

expert or professional individual to perform an examination or participate in the trial on the person's behalf. The court shall approve payment for such services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the person, and compensation received in the same case or for the same services from any other source.

§ 8653. CONFIDENTIAL OR PRIVILEGED INFORMATION AND RECORDS

Relevant information and records which are otherwise confidential or privileged shall be released to the agency with jurisdiction or the attorney general for the purpose of meeting the notice requirement provided in section 8603 of this title and determining whether a person is or continues to be a sexually violent predator. Relevant information and records that are otherwise confidential or privileged may also be reviewed by the oversight commission on civil commitments, upon request by the commission, provided that the request is authorized by section 8660 of this title. The commission shall not have access to work-product or other confidential or privileged matters prepared by the attorney general.

§ 8654. COURT RECORDS

Any psychological reports, drug and alcohol reports, treatment records, reports of the diagnostic center, medical records, or victim impact statements which have been submitted to the court or admitted into evidence under this chapter shall be part of the record but shall be sealed and opened only on order of the court or mutual agreement of the parties or as provided in this chapter. Sealed records may be reviewed by the oversight commission on civil commitments, upon request by the commission, provided that the request is authorized by section 8660 of this title.

§ 8655. NOTICE TO VICTIMS OF RELEASE OF SEX OFFENDERS

A victim of a person committed under this chapter shall have the right to request notification by the commissioner before the person is released from a secure facility. If such notice is requested, the commissioner shall give written notice to the victim of such placement or release as expeditiously as possible at the address or telephone number provided to the commissioner by the victim. Any address or telephone number so provided shall be kept confidential. Failure to notify shall not be a reason for postponement of release. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of

the failure to notify pursuant to this action. The victim shall be given the committed person's town and street of residence.

§ 8656. PRIVILEGE FOR PERSONAL INFORMATION THAT IDENTIFIES VICTIM

Personal information, including a home address, home telephone number, and Social Security account number, that identifies the victim of a person subject to a civil commitment proceeding under this chapter is privileged from discovery by that person.

§ 8657. EFFECT OF CERTAIN SUBSEQUENT CONVICTIONS, JUDGMENTS, OR VERDICTS ON ORDER OF CIVIL COMMITMENT

(a) Except as provided by subsection (b) of this section, the following convictions, judgments, or verdicts do not affect an order of civil commitment under this chapter:

(1) a conviction for a felony if a sentence is not imposed;

(2) a conviction for a misdemeanor, regardless of whether a sentence is imposed; and

(3) a judgment or verdict of not guilty by reason of insanity for any offense absent a corresponding commitment to the department.

(b) The statutory duties imposed by this chapter are suspended for the duration of any confinement of a person who receives a conviction described by subdivision (a)(2) of this section.

§ 8658. RULEMAKING AUTHORITY.

(a) The department shall adopt rules for the purpose of administering this chapter.

(b) The department shall adopt rules that establish standards of care and case management for persons committed under subchapter 2 of this chapter.

(c) This chapter shall not take effect until rules are adopted pursuant to this section.

§ 8659. CREATION OF THE OVERSIGHT COMMISSION ON CIVIL COMMITMENTS

(a) The oversight commission on civil commitments is created and shall be comprised of eight members:

(1) One member appointed by the speaker of the house who shall not be a member of the general assembly but shall be an attorney;

(2) One member appointed by the committee on the committees who shall not be a member of the general assembly but shall be an attorney;

(3) One member appointed by the defender general who shall not be a member of the office of the defender general but shall be an attorney;

(4) One member appointed by the American Civil Liberties Union (ACLU) who shall not be a member of the ACLU;

(5) Two members appointed by the Vermont supreme court who shall be retired judges; and

(6) Two members appointed by the governor who shall not be employees of the executive branch of the state of Vermont, but one of whom shall be an attorney.

(b) Commission members shall serve for three-year terms. Prior to the completion of the three-year term, members may resign or be replaced by the appointing authority for good cause. At the end of a three-year term, the appointing authority may appoint a new member or reappoint the previous member.

§ 8660. AUTHORITY AND PURPOSE OF THE OVERSIGHT

COMMISSION ON CIVIL COMMITMENTS

(a) The commission shall review all civil commitment cases in which a judge or jury has reached a final determination but shall not review a matter or information that relates to an ongoing investigation, a pending petition, a hearing, a trial, an appeal, or an examination.

(b) Meetings and discussions of the commission shall not be open to the public whenever information being reviewed or discussed is not a public record or is information acquired pursuant to section 8607 of this title. The commission shall treat as confidential all information that is sealed, confidential, or privileged as set forth in this chapter, except as otherwise directed by court order.

(c) The review shall be conducted at least annually and with the purpose of assessing the civil commitment process, determining if the practice is in keeping with section 8601 of this title.

(d) The commission shall prepare a report based upon its review, summarizing its findings, recommendations, and conclusions. The report shall be provided to the members of the house and senate committees on judiciary.

Copies shall be provided to the attorney general, agencies with jurisdiction, and the governor. The report is due no later than January 30 of each year beginning in 2007. Prior to release to the public, the commission's report shall be redacted of information that is acquired that may identify a victim or is not a public record. The commission or other person entitled to the full report in connection with this section shall be relieved of all liability in connection with its good-faith effort to redact said information. The attorney general shall be responsible for any costs associated with the preparation of the report.

§ 8661. APPLICATION

This act shall apply to all sexually violent predators confined by the commissioner of corrections under sentence and all sexually violent predators in the custody of the commissioner as of July 1, 2006.

Sec. 22. 13 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this subchapter:

* * *

(4) "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.

* * *

(6) "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.

~~(7) "Predatory" means an act directed at a stranger, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.~~

(8) "Release" means release from confinement or custody or placement into the community for any reason, including release on bail pending appeal, probation, parole, furlough, work release, early release, alternative sanctions, house arrest, daily interrupt, community placement, or completion of sentence. It shall also mean probation or parole supervision of an out-of-state sex offender under an interstate agreement or compact.

~~(9)~~(8) "Registry" means the sex offender registry maintained by the department of public safety.

~~(10)~~(9) "Sex offender" means:

(A) A person who is convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court of any of the following offenses:

- (i) sexual assault as defined in 13 V.S.A. § 3252;
- (ii) aggravated sexual assault as defined in 13 V.S.A. § 3253;
- (iii) lewd and lascivious conduct as defined in 13 V.S.A. § 2601;
- (iv) sexual activity by a caregiver as defined in 33 V.S.A. § 6913(d);
- (v) an attempt to commit any offense listed in this subdivision.

(B) A person who is convicted of any of the following offenses against a victim who is a minor, except that, for purposes of this subdivision, conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18:

- (i) any offense listed in subdivision (A) of this subdivision (9);
- (ii) kidnapping as defined in 13 V.S.A. § 2405(a)(1)(D);
- (iii) lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602;
- (iv) white slave traffic as defined in 13 V.S.A. § 2635;
- (v) sexual exploitation of children as defined in 13 V.S.A. chapter 64;
- (vi) or procurement or solicitation as defined in 13 V.S.A. § 2632(a)(6);
- (vii) an attempt to commit any offense listed in this subdivision.

(C) A person who takes up residence within this state, other than within a correctional facility, and who has been convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court, for a sex crime the elements of which would constitute a crime under subdivision ~~(10)(A) or (B)~~ (9)(B) of this section if committed in this state.

(D) A nonresident sex offender who crosses into Vermont and who is employed, carries on a vocation, or is a student.

~~(11)(10)~~ "Sexually violent offense" means sexual assault or aggravated sexual assault, as described in 13 V.S.A. §§ 3252 and 3253, 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, or any attempt to commit sexual assault, aggravated sexual assault, or a comparable offense in another jurisdiction of the United States.

~~(12)~~(11) “Sexually violent predator” means a person who ~~is a sex offender, who has been convicted of a sexually violent offense, as defined in subdivision (11) of this section, and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses~~ has been civilly committed under chapter 201 of Title 18 because the person 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)~~(12) “Employed, carries on a vocation” includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of governmental or educational benefit.

~~(14)~~(13) “Student” means a person who is enrolled on a full-time or part-time basis in any public or private educational institution in Vermont, including any secondary school, trade or professional institution, or institution of higher learning.

~~(15)~~(14) “Conviction” means a judgment of guilt following a verdict or finding of guilt, a plea of guilty, a plea of nolo contendere, an Alford Plea, or a judgment of guilt pursuant to a deferred sentence. A sex offender whose sentence is deferred shall have no duty to register after successful completion of the terms of the deferred sentence agreement for the duration specified in the agreement.

~~(16)~~(15) “Risk” means the degree of dangerousness that a sex offender poses to others. “High-risk” means a high degree of dangerousness that a sex offender poses to others. Dangerousness includes the probability of a sexual reoffense.

Sec. 23. REPEAL

13 V.S.A. § 5405 is repealed.

Sec. 24. 13 V.S.A. § 5407 is amended to read:

§ 5407. SEX OFFENDER’S DUTY TO REPORT

(a) A sex offender shall report to the department as follows:

(1) if convicted of a registry offense in another state, within 10 days after either establishing residence in this state or crossing into this state for purposes of employment, carrying on a vocation, or being a student, the sex offender shall provide the information listed in subsection 5403(a) of this title;

(2) annually within 10 days after the registrant's birthday, or if a person is determined to be a sexually violent predator pursuant to chapter 201 of Title 18, that person shall report to the department every 90 days;

(3) within three days after any change of address;

(4) within three days after the registrant enrolls in or separates from any postsecondary educational institution; and

(5) within three days after any change in place of employment.

* * *

(f) A person required to register as a sex offender under this subchapter shall continue to comply with this section for the life of that person, except during periods of incarceration, if that person:

(1) has at least one prior conviction for an offense described in subdivision ~~5401(10)~~ 5401(9) of this subchapter or a comparable offense in another jurisdiction of the United States;

(2) has been convicted of a sexual assault as defined in section 3252 of this title or aggravated sexual assault as defined in section 3253 of this title; however, if a person convicted under section 3252 is not more than six years older than the victim of the assault and if the victim is 14 years or older, then the offender shall not be required to register for life if the age of the victim was the basis for the conviction; or

(3) has been determined to be a sexually violent predator pursuant to ~~section 5405 of this subchapter~~ chapter 201 of Title 18.

(g) The department shall adopt forms and procedures for the purpose of verifying the addresses of persons required to register under this subchapter in accordance with the requirements set forth in section (b)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. Every 90 days for sexually violent predators and annually for other registrants, the department shall verify addresses of registrants by sending a nonforwardable address verification form to each registrant at the address last reported by the registrant. The registrant shall be required to sign and return the form to the department within 10 days of receipt.

Sec. 25. 13 V.S.A. § 5411(c)(1) is amended to read:

(c)(1) Except as provided for in subsection (e) of this section, upon request of a member of the public about a specific person, the department, the department of corrections, and any authorized local law enforcement agency shall release registry information on the following registrants:

(A) Sex offenders who have been convicted of section 3253 of this title (aggravated sexual assault), subdivision 2405(a)(1)(D) of this title if a registrable offense (kidnapping and sexual assault of a child), or 33 V.S.A. § 6913(d)(sexual activity with a vulnerable adult).

(B) Sex offenders who have at least one prior conviction for an offense described in subdivision ~~5401(10)~~ 5401(9) of this subchapter or a comparable offense in another jurisdiction.

(C) Sex offenders who have failed to comply with sex offender registration requirements and for whose arrest there is an outstanding warrant for such noncompliance.

(D) Sex offenders who have been designated as ~~sexual~~ sexually violent predators pursuant to ~~section 5405 of this title~~ chapter 201 of Title 18.

(E) Sex offenders who have been designated by the department of corrections, pursuant to section 5411b of this title, as high risk.

Sec. 26. 13 V.S.A. § 5411a(a) is amended to read:

(a) Notwithstanding sections 2056a-2056e of Title 20, the department shall electronically post information on the internet in accordance with subsection (b) of this section regarding the following sex offenders, upon their release from confinement:

(1) Sex offenders who have been convicted of a violation of section 3253 of this title (aggravated sexual assault) or subdivision 2405(a)(1)(D) of this title if a registrable offense (kidnapping and sexual assault of a child).

(2) Sex offenders who are convicted of a violation of section 3252 (sexual assault) or 2602 (lewd or lascivious conduct with child) of this title, and who have a prior conviction of a violation of section 3252 (sexual assault) or 2602 (lewd or lascivious conduct with child) of this title. Comparable offenses in another jurisdiction shall be included in this subsection.

(3) Sex offenders who have failed to comply with sex offender registration requirements and for whose arrest there is an outstanding warrant for such noncompliance. Information on offenders shall remain on the internet only while the warrant is outstanding.

(4) Sex offenders who have been designated as ~~sexual~~ sexually violent predators pursuant to ~~section 5405 of this title~~ chapter 201 of Title 18.

(5) Sex offenders who have not complied with sex offender treatment recommended by the department of corrections or who are ineligible for sex offender treatment. The department of corrections shall establish rules for the administration of this subdivision and shall specify what circumstances constitute noncompliance with treatment and criteria for ineligibility to participate in treatment. Offenders subject to this provision shall have the right to appeal the department of corrections' determination in superior court in accordance with Rule 75 of the Vermont Rules of Civil Procedure. This subdivision shall apply prospectively and shall not apply to those sex offenders who did not comply with treatment or were ineligible for treatment prior to March 1, 2005.

