operating expenses	<u>3,450,004</u>	<u>3,450,004</u>
Total	24,141,994	24,141,994
Source of funds		
General fund	8,005,169	5,682,494
Special funds	823,719	823,719
<u>Global commitment fund</u>		4,130,682
Federal funds	14,045,169	11,474,862
Interdepartmental transfer	<u>1,267,937</u>	<u>2,030,237</u>
Total	24,141,994	24,141,994

* * *

Sec. 41. Sec. 133 of No. 71 of the Acts of 2005 is amended to read:

Sec. 133. Aging and independent living - advocacy and independent living

Grants	20,577,895	20,747,895
Source of funds		
General fund	9,162,065	7,667,471
Transportation fund	422,692	422,692
Special funds	851,981	851,981
<u>Global commitment fund</u>		3,446,481
Federal funds	10,064,157	8,282,270
Interdepartmental transfer	<u>77,000</u>	<u>77,000</u>
Total	20,577,895	20,747,895

Sec. 42. Sec. 134 of No. 71 of the Acts of 2005 is amended to read:

Sec. 134. Aging and independent living - blind and visually impaired

Grants	1,359,000	1,359,000
Source of funds		
General fund	564,064	374,689
Special funds	145,000	145,000
<u>Global commitment fund</u>		189,375
Federal funds	<u>649,936</u>	<u>649,936</u>
Total	1,359,000	1,359,000

Sec. 43. Sec. 137 of No. 71 of the Acts of 2005 is amended to read:

Sec. 137. Aging and independent living - TBI home and community based waiver

Grants	2,749,010	2,801,876
Source of funds		
General fund	1,129,843	282,461

<u>Global commitment fund</u>		2,114,624
Federal funds	<u>1,619,167</u>	<u>404,791</u>
Total	<u>2,749,010</u>	2,801,876

Sec. 44. Sec. 138 of No. 71 of the Acts of 2005 is amended to read:

Sec. 138. Aging and independent living - developmental services

Grants	<u>103,600,138</u>	106,139,962
Source of funds		
General fund	<u>41,434,699</u>	9,495,172
Special funds	841,980	841,980
<u>Global commitment fund</u>		79,215,222
Federal funds	<u>60,262,628</u>	15,526,757
Interdepartmental transfer	<u>1,060,831</u>	<u>1,060,831</u>
Total	<u>103,600,138</u>	106,139,962

* * *

Sec. 45. Sec. 140 of No. 71 of the Acts of 2005 is amended to read:

Sec. 140. Corrections - parole board

Personal services	<u>232,722</u>	347,267
Operating expenses	<u>65,555</u>	<u>65,555</u>
Total	<u>298,277</u>	412,822
Source of funds		
General fund	<u>298,277</u>	412,822

Sec. 46. Sec. 142 of No. 71 of the Acts of 2005 is amended to read:

Sec. 142. Corrections - correctional services

Personal services	<u>68,370,252</u>	75,923,781
Operating expenses	30,657,454	30,657,454
Grants	<u>2,054,500</u>	<u>2,054,500</u>
Total	<u>101,082,206</u>	108,635,735
Source of Funds		
General fund	<u>97,380,792</u>	102,871,713
Transportation fund	1,153,658	1,153,658
Special funds	549,500	549,500
<u>Global commitment fund</u>		2,062,608
Tobacco fund	87,500	87,500
Federal funds	1,829,710	1,829,710
Interdepartmental transfer	<u>81,046</u>	<u>81,046</u>
Total	<u>101,082,206</u>	108,635,735

* * *

~~(d) The establishment of seven (7) new classified community supervision and support positions — four (4) caseworkers, two (2) community corrections officers, and one (1) administrative position — is authorized as of October 1, 2005, contingent upon the out of state bed census being, on average, at or below 400 during the months of May, June, and July, excluding the impact of the renovations at the St. Albans correctional facility. These positions shall be transferred and converted from existing vacant positions in the executive branch of state government. Of the above appropriation, \$318,750 shall be used to support these new positions.~~

~~(e) All other funds associated with a reduction of 45 out of state beds from the total included in the submitted budget in this appropriation shall be used for correctional services needs as directed by the commissioner of corrections which may include hiring up to four (4) mental health counselors.~~

(d) The department shall not expand the use of uniforms in fiscal year 2006 beyond the southern state and northwest correctional facilities.

Sec. 47. Sec. 142a of No. 71 of the Acts of 2005 is amended to read:

Sec. 142a. INTENT FOR FUNDS FROM ~~ADDITIONAL~~ OUT-OF-STATE BED SAVINGS

~~(a) To the extent the number of out of state beds funded in Sec. 142 of this act falls from the budgeted level of 399, the savings of allocated funds associated with the first 50 out of state bed reduction shall be used first to fund five (5) new community supervision positions: three (3) caseworkers and two (2) community corrections officers, and the remaining funds shall be used for corrections services.~~

~~(b) For every additional increment of 50 beds that the out of state bed need is reduced, the savings associated with the reduction shall be used equally to fund additional community supports or supervision and other correctional services needs which may include hiring up to four (4) mental health counselors if they were not hired pursuant to Sec. 142(e) of this act.~~

(a) It is the intent of the legislature that should the projected need for out-of-state beds be reduced from the amount budgeted at any time during any fiscal year and this need is expected to remain at or below this new level for at least 12 months, the resources within the correctional services budget that would have been used for out-of-state bed capacity be reallocated first to community supervision to create and fill at least five community supervision positions including caseworkers and community corrections officers for each 50 bed reduction in long term projected out of state bed need. Projections of out-of-state bed need for at least the subsequent 12 months shall be made by

the department of corrections for presentation at each meeting to the legislative joint corrections oversight committee.

Sec. 47a. Sec. 150 of No. 71 of the Acts of 2005 is amended to read:

Sec. 150. Vermont veterans' home - care and support services

Personal services	12,833,472	12,833,472
Operating expenses	<u>3,128,718</u>	<u>3,128,718</u>
Total	15,962,190	15,962,190
Source of funds		
General fund	912,495	165,495
Special funds	10,239,126	10,239,126
<u>Global commitment fund</u>		747,000
Federal funds	<u>4,810,569</u>	<u>4,810,569</u>
Total	15,962,190	15,962,190

* * *

(c) It is the intent of the legislature that if global commitment fund monies are unavailable, the total funding for the Vermont veterans' home shall be maintained through the general fund or other state funding sources.

Sec. 48. Sec. 151 of No. 71 of the Acts of 2005 is amended to read:

Sec. 151. Total human services	1,502,442,843	2,118,436,891
Source of funds		
General fund	421,074,741	438,392,056
Transportation fund	1,637,082	1,637,082
Special funds	305,954,266	306,884,004
<u>Global commitment fund</u>		549,978,738
Tobacco fund	25,441,034	25,441,034
Federal funds	718,911,145	778,331,614
Permanent trust funds	10,000	10,000
Internal service funds	3,123,012	3,123,012
Interdepartmental transfer	<u>26,291,563</u>	<u>14,639,351</u>
Total	1,502,442,843	2,118,436,891

Sec. 49. Sec. 154 of No. 71 of the Acts of 2005 is amended to read:

Sec. 154. Education - finance and administration

Personal services	4,533,633	4,533,633
Operating expenses	1,377,940	1,377,940
Grants	<u>10,620,000</u>	<u>12,020,000</u>
Total	<u>16,531,573</u>	<u>17,931,573</u>
Source of funds		

General fund	3,166,006	3,126,523
Special funds	63,697	63,697
Federal funds	<u>1,968,752</u>	2,008,235
Interdepartmental transfer	<u>11,333,118</u>	<u>12,733,118</u>
Total	<u>16,531,573</u>	17,931,573

* * *

Sec. 50. Sec. 155 of No. 71 of the Acts of 2005 is amended to read:

Sec. 155. Education - education programs

Personal services	12,107,019	12,107,019
Operating expenses	1,981,112	1,981,112
Grants	<u>108,322,608</u>	<u>108,322,608</u>
Total	122,410,739	122,410,739
Source of funds		
General fund	7,132,600	7,172,083
Transportation fund	524,846	524,846
Special funds	1,139,188	1,139,188
Federal funds	<u>112,461,461</u>	112,421,978
Interdepartmental transfer	<u>1,152,644</u>	<u>1,152,644</u>
Total	122,410,739	122,410,739

Sec. 51. Sec. 158 of No. 71 of the Acts of 2005 is amended to read:

Sec. 158. Education - state-placed students

Grants	<u>12,500,000</u>	14,400,000
Source of funds		
Education fund	<u>12,500,000</u>	14,400,000

* * *

Sec. 52. Sec. 173 of No. 71 of the Acts of 2005 is amended to read:

Sec. 173. Tax department property tax assistance

Grants	<u>118,966,276</u>	119,516,276
Source of funds		
General fund	7,988,056	7,988,056
Transportation fund	<u>2,378,220</u>	2,728,220
Education fund	<u>108,600,000</u>	<u>108,800,000</u>
Total	<u>118,966,276</u>	119,516,276

Sec. 53. Sec. 174 of No. 71 of the Acts of 2005 is amended to read:

Sec. 174. Total general education and property tax assistance

	<u>1,696,950,426</u>	1,700,800,426
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Source of funds		
General fund	304,750,342	304,750,342
Transportation fund	2,903,066	3,253,066
Education fund	1,240,167,487	1,242,267,487
Special funds	1,202,885	1,202,885
Tobacco fund	984,007	984,007
Federal funds	115,413,832	115,413,832
Pension trust fund	17,903,869	17,903,869
Interdepartmental transfer	<u>13,624,938</u>	<u>15,024,938</u>
Total	1,696,950,426	1,700,800,426

Sec. 53a. Sec. 175 of No. 71 of the Acts of 2005 is amended to read:

Sec. 175. University of Vermont

Grants	39,271,166	39,271,166
Source of funds		
General fund	39,271,166	36,473,096
<u>Global commitment fund</u>		<u>2,798,070</u>
<u>Total</u>		39,271,166

* * *

(c) It is the intent of the legislature that if global commitment fund monies are unavailable, the total grant funding for the University of Vermont shall be maintained through the general fund or other state funding sources.

Sec. 53b. Sec. 179 of No. 71 of the Acts of 2005 is amended to read:

Sec. 179. Vermont state colleges - allied health

Grants	993,527	993,527
Source of funds		
General fund	993,527	710,372
<u>Global commitment fund</u>		<u>283,155</u>
<u>Total</u>		993,527

(a) It is the intent of the legislature that if global commitment fund monies are unavailable the total grant funding for the Vermont state colleges shall be maintained through the general fund or other state funding sources.

Sec. 53c. Sec. 183 of No. 71 of the Acts of 2005 is amended to read:

Sec. 183. Total higher education and other	82,042,784	82,042,784
Source of funds		
General fund	82,042,784	78,961,559
<u>Global commitment fund</u>		<u>3,081,225</u>

Total

82,042,784

Sec. 54. Sec. 184 of No. 71 of the Acts of 2005 is amended to read:

Sec. 184. Natural resources - agency of natural resources - administration

Personal services	4,138,173	4,388,173
Operating expenses	1,651,001	1,651,001
Grants	<u>90,180</u>	<u>90,180</u>
Total	5,879,354	6,129,354
Source of funds		
General fund	4,324,943	4,574,943
Special funds	1,042,150	1,042,150
Federal funds	338,355	338,355
Interdepartmental transfer	<u>173,906</u>	<u>173,906</u>
Total	5,879,354	6,129,354

* * *

(b) The secretary shall use at least \$54,000 of general funds available within the agency from previous years appropriations for the purposes of No. 52 of the Acts of 2005.

Sec. 55. Sec. 187 of No. 71 of the Acts of 2005 is amended to read:

Sec. 187. Natural resources - state land local property tax assessment

Operating expenses	1,449,000	1,541,864
Source of funds		
General fund	974,684	1,067,548
Transportation fund	212,816	212,816
Interdepartmental transfer	<u>261,500</u>	<u>261,500</u>
Total	1,449,000	1,541,864

Sec. 56. Sec. 204 of No. 71 of the Acts of 2005 is amended to read:

Sec. 204. Total natural resources 78,325,806 78,668,670

Source of funds		
General fund	21,840,505	22,183,369
Transportation fund	1,274,482	1,274,482
Fish and wildlife fund	12,188,720	12,188,720
Special funds	26,851,153	26,851,153
Federal funds	13,616,796	13,616,796
Interdepartmental transfer	<u>2,554,150</u>	<u>2,554,150</u>
Total	78,325,806	78,668,670

Sec. 57. Sec. 226 of No. 71 of the Acts of 2005 is amended to read:

Sec. 226. Transportation - program development

Personal services	37,671,918	37,671,918
Operating expenses	<u>72,436,634</u>	97,139,480
Grants	<u>37,115,246</u>	<u>36,920,046</u>
Total	<u>147,223,798</u>	171,731,444
Source of funds		
Transportation fund	28,453,772	29,020,110
Local match	1,898,426	2,160,664
Federal funds	<u>116,871,600</u>	<u>140,550,670</u>
Total	<u>147,223,798</u>	171,731,444

(a) This section adjusts the amounts appropriated in Sec. 226 of No. 71 of the Acts of 2005 to reflect contingent spending authorized in Sec. 65 of No. 80 of the Acts of 2005 and to reflect discretionary spending authorized in Sec. 64 of No. 80 of the Acts of 2005 and Sec. 244b of No. 71 of the Acts of 2005. Of the above amounts, \$22,615,540 in federal funds and \$262,238 in local funds, along with \$4,830,000 in transportation funds appropriated in Sec. 257 of No. 71 of the Acts of 2005, shall be expended in accordance with Sec. 65 of No. 80 of the Acts of 2005 and Sec. 257 of No. 71 of the Acts of 2005; and \$566,338 in transportation funds and \$1,258,730 in federal funds shall be expended in accordance with Sec. 64 of No. 80 of the Acts of 2005.

Sec. 57a. Sec. 233 of No. 71 of the Acts of 2005 is amended to read:

Sec. 233. Transportation - public transit

Personal services	470,313	470,313
Operating expenses	130,240	130,240
Grants	<u>14,288,340</u>	<u>14,483,540</u>
Total	<u>14,888,893</u>	15,084,093
Source of funds		
Transportation fund	5,796,599	5,796,599
Federal funds	<u>9,092,294</u>	<u>9,287,494</u>
Total	<u>14,888,893</u>	15,084,093

Sec. 58. Sec. 234 of No. 71 of the Acts of 2005 is amended to read:

Sec. 234. Transportation - central garage

Personal services	3,183,942	3,183,942
Operating expenses	<u>9,959,952</u>	<u>10,955,008</u>
Total	<u>13,143,894</u>	14,138,950
Source of funds		
Internal service funds	<u>13,143,894</u>	14,138,950

Sec. 58a. Sec. 235 of No. 71 of the Acts of 2005 is amended to read:

Sec. 235. Department of motor vehicles

Personal services	16,324,559	14,624,559
Operating expenses	6,438,943	6,438,943
Grants	156,250	156,250
Total	22,919,752	21,219,752
Source of funds		
Transportation fund	22,286,370	20,586,370
Federal funds	633,382	633,382
Total	22,919,752	21,219,752

* * *

Sec. 58b. 23 V.S.A. § 2158 is added to read:

§ 2158. FEES FOR TOWING; PUBLIC PROPERTY; APPROPRIATION

(a) A towing service may charge a fee of up to \$40.00 for towing an abandoned motor vehicle from public property under the provisions of section 2151 – 2157 of this title. This fee shall be paid to the towing service upon the issuance by the department of motor vehicles of a certificate of abandoned motor vehicles under section 2156 of this title. The commissioner of motor vehicles shall notify the commissioner of finance and management who shall issue payment to the towing service for vehicles removed from public property. Payments under this section shall terminate upon the payment of a total of \$16,000.00 for towing abandoned motor vehicles from public property in any fiscal year.

(b) The agency of transportation shall submit as part of its annual budget proposal for the department of motor vehicles in each fiscal year the amount of \$16,000 from the transportation fund for the purposes of this section. This amount may be adjusted by any carryforward funds available.

