

Sec. 6. MILITARY SERVICE CREDIT; ONE-TIME MILITARY STIPEND

A beneficiary of the state teachers' retirement system of Vermont who retired prior to July 1, 2006 and who, prior to retirement, would have been otherwise eligible for credit for military service in what is now the Republic of Vietnam between February 28, 1961 through August 4, 1964, may apply to the retirement board for a one-time military stipend by December 31, 2006. Upon a determination that the beneficiary was eligible prior to retirement for a grant of military service credit for service under, the beneficiary shall be entitled to a stipend of \$500.00 for each year served, up to a maximum of \$1,500.00. The stipend shall be pro-rated for partial years of service.

Pending the question, shall the House concur in the Senate proposal of amendment? **Rep. Atkins of Winooski** moved that the House concur in the Senate proposal of amendment with a further amendment thereto:

By striking the first and second Senate proposals of amendment in their entirety and by adding a Sec. 7 as follows:

Sec. 7. EFFECTIVE DATE

Secs. 1 and 2 shall take effect on July 1, 2006, but shall apply retroactively to July 1, 2005 to retirees and beneficiaries receiving a retirement allowance as of July 1, 2006, provided that the state treasurer shall have until September 30, 2006 to make payments in compliance with these sections.

Which was agreed to.

Bill Called Up**H. 424**

Rep. Lippert of Hinesburg called up House bill, entitled

An act relating to guardianships;

Which had been ordered to lie. Thereupon, under the rule, the bill was ordered placed on the Calendar for action on the next legislative day.

Message from the Senate No. 46

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 that the Senate has on its part passed Senate bill of the following title:

S. 297. An act relating to exclusion from workers' compensation coverage and to employers' liability for hospital services.

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

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

H. 841. An act relating to underground utility damage prevention system.

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

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

J.R.H. 7. Joint resolution urging the state of New Hampshire to expedite the restoration of the Vilas Bridge.

And has adopted the same in concurrence.

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

S.C.R. 60. Senate concurrent resolution congratulating WDEV radio on its diamond anniversary.

S.C.R. 61. Senate concurrent resolution commending the State House cafeteria management and staff for their outstanding work during the 2005-2006 biennium.

S.C.R. 62. Senate concurrent resolution recognizing Burlington Mayor Peter Clavelle's outstanding contribution to municipal governance in the state of Vermont.

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

H.C.R. 270. House concurrent resolution honoring Representatives Cola Hudson and Michael Obuchowski, the deans of the House of Representatives.

H.C.R. 271. House concurrent resolution honoring the federal TRIO programs in Vermont.

H.C.R. 272. House concurrent resolution congratulating the 2006 Division III championship Hazen Union high School boys basketball team.

H.C.R. 273. House concurrent resolution congratulating the Spaulding High School A Cappella quartet.

H.C.R. 274. House concurrent resolution congratulating the 2006 Vermont winners of the Prudential Spirit of Community Awards.

H.C.R. 275. House concurrent resolution thanking the pharmacy owners and pharmacists of Vermont for their cooperation and generosity during the chaotic implementation of the federal Medicare Part D prescription drug plan for individuals who are dually eligible for Medicare and Medicaid.

H.C.R. 276. House concurrent resolution honoring Barbara P. Sirvis on her retirement as president of Southern Vermont College.

H.C.R. 277. House concurrent resolution thanking Major General Martha T. Rainville for her outstanding leadership of the Vermont National Guard.

H.C.R. 278. House concurrent resolution congratulating St. Patrick's Church in Fairfield on its centennial anniversary and in memory of its pastor, Father Joseph Sullivan.

H.C.R. 279. House concurrent resolution recognizing Vermont National Guard members' and their families' selfless dedication to the United States of America.

H.C.R. 280. House concurrent resolution congratulating Representative Robert "Bob" Kiss on his election as mayor of Burlington.

Adjournment

At ten o'clock and fifty-five minutes in the forenoon, on motion of Rep. **Sunderland of Rutland Town**, the House adjourned until Tuesday, April 4th, 2006, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 62.

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. 271

House concurrent resolution honoring the federal TRIO programs in Vermont.

H.C.R. 272

House concurrent resolution congratulating the 2006 Division III championship Hazen Union high School boys basketball team.

H.C.R. 273

House concurrent resolution congratulating the Spaulding High School A Cappella quartet.

H.C.R. 274

House concurrent resolution congratulating the 2006 Vermont winners of the Prudential Spirit of Community Awards

H.C.R. 275

House concurrent resolution thanking the pharmacy owners and pharmacists of Vermont for their cooperation and generosity during the chaotic implementation of the federal Medicare Part D prescription drug plan for individuals who are dually eligible for Medicare and Medicaid

H.C.R. 276

House concurrent resolution honoring Barbara P. Sirvis on her retirement as president of Southern Vermont College

H.C.R. 277

House concurrent resolution thanking Major General Martha T. Rainville for her outstanding leadership of the Vermont National Guard

H.C.R. 278

House concurrent resolution congratulating St. Patrick's Church in Fairfield on its centennial anniversary and in memory of its pastor, Father Joseph Sullivan

H.C.R. 279

House concurrent resolution recognizing Vermont National Guard members' and their families' selfless dedication to the United States of America

H.C.R. 280

House concurrent resolution congratulating Representative Robert "Bob" Kiss on his election as mayor of Burlington

S.C.R. 60

Senate concurrent resolution congratulating WDEV radio on its diamond anniversary.

S.C.R. 61

Senate concurrent resolution commending the State House cafeteria management and staff for their outstanding work during the 2005-2006 biennium.