(6) Sex offenders who have been designated by the department of corrections, pursuant to section 5411b of this title, as high-risk.

Sec. 27. SUNSET

Secs. 21 through 26 of this act shall be repealed on July 1, 2021.

and by renumbering the remaining section to be numerically correct.

Thereupon, **Rep. Jewett of Ripton** raised a Point of Order in that the amendment was in violation of Rule 77, which Point of Order the Speaker ruled not well taken.

Pending the question, Shall the House amend the bill as recommended by Rep. Wright of Burlington? **Rep. Sunderland of Rutland Town** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by Rep. Wright of Burlington? was decided in the negative. Yeas, 55. Nays, 79.

Those who voted in the affirmative are:

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

Dates of Shelburne
DePoy of Rutland City
Donaghy of Poultney
Endres of Milton
Errecart of Shelburne
Flory of Pittsford
Helm of Castleton
Howard of Rutland City
Hube of Londonderry
Hudson of Lyndon
Hutchinson of Randolph
Johnson of Canaan
Kennedy of Chelsea
Kilmartin of Newport City

Koch of Barre Town
Krawczyk of Bennington
Larrabee of Danville
LaVoie of Swanton
Lawrence of Lyndon
Livingston of Manchester
Marcotte of Coventry
McAllister of Highgate
McFaun of Barre Town
Miller of Elmore
Morley of Barton
Morrissey of Bennington
Myers of Essex

O'Donnell of Vernon
Parent of St. Albans City
Peaslee of Guildhall
Potter of Clarendon
Shaw of Derby

Smith of New Haven
Sunderland of Rutland Town
Trombley of Grand Isle
Turner of Milton
Valliere of Barre City

Westman of Cambridge
Winters of Swanton
Winters of Williamstown
Wright of Burlington

Those who voted in the negative are:

Ancel of Calais
Aswad of Burlington
Atkins of Winooski
Barnard of Richmond
Botzow of Pownal
Brooks of Montpelier
Chen of Mendon
Clarkson of Woodstock
Copeland-Hanzas of
Bradford
Cross of Winooski
Darrow of Dummerston
Deen of Westminster
Donahue of Northfield
Donovan of Burlington
Dostis of Waterbury
Dowland of Holland
Edwards of Brattleboro
Emmons of Springfield
Evans of Essex
Fallar of Tinnmouth
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gervais of Enosburg
Grad of Moretown
Green of Berlin

Haas of Rochester
Head of S. Burlington
Heath of Westford
Hosford of Waitsfield
Howrigan of Fairfield
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keogh of Burlington
Kitzmiller of Montpelier
Klein of East Montpelier
Komline of Dorset
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
McLaughlin of Royalton
Milkey of Brattleboro
Miller of Shaftsbury

Minter of Waterbury
Molloy of Arlington
Monti of Barre City
Mook of Bennington
Nease of Johnson
Nitka of Ludlow
Nuovo of Middlebury
Obuchowski of Rockingham
Orr of Charlotte
Otterman of Topsham
Partridge of Windham
Pellett of Chester
Perry of Richford
Peterson of Williston
Pugh of S. Burlington
Randall of Troy
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
Zuckerman of Burlington

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

Audette of S. Burlington
Bohi of Hartford
Dunsmore of Georgia
Houston of Ferrisburgh
Hunt of Essex

Kainen of Hartford
Keenan of St. Albans City
Kiss of Burlington
Larocque of Barnet
Louras of Rutland City

Martin of Springfield
Niquette of Colchester
Pillsbury of Brattleboro
Reese of Pomfret
Young of Orwell

Rep. Johnson of South Hero explained her vote as follows:

"Madam Speaker:

I supported civil commitment yesterday with its cap to confine the application to the ten worst offenders, and to insure the program did not

outgrow the proposed Newport facility at great taxpayer expense. I cannot support the potential for its unlimited use, even with an automatic sunset."

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Lippert of Hinesburg** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 132. Nays, 2.

Those who voted in the affirmative are:

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

Pellett of Chester
 Perry of Richford
 Peterson of Williston
 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
 Shaw of Derby
 Smith of New Haven
 Smith of Morristown
 Sunderland of Rutland Town
 Sweaney of Windsor
 Tracy of Burlington

Trombley of Grand Isle
 Turner of Milton
 Valliere of Barre City
 Westman of Cambridge
 Winters of Williamstown
 Wright of Burlington
 Zuckerman of Burlington

Those who voted in the negative are:

Donaghy of Poultney

Winters of Swanton

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

Audette of S. Burlington
 Bohi of Hartford
 Clark of Vergennes
 Dunsmore of Georgia
 Houston of Ferrisburgh

Hunt of Essex
 Keenan of St. Albans City
 Kiss of Burlington
 Larocque of Barnet
 Louras of Rutland City

Martin of Springfield
 Monti of Barre City
 Pillsbury of Brattleboro
 Reese of Pomfret
 Young of Orwell

Rep. Donahue of Northfield explained her vote as follows:

"Madam Speaker:

I vote yes with some reluctance. Whenever we shift discretion about confinement from the judiciary to corrections, we allow decisions to be made in the dark, instead of in the public eye.

Rep. Errecart of Shelburne explained her vote as follows:

"Madam Speaker:

I vote "yes" reluctantly because this bill is better than nothing, but it should be so much better. I'm very saddened that we have done little or nothing to make sure that dangerous sexual predators spend time in prison."

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

"Madam Speaker:

I have been told it is better to take half a loaf instead of no loaf at all. I'm disappointed because all we have here is a crust that does little to fill the void of protecting the most vulnerable.

Rep. Marek of Newfane explained his vote as follows:

"Madam Speaker:

Once again we have learned that good policy comes from careful thought and effort across party and philosophical lines. It does not come from press

conference demands for simple answers to complex problems. Never has, never will.

Rep. Sunderland of Rutland Town explained his vote as follows:

"Madam Speaker:

I vote "yes" with great disappointment. We have defeated amendments to add "Jessica's Law" to this bill and we have rejected proposals to add "civil confinement" as well. As a result, we have declined to insist on mandatory minimum sentences for those who commit sex crimes against our children. Also, as a result of our actions, we have declined to add a provision to hold for treatment beyond their jail sentence convicted violent serial offenders who are deemed "highly likely to reoffend". Contrary to what has been said on this floor, this bill does very little to prohibit the wrongs of the recent past from happening again. There is little in our actions today to be proud of. Never before has the disconnect between this body and the people of Vermont been more clear".

Rep. Wright of Burlington explained his vote as follows:

"Madam Speaker:

This bill accomplishes a number of things of value, but fails on several key fronts. No Civil Commitment, to protect us from the worst of the worst sex offenders, no mandatory minimums that would have addressed inappropriately weak sentences, and no expansion of the Sex Offender Registry. This bill clearly could have accomplished much, much, more.

Message from the Senate No. 29

A message was received from the Senate by Mr. Gibson, its 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 titles:

S. 170. An act relating to retail theft by the use of counterfeit UPC labels and retail receipts.

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

Adjournment

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

THURSDAY, FEBRUARY 23, 2006

Rep. Partridge of Windham in Chair.

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 Paul Powers of Union Baptist Church of St. Johnsbury, VT.

Message from the Senate No. 30

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. 204. An act relating to offset projects in stormwater impaired waters.

S. 311. An act relating to an appropriation to continue Vermont National Guard family support and counseling services.

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

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

J.R.S. 57. Joint resolution relating to weekend adjournment.

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

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. 861

House bill, entitled

An act relating to health care affordability for Vermonters;

H. 864

House bill, entitled

An act relating to capital construction and state bonding.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 170

Senate bill, entitled

An act relating to retail theft by the use of counterfeit UPC labels and retail receipts;

To the committee on Commerce.

S. 204

Senate bill, entitled

An act relating to offset projects in stormwater impaired waters;

To the committee on Agriculture.

S. 311

Senate bill, entitled

An act relating to an appropriation to continue Vermont National Guard family support and counseling services;

To the committee on Appropriations.

Bill Recommended**H. 480**

House bill, entitled

An act relating to precursor drugs of methamphetamine;

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

Third Reading; Bills Passed

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

H. 342

House bill, entitled

An act relating to sheriffs' law enforcement budget committees;

H. 860

House bill, entitled

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

Speaker Symington in Chair.

Bill Read Second Time; Third Reading Ordered

H. 862

Rep. Cross of Winooski spoke for the committee on Education.

House bill entitled

An act relating to home study programs;

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

Bill Amended; Third Reading Ordered

H. 456

Rep. Orr of Charlotte, for the committee on Agriculture, to which had been referred House bill, entitled

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

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; INTENT

(a) The general assembly finds that it is in the best interests of Vermont children, farmers, and communities to empower schools and state agencies to increase their use of local farm products in their food service programs, particularly school meals programs, because:

(1) Research shows that children who exercise moderately and eat a healthy diet are less likely to be overweight and have less risk of heart disease, cancer, diabetes, or high blood pressure as adults. Since a child can receive 55 percent of his or her daily nutritional requirements from the school breakfast and lunch program, it is important to encourage children to eat a healthy diet of fresh food at school. This is particularly important for the 21,000 Vermont children who live in households unable to provide enough nutritious food in order to lead an active and healthy life. Further, inadequate nutrition can prevent children from learning effectively; research shows an improvement in student behavior and academic performance and improved health scores when nutrition is improved.

(2) Farmers gain an increased market for their products. In school year 2002-2003, Vermont schools spent \$13 million on food for their food service programs, yet less than five percent of the \$13 million went for direct purchase of produce from local farms and other local producers. Recent farm-to-school efforts in Vermont have demonstrated that when children and food service personnel have relationships with local farmers and producers, they are more likely to try new foods and use fresh and less-processed foods.

(3) Support for Vermont farms benefits the entire community. Food dollars spent locally benefit the community economically, the working landscape and open land crucial to Vermont's quality of life and tourism industry is maintained, and the environment gains through less dependence on a large transportation system.

(4) The Vermont economy benefits when the agricultural sector is strong. Agriculture accounts for 14 percent of Vermont's gross domestic product and 16 percent of Vermont jobs are in or related to agriculture.

(b) Therefore, in order to encourage healthy and lifelong habits of eating nutritious local food as well as to foster relationships among farmers and schoolchildren, school personnel, and other adults in the Vermont community, it is the intent of this act to provide aid and incentives to local school districts and state agencies and farmers to:

(1) serve food to Vermont students and adults that is as fresh and as nutritious as possible;

(2) maximize use of fresh locally grown, produced and processed food;

(3) educate students about healthy eating habits through nutrition education, including using hands-on techniques to make connections between farming and the foods that students consume;

(4) increase the size and stability of farmers' direct sales markets; and

(5) increase school meal participation by increasing the selection of foods available to students.

Sec. 2. LOCAL FOODS MINI-GRANT PROGRAM

(a) There is created in the agency of agriculture, food and markets a local foods mini-grant program for the purpose of helping Vermont schools develop relationships with local farmers and producers.

(b) A school district, a supervisory union, or a consortium of school districts or supervisory unions may apply to the secretary of agriculture, food and markets for a mini-grant award to:

(1) purchase equipment, resources, and materials that will help to increase use of local foods in the school food service program;

(2) purchase items, including local farm products, that will help teachers to use hands-on educational techniques to teach children about nutrition and farm-to-school connections; and

(3) provide professional development and technical assistance to help teachers educate students about nutrition and farm-to-school connections.

(c) In making awards, the secretary shall work with the commissioner of education and shall give priority consideration to school districts and supervisory unions that are in the early stages of developing farm-to-school connections and education, provided there is evidence of strong interest in the community. No award shall be greater than \$10,000.00.

Sec. 3. FARM ASSISTANCE; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The secretary of agriculture, food and markets shall work with existing programs and organizations to develop and implement educational opportunities for farmers to help them to increase their markets through selling their products to schools and state government agencies, and participating in the federal food commodities program, including the federal Department of Defense Fresh program.

(b) The secretary of agriculture, food and markets shall award one-time funds to the Vermont Food Venture Center that would, at a minimum:

(1) process locally grown farm products for school and institutional markets, thereby helping farmers to increase the size and stability of their markets; and

(2) rent equipment to local farmers so that they can process their products for sale.

Sec. 4. PROFESSIONAL DEVELOPMENT FOR FOOD SERVICE PERSONNEL

(a) The commissioner of education shall expand training and increase sessions for public school food service personnel during 2007. Training shall include information about strategies for purchasing, processing, and serving locally grown foods, as well as information about nutrition, obesity prevention, coping with severe food allergies, and food service operations. The commissioner may use a portion of the funds appropriated for this training session to pay a portion of or all expenses for attendees and to develop manuals or other materials to help in the training.

(b) In 2007, the commissioner of education shall train people to provide technical assistance to school food service personnel and use a portion of the funds appropriated for this purpose to enable the trained people to provide technical assistance at the school and school district levels.