Sec. 59. Sec. 240 of No. 71 of the Acts of 2005 is amended to read:

Sec. 240. Transportation - town highway - bridges

Personal services	3,650,000	3,650,000
Operating expenses	16,862,175	18,392,175
Grants	43,000	43,000
Total	20,555,175	22,085,175
Source of funds		
Transportation fund	3,892,314	3,892,314
Local match	1,563,678	1,733,678
Federal funds	15,099,183	16,459,183

Total	20,555,175	22,085,175
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(a) This section adjusts the amounts appropriated in Sec. 240 of No. 71 of the Acts of 2005 to reflect contingent spending authorized in Sec. 65 of No. 80 of the Acts of 2005. Of the above amounts, \$1,360,000 in federal funds and \$170,000 in local funds, along with \$170,000 in transportation funds appropriated in Sec. 257 of No. 71 of the Acts of 2005, shall be expended in accordance with Sec. 65 of No. 80 of the Acts of 2005 and Sec. 257 of No. 71 of the Acts of 2005.

Sec. 60. Sec. 244b of No. 71 of the Acts of 2005 is amended to read:

Sec. 244b. Transportation - discretionary spending

Operating expenses	1,825,068	0
Source of funds		
Transportation fund	566,338	0
Federal funds	1,258,730	0
Total	1,825,068	0

Sec. 60a. MONTPELIER; ELM STREET ROCK SLIDE REPAIRS

(a) The general assembly approves establishment of a new project by the agency of transportation to assist the city of Montpelier with emergency repairs to the federal-aid highway known as Elm Street (TH 15) (FAS 6412) following the December 26, 2005 rock slide. The new project is authorized up to the amount approved by the federal highway administration as eligible under the 23 U.S.C. § 125 emergency relief program, currently estimated at \$1,200,000. If reimbursement under the 23 U.S.C. § 125 emergency relief program is not available prior to June 30, 2009, the secretary of transportation is authorized to advance funds from other available federal sources.

Sec. 61. Sec. 245 of No. 71 of the Acts of 2005 is amended to read:

Sec. 245. Total transportation	354,117,882	377,820,716
Source of funds		
Transportation fund	173,108,618	171,408,618
Local match	3,523,466	3,955,704
Federal funds	164,341,904	188,317,444
Internal service funds	13,143,894	14,138,950
Total	354,117,882	377,820,716

Sec. 62. Sec. 246 of No. 71 of the Acts of 2005 is amended to read:

Sec. 246. Debt service

Debt service	67,461,234	67,252,930
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Source of funds		
General fund	62,968,427	62,723,384
Transportation fund	2,109,547	2,146,286
Special funds	2,383,260	2,383,260
Total	67,461,234	67,252,930

Sec. 63. Sec. 247 of No. 71 of the Acts of 2005 is amended to read:

Sec. 247. Total debt service 67,461,234 67,252,930

Source of funds		
General fund	62,968,427	62,723,384
Transportation fund	2,109,547	2,146,286
Special funds	2,383,260	2,383,260
Total	67,461,234	67,252,930

Sec. 64. APPROPRIATION REDUCTIONS DUE TO MEDICAL PLAN PREMIUM SAVINGS

(a) To reflect adjustments to budgets due to medical plan premium savings, personal service appropriations are reduced for general and transportation funds in accordance with the attached schedule, entitled "FY 2006 Appropriation Reductions Due to Medical Plan Premium Savings."

Sec. 65. FUND TRANSFERS

(a) Notwithstanding any other provisions of law, in fiscal year 2006:

(1) The following amounts shall be transferred to the general fund from the funds indicated:

<u>Fidelity interest earnings</u>	<u>1,100,000</u>	<u>Approx.</u>
<u>Amortization of W.R. Grace</u>	<u>9,316</u>	<u>Approx.</u>
<u>Caledonia Fair</u>	<u>5,000</u>	
<u>Liquor Control</u>	<u>263,305</u>	<u>Approx.</u>
<u>21510 Use Tax Reimbursement</u>	<u>46,515</u>	
<u>21065 Financial Institution Supervision</u>	<u>188,735</u>	
<u>21340 Out-Of-State Power Sales Fund</u>	<u>3,819</u>	
<u>21629 Treas-Concert Escrow Acct</u>	<u>3,651</u>	
<u>21637 AG-GRA Furniture Settlement</u>	<u>266</u>	
<u>21645 Sheriffs-Conference Fees</u>	<u>100</u>	

(2) All or a portion of the unencumbered balances in the insurance regulatory and supervision fund (Fund Number 21075), the captive insurance regulatory and supervision fund (Fund Number 21085), and the securities regulatory and supervision fund (Fund Number 21080), expected to be approximately \$3,943,923 shall be transferred to the general fund, provided that on or before July 1, 2006, the commissioner of banking, insurance, securities, and health care administration certifies to the joint fiscal committee that the transfer of such balances, or any smaller portion deemed proper by the commissioner, will not impair the ability of the department in fiscal year 2007 to provide thorough, competent, fair, and effective regulatory services, or maintain accreditation by the National Association of Insurance Commissioners; and that the joint fiscal committee does not reject such certification.

(3) The following amount shall be transferred to the transportation fund from the fund indicated:

<u>10000</u>	<u>General Fund</u>	<u>5,018,030</u>
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(4) The following amount shall be transferred from the transportation fund to the fund indicated:

<u>57100</u>	<u>Central Garage Fund</u>	<u>995,056</u>
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Sec. 66. TRANSFER BETWEEN ACCOUNTS

(a) The sum of \$750,000 is transferred from the motor fuel account to the heating fuel account in the petroleum cleanup fund created in 10 V.S.A. § 1941.

Sec. 67. REVERSIONS

(a) Notwithstanding any other provisions of law, in fiscal year 2006 the following amounts shall revert to the general fund from the accounts indicated:

<u>1100010000</u>	<u>Secretary of Administration</u>	<u>12,903</u>
<u>1110003000</u>	<u>Budget and Management</u>	<u>1,918</u>
<u>1240001000</u>	<u>Lieutenant Governor's Office</u>	<u>22,684</u>
<u>2100880001</u>	<u>Hydroelectric Appraisals</u>	<u>20,903</u>
<u>2100880401</u>	<u>Hydroelectric Appraisal Appeals</u>	<u>65,649</u>
<u>2130100000</u>	<u>State's Attorneys</u>	<u>58,514</u>
<u>2150010000</u>	<u>Military - administration</u>	<u>77,947</u>
<u>2200880105</u>	<u>NE Interstate Dairy Comp FY01</u>	<u>341</u>

<u>2270001000</u>	<u>Vermont Racing Commission</u>	<u>5,634</u>
<u>3480880401</u>	<u>SSCF Equip & Population Management</u>	<u>33,237</u>
<u>3480889901</u>	<u>VCI Building</u>	<u>1,379</u>
<u>6215000000</u>	<u>Natural Resources Board</u>	<u>19,095</u>
<u>7100890401</u>	<u>Market Consolidation/Contract Report</u>	<u>7,000</u>
<u>6140030000</u>	<u>Environmental Conservation Air and Waste Management</u>	<u>90,000</u>
<u>6140040000</u>	<u>Environmental Conservation Water Programs</u>	<u>100,000</u>

(b) Notwithstanding any other provisions of law, in fiscal year 2006 the following amounts shall revert to the transportation fund from the accounts indicated:

<u>1100010000</u>	<u>Secretary of Administration</u>	<u>1,921</u>
<u>1110003000</u>	<u>Budget and Management</u>	<u>10,154</u>
<u>2130100000</u>	<u>State's Attorneys</u>	<u>49,472</u>
<u>2200040000</u>	<u>Agriculture - Plant Industry, Labs & Consumer Assurance</u>	<u>753</u>
<u>5100030000</u>	<u>Education - Education Services</u>	<u>200,000</u>

(c) Notwithstanding any other provisions of law, in fiscal year 2006, the following amounts shall revert to the education fund from the accounts indicated:

<u>5100030000</u>	<u>Education Services</u>	<u>123,523</u>
<u>5100060000</u>	<u>Adult Basic Education</u>	<u>65,568</u>
<u>5100090000</u>	<u>Education Grant</u>	<u>529,455</u>
<u>5100110000</u>	<u>Small School Grant</u>	<u>317</u>
<u>5100890501</u>	<u>Capital Construction Aid</u>	<u>932,000</u>

Sec. 68. USE AND APPROPRIATION OF THE GENERAL FUND SURPLUS RESERVE

(a) Funds held in the general fund surplus reserve established in 32 VSA § 308c(a) are hereby made available for fiscal year 2006 appropriation in the fiscal year 2007 appropriations bill.

Sec. 69. SECRETARY OF ADMINISTRATION; CARRY FORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the secretary of administration, general, transportation and education fund appropriations, and fish and wildlife fund appropriations for land acquisition remaining unexpended at June 30, 2006 shall be carried forward and shall be reserved for expenditure.

Sec. 70. FISCAL YEAR 2006 DESIGNATED GENERAL FUND BALANCE (WATERFALL)

(a) At the close of fiscal year 2006, the fiscal year 2006 unreserved and undesignated general fund balance on a budgetary basis, as determined by the commissioner of finance and management on July 31, 2006, shall to the extent funds are available:

(1) First, be reserved in the general fund budget stabilization reserve to the extent necessary to attain its statutory maximum;

(2) Second, any remaining funds shall be reserved in the general fund surplus reserve established in 32 V.S.A. § 308c(a).

Sec. 71. FISCAL YEAR 2006 DESIGNATED TRANSPORTATION FUND BALANCE (WATERFALL)

(a) At the close of fiscal year 2006, the fiscal year 2006 unreserved and undesignated transportation fund balance on a budgetary basis, as determined by the commissioner of finance and management on July 31, 2006, shall to the extent funds are available:

(1) First, be reserved in the transportation fund budget stabilization reserve to the extent necessary to attain its statutory maximum;

(2) Second, any remaining funds shall be reserved in the transportation fund surplus reserve established in 32 V.S.A. § 308c(b).

Sec. 72. Sec. 6(a) of No. 71 of the Acts of 2005 is amended to read:

(a) The secretary of administration is directed to reduce in-state travel budgets, thereby reducing operating expense appropriations by \$300,000 in general funds throughout the executive branch and the judicial branch of state government and in place of this funding, encourage departments and agencies to utilize Vermont interactive television for meetings. The secretary shall report to the house and senate committees on appropriations by the end of December 2006 on the use of Vermont interactive television by state agencies and departments during fiscal year 2006.

Sec. 73. [Deleted]

Sec. 74. Sec. 263(e)(3) of No. 71 of the Acts of 2005 is amended to read:

(3) Third, \$700,000 general funds of which \$266,000 shall revert to the general fund in fiscal year 2006 and \$266,000 global commitment funds appropriated in fiscal year 2006 to the department of banking, insurance, securities, and health care administration to carry out the purposes of Sec. 277 of this act, adding 18 V.S.A. § 9417, of which \$500,000 is ~~for dollar for dollar matching funds to leverage resources necessary to fund the pilot program authorized under subsection 9417(e) of Title 18 and to contract for the development of the health information technology plan and other duties in 18 V.S.A. § 9417.~~ for funds to leverage resources necessary to fund the pilot program authorized under subsection 9417(e) of Title 18 and to contract for the development of the health information technology plan and other duties in 18 V.S.A. § 9417. Availability of the \$500,000 funds is contingent on the secretary of administration's approval of a plan submitted by the Vermont information technology leaders (VITL) to coordinate VITL's activities with "the Vermont blueprint for health chronic care initiative" and other health-care-related statewide information technology projects. Availability of the \$500,000 matching funds shall also be contingent on: a) the delivery by VITL of a sustainable business plan to the secretary of administration and the general assembly within 90 days of the passage of the fiscal year 2006 Budget Adjustment Act; b) a commitment by VITL to use "best efforts" to secure a non state match for the funds; and c) upon VITL's agreement to add to its board, as soon as legally possible, one member of the Vermont Academy of Family Physicians. If at any time VITL no longer demonstrates the ability to deliver the work described in 18 V.S.A. § 9417, the state shall have the right to assume ownership of all licenses, intellectual property and work product of VITL developed for the state pursuant to section 9417 or otherwise.

Sec. 75. Sec. 9(b) of No. 43 of the Acts of 2005 is amended to read:

(b) The sum of \$2,200,000 is appropriated to the agency of natural resources for the clean and clear program to accelerate the reduction of phosphorous discharges into Lake Champlain and other waters of the state; provided that this appropriation shall include a grant of up to \$300,000 to assist the town of Chester to pay for the cost overrun associated with its wastewater treatment facility upgrade; and that \$120,000 of this appropriation shall be transferred to the state treasurer for deposit in the local community implementation fund created in 10 V.S.A. § 1264c, for the administrative and management needs of municipalities in developing total maximum daily load

plans and water quality remediation plans for stormwater-impaired waters of the state.

Sec. 76. Sec. 80(c) of No. 68 of the Acts of 2003 is amended to read:

(c) The secretary of administration shall pay a grant awarded under this section upon ~~a warrant issued by~~ approval of the commissioner of education. Notwithstanding the provisions of subsection 4025(d) of Title 16, funds from this grant shall be drawn from the education fund amounts appropriated to pay for the base education grant and shall not result in the repeal of chapter 135 of Title 32. The secretary of administration shall submit a request for funds in the annual budget adjustment act to pay for any grants that may have been awarded under this section.

Sec. 77. Sec. 69b of No. 6 of the Acts of 2005 is amended to read:

Sec. 69b. EARLY EXPENDITURE OF FISCAL YEAR 2006 APPROPRIATIONS

(a) \$2,600,000.00 is hereby transferred from the highway central garage fund to the transportation fund, and is appropriated from the ~~highway central garage-transportation~~ fund to initiate the following paving and bridge projects in the spring of 2005:

<u>Program</u>	<u>Project name</u>	<u>Route</u>	<u>Project number</u>
Paving	Marshfield – Cabot	US 2	NH 2104
Paving	Barton – Irasburg	US 5 & VT 58	STP 2107
Paving	Hartford – Royalton	VT 14 & VT 132	STP 2121 (1)S
Paving	Hardwick – Greensboro	VT 16	STP 2112
Paving	Arlington – Sunderland	VT 313	STP 2223
Town Bridge	Clarendon		BHO 1443(29)
State Bridge	Fairfield		ST 0298(6)
Town Bridge	Johnson		BHO 1448(18)
Town Bridge	Mendon		BRO 1443(35)
Town Bridge	Montpelier		BHM 6400(25)
State Bridge	Woodford		BRF 010-1(29)
State Bridge	Cambridge		BHF 030-2(19)S

(c) The In fiscal year 2006, the agency of transportation shall revert and deposit in the highway central garage fund in fiscal year 2006 \$2,600,000 from the appropriation of state transportation funds for paving and bridge projects an amount equal to the amount transferred and appropriated from the highway central garage fund in accordance with subsection (a) of this section and transfer that amount to the highway central garage fund.

Sec. 78. ACCEPTANCE OF FEDERAL EARMARKS; NEW PROJECTS

(a) The agency of transportation is authorized to accept federal earmarks authorized for projects in the state of Vermont under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. No. 109-59, 119 Stat. 1144 (2005) (SAFETEA-LU).

(b) Notwithstanding 19 V.S.A. § 10g(h), the agency of transportation is authorized to establish the following new projects for the purpose of undertaking work for which funding is provided under SAFETEA-LU earmarks:

1. Alburg, streetscape improvements in Grand Isle county
2. Barre Town, improvements to Vermont small bridges
3. Berlin, Vermont Transportation Coordinated Use Facility
4. Burlington Church Street Improvements
5. Burlington Waterfront Transportation Improvements
6. Cambridge/Johnson, road improvements in Lamoille County
7. Cedar Creek Vt monument, property acquisition and improvements for public access and viewshed protection for the monument at the Cedar Creek and Belle Grove National Historic Park in Virginia
8. Champlain Water District, Vt Statewide Transportation and Stormwater projects
9. Charlotte, rehab Quinlan Covered Br on Spear St.
10. Colchester, Vt Local Roads Program, Vt Statewide Transportation and Stormwater projects
11. Cross Vermont Trail, construction and rehabilitation for the Cross Vermont Trail Association
12. Derby, I-91 Reconstruction, Vt Port-of Entry
13. East Alburg, Improvements to the E. Alburg Railroad Trestle Swing Span

14. Enosburg Falls, streetscape and road improvements in the village
15. Green Mountain Rail line, improvements between Rutland and Bellows Falls
16. Hardwick, trail improvements in Caledonia County
17. Hartford, Vermont Institute of Natural Science (VINS) turning lane on US Rte 4
18. Jericho, road improvements in Chittenden County
19. Lamoille Valley Rail Trail, construction for the Vermont Association of Snow Travelers
20. Middlebury/Weybridge, rehab Pulp Mill Covered Br
21. Morrisville, new sidewalk, streetscape improvements in Lamoille County
22. Randolph, rehab Gifford Covered Br, Hyde Rd
23. Randolph, rehab Kingsbury Covered Br, Kingsbury Rd
24. Rockingham, rehab Worrall Covered Bridge, Williams Riv
25. Smuggler's Notch, construction and engineering for the Scenic Highway Corridor Southern Gateway and Notch Proper Facilities
26. South Burlington, US Rte 2/I-89 interchange improvements
27. South Burlington, Vermont I-89 Exit 14 Upgrades
28. South Hero, improvements to the Island Line at South Street
29. Springfield, Community Center Bridge, replacement and reconstruction of state-maintained bridges in the State of Vermont
30. St. Albans, construction of the intermodal connector roadway with I-89 for the City of St. Albans
31. St. Albans, improve Federal St.
32. St. Lawrence/Atlantic RR upgrades in Northeastern Vermont
33. Stowe, streetscape improvements in Lamoille County
34. Swanton, design and construction of dry span bridge
35. West Windsor, rehab Bowers Covered Bridge
36. Woodstock, rehab Taftsville Covered Bridge

(a) The lease which the agency of transportation is directed to enter into with the Vermont association of snow travelers (VAST) with respect to the use of the railbanked Lamoille valley rail corridor pursuant to Sec. 16 of No. 141 of the Acts of 2002 shall be approved by the general assembly prior to its execution.

Sec. 79. BUILDINGS AND GENERAL SERVICES; ENERGY AUDITS

(a) Pursuant to and consistent with the department of buildings and general services' "State Agency Energy Plan", the department shall make information centers a priority in conducting energy audits and shall meet state energy efficient building codes in all new information centers and rest areas.

Sec. 80. 32 V.S.A. § 311(b) is amended to read:

(b) ~~Within 30 days of the filing of~~ At the request of the house or senate committees on government operations or appropriations, the state treasurer and the commissioner of finance and management shall present to the requesting committees the recommendations submitted under subsections 471(n) of Title 3 and 1942(r) of Title 16, the state treasurer and the commissioner of finance and management shall present the recommendations to a joint meeting of the house and senate committees on government operations and appropriations.

Sec. 81. 23 V.S.A. § 3215 is amended to read:

§ 3215. EXPENDITURE PLAN

VAST shall prepare a plan for the expenditure of funds for the SSTP that are ~~appropriated~~ allocated in section 3214 of this title and shall submit this plan to the governor's snowmobile council for its review, advice, and consent. The plan shall include provisions for:

- (1) Administration of the program;
- (2) Trail development and maintenance including contractual arrangements where appropriate; and
- (3) Periodic audits if requested by the council or auditor of accounts.

Sec. 82. 23 V.S.A. § 3513 is amended to read:

§ 3513. LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

(a) The amount of 85 percent of the fees and penalties collected under this subchapter, except interest, is hereby ~~appropriated~~ allocated to the agency of natural resources for use by the Vermont ATV sportsman's association (VASA) for development and maintenance of a statewide ATV trail program on private property, for trail liability insurance, and to contract for law

enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter. The departments of public safety and fish and wildlife are authorized to contract with VASA to provide these law enforcement services. The agency of natural resources may retain for its use up to \$7,000.00 during each fiscal year to be used for administration of the state grant that supports this program.

* * *

(e) Any fees and penalties ~~appropriated~~ allocated pursuant to subsection (a) of this section shall not revert but shall be available until spent. Any accrued interest shall be deposited in the transportation fund.

Sec. 83. 32 V.S.A. § 469 is amended to read:

§ 469. REQUISITION FOR COURT EXPENSES

~~From time to time, as required, the county clerk shall apply to the commissioner of finance and management for money to pay the grand and petit jurors, witness fees in state causes and the disbursements of an assistant judge for witness fees in inquests, and the commissioner of finance and management shall issue a warrant therefor. The county clerk shall pay such jurors their respective debentures and shall pay the debentures of witnesses in state causes after the same have been certified by the state's attorney. Upon the requisition of an assistant judge, the county clerk shall furnish him with sufficient money to pay the witnesses at an inquest and forthwith, after the settlement of his accounts with the commissioner of finance and management for such inquest, the judge shall return to the county clerk the whole amount so requisitioned. With the approval of the court administrator, the supreme court, the environmental court, the judicial bureau, the probate court, the superior court, the district court and the family court may requisition money from the state to pay fees and expenses related to grand and petit jurors, fees and expenses of witnesses approved by the judge, expenses of guardians ad litem, expenses of elections and other expenses of court operations. The cash advances shall be administered under the provisions of section 466 of this title.~~

Sec. 84. Sec. 3(2) of No. 49 of the Acts of 2005 is amended to read:

(2) The amount of money paid from the ~~Domestic and Sexual Violence Survivors' Transition Fund established pursuant to 21 V.S.A. § 1253~~ general fund appropriation in section 4 of this act, and the remaining balance in the fund as of December 1, 2006.

Sec. 85. REPEALS

(a) 32 V.S.A. §§ 470 (Refund of balances), 472 (Certificate of court expenses), and 473 (Expenses of inquests and criminal proceedings before magistrates) are repealed.

Sec. 86. 10 V.S.A. § 4049a is amended to read:

§ 4049a. GREEN MOUNTAIN CONSERVATION CAMP ENDOWMENT FUND

(a) There is established in the agency of natural resources a fund to be known as the green mountain conservation camp endowment fund, to be managed by the secretary and from which expenditures may be made by the commissioner of fish and wildlife, after consultation with the green mountain conservation camp fund committee, for the purpose of supporting the maintenance of and ~~minor improvements~~ enhancements to the green mountain conservation camps in Castleton and Woodbury and for the camps' ongoing expenses such as the purchase of recreation equipment. There shall be deposited into the fund monies received by the agency and designated for this purpose, including appropriations of the general assembly, grants, and donations.

(b) Interest from the fund shall be credited annually to the fund, and the amount in the account shall carry forward from year to year.

Sec. 87. 10 V.S.A. § 4049b is amended to read:

§ 4049b. GREEN MOUNTAIN CONSERVATION CAMP ENDOWMENT FUND COMMITTEE

(a) There is created a ~~Green Mountain Conservation Camp~~ green mountain conservation camp endowment fund committee comprised of five members who shall serve for concurrent terms of four years. Members of the committee shall be appointed by the commissioner of fish and wildlife as follows: two members shall be chosen from the employees of the department; the three other members shall be chosen on the basis of fundraising experience.

(b) The committee shall promote and seek contributions to the green mountain conservation camp endowment fund established by section 4049a of this title. The committee may use any technique, method, or service that is otherwise authorized by law to promote contributions to the fund and may use a portion of the endowment fund for the purpose.

(c) Quarterly, the commissioner shall report to the committee on fund activities, including all expenditures from the fund and the balance in the fund.

Sec. 87a. Sec. 3 of No. 84 of the Acts of 2006 (H. 582) is amended to read:

Sec. 3. APPROPRIATION

(a) The sum of ~~\$7 million~~ \$7,000,000 is appropriated from the general fund to the Agency of Human Services to provide coverage of pharmaceuticals under this act. Notwithstanding 32 V.S.A. § 308b, the sum of \$7,000,000 shall be reduced from the human services caseload reserve. Any unused funds appropriated for this act shall revert to the general fund and be reserved in the human services caseload reserve and shall not be used for any other purpose. Any funds received by the state as repayment for the pharmaceutical services provided in this act shall be deposited into the general fund and reserved in the human services caseload reserve.

(b) The sum of ~~\$400,000.00~~ is appropriated from the ~~general~~ global commitment 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.

Sec. 88. GRANT ACCEPTANCE

(a) The following grants are hereby accepted and appropriated to the departments indicated for the purpose specified by the grantor:

(1) JFO #2224 – \$1,331,250 landowner's incentive program grant from the U.S. Department of the Interior to the department of fish and wildlife. These grant funds will be used to provide technical assistance and financial incentives to landowners to protect, conserve, and enhance rare, threatened, or endangered wildlife, plants and wildlife habitat. The establishment of three (3) new sponsored limited service positions — Fish and Wildlife Specialist I — is authorized in fiscal year 2006 for the duration of the grant.

(2) JFO #2237 – \$3,340,290 grant from the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration to the department of health. These funds will be used to develop integrated treatment services for individuals with co-occurring substance and mental health disorders. The establishment of seven (7) new sponsored limited service positions — one (1) Integrated Treatment Project Chief, one (1) Mental Health Quality Management Coordinator, two (2) Mental Health Community Services Coordinator, one (1) Public Health Analyst II, one (1) Systems Developer III, and one (1) Administrative Assistant B — is authorized in fiscal year 2006 for the duration of the grant.

(3) JFO #2241 – \$999,751 grant from the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration to the department of health. These grant funds will be used to

enhance and improve the coordination of services to adolescents with co-occurring mental health and substance abuse disorders. The establishment of two (2) new sponsored limited service positions — one (1) Substance Abuse Program Coordinator and one (1) Administrative Assistant — is authorized in fiscal year 2006 for the duration of the grant.

(4) JFO #2243 – \$2,332,000 grant from the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration to the department of health. These grant funds will be used to prevent the onset and reduce the progression of substance abuse including childhood and underage drinking, reduce substance abuse-related problems in communities, and build prevention capacity and infrastructure at state and community levels. The establishment of three (3) new sponsored limited service positions — one (1) New Directions Coordinator, one (1) Administrative Assistant, and one (1) Research and Policy Analyst — is authorized in fiscal year 2006 for the duration of the grant.

Sec. 89. EFFECTIVE DATE

- (a) This act shall take effect from passage.
- (b) Secs. 16 and 16a shall take effect July 1, 2006.
- (c) Sec. 16c shall apply as of October 1, 2005.

Rep. Marron of Stowe moved that the House concur with the Senate proposal of amendment with a further amendment thereto:

First: In Sec. 6a. by striking out the figure “\$7,000” and inserting in lieu thereof the figure \$4,200

Second: By inserting a new section to be numbered Sec. 50a to read as follows:

Sec. 50a. “WE THE PEOPLE...”; PASS THROUGH GRANT

(a) The sum of \$5,000 in general funds is appropriated to the department of education as a pass through grant to the school district representing the state of Vermont at the National “We the People...” tournament in Washington, D.C.

Third: By inserting a new section to be numbered Sec. 54a to read as follows:

Sec. 54a. CAPPING UNLINED LANDFILL

In fiscal year 2006, the secretary of the agency of natural resources shall disburse from the waste management assistance fund established in 10 V.S.A. § 6618 the amount of \$110,000 to the town of Shaftsbury for the purpose of capping the unlined Shaftsbury municipal landfill.

Fourth: By striking out Sec. 58b in its entirety and inserting in lieu thereof a new Sec. 58b to read as follows:

Sec. 58b. Sec. 8 of No. 101 of the Acts of 2004 is amended to read:

Sec. 8 ~~APPROPRIATION~~ ALLOCATION OF FUNDS

~~There is appropriated in fiscal year 2005 the amount of \$5,000.00 from the transportation fund to the department of motor vehicles for the purpose of this act. The department of motor vehicles is authorized to expend up to \$8,000.00 from appropriated funds for the purposes of this act.~~

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

Sec. 78a. VAST LEASE APPROVAL

(a) The lease which the agency of transportation is directed to enter into with the Vermont association of snow travelers (VAST) with respect to the use of the railbanked Lamoille valley railroad corridor pursuant to Sec. 16 of No. 141 of the Acts of 2002 shall be reviewed by the house and senate committees on transportation and appropriations prior to its execution.

Sixth: By striking Sec. 87a in its entirety.

Pending the question, Shall the House propose to the Senate to amend the Senate recommendation of proposal of amendment offered by Rep. Marron of Stowe?

Recess

At ten o'clock and fifty-five minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At eleven o'clock and twenty minutes in the forenoon, the Speaker called the House to order.

Consideration Resumed; House concurred with Senate Proposal of Amendment with a further amendment thereto; Rules Suspended; Bill Messaged to Senate Forthwith

H. 617

Consideration resumed on House bill, entitled

An act relating to fiscal year budget adjustments;

Pending the recurring question, Shall the House propose to the Senate to amend the Senate proposal of amendment as offered by Rep. Marron of Stowe? **Rep. Marron of Stowe** moved to amend his proposal of amendment, as follows:

By adding the following:

Seventh: In Sec. 67 (c) by striking the following:

"5100890501 Capital Construction Aid 932,000

Which was agreed to.

The recurring question, Shall the House concur in the Senate proposal of amendment with a further amendment thereto? was agreed to.

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

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 258

House bill, entitled

An act relating to the disclosure of rates of hospital-acquired infections.

H. 576

House bill, entitled

An act relating to reorganization of the Vermont department of labor.

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 294

Consideration resumed on House bill, entitled

An act relating to groundwater management;

Rep. Kupersmith of South Burlington moved to amend the recommendation of amendment offered by the committee on Fish, Wildlife and Water Resources as follows:

First: by striking Sec. 1 in its entirety and inserting a new Sec. 1 to read as follows:

Sec. 1. 10 V.S.A. chapter 48, subchapter 5 is added to read:

Subchapter 5. Groundwater Withdrawal Moratorium

§ 1415. GROUNDWATER MORATORIUM

(a) As used in this section:

(1) "Groundwater" means water below the land surface.

(2) "Person" means any individual, partnership, company, corporation, cooperative, association, unincorporated association, joint venture, trust, the state of Vermont or any department, agency, subdivision, or municipality, the United States government or any department, agency, or subdivision, or any other legal or commercial entity.

(3) "Withdraw" means the removal of groundwater by any method or instrument, including the bottling of drinking water from an underground spring that percolates to the surface.

(b)(1) As of July 1, 2006, a moratorium is established on:

(A) the drilling of a new well with a capacity to withdraw more than 50,000 gallons a day of groundwater from a single source for commercial or industrial purposes; and

(B) the issuance of a new public water source permit under section 1676 of this title to a bottled water facility proposing to withdraw more than 50,000 gallons a day of groundwater or percolating spring water from a single source.

(2) Groundwater withdrawal by a public water system, as that term is defined in section 1671 of this title, or for use for fire safety, agriculture, agricultural or dairy processing, or public sanitation shall be exempt from the moratorium established under this subsection.

(c) The secretary of natural resources may authorize a new groundwater withdrawal in excess of 50,000 gallons a day if, after review of the factors set forth in subdivisions 1410(e)(1) to (9) of this title, the secretary determines that such withdrawal would be in the public good.

Second: By adding a new Sec. 4 as follows:

Sec. 4. 10 V.S.A. § 8003(a)(6) is amended to read:

(6) 10 V.S.A. chapter 48, relating to well drillers and groundwater withdrawal;

and by renumbering the current Sec. 4 to be Sec. 5

Pending the question, Shall the House amend the recommendation of amendment offered by the committee on Fish, Wildlife and Water Resources as recommended by Rep. Kupersmith of South Burlington? **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 Fish, Wildlife and Water Resources as recommended by Rep. Kupersmith of South Burlington? was decided in the affirmative. Yeas, 122. Nays, 14.