Sec. 5. EXPANDING MARKETS FOR VERMONT FARMERS; REPORT

On or before January 15, 2007, the commissioner of education, secretary of agriculture, food and markets, and secretary of human services shall jointly make recommendations to the senate and house committees on agriculture, institutions, and education and the house committee on human services on the following:

(1) Strategies the general assembly could adopt or encourage to increase use of locally grown foods in Vermont schools and state agencies. In developing recommendations under this subdivision, the commissioner and secretaries shall:

(A) consider the benefit to the economy of Vermont and the rural farm economy compared to the impact on state spending of requiring the secretary of administration, the secretary of buildings and general services, and any state-funded institutions to purchase agricultural products grown or produced in Vermont when available at more than the cost of like products produced outside the state;

(B) consult with farmers, food service personnel, state agency personnel involved in purchasing agricultural products, and representatives of organizations interested in creating strategies to increase use of locally grown foods in Vermont schools and state agencies; and

(C) consider other strategies to increase use of locally grown foods in Vermont schools and state agencies.

(2) Whether moving administration of the U.S.D.A. food distribution program (the food commodities program) from the agency of human services to another department or agency such as the department of education or the agency of agriculture, food and markets would improve integration of the program with efforts to include more fresh foods in general and Vermont-grown foods in particular and would result in more frequent delivery of foods in a timely fashion. In developing recommendations under this subdivision, the commissioner and secretaries shall consult with people who work in and use or have the potential to use the food commodities program.

(3) Ways to improve the effectiveness of the local foods mini-grant program created in Sec. 2 of this act.

(4) Ways to improve the effectiveness of training for public school food service personnel conducted pursuant to Sec. 4 of this act.

Sec. 6. APPROPRIATION

(a) The amount of \$125,000.00 is appropriated from the general fund to the secretary of agriculture, food and markets for the purpose of awarding local foods mini-grants under Sec. 2 of this act.

(b) The amount of \$25,000.00 is appropriated from the general fund to the commissioner of education for training of food service personnel pursuant to Sec. 4 of this act.

(c) The amount of \$15,000.00 is appropriated from the general fund to the secretary of agriculture, food and markets for carrying out educational activities for farmers pursuant to Sec. 3(a) of this act.

(d) The amount of \$30,000.00 is appropriated from the general fund to the Food Education Every Day Program to enable the organization to provide farm-to-school education and teacher training services to more school districts and to assist the secretary of agriculture, food and markets and the commissioner of education to carry out farmer and food service worker trainings pursuant to Secs. 3(a) and 4 of this act.

(e) The amount of \$75,000.00 is appropriated from the general fund to the secretary of agriculture, food and markets to be used to support the Vermont Food Venture Center pursuant to Sec. 3(b) of this act. The secretary shall award funds under this subsection upon certification from the Vermont Food Venture Center that it is providing an equal amount of funding to support services that help local farmers process their products.

Rep. McLaughlin of Royalton, for the committee on Education, recommended the bill ought to pass when amended as recommended by the committee on Agriculture and when further amended as follows:

First: In Sec. 2, subsection (b), by striking "A school district, a supervisory union, or a consortium of school districts or supervisory unions" and inserting in lieu thereof "A school, school district, consortium of schools, or consortium of school districts"

Second: In Sec. 2, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) In making awards, the secretary shall work with the commissioner of education to develop specific criteria and application forms for the mini-grants. The secretary shall make awards provided that there is significant interest in the school community and shall give priority consideration to schools and school districts that are in the early stages of developing farm-to-school

connections and education and that are making progress toward the implementation of the Vermont nutrition and fitness policy guidelines developed by the agency of agriculture, food and markets, the department of education, and the department of health, dated November 2005 or the guidelines' successor. No award shall be greater than \$15,000.00.

Third: In Sec. 3, in subsection (b), by striking the words "may award one-time funds to the Vermont Food Venture Center" and inserting in lieu thereof the words "shall award one-time funds to the Vermont Food Venture Center or other food processing entity"

Fourth: In Sec. 4(a), in the first sentence, by striking the words "shall expand training and increase sessions" and inserting in lieu thereof the words "shall offer expanded regional training sessions"

Fifth: In Sec. 4 at the end of Sec. 4, by adding a subsection (c) to read:

(c) Training provided under this section shall promote the policies established in the Vermont nutrition and fitness policy guidelines developed by the agency of agriculture, food and markets, the department of education, and the department of health, dated November 2005 or the guidelines' successor.

Sixth: In Sec. 6, by striking subsections (d) and (e) in their entirety and inserting in lieu thereof new subsections (d) and (e) to read:

(d) The amount of \$30,000.00 is appropriated from the general fund to the commissioner of education to provide farm-to-school education and teacher training services and to work with the secretary of agriculture, food and markets to carry out farmer and food service worker trainings pursuant to Secs. 3(a) and 4 of this act.

(e) The amount of \$75,000.00 is appropriated from the general fund to the secretary of agriculture, food and markets to be used to support a Vermont food processing entity pursuant to Sec. 3(b) of this act. The secretary shall award funds under this subsection upon certification from the Vermont food processing entity that it is providing an equal amount of funding to support services that help local farmers process their products.

Rep. Perry of Richford, for the committee on Appropriations, recommended the bill ought to pass when amended as recommended by the committee on Agriculture and when further amended as follows:

In Sec. 6, subsections (b), (c), and (e), following the words "is appropriated", by inserting the words "on a one-time basis" in each of the three subsections

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 Education agreed to.

Thereupon, the recommendation of amendment of the committee on Appropriations was agreed to and the recommendation of amendment of the committee on Agriculture, as amended, was agreed to and third reading ordered.

**Favorable Report; Bill Read Second Time;
Bill Amended; Third Reading Ordered**

H. 859

Rep. Dostis of Waterbury spoke for the committee on Natural Resources and Energy.

Rep. Nitka of Ludlow, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to the energy security and reliability act;

Reported in favor of its passage.

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

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

In Sec. 10, 30 V.S.A. § 219b, by striking subdivision (4) and inserting the following:

(4) developing a system that allows the capture and sale of renewable energy credits (RECs) from net metering, including consideration of the need for electric companies to meet their infrastructure costs and the need to provide net metered energy producers with sufficient incentives to encourage substantial development of net metered sources of electricity; and

Which was agreed to and third reading ordered.

Adjournment

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

FRIDAY, FEBRUARY 24, 2006

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

Devotional Exercises

Devotional exercises were conducted by Representative Sylvia Kennedy of Chelsea, VT.

Committee Bill Introduced**H. 865**

By the committee on Judiciary,

An act relating to nondiscrimination;

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

Joint Resolution Adopted in Concurrence**J.R.S. 57**

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 24, 2006, it be to meet again no later than Tuesday, February 28, 2006.

Was taken up read and adopted in concurrence.

Third Reading; Bill Passed**H. 456**

House bill, entitled

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

Was taken up, read the third time and passed.

Bill Amended, Read Third Time and Passed**H. 859**

House bill, entitled

An act relating to the energy security and reliability act;

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

In Sec. 8, 30 V.S.A. § 218(b), in the second sentence, by striking the words "design rates" and inserting the words "approve rate designs"

Which was agreed to.

Pending third reading of the bill, **Rep. Errecart of Shelburne** moved to amend the bill as follows:

By adding a new Sec. 3 to read:

Sec. 3. 10 V.S.A. § 1086 is amended to read:

§ 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

(a) "Public good" means the greatest benefit of the people of the state. In determining whether the public good is served, the state agency having jurisdiction shall give due consideration, among other things, to the effect the proposed project will have on:

(1) the quantity, kind and extent of cultivated agricultural land that may be rendered unfit for use by the project, including both the immediate and long range agricultural land use impacts;

(2) scenic and recreational values;

(3) fish and wildlife;

(4) forests and forest programs;

(5) the need for a minimum water discharge flow rate schedule to protect the natural rate of flow and the water quality of the affected waters;

(6) the existing uses of the waters by the public for boating, fishing, swimming and other recreational uses;

(7) the creation of any hazard to navigation, fishing, swimming or other public uses;

(8) the need for cutting clean and removal of all timber or tree growth from all or part of the flowage area;

(9) the creation of any public benefits;

(10) the classification, if any, of the affected waters under chapter 47 of this title;

(11) any applicable state, regional or municipal plans;

(12) municipal grand lists and revenues; ~~and~~

(13) public safety-; and

(14) in the case of proposed removal of a dam that formerly related to or was incident to the generation of electric energy, the potential for and value of future power production.

(b) If the state agency having jurisdiction finds that the proposed project will serve the public good, and, in case of any waters designated by the board as outstanding resource waters, will preserve or enhance the values and activities sought to be protected by designation, the agency shall issue its order approving the application. The order shall include conditions for minimum stream flow to protect fish and instream aquatic life, as determined by the agency of natural resources, and such other conditions as the agency having jurisdiction considers necessary to protect any element of the public good listed above. Otherwise it shall issue its order disapproving the application.

(c) The agency shall provide the applicant and interested parties with copies of its order.

(d) In the case of a proposed removal of a dam that is under the jurisdiction of the department and that formerly related to or was incident to the generation of electric energy, the department shall consult with the department of public service regarding the potential for and value of future power production at the site.

And by renumbering the remaining sections to be numerically correct.

Which was agreed to.

Pending third reading of the bill, **Rep. Nitka of Ludlow** moved to amend the bill as follows:

In Sec. 10, 30 V.S.A. § 219b, on page 16, line 9, before the first sentence of the section, by inserting the following: "(a)" and on page 17, after the period at the end of the section, by adding the following:

(b) Among the factors the board shall consider in performing its functions under this section shall be the following: potential short and long-term impacts on rates, distribution system costs and benefits, and reliability and diversification costs and benefits.

Which was agreed to

Pending third reading of the bill, **Reps. Hudson of Lyndon, Hube of Londonderry, Obuchowski of Rockingham, Kilmartin of Newport City, Marcotte of Coventry, Rodgers of Glover, and Shaw of Derby** moved to amend the bill as follows:

By adding sections 13a., 13b., and 13c., to read:

Sec. 13a.. FINDINGS

1) The state of Vermont requires new sources of electric energy during the coming decade.

2) Wind power generated at commercial wind farms offers a possible source of electric energy, but the proposed construction of commercial wind farms has raised questions related to environmental, aesthetic, and real property values that have proven contentious in a number of communities where commercial wind farm construction has been proposed, especially if the proposed site is along a mountain ridgeline.

3) The public service board, in consultation with the department of public service, should adopt rules in accordance with chapter 25 of Title 3, to establish uniform guidelines and criteria for the construction of commercial wind farms including those to be located on mountain ridgelines.

Sec. 13b. COMMERCIAL WIND FARM CONSTRUCTION MORATORIUM

There is a moratorium imposed on the construction of any commercial wind farm, or portion thereof, that has not received final approval from the public service board under section 248 of Title 30 as of the effective date of this section and until the completion of the rules adoption process provided for in Sec. 13c. of this act.

Sec. 13c. RULE ADOPTION AUTHORITY

The public service board, in consultation with the department of public service, is authorized and directed to adopt rules, in accordance with chapter 3 of Title 25, establishing uniform guidelines and criteria for the construction of commercial wind farms including those located on mountain ridgelines. The rules adoption process shall be completed on or before December 31, 2007.

Pending the question, Shall the House amend the bill as recommended by Reps. Hudson of Lyndon, et al? **Rep. Rodgers of Glover** 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. Hudson of Lyndon, et al? was decided in the negative. Yeas, 37. Nays, 86.

Those who voted in the affirmative are:

Acinapura of Brandon
Adams of Hartland
Allard of St. Albans Town
Atkins of Winooski
Branagan of Georgia
Clark of St. Johnsbury
Dates of Shelburne
Donaghy of Poultney
Dowland of Holland

Flory of Pittsford
Helm of Castleton
Hube of Londonderry
Hudson of Lyndon
Kennedy of Chelsea
Kilmartin of Newport City
Koch of Barre Town
Komline of Dorset
Larocque of Barnet

Larrabee of Danville
Louras of Rutland City
Marcotte of Coventry
McAllister of Highgate
Morley of Barton
Myers of Essex
Niquette of Colchester
Nitka of Ludlow
Obuchowski of Rockingham

O'Donnell of Vernon
Otterman of Topsham
Partridge of Windham

Peaslee of Guildhall
Randall of Troy
Rodgers of Glover

Sunderland of Rutland Town
Turner of Milton
Valliere of Barre City

Those who voted in the negative are:

Allaire of Rutland City
Ancel of Calais
Aswad of Burlington
Audette of S. Burlington
Baker of West Rutland
Bartlett of Dover
Bohi of Hartford
Bostic of St. Johnsbury
Botzow of Pownal
Brennan of Colchester
Brooks of Montpelier
Canfield of Fair Haven
Chen of Mendon
Clark of Vergennes
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Cross of Winooski
Darrow of Dummerston
Deen of Westminster
DePoy of Rutland City
Donovan of Burlington
Dostis of Waterbury
Edwards of Brattleboro
Emmons of Springfield
Endres of Milton
Errecart of Shelburne
Evans of Essex
Fallar of Tinmouth

Fisher of Lincoln
Frank of Underhill
French of Randolph
Haas of Rochester
Head of S. Burlington
Heath of Westford
Hosford of Waitsfield
Howard of Rutland City
Howrigan of Fairfield
Hutchinson of Randolph
Jerman of Essex
Johnson of South Hero
Kainen of Hartford
Keogh of Burlington
Kiss of Burlington
Kitzmiller of Montpelier
Klein of East Montpelier
Krawczyk of Bennington
Kupersmith of S. Burlington
Larson of Burlington
LaVoie of Swanton
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
Morrissey of Bennington
Nuovo of Middlebury
Orr of Charlotte
Parent of St. Albans City
Pellett of Chester
Peterson of Williston
Potter of Clarendon
Pugh of S. Burlington
Rusten of Halifax
Seibert of Norwich
Severance of Colchester
Shand of Weathersfield
Sharpe of Bristol
Smith of Morristown
Sweeney of Windsor
Tracy of Burlington
Trombley of Grand Isle
Winters of Williamstown
Wright of Burlington
Zuckerman of Burlington

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

Barnard of Richmond
Clarkson of Woodstock
Condon of Colchester
Donahue of Northfield
Dunsmore of Georgia
Gervais of Enosburg
Grad of Moretown
Green of Berlin
Houston of Ferrisburgh

Hunt of Essex
Jewett of Ripton
Johnson of Canaan
Keenan of St. Albans City
Lawrence of Lyndon
Leriche of Hardwick
Livingston of Manchester
Malcolm of Pawlet
Martin of Springfield

Nease of Johnson
Perry of Richford
Pillsbury of Brattleboro
Reese of Pomfret
Shaw of Derby
Smith of New Haven
Westman of Cambridge
Winters of Swanton
Young of Orwell

Rep. Kennedy of Chelsea explained her vote as follows:

"Madam Speaker:

I voted yes because this amendment only asks us to slow down and make sure we have all our facts in before we begin to put up these wind mills on our ridge lines."