Those who voted in the affirmative are:

Acinapura of Brandon	Gervais of Enosburg	McLaughlin of Royalton
Adams of Hartland	Grad of Moretown	Milkey of Brattleboro
Allaire of Rutland City	Green of Berlin	Miller of Shaftsbury
Allard of St. Albans Town	Haas of Rochester	Miller of Elmore
Ancel of Calais	Hosford of Waitsfield	Minter of Waterbury
Aswad of Burlington	Houston of Ferrisburgh	Molloy of Arlington
Atkins of Winooski	Howard of Rutland City	Monti of Barre City
Audette of S. Burlington	Howrigan of Fairfield	Mook of Bennington
Baker of West Rutland	Hunt of Essex	Morrissey of Bennington
Barnard of Richmond	Hutchinson of Randolph	Myers of Essex
Bohi of Hartford	Jerman of Essex	Nease of Johnson
Bostic of St. Johnsbury	Jewett of Ripton	Nitka of Ludlow
Botzow of Pownal	Johnson of South Hero	Nuovo of Middlebury
Branagan of Georgia	Kainen of Hartford	Obuchowski of Rockingham
Brooks of Montpelier	Keenan of St. Albans City	O'Donnell of Vernon
Canfield of Fair Haven	Kennedy of Chelsea	Orr of Charlotte
Clark of St. Johnsbury	Keogh of Burlington	Parent of St. Albans City
Clark of Vergennes	Kiss of Burlington	Partridge of Windham
Clarkson of Woodstock	Kitzmiller of Montpelier	Pellett of Chester
Condon of Colchester	Klein of East Montpelier	Perry of Richford
Copeland-Hanzas of Bradford	Komline of Dorset	Peterson of Williston
Corcoran of Bennington	Krawczyk of Bennington	Pillsbury of Brattleboro
Cross of Winooski	Kupersmith of S. Burlington	Potter of Clarendon
Darrow of Dummerston	Larrabee of Danville	Pugh of S. Burlington
Dates of Shelburne	Larson of Burlington	Randall of Troy
Deen of Westminster	LaVoie of Swanton	Reese of Pomfret
Donaghy of Poultney	Lawrence of Lyndon	Rodgers of Glover
Donahue of Northfield	Leriche of Hardwick	Rusten of Halifax
Donovan of Burlington	Lippert of Hinesburg	Seibert of Norwich
Dostis of Waterbury	Livingston of Manchester	Shand of Weathersfield
Dunsmore of Georgia	Lorber of Burlington	Sharpe of Bristol
Edwards of Brattleboro	Louras of Rutland City	Shaw of Derby
Emmons of Springfield	Maier of Middlebury	Smith of New Haven
Errecart of Shelburne	Malcolm of Pawlet	Smith of Morristown
Evans of Essex	Marek of Newfane	Sweaney of Windsor
Fallar of Tinmouth	Marron of Stowe	Tracy of Burlington
Fisher of Lincoln	Martin of Wolcott	Trombley of Grand Isle
Flory of Pittsford	Masland of Thetford	Westman of Cambridge
Frank of Underhill	McAllister of Highgate	Winters of Williamstown
French of Randolph	McCullough of Williston	Wright of Burlington
	McFaun of Barre Town	Zuckerman of Burlington

Those who voted in the negative are:

Bartlett of Dover
Brennan of Colchester
DePoy of Rutland City
Helm of Castleton
Hudson of Lyndon

Johnson of Canaan
Kilmartin of Newport City
Larocque of Barnet
Marcotte of Coventry
Morley of Barton

Otterman of Topsham
Peaslee of Guildhall
Valliere of Barre City
Winters of Swanton

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

Chen of Mendon
Dowland of Holland
Endres of Milton
Head of S. Burlington
Heath of Westford

Hube of Londonderry
Koch of Barre Town
Martin of Springfield
Niquette of Colchester
Severance of Colchester

Sunderland of Rutland Town
Turner of Milton
Young of Orwell

Thereupon, the recommendation of amendment of the committee on Fish, Wildlife and Water Resources, as amended, was agreed to on a Division Vote. Yeas, 77. Nays, 32

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

First: by striking Sec. 2 in its entirety and inserting a new Sec. 2 to read as follows:

Sec. 2. STUDY OF GROUNDWATER REGULATION AND FUNDING

(a) A committee is established to examine potential regulatory programs to protect the groundwater resources of the state. The committee shall report its findings to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture by January 15, 2007. The report shall include:

(1) A recommendation from the committee as to whether the groundwater resources of the state of Vermont should be declared a public trust resource.

(2) An analysis of the regulatory implications of declaring the groundwater of the state to be a public trust resource if the committee so recommends under subdivision (1) of this subsection.

(3) A proposed schedule for the groundwater mapping of the state by the agency of natural resources.

(4) A proposed appropriation to the agency of natural resources for the groundwater mapping of the state, including any proposed new or existing revenue sources that may be used by the agency to aid in funding the groundwater mapping.

(5) Proposed legislation for the regulation of groundwater withdrawals in the state.

(b) The committee shall consist of the following members:

(1) the secretary of natural resources or his or her designee;

(2) the state geologist or his or her designee;

(3) the secretary of agriculture, food and markets or his or her designee;

(4) one member each from the house committees on agriculture and on fish, wildlife and water resources and the senate committees on agriculture and on natural resources and energy as appointed respectively by the speaker of the house and the committee on committees;

(5) a representative appointed by the governor from each of the following: the business community, municipalities, a local environmental organization, a regional or statewide environmental organization, and the general public;

(6) two representatives of the agricultural community appointed by the governor.

(c) The committee may elect a chair and a vice chair and may hold public hearings. Legislative council shall provide support for the committee.

(d) All members of the committee shall serve on the committee for the duration of the study unless circumstances dictate a permanent replacement. Vacancies shall be appointed in the same manner as original appointments.

Which was agreed to and third reading ordered.

**Rules Suspended; Favorable Report; Third Reading Ordered;
Rules Suspended; Resolution Read Third Time and Passed; Rules
Suspended; Resolution Ordered Messaged to the Senate Forthwith**

J.R.H. 57

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Flory of Pittsford**, the rules were suspended and Joint resolution, entitled

Joint resolution opposing the implementation of the proposed rules under the Western Hemisphere Travel Initiative;

Was taken up for immediate consideration.

Rep. Trombley of Grand Isle, for the committee on Commerce, reported in favor of its passage.

Thereupon, the resolution was read the second time and third reading ordered.

On motion of **Rep. Flory of Pittsford**, the rules were suspended and the resolution placed on all remaining stages of passage. The resolution was read the third time and adopted and, on motion of **Rep. Flory of Pittsford** the rules were suspended and the resolution was ordered messaged to the Senate forthwith.

Message from the Senate No. 23

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. 183. An act relating to no contact with a victim or potential witness pending trial.

S. 246. An act relating to eminent domain.

S. 302. An act relating to commercial driver licenses.

S. 304. An act relating to motor vehicles.

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

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

H. 445. An act relating to the installation of after-market material on the front side windows of a motor vehicle.

And has passed the same in concurrence.

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

S.C.R. 51. Senate concurrent resolution recognizing the outstanding community contributions of the Bennington juvenile justice team.

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

H.C.R. 231. House concurrent resolution in memory of Vermont National Guard Sgt. Joshua A. Johnson of Richford.

H.C.R. 232. House concurrent resolution congratulating the Mount St. Joseph Academy Division I 2005 championship football team.

H.C.R. 233. House concurrent resolution celebrating the historic, cultural and economic roles of hunting and hunting dogs in Vermont.

H.C.R. 234. House concurrent resolution congratulating the Green Mountain Council Boy Scout Eagle Class of 2005.

Adjournment

At twelve o'clock and fifty minutes in the afternoon, on motion of **Rep. Nease of Johnson**, the House adjourned until Monday, February 13, 2006, at three o'clock and thirty minutes in the afternoon.

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. 231

House concurrent resolution in memory of Vermont National Guard Sgt. Joshua A. Johnson of Richford

H.C.R. 232

House concurrent resolution congratulating the Mount St. Joseph Academy Division I 2005 championship football team

H.C.R. 233

House concurrent resolution celebrating the historic, cultural and economic roles of hunting and hunting dogs in Vermont

H.C.R. 234

House concurrent resolution congratulating the Green Mountain Council Boy Scout Eagle Class of 2005

S.C.R. 51

Senate concurrent resolution recognizing the outstanding community contributions of the Bennington juvenile justice team.

[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]

MONDAY, FEBRUARY 13, 2006**Token Session**

Rep. Francis Brooks of Montpelier presiding.

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

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Adjournment

At three o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Rep. McFaun of Barre Town**, the House adjourned until tomorrow at three o'clock and thirty minutes in the afternoon.

TUESDAY, FEBRUARY 14, 2006

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

Devotional Exercises

Devotional exercises were conducted by Speaker Gaye Symington of Jericho.

Pledge of Allegiance

Page Addie Peterson of Williston led the House in the Pledge of Allegiance.

Message from the Senate No. 24

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 bill originating in the House of the following title:

H. 627. An act relating to the special environmental revolving fund.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

Bill Referred to Committee on Appropriations**H. 602**

House bill, entitled

An act relating to agricultural food processing and fuel production;

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

House Bills Introduced

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

H. 854

By the committee on Government Operations,

An act relating to teachers' retirement funding;

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

H. 855

By Reps. Masland of Thetford, Botzow of Pownal, Shand of Weathersfield, Peterson of Williston, Barnard of Richmond, Bartlett of Dover, Clarkson of Woodstock, Evans of Essex, Gervais of Enosburg, Grad of Moretown, Haas of Rochester, Johnson of South Hero, Johnson of Canaan, Lawrence of Lyndon, Malcolm of Pawlet, Nitka of Ludlow, Randall of Troy, Shaw of Derby, Smith of Morristown, Winters of Williamstown and Zuckerman of Burlington,

An act relating to telecommunications capacity development;

To the committee on Commerce.

H. 856

By the committee on Judiciary,

An act relating to enhancing sentences for and preventing risks posed by dangerous sexual offenders;

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. 183

Senate bill, entitled

An act relating to no contact with a victim or potential witness pending trial;

To the committee on Judiciary.

S. 246

Senate bill, entitled

An act relating to eminent domain;

To the committee on Judiciary.

S. 302

Senate bill, entitled

An act relating to commercial driver licenses;

To the committee on Transportation.

S. 304

Senate bill, entitled

An act relating to motor vehicles;

To the committee on Transportation.

Bill Amended, Read Third Time and Passed**H. 294**

House bill, entitled

An act relating to groundwater management;

Was taken up and pending third reading of the bill, **Reps. Dunsmore and Branagan of Georgia** moved to amend the bill as follows:

In Sec. 2 by striking subdivision (a)(1) in its entirety and renumbering the remaining subdivisions to be numerically correct

Pending the question, Shall the House amend the bill as recommended by Reps. Dunsmore and Branagan of Georgia? **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 House amend the bill as recommended by Reps. Dunsmore and Branagan of Georgia? was decided in the negative. Yeas, 53. Nays, 86.

Those who voted in the affirmative 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	Kilmartin of Newport City	O'Donnell of Vernon
Clark of Vergennes	Koch of Barre Town	Otterman of Topsham
Condon of Colchester	Komline of Dorset	Parent of St. Albans City
Donaghy of Poultney	Krawczyk of Bennington	Peaslee of Guildhall
Dunsmore of Georgia	Larocque of Barnet	Rodgers of Glover
Endres of Milton	Larrabee of Danville	Severance of Colchester
Errecart of Shelburne	LaVoie of Swanton	Shaw of Derby
Flory of Pittsford	Lawrence of Lyndon	Smith of New Haven
Helm of Castleton	Livingston of Manchester	Turner of Milton
Houston of Ferrisburgh	Louras of Rutland City	Valliere of Barre City
Hube of Londonderry	Marcotte of Coventry	Westman of Cambridge
Hudson of Lyndon	Marron of Stowe	Winters of Swanton
Johnson of South Hero	McAllister of Highgate	Winters of Williamstown
Johnson of Canaan	Morley of Barton	Young of Orwell
Kainen of Hartford	Myers of Essex	

Those who voted in the negative are:

Adams of Hartland	Gervais of Enosburg	Miller of Elmore
Ancel of Calais	Green of Berlin	Minter of Waterbury
Aswad of Burlington	Haas of Rochester	Molloy of Arlington
Atkins of Winooski	Head of S. Burlington	Monti of Barre City
Audette of S. Burlington	Heath of Westford	Mook of Bennington
Barnard of Richmond	Hosford of Waitsfield	Nease of Johnson
Bohi of Hartford	Howard of Rutland City	Niquette of Colchester
Botzow of Pownal	Hunt of Essex	Nitka of Ludlow
Brooks of Montpelier	Hutchinson of Randolph	Nuovo of Middlebury
Chen of Mendon	Jerman of Essex	Obuchowski of Rockingham
Clarkson of Woodstock	Jewett of Ripton	Orr of Charlotte
Copeland-Hanzas of	Keenan of St. Albans City	Partridge of Windham
Bradford	Keogh of Burlington	Pellet of Chester
Corcoran of Bennington	Kitzmiller of Montpelier	Perry of Richford
Cross of Winooski	Klein of East Montpelier	Peterson of Williston
Darrow of Dummerston	Kupersmith of S. Burlington	Pillsbury of Brattleboro
Dates of Shelburne	Larson of Burlington	Potter of Clarendon
Deen of Westminster	Leriche of Hardwick	Pugh of S. Burlington
Donahue of Northfield	Lorber of Burlington	Randall of Troy
Donovan of Burlington	Maier of Middlebury	Reese of Pomfret
Dostis of Waterbury	Malcolm of Pawlet	Rusten of Halifax
Dowland of Holland	Marek of Newfane	Seibert of Norwich
Edwards of Brattleboro	Martin of Springfield	Shand of Weathersfield
Emmons of Springfield	Martin of Wolcott	Sharpe of Bristol
Evans of Essex	Masland of Thetford	Smith of Morristown
Fallar of Tinmouth	McCullough of Williston	Sweaney of Windsor
Fisher of Lincoln	McLaughlin of Royalton	Tracy of Burlington
Frank of Underhill	Milkey of Brattleboro	Wright of Burlington
French of Randolph	Miller of Shaftsbury	Zuckerman of Burlington

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

DePoy of Rutland City	Grad of Moretown	Howrigan of Fairfield
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Kennedy of Chelsea
Kiss of Burlington
Lippert of Hinesburg

McFaun of Barre Town
Morrissey of Bennington
Sunderland of Rutland Town

Trombley of Grand Isle

Rep. Deen of Westminster explained his vote as follows:

"Madam Speaker:

States do have the authority to protect groundwater under the health and welfare powers afforded states under the U.S. Constitution. It is important we begin to protect the vital resource of groundwater that is relied upon by over 60% of Vermonters for their drinking water."

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

"Madam Speaker:

I vote "yes" to uphold my Constitutional oath of office and to follow the United States' Constitution, Article 1, §10 which forbids ex post facto laws or laws impairing the obligation of contracts, and the Vermont Constitution that forbids taking the private property of groundwater without the taking sovereign paying the property owner full market value under Chapter 1, Article 2, of the Vermont Constitution. Most importantly, I vote for the Vermont Constitutional guarantee that I, and you, have the interest and inalienable right of acquiring, possessing and protecting our private property against all, especially the State of Vermont. Chapter 1, Article !."

Pending third reading of the bill, **Rep. Kupersmith of South Burlington** moved to amend the bill as follows:

In Sec. 1 by striking subdivision (b)(1)(A) in its entirety and inserting in lieu thereof the following:

(A) the operation of a groundwater well for commercial or industrial purposes if the well is drilled after July 1, 2006 and has a pump rate at installation of more than 50,000 gallons a day; and

Which was agreed to and the bill read a third time.

Rep. Partridge of Windham in Chair.

Pending the question, Shall the bill pass? **Rep. Deen of Westminster** 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, 91. Nays, 43.

Those who voted in the affirmative are:

Acinapura of Brandon
Adams of Hartland

Ancel of Calais
Aswad of Burlington

Atkins of Winooski
Audette of S. Burlington

Barnard of Richmond	Hunt of Essex	Mook of Bennington
Bohi of Hartford	Hutchinson of Randolph	Myers of Essex
Botzow of Pownal	Jerman of Essex	Nease of Johnson
Brooks of Montpelier	Jewett of Ripton	Niquette of Colchester
Chen of Mendon	Keogh of Burlington	Nitka of Ludlow
Clarkson of Woodstock	Kitzmiller of Montpelier	Nuovo of Middlebury
Corcoran of Bennington	Klein of East Montpelier	Obuchowski of Rockingham
Cross of Winooski	Koch of Barre Town	O'Donnell of Vernon
Darrow of Dummerston	Komline of Dorset	Orr of Charlotte
Dates of Shelburne	Kupersmith of S. Burlington	Pellett of Chester
Deen of Westminster	Larson of Burlington	Perry of Richford
Donahue of Northfield	Leriche of Hardwick	Peterson of Williston
Donovan of Burlington	Livingston of Manchester	Pillsbury of Brattleboro
Dostis of Waterbury	Lorber of Burlington	Potter of Clarendon
Dowland of Holland	Maier of Middlebury	Pugh of S. Burlington
Edwards of Brattleboro	Malcolm of Pawlet	Randall of Troy
Emmons of Springfield	Marek of Newfane	Reese of Pomfret
Errecart of Shelburne	Marron of Stowe	Rusten of Halifax
Evans of Essex	Martin of Springfield	Seibert of Norwich
Fallar of Tinmouth	Martin of Wolcott	Shand of Weathersfield
Fisher of Lincoln	Masland of Thetford	Sharpe of Bristol
Frank of Underhill	McCullough of Williston	Shaw of Derby
French of Randolph	McLaughlin of Royalton	Smith of Morristown
Green of Berlin	Milkey of Brattleboro	Sweaney of Windsor
Haas of Rochester	Miller of Shaftsbury	Tracy of Burlington
Head of S. Burlington	Miller of Elmore	Wright of Burlington
Heath of Westford	Minter of Waterbury	Zuckerman of Burlington
Hosford of Waitsfield	Molloy of Arlington	
Howard of Rutland City	Monti of Barre City	

Those who voted in the negative are:

Allaire of Rutland City	Helm of Castleton	Morley of Barton
Allard of St. Albans Town	Houston of Ferrisburgh	Otterman of Topsham
Baker of West Rutland	Hube of Londonderry	Parent of St. Albans City
Bartlett of Dover	Hudson of Lyndon	Peaslee of Guildhall
Bostic of St. Johnsbury	Johnson of South Hero	Rodgers of Glover
Branagan of Georgia	Johnson of Canaan	Severance of Colchester
Brennan of Colchester	Kilmartin of Newport City	Smith of New Haven
Canfield of Fair Haven	Krawczyk of Bennington	Turner of Milton
Clark of St. Johnsbury	Larocque of Barnet	Valliere of Barre City
Clark of Vergennes	Larrabee of Danville	Westman of Cambridge
Condon of Colchester	LaVoie of Swanton	Winters of Swanton
Donaghy of Poultney	Lawrence of Lyndon	Winters of Williamstown
Dunsmore of Georgia	Louras of Rutland City	Young of Orwell
Endres of Milton	Marcotte of Coventry	
Flory of Pittsford	McAllister of Highgate	

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

Copeland-Hanzas of
Bradford
DePoy of Rutland City
Gervais of Enosburg
Grad of Moretown
Howrigan of Fairfield

Kainen of Hartford
Keenan of St. Albans City
Kennedy of Chelsea
Kiss of Burlington
Lippert of Hinesburg
McFaun of Barre Town

Morrissey of Bennington
Sunderland of Rutland Town
Symington of Jericho
Trombley of Grand Isle

Bill Committed

H. 853

House bill, entitled

An act relating to technical amendments to the Vermont statutes annotated related to restructuring the agency of human services;

Appearing on the Calendar for action, was taken up and pending second reading of the bill, on motion of **Rep. Pugh of South Burlington**, the bill was committed to the committee on Human Services.