Rep. Randall of Troy explained his vote as follows:

"Madam Speaker:

As a steward of the land for my lifetime, I feel compelled to support this amendment. I say lets slow this process down before we commit irreversible consequences to our beautiful landscape."

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

Third Reading; Bill Passed

H. 862

House bill, entitled

An act relating to home study programs;

Was taken up, read the third time and passed.

Message from the Senate No. 31

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. 57. An act relating to the expansion of the jurisdiction of assistant judges.

S. 222. An act relating to funding of adult education and literacy services.

S. 265. An act relating to penalties for larceny crimes.

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

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

H.C.R. 242. House concurrent resolution on Hunger Awareness Day and honoring Marianne Metropoulos.

H.C.R. 243. House concurrent resolution in memory of Stamford Elementary School Principal Leo Ethier.

Adjournment

At eleven o'clock and fifty minutes in the forenoon, on motion of **Rep. Sunderland of Rutland Town**, the House adjourned until Monday, February 27, 2006, at two o'clock 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. 242

House concurrent resolution on Hunger Awareness Day and honoring Marianne Metropoulos

H.C.R. 243

House concurrent resolution in memory of Stamford Elementary School Principal Leo Ethier

[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 27, 2006

Rep. Nease of Johnson in Chair.

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

Committee Bills Introduced

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

H. 866

By the committee on Human Services,

An act relating to temporary assistance for needy families;

H. 867

By the committee on Education,

An act relating to miscellaneous changes to education law;

H. 868

By the committee on Government Operations,
An act relating to the municipal land records commission;

H. 869

By the committee on Transportation,
An act relating to the state's transportation program.

Adjournment

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

TUESDAY, FEBRUARY 28, 2006

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

Pledge of Allegiance

Page Renee Garand of Barre Town led the House in the Pledge of Allegiance.

Joint Assembly

At nine o'clock and five minutes in the forenoon, the hour for the Joint Assembly having arrived, pursuant to the provisions of joint resolution, entitled

J.R.H. 60. Joint resolution to provide for a Joint Assembly for the election of an Adjutant and Inspector General;

The Senate appeared in the Hall of the House.

Thereupon, the Joint Assembly having concluded its session, at ten o'clock and thirty minutes in the forenoon, the Speaker resumed the Chair.

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. 425

House bill, entitled

An act relating to a civics educator in the legislative council;

H. 674

House bill, entitled

An act relating to the health access oversight committee;

H. 817

House bill, entitled

An act relating to stormwater management;

H. 866

House bill, entitled

An act relating to temporary assistance for needy families;

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. 867

House bill, entitled

An act relating to miscellaneous changes to education law;

H. 868

House bill, entitled

An act relating to the municipal land records commission;

H. 869

House bill, entitled

An act relating to state's transportation program.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 57

Senate bill, entitled

An act relating to the expansion of the jurisdiction of assistant judges;
To the committee on Judiciary.

S. 222

Senate bill, entitled

An act relating to funding of adult education and literacy services;

To the committee on Education.

S. 265

Senate bill, entitled

An act relating to penalties for larceny crimes;

To the committee on Judiciary.

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 twenty-fourth day of February, 2006, he approved and signed bills originating in the House of the following title:

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

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

Bill Amended; Third Reading Ordered**H. 447**

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

An act relating to municipal regulation of firearms and hunting, fishing and trapping;

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. § 5227 is amended to read:

§ 5227. SPORT SHOOTING RANGES; MUNICIPAL AND STATE
AUTHORITY

(a) "Sport shooting range" or "range" means an area designed and operated for the use of archery, rifles, shotguns, pistols, skeet, trap, black powder, or any other similar sport shooting.

(b) The owner or operator of a sport shooting range, and a person lawfully using the range, who is in substantial compliance with any noise use condition of any issued municipal or state land use permit otherwise required by law shall not be subject to any criminal prosecution, civil liability for damages, or any injunctive relief resulting from noise or noise pollution, notwithstanding any provision of law to the contrary.

(c) If no municipal or state land use permit is otherwise required by law, then the owner or operator of the range and any person lawfully using the range shall not be subject to any civil liability for damages or any injunctive relief relating to noise or noise pollution.

(d) Nothing in this section shall prohibit or limit the authority of a municipality or the state to enforce any condition of a lawfully issued and otherwise required permit.

(e)(1) In an action against a sport shooting range that is not otherwise exempt under subsections (b) and (c) of this section, the sport shooting range shall be entitled to a rebuttable presumption that the range does not constitute a nuisance if the sport shooting range meets all of the following conditions:

(A) it is established prior to surrounding activities unrelated to the sport shooting ranges; and

(B) it has not significantly changed since the commencement of the prior surrounding activity.

(2) The presumption that the sport shooting range does not constitute a nuisance may be rebutted by a showing that the activity has a substantial adverse effect on health, safety, or welfare or has a noxious and significant interference with the use and enjoyment of a neighboring property.

(f) If any subsection of this section is held invalid, the invalidity does not affect the other subsections of this section that can be given effect without the invalid subsection, and for this purpose, the provisions of this section are severable.

Sec. 2. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare and convenience, a town, city or incorporated village shall have the following powers:

* * *

(8) To regulate or prohibit the use or discharge, but not possession of, firearms within the municipality or specified portions thereof, provided that such regulation shall be consistent with section 2295 of this title.

* * *

Sec. 3. EFFECTIVE DATE

This act takes effect upon passage.

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

Pending the question, Shall the House amend the bill as recommended by the committee on Fish, Wildlife and Water Resources? **Rep. Parent of St. Albans City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by the committee on Fish, Wildlife and Water Resources? was decided in the affirmative. Yeas, 141. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon	Copeland-Hanzas of	Green of Berlin
Adams of Hartland	Bradford	Haas of Rochester
Allaire of Rutland City	Corcoran of Bennington	Head of S. Burlington
Allard of St. Albans Town	Cross of Winooski	Heath of Westford
Ancel of Calais	Darrow of Dummerston	Hosford of Waitsfield
Aswad of Burlington	Dates of Shelburne	Houston of Ferrisburgh
Atkins of Winooski	Deen of Westminster	Howard of Rutland City
Audette of S. Burlington	DePoy of Rutland City	Howrigan of Fairfield
Baker of West Rutland	Donaghy of Poultney	Hube of Londonderry
Bartlett of Dover	Donahue of Northfield	Hudson of Lyndon
Bohi of Hartford	Donovan of Burlington	Hunt of Essex
Bostic of St. Johnsbury	Dowland of Holland	Hutchinson of Randolph
Botzow of Pownal	Edwards of Brattleboro	Jerman of Essex
Branagan of Georgia	Emmons of Springfield	Jewett of Ripton
Brennan of Colchester	Endres of Milton	Johnson of South Hero
Brooks of Montpelier	Errecart of Shelburne	Johnson of Canaan
Canfield of Fair Haven	Evans of Essex	Kainen of Hartford
Chen of Mendon	Fallar of Tinmouth	Keenan of St. Albans City
Clark of St. Johnsbury	Fisher of Lincoln	Kennedy of Chelsea
Clark of Vergennes	Flory of Pittsford	Keogh of Burlington
Clarkson of Woodstock	Frank of Underhill	Kilmartin of Newport City
Condon of Colchester	French of Randolph	Kiss of Burlington
	Gervais of Enosburg	Kitzmiller of Montpelier

Klein of East Montpelier	Milkey of Brattleboro	Pugh of S. Burlington
Koch of Barre Town	Miller of Shaftsbury	Randall of Troy
Komline of Dorset	Miller of Elmore	Reese of Pomfret
Krawczyk of Bennington	Minter of Waterbury	Rodgers of Glover
Kupersmith of S. Burlington	Molloy of Arlington	Rusten of Halifax
Larocque of Barnet	Mook of Bennington	Seibert of Norwich
Larrabee of Danville	Morley of Barton	Severance of Colchester
Larson of Burlington	Morrissey of Bennington	Shand of Weathersfield
LaVoie of Swanton	Myers of Essex	Sharpe of Bristol
Lawrence of Lyndon	Nease of Johnson	Shaw of Derby
Leriche of Hardwick	Niquette of Colchester	Smith of New Haven
Lippert of Hinesburg	Nitka of Ludlow	Smith of Morristown
Lorber of Burlington	Nuovo of Middlebury	Sunderland of Rutland Town
Louras of Rutland City	Obuchowski of Rockingham	Sweaney of Windsor
Maier of Middlebury	O'Donnell of Vernon	Tracy of Burlington
Malcolm of Pawlet	Orr of Charlotte	Trombley of Grand Isle
Marcotte of Coventry	Otterman of Topsham	Turner of Milton
Marek of Newfane	Parent of St. Albans City	Valliere of Barre City
Marron of Stowe	Partridge of Windham	Westman of Cambridge
Martin of Wolcott	Peaslee of Guildhall	Winters of Swanton
Masland of Thetford	Pellett of Chester	Winters of Williamstown
McAllister of Highgate	Perry of Richford	Wright of Burlington
McCullough of Williston	Peterson of Williston	Young of Orwell
McFaun of Barre Town	Pillsbury of Brattleboro	Zuckerman of Burlington
McLaughlin of Royalton	Potter of Clarendon	

Those who voted in the negative are:

None.

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

Barnard of Richmond	Grad of Moretown	Martin of Springfield
Dostis of Waterbury	Helm of Castleton	Monti of Barre City
Dunsmore of Georgia	Livingston of Manchester	

Thereupon, third reading was ordered.

Message from the Senate No. 32

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. 248. An act relating to registration of lobbyists.

H. 579. An act relating to Vermont service medals.

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

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

H. 468. An act relating to the designation of Randall Lineback cattle as the state heritage breed of livestock.

And has passed the same in concurrence.

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

J.R.S. 58. Joint resolution providing for a Joint Assembly to vote on the retention of two Superior Judges.

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

Bill Amended; Third Reading Ordered

H. 677 .

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

An act relating to standards board and licensing hearing panels for professional educators;

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

Sec. 1. 16 V.S.A. § 212(14) is added to read:

(14) Annually, convene a meeting of directors of Vermont educator preparation programs and representatives of school boards, superintendents, principals, educators, and the Vermont standards board to determine subject and geographic areas in which there is a critical need for educators and to discuss ways to meet the need.

Sec. 2. 16 V.S.A. chapter 51 is amended to read:

CHAPTER 51. ~~EXAMINATION AND LICENSING OF TEACHERS~~ PROFESSIONAL EDUCATORS

§ 1690. PURPOSE

The purpose of this chapter is to establish a board of professional educators to oversee the training, licensing, and professional standards of teachers and administrators and to establish hearing panels to determine compliance with

those standards to help assure high caliber professionals and high quality educational programs for Vermont students.

§ 1691. DEFINITIONS

As used in this chapter:

(1) "Administrator" means an individual licensed under this chapter the majority of whose employed time in a public school, school district, or supervisory union is assigned to developing and managing school curriculum, evaluating and disciplining personnel, or supervising and managing a public school system or public school program.

(2) "Applicant" means an individual applying for a license.

(3) "Disciplinary action" means action that suspends, revokes, limits, or conditions licensure or certification in any way and includes warnings, reprimands, probation, and administrative penalties.

(4) "Educator" means any teacher or administrator requiring a license under this chapter.

(5) "Endorsement" means the grade level and field in which an educator is authorized to serve. A license shall bear one or more endorsements.

(6) "Hearing panel" means the persons assigned in individual cases to find facts, reach conclusions of law, and make decisions regarding compliance with standards for obtaining, retaining, and renewing licenses.

(7) "License" means a license to engage in teaching or school administration, as the context requires, in the state and includes, unless the context requires otherwise, the endorsements the licensee has applied for or possesses. "Licensee" means an individual licensed under this chapter.

(8) "Office" means the office within the department of education responsible for professional standards and educator licensing.

(9) "Standards board" means the Vermont standards board for professional educators established under section 1693 of this title.

(10) "Teacher" means an individual licensed under this chapter the majority of whose employed time in a public school district or supervisory union is assigned to furnish to students direct instructional or other educational services, as defined by rule of the standards board, or who is otherwise subject to licensing as determined by the standards board.

§ 1692. REQUIREMENT AS TO LICENSE; AGE LIMIT

A person shall not teach Except for a substitute teacher in accordance with rules adopted by the standards board, a person shall not be employed as a teacher or administrator in a public school without having a license then in force. A license shall not be issued to a person under seventeen years of age.

§ 1693. STANDARDS BOARD FOR PROFESSIONAL EDUCATORS

(a) There is hereby established the Vermont standards board for professional educators comprising 13 members as follows: seven teachers, two administrators, one public member, one school board member, and two representatives of educator preparation programs.

(b) Appointment and qualifications. All members of the standards board shall be appointed by the governor for terms of three years which shall begin July 1 of the year of appointment. No person shall be eligible for more than one sequential reappointment. The governor shall appoint a replacement to fill any vacancy on the standards board for the remainder of the term. The governor shall assure appointments are consistent with the following requirements:

(1) Each member of the standards board shall be a citizen of the United States and a resident of Vermont.

(2) The educator members shall be generally representative of elementary and secondary schools and of programs of study taught in Vermont public schools and of administrative positions in Vermont public schools. Teacher members shall hold a license and have at least five years' experience in public school teaching, at least three of which shall have been within the five years preceding appointment. Administrator members shall hold a license and be endorsed as an administrator and have at least five years' experience in public school administration, at least three of which shall have been within the five years preceding appointment.

(3) The school board member shall be a current school district board member or have served on a school district board at some period during the three years prior to appointment.

(4) The public member shall not be a member of the state board of education or an employee of any school and shall not derive primary livelihood in the field of public or independent education at any level of responsibility.

(c) Standards board officers; meetings. The standards board shall elect from its members a chair, vice chair, and secretary who shall serve for one year and until their successors are elected and seated. The board shall meet at the request of the chair or at such other times and places as the board may

determine. Seven members of the board shall constitute a quorum for the transaction of business.

(d) Compensation. The department of education shall compensate standards board members for the performance of their duties and reimburse them for their actual and necessary expenses in accordance with section 1010 of Title 32.

(e) Administration. The standards board shall be attached for administrative purposes to the office. With respect to the standards board, the commissioner shall:

(1) with the advice of the standards board, employ a director, prepare an annual budget, and administer money appropriated to the standards board by the general assembly. The budget of the standards board shall be part of the budget of the department;

(2) employ administrative staff of the office;

(3) incur such other expenses as the commissioner determines are necessary;

(4) act as custodian of the records of the standards board; and

(5) annually, conduct a training for members of the standards board and the hearing panels established in this chapter, which shall include workshops regarding the powers and duties of the standards board and the panels and an opportunity for the standards board and hearing panel members to discuss the practical application of standards in quasi-judicial proceedings.

§ 1694. POWERS AND DUTIES OF THE STANDARDS BOARD FOR PROFESSIONAL EDUCATORS

In addition to any other powers and duties prescribed by law or incidental or necessary to the exercise of such lawful powers and duties, the standards board shall:

(1) Adopt rules pursuant to chapter 25 of Title 3 with respect to the licensing of teachers and administrators, and of speech-language pathologists and audiologists as provided in chapter 87 of Title 26;

(2) Establish standards for educator preparation programs in Vermont and approve those that meet the standards so that a person graduating from an approved program shall be eligible for a license to engage in teaching or school administration in accordance with standards board rules. The standards board may accept accreditation of an educator preparation program in Vermont or another state from a national accreditation entity as sufficient for approval;

(3) Establish standards, including endorsements, according to which individuals may obtain a license or have one renewed or reinstated;

(4) Oversee and monitor the application and licensing process administered by the office; and

(5) Develop a code of professional ethics and act as advisor to professional educators regarding its interpretation.

§ 1695. CREDENTIALS GRANTED IN ANOTHER STATE REVIEW OF LICENSING STANDARDS

The board shall make regulations relating to the recognition of teachers' licenses, diplomas and educational credentials granted in any other state, provided such other state shall recognize, by substantially reciprocal regulations or laws, such licenses, diplomas and educational credentials issued in this state. Prior to the prefiling by the standards board of a licensing standard or procedure proposed for rulemaking pursuant to section 820 of

Title 3, the commissioner may object to it before the state board of education on the grounds that it would have significant adverse financial or operational impact on the public school system. If the state board of education agrees, it may remand the proposed rule to the standards board for further deliberations consistent with its written decision. The commissioner may also object on the same grounds to a substantive change to a proposed rule, once initiated, before a final proposal is filed pursuant to section 841 of Title 3.

§ 1696. LICENSING

(a) Qualifications of applicants. An applicant shall submit to the commissioner evidence satisfactory to the commissioner that the applicant either has completed all requirements of an approved educator preparation program or has otherwise acquired the knowledge and skills required for a license through coursework and experiences apart from an approved educator preparation program.

(b) License by reciprocity. By rule, the standards board shall establish standards according to which an applicant who meets the licensing standards of another state with standards substantially similar to Vermont's may be accorded a license in this state, provided the other state recognizes, by substantially reciprocal regulations or laws, licenses issued in this state.

(c) Temporary licenses. By rule, the standards board may establish standards, if any, by which an applicant who otherwise does not meet the standards for a license may obtain, for a period not to exceed two years, a temporary license.

(d) Denial of license. The commissioner may deny a license for:

(1) Failure to meet the conditions for issuance of a license or endorsement or renewal or reinstatement thereof; or

(2) Failure of a licensee to demonstrate the competencies specified in the rules of the standards board.

(e) Appeal. An applicant aggrieved by a decision of the commissioner regarding the issuance or renewal of a license may appeal that decision by notifying the commissioner in writing within 30 days of receiving the decision. The commissioner forthwith shall transmit notice of the appeal to the administrative officer for hearing panels to initiate the appeal process set forth in section 1700 of this title.

§ 1697. FEES

(a) Each applicant and licensee shall be subject to the following fees:

- | | |
|---|---------------|
| (1) Initial processing of application | \$35.00 |
| (2) Issuance of initial license for the term of the license | \$35.00 |
| | per year |
| (3) Renewal of license for the term of the renewal | \$35.00 |
| | per year |
| (4) Replacement of license | \$10.00 |
| (5) Duplicate license | \$3.00 |
| (6) Peer review process | \$1,200.00 |
| | one-time fee. |

(b) Fees collected under this section shall be credited to special funds established and managed pursuant to ~~chapter 7~~, subchapter 5 of ~~chapter 7~~ of Title 32, and shall be available to the department to offset the costs of providing those services.

§ 1698. UNPROFESSIONAL CONDUCT

Any one of the following, or any combination of the following, constitutes unprofessional conduct whether the conduct at issue was committed within or outside the state:

(1) Conduct on or off duty that either places a student or students in potential physical or emotional jeopardy or evidences moral unfitness to practice as an educator.

(2) Conviction for a criminal offense in which the underlying circumstances, conduct, or behavior places a student or students in potential physical or emotional jeopardy or evidences moral unfitness to practice as an educator.

(3) Conviction of grand larceny under 13 V.S.A. § 2501 or embezzlement as defined in chapter 57 subchapter 2 of Title 13.

(4) Conviction of a crime which involves fraudulent misrepresentation, dishonesty or deceit, including conviction for any of the following: 13 V.S.A. §§ 1101, 1102, 1103, 1104, 1106, 1107, 1108, 3006, or 3016.

(5) Maladministration. In this section, maladministration means a pattern of willful misconduct or a single egregious act of willful misconduct in violation of duties and obligations of the position.

(6) Falsification, misrepresentation, or misstatement of material information provided in connection with the application for or renewal or reinstatement of a license or endorsement.

§ 1699. REPORTS OF ALLEGED UNPROFESSIONAL CONDUCT

(a) An individual who has reasonable cause to believe a licensee has engaged in unprofessional conduct may, and a superintendent who has reasonable cause to believe a licensee has engaged in unprofessional conduct shall, submit a written report to the commissioner concerning allegations of unprofessional conduct about a licensee. A principal submitting a report under this section shall submit it to the superintendent and may also submit it to the commissioner.

(b) Except as provided in section 1708 of this title, information provided the licensing office under this section shall be confidential.

(c) A person who acts in good faith under the provisions of this section shall not be liable for damages in any civil action.

§ 1700. INVESTIGATION

(a) Investigation committee. Upon receiving notice of either an applicant's appeal of a licensing office decision or an allegation of unprofessional conduct on the part of a licensee, the hearing panel administrative officer shall assign one or more of its licensee members to serve on an investigation committee with an investigator and prosecuting attorney assigned by the commissioner of education to investigate the licensing decision or allegation and make recommendations to the commissioner in accordance with subsections (b) and (d) of this section. Teacher members shall be assigned to assist in the investigation of matters involving teachers and administrator members in

matters involving administrators. Members shall not serve on a hearing panel regarding any matter they assisted in investigating. If the administrative officer is unable to assign one or more members to the investigation committee by reason of disqualification, resignation, vacancy, or necessary absence, the officer shall appoint ad hoc members who shall meet the requirements of subsection 1693(b) of this title.

(b) Preliminary review. After conducting a preliminary review of an allegation of unprofessional conduct or of a denial of a license based on alleged unprofessional conduct, the investigation committee shall make a recommendation to the commissioner regarding whether to conduct a formal investigation.

(c) Formal investigation. If the commissioner decides to conduct a formal investigation, the commissioner shall notify the educator and direct the investigation committee to proceed with a formal investigation.

(d) Recommendation. Upon completing its investigation, the investigation committee shall recommend that the commissioner, with respect to a license application, affirm or reverse a licensing office decision or, with respect to alleged unprofessional conduct, issue or not issue formal disciplinary charges.

(e) Professional guidance. In its recommendation as to whether the commissioner should issue formal charges and, if so, what form they should take, the committee may consider the effect it believes its professional guidance may have in mitigating the need for and nature of disciplinary action.

§ 1701. COMMISSIONER'S DETERMINATION

(a) Matters involving denial of licensure. With respect to an applicant's appeal, the commissioner shall, within 10 days of receiving the committee's recommendation, affirm or reverse the licensing decision and notify the applicant in writing. If the commissioner reverses the decision, the office shall issue a license accordingly. If the commissioner affirms the decision, the applicant may appeal by notifying the commissioner in writing within 10 days of receiving the commissioner's decision. The commissioner shall forthwith notify the hearing panel administrative officer of the appeal.

(b) Matters involving alleged unprofessional conduct. With respect to a licensee alleged to have engaged in unprofessional conduct, the commissioner shall, within 10 days of receiving the investigation committee's recommendation, determine whether to issue a formal charge and what, if any, disciplinary action should be imposed. If the commissioner determines no formal charge is warranted, the commissioner shall notify the licensee in writing. If the commissioner determines a formal charge is warranted, the

commissioner shall prepare a formal charge, file it with the hearing panel administrative officer, and cause a copy to be served upon the licensee charged together with a notice of hearing and procedural rights, as provided in this chapter.

§ 1702. HEARING PANELS

(a) Appointment. The governor shall appoint seven teachers, four administrators and three members of the public to serve on hearing panels for terms of three years beginning on July 1 of the year of appointment. No person shall be eligible for more than one sequential reappointment. The governor shall ensure appointments are consistent with the requirements found in subdivisions 1693(b)(1) - (3) of this title. By appointment, the governor shall fill any vacancy for the remainder of its term. Panel members shall be considered appointive officers for the purposes of chapter 29 of Title 3 and shall be compensated in accordance with section 1010 of Title 32.

(b) Administration. The hearing panels shall be attached for administrative purposes to the office. Annually, the panel members shall meet collectively to:

(1) elect an administrative officer for the purpose of assigning hearing panels in licensing matters;

(2) approve a pool, based upon the commissioner's recommendation, of impartial hearing officers who shall be attorneys admitted to practice in this state; and

(3) plan professional development activities.

(c) Powers and duties of hearing panels. Hearing panels shall have the authority to determine compliance by applicants, licensees, and the office with standards board standards according to which individuals may obtain, renew, and retain a license. Upon notification that the applicant has appealed under subsection 1701(a) of this title or that the commissioner has issued a formal charge under subsection 1701(b) of this title, the administrative officer shall appoint a hearing officer and a panel, as well as a chair for the panel. Panels hearing appeals of teachers shall comprise two teacher members and one public member. Panels hearing appeals of administrators shall comprise two administrator members and one public member. In the conduct of proceedings, the hearing officer, or the panel if it takes additional evidence under subsection 1706(a) of this title, may:

(1) Issue subpoenas to compel the attendance of witnesses and the furnishing of evidentiary material in connection with a hearing;

(2) Authorize depositions to be taken as needed in any investigation, hearing, or proceeding;

(3) Conduct administrative hearings in accordance with this section, section 1705 of this title, and chapter 25 of Title 3 regarding appeals of licensing decisions and charges of unprofessional conduct;

(4) In the case of the hearing officer, recommend and, in the case of a hearing panel, make decisions regarding appeals of licensing decisions and disciplinary charges; and

(5) Undertake any other actions and procedures specified in or required or appropriate to carry out the provisions of this chapter.