Adjournment

At four o'clock and fifty-five minutes in the afternoon, on motion of **Rep. Flory of Pittsford**, the House adjourned until tomorrow at three o'clock and thirty minutes in the afternoon.

WEDNESDAY, FEBRUARY 15, 2006

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

Devotional Exercises

Devotional exercises were conducted by Reverend David Hall of Christ Episcopal Church, Montpelier, VT.

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. 701

House bill, entitled

An act relating to ancient roads to be known as identified corridors;

H. 854

House bill, entitled

An act relating to teachers' retirement funding;

H. 856

House bill, entitled

An act relating to enhancing sentences for and preventing risks posed by dangerous sexual offenders.

Message from the Senate No. 25

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 bills originating in the House of the following titles:

H. 404. An act relating to access to mental health and substance abuse providers.

H. 608. An act relating to renewal of a junior operator's license past age 18.

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 fifteenth day of February, 2006, he approved and signed a bill originating in the House of the following title:

H. 567 An act relating to exemption from CON and HMO requirements for PACE

Adjournment

At three o'clock and forty-five minutes in the afternoon, on motion of **Rep. Hube of Londonderry**, the House adjourned until tomorrow at three o'clock and thirty minutes in the afternoon.

THURSDAY, FEBRUARY 16, 2006

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

Devotional Exercises

Devotional exercises were conducted by Reverend Scott Carlson of Faith Assembly of God Church, Royalton, VT.

Message from the Senate No. 26

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 bills originating in the House of the following titles:

H. 616. An act relating to approval of the charter of the Town of Jericho.

H. 851. An act relating to extending VPHARM coverage for individuals eligible for Medicare Part D.

And has passed the same in concurrence.

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

H. 617. An act relating to fiscal year 2006 budget adjustments.

And has concurred therein.

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

J.R.S. 56. Joint resolution relating to weekend adjournment.

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

Committee Bills Introduced

Committee bills of the following titles were severally introduced, read the first time and, under the rule, placed on the Calendar for notice tomorrow.

H. 857

By the committee on General Housing and Military Affairs,

An act relating to the property transfer tax, affordable housing, homeless prevention, and back rent programs;

H. 858

By the committee on General Housing and Military Affairs,
An act relating to the tax credit for affordable housing;

H. 859

By the committee on Natural Resources and Energy,
An act relating to the energy security and reliability act.

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.H. 60

Joint resolution providing for a Joint Assembly for the election of an Adjutant and Inspector General.

Offered by: Reps. Partridge of Windham and Flory of Pittsford,

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Tuesday, February 28, 2006, at nine o'clock in the forenoon to elect an interim Adjutant and Inspector General to serve the unexpired term of Adjutant and Inspector General Martha T. Rainville, commencing April 1, 2006. In case election 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 the officer is elected.

And that there shall be one nominating speech, not to exceed three minutes, and one seconding speech, not to exceed one minute, for each candidate, and be it further

Resolved: That for the purpose of this election Joint Rule 10 (c) is amended to read as follows:

(c) Election to any office is by a majority of the votes cast, exclusive of spoiled and blank ballots. After ~~two votes have~~ one vote has been taken for any vacancy without an election, all nominees except the two having the highest number of votes shall be withdrawn, and voting shall then continue until a candidate is elected. In no event shall the involuntary removal of nominees result in fewer than two nominees remaining in the contest.

H.R. 13

House resolution opposing the implementation of the proposed rules under the Western Hemisphere Travel Initiative

Offered by: Representatives Keenan of St. Albans City, Acinapura of Brandon, Condon of Colchester, Houston of Ferrisburgh, Marcotte of Coventry, Marron of Stowe, Morley of Barton, Reese of Pomfret, Shand of Weathersfield and Trombley of Grand Isle

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 identification 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 House of Representatives:

That this legislative body 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 House of Representatives 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 clerk of the House 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 the Vermont Congressional Delegation.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 604

Rep. Donovan of Burlington moved that the committee on Ways and Means be relieved of House bill, entitled

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

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

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H. 633

Rep. Lippert of Hinesburg moved that the committee on Judiciary be relieved of House bill, entitled

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

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

Bill Amended; Third Reading Ordered

H. 373

Rep. Kainen of Hartford, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to stalking;

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 19, subchapter 8 is added to read:

Subchapter 8. Orders Against Stalking§ 1071. DEFINITIONS

As used in this subchapter:

(1) "Course of conduct" means a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(2) "Following" means maintaining over a period of time a visual or physical proximity to another person in such manner as would cause a reasonable person to have fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death.

(3) "Harassing" means actions directed at a specific person, or a member of the person's family, which would cause a reasonable person to fear unlawful sexual conduct, unlawful restraint, bodily injury, or death, including but not limited to verbal threats; written, telephonic, or other electronically communicated threats; vandalism; or physical contact without consent.

(4) "Lying in wait" means hiding or being concealed for the purpose of attacking, or harming another person.

(5) "Stalk" means to engage in a course of conduct which consists of following, lying in wait for, or harassing a person, and:

(A) serves no legitimate purpose; and

(B) would cause a reasonable person to fear for his or her safety or would cause a reasonable person substantial emotional distress.

§ 1072. JURISDICTION AND VENUE

(a) The family court shall have jurisdiction over proceedings under this subchapter.

(b) Emergency orders under section 1074 of this title may be issued by a judge of the district, superior, or family court.

(c) Proceedings under this subchapter may be commenced in the county in which the plaintiff resides. If the plaintiff has left his or her residence to avoid being stalked, the plaintiff shall have the option to bring an action in the county of the previous residence or the county of the new residence.

§ 1073. REQUESTS FOR AN ORDER AGAINST STALKING

(a) A person, other than a family or household member as defined in 15 V.S.A. § 1101(2), may seek an order against stalking by filing a complaint under this subchapter.

(b) Except as provided in section 1074 of this title, the court shall grant the order only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant stalked the plaintiff.

(c) If the court finds that the defendant has stalked the plaintiff and that there is a danger of further stalking, the court shall make such orders as it deems necessary to protect the plaintiff. Such orders shall require that the defendant refrain from stalking the plaintiff and from interfering with his or her personal liberty, and may include restrictions on the defendant's ability to contact the plaintiff by telephone or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the plaintiff's residence, or other designated locations where the plaintiff is likely to spend time.

(d) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff. It is not necessary for the court to find that stalking has occurred during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(e) No filing fee shall be required.

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

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

(h) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(i) Every final order issued under this section shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME AS PROVIDED BY 13 V.S.A. § 1078 AND MAY BE PUNISHED FOR A FIRST OFFENSE BY UP TO ONE YEAR OF IMPRISONMENT OR A FINE OF UP TO \$5,000.00, OR BOTH. FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON MAY BE IMPRISONED UP TO THREE YEARS OR FINED UP TO \$25,000.00, OR BOTH."

§ 1074. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Family Proceedings, a person other than a family or household member as defined in 15 V.S.A. § 1001(2)

may file a complaint for a temporary order against stalking. Such complaint shall be filed during regular court hours unless the person believes there is an immediate danger of further stalking. The court may issue a temporary order under this subchapter ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has stalked the plaintiff. Upon a finding that there is an immediate danger of further stalking, an order may be granted requiring the defendant to refrain from stalking the plaintiff and to refrain from interfering with the plaintiff's personal liberty.

(b) Every order issued under this section shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge. Every order issued under this section shall state upon its face a date, time, and place that the defendant may appear to petition the court for modification or discharge of the order. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 10 days from the date of issuance of the order. At such hearings, the plaintiff shall have the burden of proving stalking by a preponderance of the evidence. If the court finds that the plaintiff has met his or her burden, it shall continue the order in effect and make such other order as it deems necessary to protect the plaintiff.

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

(d) Every order issued under this subchapter shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME AS PROVIDED BY 13 V.S.A. § 1078 AND MAY BE PUNISHED FOR A FIRST OFFENSE BY UP TO ONE YEAR OF IMPRISONMENT OR A FINE OF UP TO \$5,000.00, OR BOTH. FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON MAY BE IMPRISONED UP TO THREE YEARS OR FINED UP TO \$25,000.00, OR BOTH."

§ 1075. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this subchapter shall be served in accordance with the Vermont Rules of Family Proceedings and may be served by any sheriff, deputy sheriff, or municipal or state police officer. Stalking orders shall be served at the earliest possible time and shall take precedence over other summonses and orders, with the exception of abuse prevention orders issued pursuant to chapter 21 of Title 15. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service shall file a return of service with the court stating the date, time, and place that the order was delivered personally to the defendant.

(b) If service of a notice of hearing issued under section 1073 or 1074 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

§ 1076. PROCEDURE

(a) Except as otherwise specified in this subchapter, proceedings commenced under this chapter shall be in accordance with the Vermont Rules of Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b) The court administrator shall establish procedures to ensure access to relief after regular court hours or on weekends and holidays. The court administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to district, superior, and family courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) The office of the court administrator shall ensure that the family court and the district court have procedures in place so that the contents of orders and pendency of other proceedings can be known to both courts for cases in which an order against stalking proceeding is related to a criminal proceeding.

§ 1077. FILING ORDERS WITH LAW ENFORCEMENT PERSONNEL:

DEPARTMENT OF PUBLIC SAFETY PROTECTION ORDER DATABASE

(a) Police departments, sheriff's departments, and state police district offices shall establish procedures for filing notice against stalking orders issued under this subchapter and for making their personnel aware of the existence and contents of such orders.

(b) Any court in this state that issues a notice against stalking order under this subchapter shall transmit a copy of the order to the department of public safety's protection order database.

§ 1078. VIOLATION OF AN ORDER AGAINST STALKING

(a) For a first offense, a person who violates an order issued in accordance with this subchapter shall be imprisoned not more than one year or fined not more than \$5,000.00, or both. For a second or subsequent offense, a person who violates an order issued in accordance with this subchapter shall be imprisoned not more than three years or fined not more than \$25,000.00, or both.

(b) Upon conviction for a violation of an order issued in accordance with this subchapter, the court may order the defendant to participate in mental health counseling. The defendant shall pay all or part of the costs of the counseling unless the court finds that the defendant is unable to do so.

(c) Nothing in this section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through contempt proceedings.

(d) Prosecution for violation of an order against stalking shall not bar prosecution for any other crime, including any crime that may have been committed at the time of the violation of the order against stalking.

§ 1079. ENFORCEMENT

Law enforcement officers are authorized to enforce orders issued under this subchapter and may rely upon a copy of any order issued under this chapter.

Sec. 2. DESIGNATION.

13 V.S.A. chapter 72, §§ 3251-3256 are designated as subchapter 1 which is added to read:

Subchapter 1. Offenses and Criminal Procedure

Sec. 3. 13 V.S.A. chapter 72, subchapter 3 is added to read:

Subchapter 3. Sexual Assault Protection Orders

§ 3301. DEFINITIONS

As used in this subchapter, "sexually assaulting the victim" means that the defendant was convicted of lewd and lascivious conduct with a child as defined in section 2602 of this title, sexual assault as defined in section 3252 of this title, or aggravated sexual assault as defined in section 3253 of this title, and that the plaintiff was the victim of the offense.

§ 3302. JURISDICTION AND VENUE

(a) The family court shall have jurisdiction over proceedings under this subchapter.

(b) Emergency orders under section 3304 of this title may be issued by a judge of the district, superior, or family court.

(c) Proceedings under this subchapter may be commenced in the county in which the plaintiff resides. If the plaintiff has left his or her residence to avoid contact with the defendant, the plaintiff shall have the option to bring an action in the county of the previous residence or the county of the new residence.

§ 3303. REQUESTS FOR A SEXUAL ASSAULT PROTECTION ORDER

(a) A person may seek a sexual assault protection order by filing a complaint under this subchapter.

(b) Except as provided in section 3304 of this title, the court shall grant the order only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant was convicted of sexually assaulting the plaintiff.

(c) If the court finds that the defendant was convicted of sexually assaulting the victim, the court shall make such orders as it deems necessary to protect the plaintiff. Such orders shall require that the defendant refrain from interfering with the plaintiff's liberty, and may include restrictions on the defendant's ability to contact the plaintiff by telephone or by mail and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the plaintiff's residence, or other designated locations where the plaintiff is likely to spend time.

(d) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

(e) No filing fee shall be required.

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

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

(h) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(i) Every final order issued under this section shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME AS PROVIDED BY 13 V.S.A. § 3308 AND MAY BE PUNISHED FOR A FIRST OFFENSE BY UP TO ONE YEAR OF IMPRISONMENT OR A FINE OF UP TO \$5,000.00, OR BOTH. FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON MAY BE IMPRISONED UP TO THREE YEARS OR FINED UP TO \$25,000.00, OR BOTH."

§ 3304. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Family Proceedings, a person may file a complaint for a temporary order under this subchapter. Such complaint shall be filed during regular court hours unless the person believes that he or she is danger of immediate physical harm. The court may issue a temporary order under this subchapter ex parte, without notice to the defendant, upon a finding that the defendant sexually assaulted the victim as defined in section 3301 of this title, and that the plaintiff has a reasonable fear of immediate physical harm. Such order may require the defendant to refrain from interfering with the plaintiff's personal liberty.

(b) Every order issued under this section shall contain the name of the court, the names of the parties, the date of the petition, and the date and time of the order and shall be signed by the judge. Every order issued under this section shall state upon its face a date, time, and place that the defendant may appear to petition the court for modification or discharge of the order. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 10 days from the date of issuance of the order. At such hearings, the plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant was convicted of sexually assaulting the plaintiff. If the court finds that the plaintiff has met his or her burden, it shall continue the order in effect and make such other order as it deems necessary to protect the plaintiff.

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

(d) Every order issued under this subchapter shall bear the following language: "VIOLATION OF THIS ORDER IS A CRIME AS PROVIDED BY 13 V.S.A. § 3308 AND MAY BE PUNISHED FOR A FIRST OFFENSE BY UP TO ONE YEAR OF IMPRISONMENT OR A FINE OF UP TO \$5,000.00, OR BOTH. FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON MAY BE IMPRISONED UP TO THREE YEARS OR FINED UP TO \$25,000.00, OR BOTH."

§ 3305. SERVICE

(a) A complaint or ex parte temporary order or final order issued under this subchapter shall be served in accordance with the Vermont Rules of Family Proceedings and may be served by any sheriff, deputy sheriff, or municipal or state police officer. Sexual assault protection orders shall be served at the earliest possible time and shall take precedence over other summonses and orders, with the exception of abuse prevention orders issued pursuant to chapter 21 of Title 15. Orders shall be served in a manner calculated to ensure the safety of the plaintiff. Methods of service which include advance notification to the defendant shall not be used. The person making service

shall file a return of service with the court stating the date, time, and place that the order was delivered personally to the defendant.