§ 1703. TIME AND NOTICE OF HEARING

The chair of the panel shall fix the time of hearing, which shall be between 30 and 60 days after, as applicable, filing of the license application appeal or service of the charge on the licensee. The chair shall provide the applicant or licensee notice of the hearing, in it stating the following: the time and place of the hearing; the right of the applicant or licensee charged to file with the chair a written response within 20 days of the date of service; the fact that a record of the proceeding will be kept; the rights of the applicant or licensee charged at the hearing to appear personally, to be represented by counsel, to produce witnesses and evidence, to cross-examine witnesses, and to examine such documentary evidence as may be produced; and, in the case of a licensee's alleged unprofessional conduct, the range of discipline to which the licensee charged may be subject if found to have engaged in unprofessional conduct.

§ 1704. BURDEN OF PROOF

(a) Denial of licensure. Except as provided in subsection (b) of this section, the burden of proof in matters involving the initial denial of a license or the addition of an endorsement to a license once issued shall be on the applicant by a preponderance of the evidence.

(b) Alleged unprofessional conduct. The burden of proof in matters involving alleged unprofessional conduct, including denial of a license based on alleged unprofessional conduct, shall be on the commissioner by a preponderance of the evidence, except that in the case of revocation or suspension for more than one year, the proof shall be by clear and convincing evidence.

§ 1705. HEARING OFFICER RECOMMENDATION

The hearing officer shall conduct the hearing for the purpose of issuing recommended findings of fact, conclusions of law, and a proposed decision to the hearing panel. The hearing officer may administer oaths and otherwise exercise the powers of a judicial officer regarding the conduct of a fair and

impartial hearing. Within 30 days of the hearing, the hearing officer shall recommend to the hearing panel findings of fact, conclusions of law, and a decision and by certified mail provide a copy to the applicant or licensee.

§ 1706. DECISION AND ORDER

(a) Hearing panel decision. The hearing panel may take additional evidence and may accept, reject, or modify the recommendations of the hearing officer and shall issue findings of fact, conclusions of law, and an order within 30 days of receiving the recommendations, unless the hearing panel grants an extension for good cause. The hearing panel shall provide a copy of the decision to the commissioner and, by certified mail, the applicant or licensee charged. If a licensee charged is not found to have engaged in unprofessional conduct, the hearing panel shall include in its order a statement that the charges were not substantiated by the evidence and it shall dismiss the charges.

(b) Charges substantiated. If a licensee charged is found to have engaged in unprofessional conduct, the hearing panel, in its order, may: take no action; issue a warning; issue a private reprimand; issue a public reprimand; or condition, limit, suspend, or revoke the license to practice. An administrative penalty not to exceed \$1,000.00 may be imposed by itself or in connection with the issuance of a warning or of a private or public reprimand.

§ 1707. APPEAL FROM PANEL ORDER

(a) Appeal to state board of education.

(1) A party aggrieved by a final decision of a hearing panel may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the administrative officer of the hearing panel who shall refer the case to the state board of education. The parties may agree to waive this review by written stipulation filed with the state board of education. The state board of education shall conduct its review on the basis of the record created before the hearing panel, and it shall allow the presentation of evidence regarding alleged irregularities in hearing procedure not shown in the record.

(2) The state board of education shall not substitute its judgment for that of the hearing panel as to the weight of the evidence on questions of fact. It may affirm the decision or may reverse and remand the matter with recommendations if substantial rights of the appellant have been prejudiced because the hearing panel's finding, inferences, conclusions, or decisions are:

(A) in violation of constitutional or statutory provisions;

(B) in excess of the statutory authority of the hearing panel;

(C) made upon unlawful procedure;

(D) affected by other error of law;

(E) clearly erroneous in view of the evidence on the record as a whole;

(F) arbitrary or capricious; or

(G) characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(b) Following appeal or waiver of appeal to the state board of education, a party may appeal to the superior court in Washington County which shall review the matter de novo.

§ 1708. ACCESSIBILITY AND CONFIDENTIALITY OF LICENSING MATTERS

(a) It is the purpose of this section both to protect the reputation of licensees from public disclosure of unwarranted complaints and to fulfill the public's right to know of any action taken against an applicant or a licensee when that action is based on a determination of unprofessional conduct.

(b) All meetings and hearings of the standards board and hearing panels shall be held in accordance with chapter 5 of Title 1.

(c) The commissioner shall prepare and maintain a register of all complaints which shall be a public record and which shall show:

(1) with respect to all complaints for which a formal investigation is initiated under subsection 1700(c) of this title, the following information:

(A) the date and the nature of the complaint, but not the identity of the licensee or information that could be used to identify the licensee; and

(B) a summary of the completed investigation; and

(2) only with respect to complaints resulting in the filing of a formal charge under subsection 1701(b) of this title, the following additional information:

(A) the name and business addresses of the licensee and the name of the complainant if disclosure is permitted under federal or state law and does not provide personally identifying information about a student;

(B) formal charges, provided they have been served or a reasonable effort to serve them has been made;

(C) except as provided under chapter 5 of Title 1, the findings, conclusions, and order of the hearing panel; and

(D) final disposition of the matter.

(d) The hearing panel and the commissioner shall not disclose to anyone but the applicant or the licensee charged any information regarding a disciplinary complaint, proceeding, or record, except the information required to be released under this section.

(e) A licensee or applicant shall have the right to inspect and copy all information in the possession of the department of education pertaining to the licensee or applicant, except investigatory files not resulting in unprofessional conduct charges and attorney work product.

(f) Nothing in this section shall prohibit the disclosure of information:

(1) regarding disciplinary complaints to state or federal law enforcement agencies, provided the agency agrees to maintain the confidentiality and privileged status of the information as provided in subsection (d) of this section; or

(2) regarding denials of licensure for cause, and license suspensions or revocations, and including reinstatements of licenses, to the National Association of State Directors of Teacher Education and Certification, consistent with the member agreement executed between it and the state of Vermont. For the purposes of this subdivision, "cause" includes any circumstance or activity also deemed to be a revocable offense.

§ 1709. REPORTS

The commissioner of education shall issue annually a report to the standards board which shall contain:

(1) the number of new licensees and endorsements they receive, the number of licenses that have lapsed without renewal, and the total number of licensees;

(2) a summary of all complaints requiring preliminary review, formal investigation and formal charges; and

(3) an accounting of all fees and administrative penalties received by the office and all expenditures and costs of the office for the year.

Sec. 3. 16 V.S.A. § 1931(20) is amended to read:

(20) "Teacher" shall mean any licensed teacher, principal, supervisor, superintendent, or any professional licensed by the ~~state board of education~~

Vermont standards board for professional educators regularly employed for the full normal working time for his or her position in a public day school within the state, or in any school or teacher-training institution located within the state, controlled by the state board of education, and supported wholly by the state; or any teacher, principal, supervisor, superintendent, or any professional regularly employed for the full normal working time for his or her position in any nonsectarian independent school which serves as a high school for the town or city in which the same is located, provided such school is not conducted for personal profit. It shall also mean any person employed in a teaching capacity in certain public independent schools designated for such purposes by the board of trustees in accordance with section 1935 of this title. In all cases of doubt the board of trustees, herein defined, shall determine whether any person is a teacher as defined in this chapter. It shall not mean a person who is teaching with an emergency license.

Sec. 4. 16 V.S.A. § 1981(1) and (5) are amended to read:

(1) "Administrator" means any person so licensed by the ~~state board of education~~ Vermont standards board for professional educators, the majority of whose employed time in a school or a school district is devoted to serving as superintendent, assistant superintendent, assistant to the superintendent, supervisor, principal, or assistant principal.

(5) "Teacher" means any person licensed employable as a teacher by the ~~state board of education~~ Vermont standards board for professional educators who is not an administrator as herein defined.

Sec. 5. 26 V.S.A. § 4451(3), (10), and (14) are amended to read:

(3) "Board" means the ~~state board of education~~ Vermont standards board for professional educators unless the context clearly requires otherwise.

(10) "Private practice" means any work performed by a licensed speech-language pathologist or audiologist that is not within the jurisdiction of the ~~state board of education~~.

(14) "Within the jurisdiction of the ~~state board of education~~" means conduct or work performed by a licensed speech-language pathologist or audiologist on behalf of a supervisory union or public school district in Vermont or an independent school approved for special education purposes, or conduct otherwise subject to discipline under the ~~state board of education~~ licensing rules of the board.

Sec. 6. 26 V.S.A. § 4454(b) is amended to read:

(b) This chapter shall not be construed to limit the authority of the ~~state board of education~~ to determine and evaluate the qualifications of, issue licenses to, or discipline licensees who are within the jurisdiction of the ~~state board of education or the Vermont standards board for professional educators~~.

Sec. 7. 26 V.S.A. § 4455(b) is amended to read:

(b) The secretary shall seek the advice of the individuals appointed under this section in matters related to qualifications or alleged misconduct not within the jurisdiction of the ~~state board of education~~. The advisors shall be entitled to compensation and necessary expenses as provided in section 1010 of Title 32 for meetings called by the director.

Sec. 8. 26 V.S.A. § 4456(a)(6) is amended to read:

(6) refer all complaints and disciplinary matters not within the jurisdiction of the ~~state board of education~~ to the secretary of state;

Sec. 9. 26 V.S.A. § 4457 is amended to read:

§ 4457. LICENSURE; APPLICATIONS; ELIGIBILITY

Applicants for licenses under this chapter shall submit an application to the department on a form furnished by the department, along with payment of the specified fee and evidence of the eligibility qualifications established by the ~~state board of education~~ which shall include, at a minimum:

* * *

Sec. 10. 26 V.S.A. § 4458(a) is amended to read:

(a) A license shall be renewed at an interval determined by the ~~state board of education~~ which shall be no fewer than every two years and no more than every seven years upon payment of the renewal fee, provided the person applying for renewal completes professional development activities in accord with the processes approved by the department or the ~~Vermont standards board for professional educators~~, during the interval. The board shall establish, by rule, guidelines and criteria for the renewal or reinstatement of licenses issued under this chapter.

Sec. 11. REPEAL

16 V.S.A. § 164(5) is repealed.

Sec. 12. TRANSITION; EFFECTIVE DATE

(a) The current Vermont standards board for professional educators shall continue to perform its duties under existing state board of education rules and its appointed members shall continue in their positions during fiscal year 2007.

Notwithstanding any state board rule to the contrary, the state board may reappoint current standards board members for fiscal year 2007.

(b) Regulations and standards adopted by the state board of education which relate to the areas under the authority of the Vermont standards board for professional educators pursuant to this act shall remain in effect upon passage of this act until the standards board officially changes them.

(c) During fiscal year 2007, the governor shall appoint members of the Vermont standards board for professional educators and the individuals to serve on the hearing panels for staggered terms commencing July 1, 2007.

(d) This section shall become effective on passage. The remainder of this act shall take effect on July 1, 2007.

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 Education? **Rep. Lavoie of Swanton** moved to amend the report of the committee on Education as follows:

By inserting a new Sec. 11 to read:

Sec. 11. VERMONT EDUCATORS; CRITICAL NEEDS

At the 2006 meeting convened pursuant to this section, the group shall discuss, at a minimum, the need for teachers of children with autism and for speech-language pathologists. If the group determines that there is a need for speech-language pathologists in Vermont, it shall discuss whether a new level of licensure which does not require a master's degree would help to meet the need.

and by renumbering the remaining Sections to be numerically correct

Which was agreed to and the recommendation of amendment offered by the committee on Education, as amended, was agreed to and third reading ordered.

Recess

At twelve o'clock noon, the Speaker declared a recess until one o'clock in the afternoon.

Afternoon

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

Bill Read the Second Time; Consideration Interrupted by Recess**H. 864**

Rep. Emmons of Springfield spoke for the committee on Institutions.

Rep. Bostic of St. Johnsbury, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to capital construction and state bonding;

Reported in favor of its passage when amended as follows:

In Sec. 10 by striking subsection (c) in its entirety and inserting in lieu thereof: "(c) [Deleted.]"

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

Pending the question, Shall the bill be read the third time?

Recess

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

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

**Consideration Resumed;
Bill Amended and Third Reading Ordered****H. 864**

Consideration resumed on House bill, entitled

An act relating to capital construction and state bonding;

The recurring question, Shall the bill be read a third time? was agreed to.

House Resolution Recommitted**H. R. 14**

House resolution, entitled

House resolution in support of legislation to halt temporarily Dubaio Ports World's assumption of operational contracts for certain United States ports;

Appearing on the Calendar for action, was taken up and pending the question, Shall the resolution be adopted? **Rep. Kitzmiller of Montpelier** moved that the resolution be recommitted to the committee on Commerce, which was agreed to.

Bill Read Second Time; Third Reading Ordered

H. 865

Rep. Lippert of Hinesburg spoke for the committee on Judiciary.

House bill entitled

An act relating to nondiscrimination;

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

Pending the question, Shall the bill be read the third time? **Rep. Sunderland of Rutland Town** moved to recommit the bill to Judiciary.

Pending the question, Shall the bill be recommitted to the committee on Judiciary? **Rep. Partridge of Windham** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be recommitted to the committee on Judiciary? was decided in the negative. Yeas, 39. Nays, 90.

Those who voted in the affirmative are:

Acinapura of Brandon	Flory of Pittsford	Miller of Elmore
Allaire of Rutland City	Helm of Castleton	Morley of Barton
Allard of St. Albans Town	Houston of Ferrisburgh	Morrissey of Bennington
Baker of West Rutland	Hube of Londonderry	Otterman of Topsham
Bartlett of Dover	Hudson of Lyndon	Parent of St. Albans City
Bostic of St. Johnsbury	Johnson of Canaan	Peaslee of Guildhall
Brennan of Colchester	Kennedy of Chelsea	Shaw of Derby
Canfield of Fair Haven	Kilmartin of Newport City	Sunderland of Rutland Town
Clark of St. Johnsbury	Larocque of Barnet	Valliere of Barre City
Dates of Shelburne	Larrabee of Danville	Winters of Swanton
Donaghy of Poultney	LaVoie of Swanton	Winters of Williamstown
Endres of Milton	Lawrence of Lyndon	Wright of Burlington
Errecart of Shelburne	Marcotte of Coventry	Young of Orwell

Those who voted in the negative are:

Adams of Hartland	Copeland-Hanzas of	Evans of Essex
Ancel of Calais	Bradford	Fallar of Tinmouth
Aswad of Burlington	Corcoran of Bennington	Fisher of Lincoln
Audette of S. Burlington	Cross of Winooski	Frank of Underhill
Bohi of Hartford	Darrow of Dummerston	French of Randolph
Botzow of Pownal	Deen of Westminster	Gervais of Enosburg
Branagan of Georgia	DePoy of Rutland City	Green of Berlin
Brooks of Montpelier	Donahue of Northfield	Haas of Rochester
Chen of Mendon	Donovan of Burlington	Head of S. Burlington
Clarkson of Woodstock	Dowland of Holland	Heath of Westford
Condon of Colchester	Edwards of Brattleboro	Hosford of Waitsfield
	Emmons of Springfield	Hunt of Essex

Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Keogh of Burlington
 Kiss of Burlington
 Kitzmiller of Montpelier
 Klein of East Montpelier
 Koch of Barre Town
 Kupersmith of S. Burlington
 Larson of Burlington
 Leriche of Hardwick
 Lippert of Hinesburg
 Livingston of Manchester
 Lorber of Burlington
 Louras of Rutland City
 Maier of Middlebury
 Malcolm of Pawlet
 Marek of Newfane
 Martin of Wolcott

Masland of Thetford
 McAllister of Highgate
 McCullough of Williston
 McFaun of Barre Town
 McLaughlin of Royalton
 Milkey of Brattleboro
 Miller of Shaftsbury
 Minter of Waterbury
 Molloy of Arlington
 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
 Partridge of Windham

Pellett of Chester
 Perry of Richford
 Peterson of Williston
 Pillsbury of Brattleboro
 Potter of Clarendon
 Pugh of S. Burlington
 Reese of Pomfret
 Rodgers of Glover
 Rusten of Halifax
 Seibert of Norwich
 Shand of Weathersfield
 Sharpe of Bristol
 Smith of Morristown
 Sweaney of Windsor
 Tracy of Burlington
 Turner of Milton
 Westman of Cambridge
 Zuckerman of Burlington

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

Atkins of Winooski
 Barnard of Richmond
 Clark of Vergennes
 Dostis of Waterbury
 Dunsmore of Georgia
 Grad of Moretown
 Howard of Rutland City

Howrigan of Fairfield
 Hutchinson of Randolph
 Kainen of Hartford
 Keenan of St. Albans City
 Komline of Dorset
 Krawczyk of Bennington
 Marron of Stowe

Martin of Springfield
 Monti of Barre City
 Randall of Troy
 Severance of Colchester
 Smith of New Haven
 Trombley of Grand Isle

Rep. Green of Berlin explained his vote as follows:

"Madam Speaker:

I voted no to recommit because I accept the point that those who might have wanted to testify can do so when the bill is taken up on the Senate. I did so reluctantly because I think we should always err on the side of openness, when there is a question whether full testimony was permitted."

Thereupon, third reading was ordered.

Bill Amended; Third Reading Ordered

H. 33

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

An act relating to the uniform mediation act;

Reported in favor of its passage when amended as follows:

In Sec. 1, § 5718 of 12 V.S.A., by striking subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) A mediator may not make a report, assessment, evaluation, recommendation, finding, or other communication regarding a mediation to a court, agency, or other authority that may make a ruling on the dispute that is the subject of the mediation, but a mediator may disclose:

(1) whether the case is not appropriate for mediation, whether the mediation occurred or has terminated, whether a settlement was reached, and attendance;

(2) a mediation communication as permitted under section 5717 of this title; or

(3) a mediation communication evidencing abuse, neglect, abandonment, or exploitation of a child or vulnerable adult to a public agency responsible for protecting such individuals against such mistreatment.

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.

Bill Amended; Third Reading Ordered

H. 306

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

An act relating to transportation of children in the custody of the state;

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

Sec. 1. 33 V.S.A. § 5541 is added to read:

§ 5541. TRANSPORTATION OF A CHILD

(a) The commissioner of the department for children and families shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a child subject to this chapter in a manner which:

(1) prevents physical and psychological trauma;

(2) respects the privacy of the individual; and

(3) represents the least restrictive means necessary for the safety of the child.

(b) The commissioner of the department for children and families shall have the authority to select the person or persons who may transport a child under the commissioner's care and custody.

(c) The commissioner shall assure supervisory review of every decision to transport a child using mechanical restraints. When transportation with restraints for a particular child is approved, the reasons for the approval shall be documented in writing.

Sec. 2. 18 V.S.A. § 7511 is amended to read:

§ 7511. TRANSPORTATION

(a) The commissioner of the department of health shall ensure that all reasonable and appropriate ~~efforts~~ measures consistent with public safety are made to transport or escort a person subject to this chapter to and from any inpatient setting, including escorts within a designated hospital or the Vermont state hospital, or otherwise being transported under the jurisdiction of the commissioner in a manner which:

- (1) prevents physical and psychological trauma;
- (2) respects the privacy of the individual; and
- (3) represents the least restrictive means necessary for the safety of the patient.

(b) The commissioner shall have the authority to designate by rule the professionals who may ~~transport~~ authorize the method of transport of patients under the commissioner's care and custody.

(c) When a professional designated pursuant to subsection (b) of this section decides an individual is in need of secure transport with mechanical restraints, the reasons for such determination shall be documented in writing.

Sec. 3. DATA COLLECTION

(a) On or before January 31, 2007 and January 31, 2008, the commissioner of the department for children and families shall report to the house committee on human services and the senate committee on health and welfare data for the preceding year regarding the transportation of children in the custody of the commissioner by a sheriff or deputy sheriff. The data shall include the number and gender of children transported to various locations and geographic distribution of the use of such transports.

(b) On or before January 31, 2007 and January 31, 2008, the commissioner of the department of health shall report to the house committee on human services and the senate committee on health and welfare data for the preceding year regarding the transportation of persons in accordance with 18 V.S.A.

§ 7511. The data shall include the number, method and location of all adult and child transports.

and that upon passage, the bill be amended to read "An Act Relating to Transportation of Individuals in the Custody of the State"

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.

Action on Bill Postponed

H. 480

House bill, entitled

An act relating to precursor drugs of methamphetamine;

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.

Adjournment

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

WEDNESDAY, MARCH 1, 2006

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

Devotional Exercises

Devotional exercises were conducted by Reverend Jim Proctor, South Royalton United Church., South Royalton, VT.

Bill Referred to Committee on Appropriations

H. 776

House bill, entitled

An act relating to an appropriation for community development;

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

House Bill Introduced**H. 870****Short Form**

Rep. Chen of Mendon introduced a bill, entitled

An act relating to a commission to study reorganization of supervisory unions;

Which was read the first time and referred to the committee on Education.

Joint Resolution Placed on Calendar

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

J.R.S. 58.

By Senator Sears,

Joint resolution providing for a Joint Assembly to vote on the retention of two Superior Judges.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 16, 2006, at ten o'clock and thirty minutes in the forenoon to vote on the retention of two Superior Judges. In case the vote to retain said Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Bill Amended; Third Reading Ordered**H. 480**

Rep. Pugh of South Burlington, for the committee on Human Services, to which had been referred House bill, entitled

An act relating to precursor drugs of methamphetamine;

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. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A judicial bureau is created within the judicial branch under the supervision of the supreme court.

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(10) violations under subdivision 658(c)(1) of Title 7, relating to an employee of a second class licensee selling alcohol to a minor during a compliance check;

(11) violations of 18 V.S.A. § 4234b(b), relating to selling and dispensing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers.

* * *

Sec. 2. 18 V.S.A. § 4234b is added to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

(a) Possession.

(1) No person shall knowingly and unlawfully possess a drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use the product as a precursor to manufacture methamphetamine or another controlled substance.

(2) A person who violates this subsection shall:

(A) if the offense involves possession of less than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, be imprisoned not more than one year or fined not more than \$2,000.00, or both;

(B) if the offense involves possession of nine or more grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(b) Selling and dispensing.

(1) A drug product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall not be distributed at retail to the general public unless it is maintained in a locked display case or behind the counter out of the public's reach.

(2)(A) A retail establishment shall not knowingly dispense to a person within a 30-day period any drug product or combination of drug products containing a total of nine or more grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers.

(B) A retail establishment shall not knowingly dispense to a person within a 24-hour period any drug product or combination of drug products

containing a total of more than 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers.

(C) This subdivision shall not apply to drug products dispensed pursuant to a valid prescription.

(3)(A) A retail establishment shall require that a person who purchases, receives, or otherwise acquires any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or ephedrine, its salts, isomers, or salts of isomers:

(i) produce a government-issued identification; and

(ii) sign a written or electronic log or receipt showing the person's name, the date of the transaction, and the amount of the compound, mixture, or preparation involved in the transaction, if the amount is greater than 1.44 grams.

(B) The records required by this subdivision shall be readily retrievable and separate from all other invoices or records of transactions and maintained for not less than three years.

(4) A person or business which violates this subdivision shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00.

(B) for a second and subsequent violation be assessed a civil penalty of not more than \$500.00.

(c) This section shall not apply to any compounds, mixtures, or preparations containing pseudoephedrine which are in liquid, liquid capsule, or gel capsule form if pseudoephedrine is not the only active ingredient, unless the commissioner adopts a rule making this section applicable to those forms after finding that there is a risk that such products may be used as precursors to methamphetamine.

(d)(1) A manufacturer may apply to the commissioner of health to exempt a drug product from this section. The commissioner may grant the exemption if the commissioner finds the product:

(A) is not used in the illegal manufacture of methamphetamine or other regulated drugs; or

(B) has been formulated to prevent the conversion of the product's active ingredient into methamphetamine.

(2) The commissioner may adopt rules to implement this subsection.

(e) As used in this section:

(1) "Distributor" means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) "Knowingly" means having actual knowledge of the relevant facts.

(3) "Manufacturer" means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) "Readily retrievable" means available for inspection without prior notice at the registration address if that address is within the state of Vermont. If the registration address is in a state other than Vermont, it means records must be furnished within three working days.

(5) "Wholesaler" means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 3. EDUCATION PROGRAM; TREATMENT AVAILABILITY EVALUATION; REPORT

(a) The department of health shall develop a publicity and education program to explain the need for change in public access to methamphetamine precursors. The program shall include, at a minimum the following components:

(1) The publication of brochures and posters explaining the dangers of methamphetamine, the requirements of this act, and the need for placing restrictions on public access to methamphetamine precursors and for requiring that a log be signed when the precursors are purchased. The department shall make the brochures published pursuant to this subsection available to the public. The posters published pursuant to this subsection shall be made available to all retail establishments which make methamphetamine precursors available for sale.

(2) A coalition to educate the public and disseminate information about methamphetamine and its precursors, to evaluate current treatment opportunities for individuals abusing methamphetamine, and to recommend legislative changes to combat the dangers posed by methamphetamine abuse and production.

(b) On or before January 15, 2007, the department shall report on the status and components of the education program developed pursuant to this section and on the coalition's evaluation of treatment opportunities for methamphetamine and recommendations for legislative action to the house committee on human services and the senate committee on health and welfare.

Sec. 4. EFFECTIVE DATE

This act shall take effect on September 1, 2006.

Rep. Grad of Moretown, for the committee on Judiciary, recommended the bill ought to pass when amended as recommended by the committee on Human Services and when further amended as follows:

In Sec. 2, subsection 4234b(e) of 18 V.S.A., by inserting a new subdivision (1) to read as follows:

(1) "Commissioner" means the commissioner of health.

and by renumbering the remaining subdivisions to be numerically correct.

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 Judiciary agreed to and third reading ordered.

Third Reading; Bills Passed

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

H. 33

House bill, entitled

An act relating to the uniform mediation act;

H. 306

House bill, entitled

An act relating to transportation of children in the custody of the state.

Bill Amended, Read Third Time and Passed**H. 447**

House bill, entitled

An act relating to municipal regulation of firearms and hunting, fishing, and trapping;

Was taken up and pending third reading of the bill, **Reps. Koch of Barre Town and Johnson of Canaan** moved to amend the bill as follows:

In Sec. 1 by striking the phrase "a neighboring property" where it appears in 10 V.S.A. § 5227(e)(2) and inserting in lieu thereof "the surrounding neighborhood"

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

Bill Amended, Read Third Time and Passed

H. 677

House bill, entitled

An act relating to standards board and licensing hearing panels for professional educators;

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

In Sec. 2, 16 V.S.A. § 1696, following subsection (c), by inserting a new subsection (d) to read:

(d) Junior Reserve Officer Training Corps instructors. The board shall accept certification of a junior Reserve Officer Training Corps instructor by the federal Department of Defense as qualification for a license to provide junior Reserve Officer Training Corps instruction to a student enrolled in a junior Reserve Officer Training Corps program.

and by relettering the remaining subsections to be alphabetically correct

Which was agreed to.