(b) If service of a notice of hearing issued under section 3303 or 3304 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the plaintiff for such additional time as it deems necessary to achieve service on the defendant.

§ 3306. PROCEDURE

(a) Except as otherwise specified in this subchapter, proceedings commenced under this chapter shall be in accordance with the Vermont Rules of Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b) The court administrator shall establish procedures to ensure access to relief after regular court hours or on weekends and holidays. The court administrator is authorized to contract with public or private agencies to assist plaintiffs to seek relief and to gain access to district, superior, and family courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) The office of the court administrator shall ensure that the family court and the district court have procedures in place so that the contents of orders and pendency of other proceedings can be known to both courts for cases in which a sexual assault protection order proceeding is related to a criminal proceeding.

§ 3307. FILING ORDERS WITH LAW ENFORCEMENT PERSONNEL:

DEPARTMENT OF PUBLIC SAFETY PROTECTION

ORDER DATABASE

(a) Police departments, sheriff's departments, and state police district offices shall establish procedures for filing sexual assault protection orders issued under this subchapter and for making their personnel aware of the existence and contents of such orders.

(b) Any court in this state that issues a sexual assault protection order under this subchapter shall transmit a copy of the order to the department of public safety's protection order database.

§ 3308. VIOLATION OF A SEXUAL ASSAULT PROTECTION ORDER

(a) For a first offense, a person who violates an order issued in accordance with this subchapter shall be imprisoned not more than one year or fined not more than \$5,000.00, or both. For a second or subsequent offense, a person who violates an order issued in accordance with this subchapter shall be

imprisoned not more than three years or fined not more than \$25,000.00, or both.

(b) Upon conviction for a violation of an order issued in accordance with this subchapter, the court may order the defendant to participate in mental health counseling or sex offender treatment. The defendant shall pay all or part of the costs of the counseling unless the court finds that the defendant is unable to do so.

(c) Nothing in this section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through contempt proceedings.

(d) Prosecution for violation of a sexual assault protection order shall not bar prosecution for any other crime, including any crime that may have been committed at the time of the violation of the order.

§ 3309. ENFORCEMENT

Law enforcement officers are authorized to enforce orders issued under this subchapter and may rely upon a copy of any order issued under this chapter.

Sec. 4. 15 V.S.A. § 1101(1) is amended to read:

(1) "Abuse" means the occurrence of one or more of the following acts between family or household members:

(A) attempting to cause or causing physical harm;

(B) placing another in fear of imminent serious physical harm;

(C) abuse to children as defined in subchapter 2 of chapter 49 of Title

33; or

(D) stalking as defined in 13 V.S.A. § 1061.

Sec. 5. 15 V.S.A. § 1107 is amended to read:

§ 1107. FILING ORDERS WITH LAW ENFORCEMENT PERSONNEL;

DEPARTMENT OF PUBLIC SAFETY ~~RELIEF FROM ABUSE~~

PROTECTION ORDER DATABASE

(a) Police departments, sheriff's departments and state police district offices shall establish procedures for filing abuse prevention orders issued under this chapter, chapter 69 of Title 33, and foreign abuse prevention orders and for making their personnel aware of the existence and contents of such orders.

(b) Any court in this state that issues an abuse prevention order under section 1104 or 1103 of this chapter, or that files a foreign abuse prevention

order in accordance with subsection 1108(d) of this chapter, shall transmit a copy of the order to the department of public safety ~~relief from abuse protection order~~ database.

Sec. 6. 33 V.S.A. § 6939 is amended to read:

§ 6939. FILING ORDERS WITH LAW ENFORCEMENT PERSONNEL;

DEPARTMENT OF PUBLIC SAFETY PROTECTION ORDER

DATABASE

(a) Police departments, sheriff's departments and state police district offices shall establish procedures for filing orders issued under this subchapter and for making personnel aware of the existence and contents of such orders.

(b) Any court in this state that issues an order under this subchapter shall transmit a copy of the order to the department of public safety protective order database.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Judiciary agreed to and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 627

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

An act relating to the special environmental revolving fund;

By adding Secs. 2, 3, and 4, to read as follows:

Sec. 2. ANNUAL REPORT

The secretary of natural resources shall report in writing to the senate committee on natural resources and energy and the house committee on fish, wildlife and water resources on or before January 31 of each year regarding loans from the special environmental revolving fund under 24 V.S.A. § 4771(a)(5)(B). The report shall include: the number of privately owned nonprofit community water systems that have applied for loans from the special environmental revolving fund under 24 V.S.A. § 4771(a)(5)(B); the number of loans issued under 24 V.S.A. § 4771(a)(5)(B); the total dollar amount of loans issued under 24 V.S.A. § 4771(a)(5)(B); and a general description of privately owned nonprofit community water systems receiving loans under 24 V.S.A. § 4771(a)(5)(B), including the age of the development in which each privately owned nonprofit community water system is located.

Sec. 3. SUNSET

Subdivision 4771(a)(5)(B) of Title 24 (loans for privately owned nonprofit community type systems) is repealed June 30, 2011.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

Which proposal of amendment was considered and concurred in.

Adjournment

At four o'clock and five minutes in the afternoon, on motion of **Rep. Hube of Londonderry**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.

FRIDAY, FEBRUARY 17, 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 Reverend Hal Harrison of Vermont Conference for the United Church of Christ, Springfield, 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:

Edwin A. Lyman of Hinesburg

Session 1951-1952

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

Bills Referred to Committee on Ways and Means

House bills of the following titles, appearing on the Calendar, affecting the revenue of the state, under the rule, were referred to the Committee on Ways and Means:

H. 857

House bill, entitled

An act relating to the property transfer tax, affordable housing , homeless prevention, and back rent programs;

H. 858

House bill, entitled

An act relating to the tax credit for affordable housing.

Bill Referred to Committee on Appropriations**H. 859**

House bill, entitled

An act relating to the energy security and reliability act;

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

Committee Bills Introduced

Committee bills of the following titles were severally introduced, read the first time and, under the rule, placed on the Calendar for notice tomorrow.

H. 860

By the committee on Natural Resources and Energy,

An act relating to Vermont's participation in the regional greenhouse gas initiative;

H. 861

By the committee on Health Care,

An act relating to health care affordability for Vermonters.

Joint Resolution Adopted in Concurrence**J.R.S. 56**

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 17, 2006, it be to meet again no later than Tuesday, February 21, 2006.

Was taken up read and adopted in concurrence.

Third Reading; Bill Passed**H. 373**

House bill, entitled

An act relating to stalking;

Was taken up, read the third time and passed.

Bill Amended; Third Reading Ordered**H. 615**

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

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

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. 1 V.S.A. § 317(c) is amended to read:

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

* * *

(4) records which, if made public pursuant to this subchapter, would cause the custodian to violate any statutory or common law privilege other than the common law deliberative process privilege as it applies to the executive branch agencies of the state of Vermont;

* * *

Sec. 2. 1 V.S.A. § 318(a)(2) is amended to read:

(2) if the custodian considers the record to be exempt from inspection under the provisions of this subchapter, ~~he the custodian~~ shall so certify in writing ~~stating his reasons for denial of access to the record~~. Such certification shall identify the records withheld and the basis for the denial. The certification shall be made within two business days, unless otherwise provided in subdivision (5) of this subsection. The custodian shall also notify the person of his right to appeal to the head of the agency any adverse determination;

Sec. 3. SECRETARY OF ADMINISTRATION REPORT

The secretary of administration shall submit an annual report to the house and senate committees on government operations on January 15. The report shall include a list of the written public records requests received for the prior calendar year for each state agency; the number of records delivered or withheld by each state agency; the number of records that could not be located by each state agency; and the agency time needed to respond to each request.

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 Government Operations? **Rep. Flory of Pittsford** moved to commit the bill to the committee on Judiciary.

Pending the question, Shall the House commit the bill to the committee on Judiciary? **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 commit the bill to the committee on Judiciary? was decided in the negative. Yeas, 48. Nays, 83.

Those who voted in the affirmative are:

Acinapura of Brandon	Houston of Ferrisburgh	McAllister of Highgate
Adams of Hartland	Howrigan of Fairfield	McFaun of Barre Town
Allaire of Rutland City	Hudson of Lyndon	Miller of Elmore
Bartlett of Dover	Johnson of Canaan	Morley of Barton
Bostic of St. Johnsbury	Kennedy of Chelsea	Morrissey of Bennington
Branagan of Georgia	Kilmartin of Newport City	Myers of Essex
Brennan of Colchester	Koch of Barre Town	Niquette of Colchester
Canfield of Fair Haven	Komline of Dorset	O'Donnell of Vernon
Clark of St. Johnsbury	Larocque of Barnet	Parent of St. Albans City
Clark of Vergennes	Larrabee of Danville	Peaslee of Guildhall
Dates of Shelburne	LaVoie of Swanton	Shaw of Derby
Donaghy of Poultney	Lawrence of Lyndon	Smith of New Haven
Dunsmore of Georgia	Livingston of Manchester	Valliere of Barre City
Endres of Milton	Louras of Rutland City	Winters of Swanton
Flory of Pittsford	Marcotte of Coventry	Winters of Williamstown
Helm of Castleton	Marron of Stowe	Wright of Burlington

Those who voted in the negative are:

Allard of St. Albans Town	Dostis of Waterbury	Jewett of Ripton
Ancel of Calais	Dowland of Holland	Johnson of South Hero
Aswad of Burlington	Edwards of Brattleboro	Keenan of St. Albans City
Atkins of Winooski	Emmons of Springfield	Keogh of Burlington
Barnard of Richmond	Evans of Essex	Klein of East Montpelier
Bohi of Hartford	Fallar of Timmouth	Kupersmith of S. Burlington
Botzow of Pownal	Fisher of Lincoln	Larson of Burlington
Brooks of Montpelier	Frank of Underhill	Leriche of Hardwick
Chen of Mendon	Gervais of Enosburg	Lippert of Hinesburg
Clarkson of Woodstock	Grad of Moretown	Lorber of Burlington
Condon of Colchester	Green of Berlin	Maier of Middlebury
Copeland-Hanzas of Bradford	Haas of Rochester	Malcolm of Pawlet
Coreoran of Bennington	Head of S. Burlington	Marek of Newfane
Cross of Winooski	Heath of Westford	Martin of Wolcott
Darrow of Dummerston	Hosford of Waitsfield	Masland of Thetford
Deen of Westminster	Howard of Rutland City	McCullough of Williston
Donahue of Northfield	Hunt of Essex	McLaughlin of Royalton
Donovan of Burlington	Hutchinson of Randolph	Milkey of Brattleboro
	Jerman of Essex	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
 Pillsbury of Brattleboro
 Potter of Clarendon
 Randall of Troy
 Reese of Pomfret

Rodgers of Glover
 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

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

Audette of S. Burlington
 Baker of West Rutland
 DePoy of Rutland City
 Errecart of Shelburne
 French of Randolph
 Hube of Londonderry

Kainen of Hartford
 Kiss of Burlington
 Kitzmiller of Montpelier
 Krawczyk of Bennington
 Martin of Springfield
 Pugh of S. Burlington

Severance of Colchester
 Sunderland of Rutland Town
 Turner of Milton
 Westman of Cambridge
 Young of Orwell
 Zuckerman of Burlington

Pending the recurring question, Shall the House amend the bill as recommended by the committee on Government Operations? **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 bill as recommended by the committee on Government Operations? was decided in the affirmative. Yeas, 82. Nays, 49.

Those who voted in the affirmative are:

Ancel of Calais
 Aswad of Burlington
 Atkins of Winooski
 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
 Cross of Winooski
 Darrow of Dummerston
 Dates of Shelburne
 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
 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
 Hudson of Lyndon
 Hunt of Essex
 Hutchinson of Randolph
 Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Keenan of St. Albans City
 Keogh of Burlington
 Kiss of Burlington
 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 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
 Partridge of Windham
 Peterson of Williston
 Pillsbury of Brattleboro
 Potter of Clarendon

Randall of Troy
 Reese of Pomfret
 Rodgers of Glover
 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

Those who voted in the negative are:

Acinapura of Brandon
 Adams of Hartland
 Allaire of Rutland City
 Allard of St. Albans Town
 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
 DePoy of Rutland City
 Donaghy of Poultney
 Dunsmore of Georgia
 Endres of Milton
 Flory of Pittsford

Helm of Castleton
 Houston of Ferrisburgh
 Howrigan of Fairfield
 Johnson of Canaan
 Kennedy of Chelsea
 Kilmartin of Newport City
 Koch of Barre Town
 Komline of Dorset
 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

Miller of Elmore
 Morley of Barton
 Morrissey of Bennington
 Myers of Essex
 Niquette of Colchester
 O'Donnell of Vernon
 Otterman of Topsham
 Parent of St. Albans City
 Peaslee of Guildhall
 Smith of New Haven
 Valliere of Barre City
 Westman of Cambridge
 Winters of Swanton
 Winters of Williamstown
 Wright of Burlington

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

Audette of S. Burlington
 Baker of West Rutland
 Errecart of Shelburne
 French of Randolph
 Hube of Londonderry
 Kainen of Hartford

Kitzmiller of Montpelier
 Krawczyk of Bennington
 Martin of Springfield
 Pellett of Chester
 Perry of Richford
 Pugh of S. Burlington

Severance of Colchester
 Shaw of Derby
 Sunderland of Rutland Town
 Turner of Milton
 Young of Orwell
 Zuckerman of Burlington

Rep. Flory of Pittsford explained her vote as follows:

"Madam Speaker:

Until we have fully explored and have answers to the potential serious unintended consequences this may have, and until we are willing to hold ourselves to the same standard we are attempting to impose on the Executive Branch, I cannot support this."

Thereupon, third reading was ordered.

Joint Resolution Adopted

J.R.H. 60

Joint resolution, entitled

Joint resolution providing for a Joint Assembly for the election of Adjutant and Inspector General;

Was taken up and adopted on the part of the House.

Bill Amended; Third Reading Ordered

H. 715

Rep. Haas of Rochester, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to the eradication of cervical cancer;

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. CERVICAL CANCER ERADICATION TASK FORCE

(a) No later than September 1, 2006, the commissioner shall establish a task force to study eradication of cervical cancer in Vermont. The task force shall include:

- (1) the commissioner or a designee;
 - (2) the minority health director;
 - (3) the director of the office of Vermont health access or a designee;
 - (4) the commissioner of banking, insurance, securities, and health care administration or a designee;
 - (5) the health care ombudsman or a designee;
 - (6) a representative of the Vermont chapter of the American Cancer Society;
 - (7) the executive director of the Vermont commission on women or a designee;
 - (8) a representative of ALANA Community Organization;
 - (9) a representative of Planned Parenthood of Northern New England;
 - (10) a representative of the Vermont medical society;
 - (11) one member of the senate committee on health and welfare appointed by the committee on committees and one member of the house committee on human services appointed by the speaker of the house; and
 - (12) up to three additional members appointed by the commissioner.
- (b) The task force shall consider:

(1) public awareness of the causes of cervical cancer, personal risk factors, the value of prevention and early detection, options for testing, treatment costs and health plan reimbursement, and new technologies;

(2) health care providers' awareness about screening and prevention options, recommended protocols and schedules for screening and vaccinations, and new technologies;

(3) recommended testing protocols and schedules for cervical cancer screenings and vaccinations for the human papillomavirus;

(4) issues of cost and insurance and health plan coverage;

(5) potential sources of funding for education, screening, and treatment programs, including governmental and private funding.

(c) The task force shall make findings and recommendations about how to eradicate cervical cancer in Vermont. It shall report those findings and recommendations to the commissioner no later than January 15, 2007.

(d) The commissioner shall, on or before February 1, 2007, report to the general assembly, the house committee on human services, and the senate committee on health and welfare the findings and recommendations of the task force, what recommendations or actions if any the department can implement, and what recommendations it makes for legislative action.

(e) For attendance at meetings which are held when the general assembly is not in session, the legislative members of the task force shall be entitled to the same per diem compensation and reimbursement for necessary expenses as those provided to members of standing committees under 2 V.S.A. § 406.

Rep. Larson of Burlington, for the committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Human Services.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Human Services and Appropriations agreed to and third reading ordered.

**Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed**

H. 404

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

An act relating to access to mental health and substance abuse providers;

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

Sec. 1. 8 V.S.A. § 4089b(b) is amended to read:

(b) A health insurance plan shall provide coverage for treatment of a mental health condition and shall:

(1) not establish any rate, term, or condition that places a greater financial burden on an insured for access to treatment for a mental health condition than for access to treatment for a physical health condition;

(2) not exclude from its network or list of authorized providers any licensed mental health or substance abuse provider located within the geographic coverage area of the health benefit plan if the provider is willing to meet the terms and conditions for participation established by the health insurer;

(3) ~~Any~~ Make any deductible or out-of-pocket limits required under a health insurance plan ~~shall be~~ comprehensive for coverage of both mental health and physical health conditions.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Fisher of Lincoln** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Fisher of Lincoln

Rep. Donahue of Northfield

Rep. Haas of Rochester

**Senate Proposal of Amendment Concurred in;
Rules Suspended; Action Ordered Messaged to Senate Forthwith
and Bill Delivered to the Governor Forthwith**

H. 608

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

An act relating to renewal of a junior operator's license past age 18;

In Sec. 1, 23 V.S.A. § 607(c), after the period, by adding the following:
Notwithstanding the provisions of any other law, a renewed junior operator's license shall be issued without a photograph or imaged likeness. Any person to whom a renewed junior operator's license has been issued shall, while operating a motor vehicle, carry upon his or her person the last license issued to him or her as well as the renewed license certificate.

Which proposal of amendment was considered and concurred in.

On motion of **Rep. Komline of Dorset**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

House Resolution Adopted

H.R. 13

House resolution, entitled

House resolution opposing implementation of the proposed rules under the Western Hemisphere Travel Initiative;

Was taken up and adopted on the part of the House.

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. 235

House concurrent resolution congratulating the Mount Abraham Union High School 2005 Division II championship field hockey team.

H.C.R. 236

House concurrent resolution honoring Dorick (Toby) Tallman, Sr. on his retirement from the United States Postal Service

H.C.R. 237

House concurrent resolution congratulating Andrew Newell of Shaftsbury on his being named to the 2006 United States Winter Olympic Team

H.C.R. 238

House concurrent resolution honoring former Representative Marion Spencer on her 90th birthday

H.C.R. 239

House concurrent resolution honoring Alan Woodbury for his outstanding proprietorship of Woodbury Florists and Gifts in Springfield

H.C.R. 240

House concurrent resolution honoring Vermont's citizen volunteers and designating April 3-8, 2006 as Volunteering Awareness Week

H.C.R. 241

House concurrent resolution honoring Circus Smirkus

[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]

Adjournment

At twelve o'clock and five minutes in the afternoon, on motion of **Rep. Flory of Pittsford**, the House adjourned until Monday, February 20, 2006, at one o'clock in the afternoon.

MONDAY, FEBRUARY 20, 2006

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

Adjournment

At one o'clock and five minutes in the afternoon, on motion of **Rep. Brooks of Montpelier**, the House adjourned until tomorrow at ten o'clock in the forenoon.

TUESDAY, FEBRUARY 21, 2006

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

Devotional Exercises

Devotional exercises were conducted by Philip Baruth, from the University of Vermont, Burlington, Vt.

Pledge of Allegiance

Page Olivia Dunsmore of Georgia led the House in the Pledge of Allegiance.

Message from the Senate No. 27

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. 706. An act relating to miscellaneous technical tax amendments.

And has passed the same in concurrence.

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

J.R.H. 60. Joint resolution providing for a joint assembly for the election of an adjutant and inspector general.

And has adopted the same in concurrence.

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

H.C.R. 235. House concurrent resolution congratulating the Mount Abraham Union High School 2005 Division II championship field hockey team.

H.C.R. 236. House concurrent resolution honoring Dorick (Toby) Tallman, Sr. on his retirement from the United States Postal Service.

H.C.R. 237. House concurrent resolution congratulating Andrew Newell of Shaftsbury on his being named to the 2006 United States Winter Olympic Team.

H.C.R. 238. House concurrent resolution honoring former Representative Marion Spencer on her 90th birthday.

H.C.R. 239. House concurrent resolution honoring Alan Woodbury for his outstanding proprietorship of Woodbury Florists and Gifts in Springfield.

H.C.R. 240. House concurrent resolution honoring Vermont's citizen volunteers and designating April 3-8, 2006 as Volunteering Awareness Week.

H.C.R. 241. House concurrent resolution honoring Circus Smirkus.

Message from the Senate No. 28

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. 258. An act relating to credit counselors.

S. 307. An act relating to a technical correction of a statute.

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

Bill Referred to Committee on Appropriations**H. 456**

House bill, entitled

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

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

Bill Referred to Committee on Ways and Means**H. 861**

House bill, entitled

An act relating to health care affordability for Vermonters;

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Committee Bills Introduced

Committee bills of the following titles were read the first time and, and under the rule, placed on the Calendar for notice tomorrow.

H. 862

By the committee on Education,

An act relating to home study programs;

H. 863

By the committee on Education,

An act relating to aid for students who have earned the right to participate in a national-level academic program or competition.

Joint Resolution Referred to Committee**J.R.H. 61**

Reps. Miller of Elmore, Acinapura of Brandon, Atkins of Winooski, Audette of S. Burlington, Branagan of Georgia, Brennan of Colchester, Clark of St. Johnsbury, Clark of Vergennes, Condon of Colchester, Dowland of Holland, Frank of Underhill, Howrigan of Fairfield, Larrabee of Danville, Morley of Barton, Valliere of Barre City and Winters of Swanton offered a joint resolution, entitled

Joint resolution urging the Vermont Housing and Conservation Board to direct 90 percent of its annual allocation of grants to affordable housing projects for fiscal year 2007;

Whereas, the Vermont housing and conservation trust fund (the fund) was established in Act No. 88 of 1987 to create affordable housing and conserve and protect Vermont's agricultural land, historic properties, and important natural and recreational areas, and

Whereas, aside from any appropriations that the General Assembly may make to the fund or gifts it may accept from other public or private sources, the fund relies primarily on the 50 percent of the property transfer tax revenue that by statute is transferred into the fund, and

Whereas, the Vermont housing and conservation board (the board) was established in the same legislation as a public instrumentality to administer the fund and make grants, and

Whereas, a fundamental reason for the creation of affordable housing and for the preservation of Vermont's natural landscape is to preserve the quality of life in this state for future generations to enjoy, and

Whereas, the statutory directives in section 322 of Title 10, enumerating the criteria the board shall use for determining the allocation of grants from the fund, refer to "the need to

maintain balance between the dual goals in allocating resources," and

Whereas, while the law does indeed call for a balance between the act's two complementary goals, it also emphasizes the need to prevent the loss of subsidized housing units, and

Whereas, in recent years, the state has made major strides in the conservation of natural areas and recreational properties, and

Whereas, while the important effort to preserve Vermont's natural and historic areas must continue, the current shortage of affordable housing is approaching the crisis level and necessitates a major revision of the board's grant award programs in order that 90 percent of the fiscal year 2007 grants are awarded to recipients who are creating or rehabilitating affordable housing units across the state, and

Whereas, this new emphasis on funding affordable housing projects is needed to assure that lower and moderate income Vermonters have housing opportunities that enable them to remain in this state and enjoy the quality of life that the recently preserved natural areas are intended to provide, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the Vermont Housing and Conservation Board to allocate at least 90 percent of its available grant funding during fiscal year 2007 to affordable housing projects in order to help avert a looming affordable housing crisis in the state of Vermont, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Vermont Housing and Conservation Board Chair Ken Perine.

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

Committees Excused

Speaker Symington announced that unless there is an objection the Committees on Appropriations, Ways and Means, Transportation and Institution would be excused to meet in their committee rooms.

Rep. Flory of Pittsford raised an objection and pursuant to House Rule 10, the Speaker put the question to a vote of the House.

Pending the question, Shall Appropriations, Ways and Means, Transportation and Institutions be excused to meet in their committee rooms?

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 Appropriations, Ways and Means, Transportation and Institutions be excused to meet in their committee rooms? was decided in the affirmative. Yeas, 96. Nays, 41.

Those who voted in the affirmative are:

Adams of Hartland
Ancel of Calais
Aswad of Burlington
Atkins of Winooski
Barnard of Richmond
Bohi of Hartford
Bostic of St. Johnsbury
Botzow of Pownal
Brennan of Colchester
Brooks of Montpelier
Chen of Mendon
Clark of St. Johnsbury
Clarkson of Woodstock
Condon of Colchester
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Cross of Winooski

Deen of Westminster
Donovan of Burlington
Dostis 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
Green of Berlin
Haas of Rochester
Head of S. Burlington
Heath of Westford
Helm of Castleton
Hosford of Waitsfield

Howard of Rutland City
Howrigan of Fairfield
Hutchinson of Randolph
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Keogh of Burlington
Kiss of Burlington
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

Marron of Stowe
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston
 McFaun of Barre Town
 McLaughlin of Royalton
 Milkey of Brattleboro
 Miller of Shaftsbury
 Miller of Elmore
 Minter of Waterbury
 Molloy of Arlington
 Monti of Barre City
 Mook of Bennington
 Myers of Essex
 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
 Pillsbury of Brattleboro
 Potter of Clarendon
 Pugh of S. Burlington
 Randall of Troy
 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
 Westman of Cambridge
 Winters of Swanton
 Winters of Williamstown
 Wright of Burlington
 Zuckerman of Burlington

Those who voted in the negative are:

Acinapura of Brandon
 Allaire of Rutland City
 Baker of West Rutland
 Bartlett of Dover
 Branagan of Georgia
 Canfield of Fair Haven
 Clark of Vergennes
 Dates of Shelburne
 DePoy of Rutland City
 Donaghy of Poultney
 Donahue of Northfield
 Dowland of Holland
 Dunsmore of Georgia
 Endres of Milton

Errecart of Shelburne
 Flory of Pittsford
 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
 Lawrence of Lyndon

Livingston of Manchester
 Louras of Rutland City
 Marcotte of Coventry
 McAllister of Highgate
 Morley of Barton
 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
 Valliere of Barre City

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

Allard of St. Albans Town
 Houston of Ferrisburgh
 Hunt of Essex
 Kainen of Hartford

Audette of S. Burlington
 Kitzmiller of Montpelier
 Martin of Springfield
 Morrissey of Bennington

Darrow of Dummerston
 Reese of Pomfret
 Turner of Milton
 Young of Orwell

Third Reading; Bill Passed

H. 715

House bill, entitled

An act relating to eradication of cervical cancer;

Was taken up, read the third time and passed.

Bill Amended, Read Third Time and Passed**H. 615**

House bill, entitled

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

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

First: By striking Sec. 1 in its entirety and inserting in lieu thereof the following:

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

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

* * *

(4) records which, if made public pursuant to this subchapter, would cause the custodian to violate any statutory or common law privilege other than the common law deliberative process privilege;

* * *

~~(17) records of interdepartmental and intradepartmental communications in any county, city, town, village, town school district, incorporated school district, union school district, consolidated water district, fire district, or any other political subdivision of the state to the extent that they cover other than primarily factual materials and are preliminary to any determination of policy or action or precede the presentation of the budget at a meeting held in accordance with section 312 of this title;~~

* * *

Second: By adding a Sec. 4 to read as follows:

Sec. 4. 2 V.S.A. § 404(c) is amended to read:

~~(c) All requests for legal assistance, information and advice and all information received in connection with research or drafting shall be confidential unless the party requesting or giving the information designates in the request that it is not confidential. Transcripts and minutes of committee meetings, including written testimony submitted to the committee, bills or amendments which have been released or approved for printing or introduction and material appearing in the journals or calendars of either house are official documents and shall not be confidential under this subsection.~~

Pending the question, Shall the House amend the bill as recommended by Rep. Flory of Pittsford? **Rep. Bohi of Hartford** moved to substitute an amendment for that offered by Rep. Flory of Pittsford, as follows:

By striking Sec. 1 in its entirety and inserting in lieu thereof the following:

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

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

* * *

(4) records which, if made public pursuant to this subchapter, would cause the custodian to violate any statutory or common law privilege other than the common law deliberative process privilege as it applies to the general assembly and the executive branch agencies of the state of Vermont;

Which was agreed to.

Thereupon, the amendment offered by Rep. Bohi of Hartford as substituted was agreed to and the bill was read the third time and passed.

**Bill Read Second Time; Amended;
Consideration Interrupted by Recess**

H. 856

Rep. Lippert of Hinesburg spoke for the committee on Judiciary.

Rep. Perry of Richford, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to enhancing sentences for and preventing risks posed by dangerous sexual offenders;

Reported in favor of its passage when amended as follows:

First: In Sec. 3, on page 3, by striking lines 3 through 5, and by inserting in lieu thereof the following:

(c) The General Assembly encourages and authorizes the acceptance of contributions on a matching or any other basis from non-state sources for the purposes of this section, but the amount appropriated by this section is not conditioned on the receipt of such contributions.

Second: In Sec. 5, on page 5, by striking lines 4 through 11, and by inserting in lieu thereof the following:

(a) Pursuant to the authority established under section 1938 of this title, and in collaboration with law enforcement agencies, investigative agencies, victims

advocates and social service providers, the department of state's attorneys shall coordinate efforts to provide access in each county of the state to a local or regional special investigative unit to investigate sex crimes, child abuse, domestic violence, or crimes against those with physical or developmental disabilities. The department of state's attorneys shall proceed with all deliberate speed in order to ensure that access to special investigative units is available to all Vermonters as soon as reasonably possible, but not later than July 1, 2009.

Third: On page 6, by deleting lines 14 though 21 and on page 7, by deleting lines 1 though 3, and by inserting in lieu thereof the following:

Sec. 6. APPROPRIATIONS

(a) The amount of \$450,000 is appropriated in fiscal year 2007 from the general fund to the department of state's attorneys to fund specialized investigative unit grants awarded by the specialized investigative unit grants board under section 1940 of Title 24.

(b) Any amounts appropriated by this section not expended in fiscal year 2007 shall not revert but shall be carried forward for expenditure for specialized investigative unit grants in fiscal year 2008.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the report of the committee on Appropriations was agreed to.

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

First: in Sec. 10, § 2602 of 13 V.S.A., by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) A person who violates subsection (a) of this section shall be:

(1) For a first offense, imprisoned not less than one year and not more than 15 years ~~or, and, in addition may be~~ fined not more than \$5,000.00, ~~or both.~~

(2) For a second or subsequent offense, imprisoned not less than ~~two~~ three years and ~~not more than 30 years or a maximum term of life, and, in addition, may be~~ fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

(3) ~~For a third offense, imprisoned not less than three years and up to and including life or fined not more than \$25,000.00, or both.~~

Second: in Sec. 12, § 3252 of 13 V.S.A., by striking subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f)(1) A person who violates subsection (a), (b), (d), or (e) of this section shall be imprisoned not less than three years and for a maximum term of life, and, in addition, may be fined not more than \$25,000.00.

(2) A person who violates subsection (c) of this section shall be imprisoned for not more than 20 years, and, in addition, may be fined not more than \$10,000.00.

Third: in Sec. 12, § 3253 of 13 V.S.A., by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) A person who commits the crime of aggravated sexual assault shall be imprisoned ~~up to and including~~ not less than five years and a maximum term of life or, and, in addition, may be fined not more than \$50,000.00, ~~or both~~. No person who receives a minimum sentence under this section shall be eligible for early release or furlough until the expiration of the minimum sentence imposed.

Which was agreed to.

Recess

At twelve o'clock and twenty-five minutes in the afternoon, the Speaker declared a recess until two o'clock in the afternoon.

Afternoon

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

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 856

Consideration resumed on House bill, entitled

An act relating to enhancing sentences for and preventing risks posed by dangerous sexual offenders;

Pending the question, Shall the bill be read the third time? **Reps. DePoy of Rutland City and Kainen of Hartford** moved to amend the bill as follows:

By inserting the following new sections:

Sec. 21. 18 V.S.A. chapter 201 is added to read:

CHAPTER 201. CIVIL COMMITMENT OF

SEXUALLY VIOLENT PREDATORSSubchapter 1. In-Patient Civil Commitment§ 8601. LEGISLATIVE FINDINGS AND INTENT

(a) The general assembly finds that there exists a small but extremely dangerous group of sexually violent predators who have a mental abnormality or personality disorder and who are likely to engage in repeated acts of sexual violence if not treated for their mental abnormality or personality disorder. Because the existing civil commitment procedures under Vermont law are inadequate to address the special needs of sexually violent predators and the risks they present to society, the general assembly determines that a separate involuntary civil commitment process for the potentially long-term control, care, and treatment of sexually violent predators is necessary. The general assembly also finds that because of the nature of the mental abnormalities or personality disorders from which sexually violent predators suffer and the dangers they present, it is necessary to house involuntarily committed sexually violent predators in an environment separate from persons otherwise involuntarily committed under Vermont law.