Pending third reading of the bill, **Rep. Kilmartin of Newport City** moved to amend the bill as follows:

In Sec. 2, 16 V.S.A. § 1698 by striking the section in its entirety and inserting in lieu thereof a new section to read:

Sec. 2. 16 V.S.A. § 1698 is added to read:

§ 1698. UNPROFESSIONAL CONDUCT

Any one of the following, or any combination of the following, constitutes unprofessional conduct whether the conduct at issue was committed within or outside the state:

(1) Grossly negligent conduct or greater, on or off duty, that places a student or students in meaningful physical or emotional jeopardy, or conduct that evidences moral unfitness to practice as an educator.

(2) Conviction for a criminal offense in which the underlying circumstances, conduct, or behavior, by gross negligence or greater, places a student or students in meaningful physical or emotional jeopardy, or conviction of a crime that evidences moral unfitness to practice as an educator.

(3) Conviction of grand larceny under 13 V.S.A. § 2501 or embezzlement as defined in subchapter 2 of chapter 57 of Title 13, provided charges were brought after July 1, 2006.

(4) Conviction of a crime charged after July 1, 2006, which involves fraudulent misrepresentation, dishonesty, or deceit, including conviction for any of the following: 13 V.S.A. §§ 1101, 1102, 1103, 1104, 1106, 1107, 1108, 3006, or 3016, provided that conviction under 13 V.S.A. §§ 2002, 2502, 2561, 2575, 2582, and 2591, if the value or amount involved is \$500.00 or less, shall not be considered a conviction under this subdivision unless it is part of a larger pattern of dishonesty, deceit, or fraud.

(5) Maladministration. In this section, maladministration means a pattern of willful misconduct or a single egregious act of willful misconduct in violation of duties and obligations of the position.

(6) Falsification, misrepresentation, or misstatement of material information provided in connection with the application for or renewal or reinstatement of a license or endorsement.

Which was agreed to.

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

Bill Amended, Read Third Time and Passed

H. 864

House bill, entitled

An act relating to capital construction and state bonding;

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

First: In Sec. 4 [Human Services], subsection (a), subdivision (3)(B), after the period, by adding a new sentence at the end of subdivision (3)(B) as follows: “‘Staffing’ shall include demonstrated due diligence in support of the statement in the Vermont futures strategic implementation plan of July 11, 2005 that the ‘expertise and experience of the current VSH staff is a valuable resource’ by identifying potential avenues that would enable current qualified staff to maintain their status and contractual benefits as Vermont state employees.”

Second: In Sec. 42, by striking the first sentence in its entirety and inserting in lieu thereof a new first sentence to read: “Sec. 32 (renewable energy projects) of this act shall apply to all applicable projects that obtain voter approval on or after January 1, 2007.”

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

Bill Amended, Read Third Time and Passed

H. 865

House bill, entitled

An act relating to nondiscrimination;

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

In Sec. 21, § 1621 of 21 V.S.A., by striking subdivision (b)(8) in its entirety and inserting in lieu thereof a new subdivision (b)(8) to read as follows:

(8) Compulsory membership; employees' rights. A labor organization entering into an agreement requiring a person's membership therein as a condition of employment by the employer shall not:

(A) discriminate against a person seeking or holding membership therein on account of race, color, disability, religion, creed, sex, sexual orientation, gender identity or expression, age, or national origin.

(B) penalize a member for exercising a right guaranteed by the Constitution or laws of the United States or the state of Vermont;

(C) cause the discharge from employment of employees who refuse membership therein because of religious beliefs.

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

Action on Bill Postponed

H. 701

House bill, entitled

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

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

Bill Messaged to Senate Forthwith

H. 864

On motion of **Rep. Flory of Pittsford**, the rules were suspended and House bill, entitled

An act relating to capital construction and state bonding;

Was ordered messaged to the Senate forthwith.

Adjournment

At two o'clock and forty minutes in the afternoon, on motion of **Rep. Flory of Pittsford**, the House adjourned until tomorrow at ten o'clock in the forenoon.

THURSDAY, MARCH 2, 2006

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

Devotional Exercises

Devotional exercises were conducted by Reverend James MacKellar of Vermont Ecumenical Council & Bible Society, Newport, 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. 97

House bill, entitled

An act relating to operating with a suspended license and failing to pay penalties for traffic offenses;

H. 723

House bill, entitled

An act relating to home and community-based care workforce issues;

H. 735

House bill, entitled

An act relating to statutory reorganization of the boards, councils, and divisions within the department of labor;

Committee Bill Introduced

Bills of the following titles were read the first time and, under the rule, placed on the Calendar for notice tomorrow.

H. 871

By the committee on Government Operations,

An act relating to professions and occupations;

H. 872

By the committee on Commerce,

An act relating to pass-through of a portion of the federal credit for energy-efficient homes.

Joint Resolution Placed on Calendar**J.R.H. 62**

The committees on Agriculture, Natural Resources & Energy and Commerce offered a joint resolution, entitled

Joint resolution in support of the 25 by 25 agricultural energy initiative;

Whereas, the 25 by 25 initiative proposes that America's agricultural and forestry sectors produce 25 percent of the nation's energy requirements from renewable sources by the year 2025 while continuing to produce abundant and safe food and fiber, and

Whereas, the presence of an affordable, reliable, and plentiful energy supply is critical for our state and national economy and the national and international food supply, and

Whereas, current and future risks to the nation's energy security are mounting while global energy demands are growing exponentially, and

Whereas, Vermont's farms through the use of new and appropriate technological innovations, incentives, and investments can become the future sources for a new generation of fuels to help meet the state's and nation's energy needs, and

Whereas, the development of a broad spectrum of renewable energy sources, including but not limited to wind power, biodiesel, biomass, methane digesters, ethanol, and solar, would be beneficial to both farmers and rural communities by: establishing additional markets for agricultural commodities; increasing farm income; creating added-value use for crops; developing new products from livestock byproducts; improving the productive use of marginal lands; resolving air, water, and soil quality problems that may arise from agricultural operations; improving wildlife habitat; and creating many new job opportunities, and

Whereas, agriculture's and forestry's role as an energy producer will have a positive effect on national security and United States trade imbalances and will serve as a catalyst for rural development in Vermont, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly supports the goal of the 25 by 25 initiative that the agricultural and forestry sectors provide 25 percent of the nation's energy needs by the year 2025 while they continue to produce abundant, safe, and affordable food and fiber, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the President of the United States, Secretary of Agriculture Michael Johanns, Governor Douglas, Lt. Governor Dubie, University of Vermont President Dan Fogel, Vermont Secretary of Agriculture, Food and Markets Steve Kerr, Commissioner of Economic Development Michael Quinn, Commissioner of Forests, Parks and Recreation Jonathan Wood, Commissioner of Public Service David O'Brien, the members of the Vermont Congressional Delegation, and the Ag Work Group in Brooklandville, Maryland.

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

Bill Committed

H. 774

On motion of **Rep. Johnson of Canaan**, the rules were suspended and House bill, entitled

An act relating to the Vermont economic development authority;

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

Pending the reading of the report of the committee on Agriculture, **Rep. Johnson of Canaan** moved to commit the bill to the committee on Commerce, which was agreed to.

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

H. 458

Rep. Reese of Pomfret moved that the committee on Commerce be relieved of House bill, entitled

An act relating to licensing and permit fees charged general stores;

And that the bill be committed to the committee on Ways and Means, which was agreed to.

Consideration Interrupted by Recess**H. 861**

Rep. Chen of Mendon spoke for the committee on Health Care.

Rep. Ancel of Calais, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to health care affordability for Vermonters;

Reported in favor of its passage when amended as follows:

First: In Sec. 5, in subdivision 702(d)(2) of Title 18, on page 10, line 11, after the words "statewide participation", by inserting the words "in the blueprint for health"

Second: In Sec. 14, on page 27, following line 7, by inserting § 2027 to read:

§ 2027. CATAMOUNT FUND

(a) The catamount fund is established in the treasury as a special fund to be a source of financing for catamount health.

(b) Into the fund shall be deposited:

(1) transfers of receipts received as strategic payments under the Master Tobacco Settlement Agreement from the tobacco litigation settlement fund as provided for in section 425a of Title 32;

(2) 22 percent of the revenue from the cigarette tax levied pursuant to chapter 205 of Title 32; 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 catamount health and transfers to the state health care resources fund established in section 1901d of this title.

Third: In Sec. 15, on page 28, line 9, subdivision (8), by striking “\$310.00 per month” and inserting in lieu thereof “the actual cost of catamount health, which for fiscal year 2008 is estimated at \$310.00 per month”

Fourth: In Sec. 16, on page 28, line 12, following the words “proposed rules”, by inserting the following: “, developed under chapter 25 of Title 3,”; in line 17, by striking the words “legislative committee on rules” and inserting in lieu thereof the following: “joint legislative committee on administrative rules”; and on page 29, following line 5, by inserting a subsection (c) to read:

(c) The agency shall submit annual reports on the receipts, expenditures, and balances in the catamount fund established in section 2027 of Title 33 to the joint fiscal committee at its September meeting.

Fifth: By inserting Secs. 17a through 17h to read:

Sec. 17a. FUND TRANSFERS

Notwithstanding section 2027 of Title 33, up to \$10,000,000.00 of any balance remaining in the catamount fund at the end of fiscal years 2007 and 2008 shall be transferred to the state health care resources fund established in section 1901d of Title 33.

Sec. 17b. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

A tax is imposed on all cigarettes held in this state by any person for sale or by any person in possession of more than 10,000 cigarettes, unless such cigarettes shall be:

- (1) in the possession of a licensed wholesale dealer;
- (2) in the course of transit and consigned to a licensed wholesale dealer or retail dealer; or
- (3) in the possession of a retail dealer who has held the cigarettes for 24 hours or less. Such tax shall be at the rate of ~~59.5~~ 89.5 mills for each cigarette, and the payment thereof to be evidenced by the affixing of stamps to the packages containing the cigarettes, as hereinafter provided. Any cigarette on which the tax imposed by this chapter has been paid, such payment being evidenced by the affixing of such stamp, shall not be subject to a further tax under this chapter. Nothing contained in this chapter shall be construed to impose a tax on any transaction the taxation of which by this state is prohibited by the constitution of the United States. The amount of taxes advanced and paid by a licensed wholesale dealer or a retail dealer as herein provided shall be added to and collected as part of the retail sale price on the cigarettes. All taxes upon cigarettes under this chapter are declared to be a direct tax upon the

consumer at retail and shall conclusively be presumed to be precollected for the purpose of convenience and facility only.

Sec. 17c. 32 V.S.A. § 7814(b) is amended to read:

(b) Cigarettes. Notwithstanding the prohibition against further tax on stamped cigarettes under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes in this state who is either a wholesaler, or a retailer who at 12:01 a.m. o'clock on July 1, ~~2003~~ 2006, has more than 10,000 cigarettes for retail sale in his or her possession or control. The rate of tax shall be ~~43~~ 30 mills for each cigarette in the possession or control of the wholesaler or retailer at 12:01 a.m. o'clock on July 1, ~~2003~~ 2006, and on which cigarette stamps have been affixed before July 1, ~~2003~~ 2006. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. o'clock on July 1, ~~2003~~ 2006, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~26~~ 60 cents per stamp. Each wholesaler and retailer subject to the tax shall, on or before ~~September 25, 2003~~ July 25, 2006, file a report to the commissioner in such form as the commissioner may prescribe showing the cigarettes and stamps on hand at 12:01 a.m. o'clock on July 1, ~~2003~~ 2006, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before ~~September 25, 2003~~ July 25, 2006, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Sec. 17d. 32 V.S.A. § 435a(d) is added to read:

(d) Any monies received by the state for strategic payments under the Master Tobacco Settlement Agreement shall be transferred to the catamount fund established in section 2027 of Title 33.

Sec. 17e. 33 V.S.A. § 1901d is amended to read:

§ 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 all revenue from the tobacco products tax and 78 percent of the revenue from the cigarette tax levied pursuant to 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~~ Global Commitment waiver.

Sec. 17f. 32 V.S.A. § 435(b) is amended to read:

(b) The general fund shall be composed of revenues from the following sources:

* * *

~~(8) Cigarettes and tobacco products taxes levied pursuant to chapter 205 of this title;~~

* * *

Sec. 17g. ALLOCATION OF FLOOR STOCK TAX REVENUE

The revenue from the floor stock tax under subsection 7814(b) of Title 32 as amended by this act shall be deposited in the catamount fund.

Sec. 17h. 32 V.S.A. § 305a is amended to read:

§ 305a. OFFICIAL STATE REVENUE ESTIMATE

On or about January 15 and on or about July 15 of each year, and at such other times as the emergency board or the governor deems proper, the joint fiscal office and the secretary of administration shall provide to the emergency board their respective estimates of state revenues in the general, transportation, education, ~~and health access trust~~ catamount, state health care resources, and Global Commitment funds. The January revenue estimate shall be for the current and next two succeeding fiscal years, and the July revenue estimate shall be for the current and immediately succeeding fiscal years. Federal fund