(b) It is the intent of the general assembly that the civil commitment proceedings in this act be used infrequently, and only in cases in which the state believes that a sex offender's mental condition makes the person a real and substantial threat to the community. Civil commitment should not be a substitute for proper investigation, prosecution, sentencing, incarceration, and in-prison treatment for sex offenders. Civil commitment is not intended to be punitive, but rather an effort to provide appropriate mental health treatment to sex offenders who suffer from a mental abnormality or personality disorder which makes such persons likely to engage in repeated acts of sexual violence. The general assembly hopes that such treatment will prove successful for offenders, and that many will be able to return safely to the community.

§ 8602. DEFINITIONS

As used in this chapter:

(1) "Agency with jurisdiction" means that agency which releases upon lawful order or authority a person serving a sentence or term of confinement and includes the department of corrections, the department of health, and the Vermont parole board.

(2) "Attorney general" means the attorney general of the state of Vermont.

(3) "Case manager" means a person employed by or under contract with the department to perform duties related to outpatient treatment and supervision of a person committed under this chapter.

(4) "Commissioner" means the commissioner of the department of health.

(5) "Department" means the department of health.

(6) "Likely to engage in repeated acts of sexual violence" means the person's propensity to commit acts of sexual violence is of such a degree as to pose a menace to the health and safety of others.

(7) "Mental abnormality" means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes the person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(8) "Person" means an individual who is a potential or actual subject of proceedings under this chapter.

(9) "Personality disorder" means a condition where a person exhibits personality traits which are inflexible and maladaptive and cause either significant functional impairment or subjective distress that affects the emotional or volitional capacity of a person to a degree that makes it difficult or impossible for the person to control his or her behavior and in a manner that predisposes the person to the commission of sexually violent offenses.

(10) "Sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(11) "Sexually violent offense" means aggravated sexual assault as defined in 13 V.S.A. § 3253, sexual assault as defined in 13 V.S.A. § 3252, or lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602, or a comparable offense in another jurisdiction of the United States.

(12) "Sexually violent predator" means a person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in repeated acts of sexual violence.

(13) "Tracking service" means an electronic monitoring service, global positioning satellite service, or other appropriate technological service that is designed to track a person's location.

(14) "Transitional release" means any halfway house, work release, or other placement designed to assist the person's adjustment and reintegration into the community once released from commitment.

(15) "Treatment staff" means the persons, agencies, or firms employed by or contracted with the commissioner to provide treatment, supervision, or other services to sexually violent predators.

§ 8603. NOTICE OF RELEASE OF SEXUALLY VIOLENT PREDATOR

(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in this chapter, the agency with jurisdiction shall give written notice of such to the attorney general and the multidisciplinary team established in this section 90 days prior to:

(1) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense, except that in the case of a person who is returned to prison for no more than 90 days as a result of revocation of post-release supervision, written notice shall be given as soon as practicable following the person's readmission to prison.

(2) The release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to 13 V.S.A. § 4817.

(3) The release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to 13 V.S.A. § 4819.

(b) The commissioner of the department of corrections shall establish a multidisciplinary team for the purpose of assessing whether a person meets the criteria for a sexually violent predator. The team may include individuals from other state agencies. The team shall review the available records of a person referred to such team pursuant to subsection (a) of this section within 30 days of receiving notice and expeditiously notify the attorney general of its assessment.

(c) The agency with jurisdiction shall inform the attorney general and the multidisciplinary team of the following:

(1) The person's name, identifying factors, anticipated future residence, and offense history.

(2) Documentation of institutional adjustment and any treatment received.

(d) The attorney general shall appoint a committee to review the records of each person referred to the attorney general pursuant to subsection (a) of this

section. The attorney general's review committee shall assist the attorney general in the determination of whether the person meets the definition of a sexually violent predator. The assessment of the multidisciplinary team shall be made available to the attorney general and the review committee.

(e) The agency with jurisdiction, its employees, officials, members of the multidisciplinary team, members of the attorney general's review committee, and individuals contracting, appointed, or volunteering to perform services under this chapter shall be immune from liability for any good-faith conduct under this section.

§ 8604. PETITION

(a) When the attorney general's review committee determines that a person meets the definition of a sexually violent predator, the attorney general may file a petition in the district court in the county where the person was convicted of or charged with a sexually violent offense alleging that the person is a sexually violent predator and stating sufficient facts to support such allegation.

(b) The district court shall have jurisdiction of actions involving the civil commitment of sex offenders under this chapter, unless otherwise noted.

§ 8605. PROBABLE CAUSE HEARING

(a) Upon filing of a petition under section 8604 of this title, the court shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such determination is made, the court shall direct that person be taken into custody.

(b) Within 72 hours after a person is taken into custody pursuant to subsection (a) of this section, such person shall be provided with notice of and an opportunity to appear in person at a hearing to contest probable cause as to whether the detained person is a sexually violent predator. At this hearing, the court shall:

(1) verify the detained person's identity; and

(2) determine whether probable cause exists to believe that the person is a sexually violent predator.

(c) The detained person shall have the following rights:

(1) to be represented by counsel;

(2) to present evidence on his or her behalf;

(3) to cross-examine witnesses who testify against such person; and

(4) to view and copy all petitions and reports in the court file.

(d) The attorney general may rely upon the petition and supplement the petition with additional documentary evidence or live testimony.

(e) If the probable cause determination is made, the court shall direct that the person be transferred to an appropriate secure facility for an evaluation as to whether the person is a sexually violent predator. The evaluation shall be conducted by an individual deemed to be professionally qualified to conduct such an examination.

§ 8606. TRIAL

(a) Within 60 days after the completion of a probable cause hearing held pursuant to section 8605 of this title, the court shall conduct a trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause or by the court on its own motion in the interest of justice, and when the respondent will not be substantially prejudiced.

(b) The person shall have the right to demand that the trial be before a jury. If no demand is made, the trial shall be before the court.

§ 8607. DETERMINATION

(a) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. A jury determination that the person is a sexually violent predator shall require a unanimous verdict. If the court or jury is not convinced beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct the person's release.

(b) If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the commissioner for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person is safe to be at large. The person shall have the right to appeal the commitment decision to the supreme court.

(c)(1) Except as provided in subsection (d) of this section, the court shall determine whether a person committed for control, care, and treatment to the department of health pursuant to this subchapter is:

(A) committed to the custody of the commissioner for inpatient treatment and supervision pursuant to this subchapter at a facility designated by the commissioner; or

(B) committed to the custody of the commissioner for outpatient treatment and supervision pursuant to subchapter 2 of this chapter.

(2) In making its placement determination under subdivision (1) of this subsection, the court shall place the offender in the commitment setting which best promotes public safety.

(3) At not time shall more than ten persons committed pursuant to this chapter be receiving inpatient civil commitment treatment. The commissioner shall ensure that the maximum number of ten inpatient committees established by this subdivision is not exceeded except by the express and specific approval of the general assembly.

(d)(1) If a person is committed to the custody of the commissioner pursuant to subsection (b) of this section at a time when ten persons are already receiving inpatient civil commitment treatment, the person's custody shall be subject to disposition under this subsection.

(2) If this subsection applies, the commissioner shall assess the likelihood of reoffense of the person subject to disposition under this subsection and the likelihood of reoffense of the ten persons already receiving inpatient civil commitment treatment. The person with the least likelihood of reoffense shall be committed to the custody of the commissioner for outpatient treatment and supervision pursuant to subchapter 2 of this chapter.

(3) If the person subject to disposition under this subsection is not determined by the commissioner to be the person with the least likelihood of reoffense, the person shall be committed to the control, care and treatment of the commissioner for inpatient civil commitment treatment.

(e) The department of health is authorized to enter into an interagency agreement with the department of corrections for the confinement of persons committed pursuant to this subchapter. Persons who are in the confinement of the commissioner of corrections pursuant to an interagency agreement shall be housed and managed separately from offenders in the custody of the commissioner of corrections and except for occasional instances of supervised incidental contact, shall be segregated from such offenders.

(f) If any person while committed to the custody of the commissioner pursuant to this subchapter is taken into custody by any law enforcement officer pursuant to any parole revocation proceeding or any arrest or conviction for a criminal offense of any nature, upon the person's release from the custody of law enforcement, the person shall be returned to the custody of the commissioner for further treatment pursuant to this chapter. During any such period of time a person is not in the actual custody or supervision of the commissioner, the commissioner shall be excused from the provisions of section 8609 of this title, with regard to providing that person an annual examination, annual notice, and annual report to the court, except that the

commissioner shall give notice to the court as soon as reasonably possible after the taking of the person into custody that the person is no longer in treatment and notice to the court when the person is returned to the custody of the commissioner for further treatment.

(g) Upon a mistrial, the court shall direct that the person be held at an appropriate secure facility until another trial is conducted. Any subsequent trial following a mistrial shall be held within 90 days of the previous trial, unless such subsequent trial is continued as provided in this section.

(h)(1) If the person charged with a sexually violent offense has been found incompetent to stand trial and is about to be released from state custody, and such person's commitment is sought pursuant to this chapter, the court shall first hear evidence and determine whether the person did commit the act or acts charged. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply.

(2) After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on such person's own behalf, and the extent to which the evidence could be reconstructed without the assistance of the person and the strength of the prosecution's case.

(3) If after the conclusion of the hearing on this issue, the court finds beyond a reasonable doubt that the person did commit the act or acts charged, the court shall enter a final order appealable by the person on that issue and may proceed to consider whether the person should be committed pursuant to this section.

§ 8608. ANNUAL EXAMINATIONS; TRANSITIONAL RELEASE

(a) Each person committed under this chapter shall have an examination of the person's mental condition once every year. The commissioner shall provide the committed person with an annual written notice of the person's right to petition the court for release over the commissioner's objection. The notice shall contain a waiver of rights. The commissioner shall also forward the annual report, as well as the annual notice and waiver form, to the court that committed the person. The person may retain or if the person is indigent and so requests the court may appoint a qualified professional individual to examine such person, and such expert or professional individual shall have access to all records concerning the person. The court that committed the

person shall then conduct an annual review of the status of the committed person's mental condition. The committed person shall have a right to have an attorney represent the person at the hearing, but the person is not entitled to be present at the hearing.

(b) Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court at this hearing for discharge.

(c) If the court at the hearing determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be placed in transitional release, the court shall set a hearing on the issue. At the hearing, the committed person shall be entitled to be present and entitled to the benefit of all constitutional protections that were afforded the person at the initial commitment proceeding. The attorney general shall represent the state and have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts evaluate the person on the person's behalf and the court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains such that the person is not safe to be placed in transitional release and if transitionally released is likely to engage in acts of sexual violence. The person shall the right to have the matter tried before a jury.

(d) If, after the hearing, the court or jury is convinced beyond a reasonable doubt that the person is not appropriate for transitional release, the court shall order that the person remain in secure commitment. Otherwise, the court shall order that the person be placed in transitional release.

(e) If the court determines that the person should be placed in transitional release, the commissioner shall transfer the person to the transitional release program. The commissioner may contract for services to be provided in the transitional release program. During any period the person is in transitional release, that person shall comply with any rules the commissioner may establish for this program and every directive of the treatment staff of the transitional release program.

(f) At any time during which the person is in the transitional release program and the treatment staff determines that the person has violated any rule, directive, or condition associated with the transitional release program, the treatment staff may remove the person from the transitional release program and return the person to the secure commitment facility, or may request the court to issue an emergency ex parte order directing a law

enforcement officer to take the person into custody and return the person to the secure commitment facility. Any such request may be made verbally or by telephone, but shall be followed in written or facsimile form delivered to the court by not later than 5:00 p.m. of the first day the court is open for the transaction of business after the verbal or telephonic request was made.

(g) Upon the person having been returned to the secure commitment facility from the transitional release program, notice thereof shall be given by the commissioner to the court. The court shall set the matter for a hearing within two days of receipt of notice of the person having been returned to the secure commitment facility and cause notice thereof to be given to the attorney general, the person, and the commissioner. The attorney general shall have the burden of proof to show probable cause that the person violated conditions of transitional release. The hearing shall be to the court. At the conclusion of the hearing, the court shall issue an order returning the person to the secure commitment facility or to the transitional release program and may order such other further conditions with which the person must comply if the person is returned to the transitional release program.

§ 8609. PETITION FOR TRANSITIONAL RELEASE; HEARING

(a) If the commissioner determines that the person's mental abnormality or personality disorder has so changed that the person is not likely to engage in repeated acts of sexual violence if placed in transitional release, the commissioner shall authorize the person to petition the court for transitional release. The petition shall be served upon the court and the attorney general. The court, upon receipt of the petition for transitional release, shall order a hearing within 30 days. The attorney general shall represent the state and shall have the right to have the petitioner examined by an expert or professional individual of such attorney's choice. The hearing shall be before the court. The burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if placed in transitional release is likely to engage in repeated acts of sexual violence.

(b) If, after the hearing, the court is convinced beyond a reasonable doubt that the person is not appropriate for transitional release, the court shall order that the person remain in secure commitment. Otherwise, the court shall order that the person be placed in transitional release.

(c) The provisions of subsections 8608(e), (f), and (g) of this title shall apply to a transitional release pursuant to this section.

(d) Nothing in this act shall prohibit a person from filing a petition for transitional release, conditional release, or final discharge pursuant to this chapter. However, if a person has previously filed a petition for transitional release, conditional release, or final discharge without the commissioner's approval, and if the court determined either upon review of the petition or following a hearing that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large, the court shall deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from committed persons without the commissioner's approval, the court shall endeavor whenever possible to review the petition and determine whether the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

§ 8610. CONDITIONAL RELEASE HEARING

(a) During any period the person is in transitional release, the person at least annually, and at any other time deemed appropriate by the treatment staff, shall be examined by the treatment staff to determine if the person's mental abnormality or personality disorder has so changed as to warrant such person being considered for conditional release. The treatment staff shall forward a report of its examination to the court for review. If the court determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be placed in conditional release, the court shall set a hearing on the issue. The attorney general shall have the burden of proof to show beyond a reasonable doubt that the person's mental abnormality or personality disorder remains such that the person is not safe to be at large and that if placed on conditional release is likely to engage in repeated acts of sexual violence. The person shall have the same rights as enumerated in section 8606 of this title, except the right to a jury trial. Subsequent to either a court review or a hearing, the court shall issue an appropriate order with findings of fact. The order of the court shall be provided to the attorney general, the person, and the commissioner.

(b) If, after the hearing, the court is convinced beyond a reasonable doubt that the person is not appropriate for conditional release, the court shall order that the person remain either in secure commitment or in transitional release. Otherwise, the court shall order that the person be placed on conditional release.

§ 8611. CONDITIONAL RELEASE PLAN OF TREATMENT

(a) If the court determines that the person should be placed on conditional release, the court, based upon the recommendation of the treatment staff, shall establish a plan of treatment which the person shall be ordered to follow. This plan of treatment may include provisions such as:

- (1) where the person shall reside and with whom;
- (2) requirements for taking prescribed medications;
- (3) attending individual and group counseling;
- (4) abstinence from illegal drugs and alcohol;
- (5) maintaining employment;
- (6) having no contact with children; and

(7) not frequenting facilities, locations, or events in which children are likely to be present and not engaging in activities in which contact with children is likely.

(b) Upon a showing by the person that the person accepts the plan of treatment and is prepared to follow it, the court shall release the person from the transitional release program.

§ 8612. FINAL RELEASE HEARING

(a) After a minimum of five years have passed in which the person has been free of violations of conditions of such person's treatment plan, the treatment staff or other professionals directed by the court may examine such person to determine if the person's mental abnormality or personality disorder has changed so as to warrant such person being considered for final discharge. The individual preparing the report shall forward the report to the court for review. If the court determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be entitled to final discharge, the court shall set a formal hearing on the issue. The attorney general shall have the burden of proof to show beyond a reasonable doubt that the person's mental abnormality or personality disorder remains such that the person is not appropriate for final discharge. The person shall have the same rights as enumerated in section 8606 of this title, except the right to a jury trial. Subsequent to either a court review or a hearing, the court shall issue an appropriate order with findings of fact. The order of the court shall be provided to the attorney general, the person, and the commissioner.