S.C.R. 62

Senate concurrent resolution recognizing Burlington Mayor Peter Clavelle's outstanding contribution to municipal governance in the state of Vermont.

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

TUESDAY, APRIL 4, 2006

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

Devotional Exercises

Devotional exercises were conducted by Betty Edson of the United Church of Christ, Randolph, VT.

Pledge of Allegiance

Page Hillary Laggis of Hardwick led the House in the Pledge of Allegiance.

Committee Bill Introduced**H. 889**

Rep. Sweaney of Windsor, for the committee on Government Operations, introduced a bill, entitled

An act relating to state employee retiree dental benefits;

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

Senate Bill Referred**S. 297**

Senate bill, entitled

An act relating to workers' compensation coverage for members and managers of limited liability companies;

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

Bill Referred to Committee on Appropriations**H. 858**

House bill, entitled

An act relating to the tax credit for affordable housing;

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

Joint Resolution Placed on Calendar

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

J.R.H. 68

Joint resolution urging Congress to reject a proposed new federal tax on dairy farmers

Offered by: Committee on Agriculture

Whereas, Vermont's dairy farmers are experiencing inadequate and unstable prices for their milk, and

Whereas, the federal milk income loss contract (MILC) price support program has been extended for another two years at a reduced rate, and

Whereas, the federal government has now proposed a new tax on farmers of three cents per hundredweight on the milk they produce, and

Whereas, this proposed tax would occur at a time of rapidly declining prices and escalating farm operating costs, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to reject the proposed new federal tax on dairy farmers, and be it further

Resolved: That the secretary of state be directed to send copies of this resolution to the President of the United States; to Vermont secretary of agriculture, food and markets Steve Kerr; to U.S. Secretary of Agriculture Mike Johanns; to U.S. Representative Bob Goodlatte and to U.S. Representative Collin Peterson, the chair and the ranking member respectively of the U.S. House Committee on Agriculture; to U.S. Senator Saxby Chambliss and to U.S. Senator Tom Harkin, the chair and the ranking member of the U.S. Senate Committee on Agriculture, Nutrition, and Forestry; and to the Vermont Congressional Delegation.

Third Reading; Bills Passed

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

H. 602

House bill, entitled

An act relating to agricultural food processing and fuel production.

H. 708

House bill, entitled

An act relating to providing that junkyards shall be regulated by the secretary of natural resources instead of the agency of transportation.

H. 791

House bill, entitled

An act relating to allocation of funds from the solid waste management assistance account of the waste management assistance fund to the environmental contingency fund.

Bill Read Second Time; Third Reading Ordered**H. 887**

Rep. Hutchinson of Randolph spoke for the committee on Government Operations.

House bill entitled

An act relating to Group D participation in the state employees defined contribution plan;

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

Action on Bill Postponed**H. 674**

House bill, entitled

An act relating to the health access oversight committee;

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

Favorable Report; Bill Amended and Third Reading Ordered**H. 867**

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

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

An act relating to miscellaneous changes to education law;

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. Cross of Winooski** moved to amend the bill as follows:

First: On page 8, Sec. 11, by striking Sec. 11 in its entirety and inserting in lieu thereof a new Sec. 11 to read:

Sec. 11. 32 V.S.A. § 5401(12) is amended to read:

(12) "Excess spending" means:

(A) the per-equalized pupil amount of:

(i) the district's education spending, plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b); minus

(ii) the portion of education spending which is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to 16 V.S.A. § 827 for capital construction costs by the independent school which has received approval from the state board of education, using the processes for preliminary approval of public school construction costs pursuant to 16 V.S.A. § 3448(a)(2);

(B) in excess of 125 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education.

Second: On page 13, Sec. 16, at the end of Sec. 16, by adding a subsection (c) to read:

(c) A school district shall pay 85 percent of the base education payment for the year of attendance for a pregnant or postpartum pupil who is enrolled in the school district, attending a teen parent education program recognized by the department for children and families, and taking academic courses at the teen parent education program which are the substantial equivalent of the courses required by the school district to obtain a high school diploma. The payment shall be made to the teen parent education program and shall be prorated based on the pupil's full-time equivalent enrollment, as defined by the state board by rule, in academic courses at the teen parent education program. In the event of a dispute, either party may request a ruling from the commissioner which shall be final.

Third: At the end of the bill, by adding five new sections to read:

Sec. 20. 16 V.S.A. § 254(c) and (d) are amended to read:

(c) A request made under this section shall be accompanied by a release signed by the person on a form provided by the Vermont criminal information center, a set of the person's fingerprints, and a fee established by the Vermont criminal information center which shall reflect the cost of obtaining the record.

The fee shall be paid by the applicant. The release form to be signed by the applicant shall include a statement informing the applicant of:

(1) the right to challenge the accuracy of the record by appealing to the Vermont criminal information center pursuant to rules adopted by the commissioner of public safety; and

(2) the commissioner's policy regarding maintenance and destruction of records and the person's right to request that the record or notice be maintained for purposes of using it to comply with future criminal record check requests made pursuant to section 256 of this title.

(d) Upon completion of a criminal record check, the Vermont criminal information center shall send to the commissioner either a notice that no record exists or a copy of the record. ~~The~~ If a copy of a criminal record is received, the commissioner shall forward a copy of the notice or record received ~~it~~ to the person and shall inform the person in writing of:

(1) the right to challenge the accuracy of the record by appealing to the Vermont criminal information center pursuant to rules adopted by the commissioner of public safety; and

(2) the commissioner's policy regarding maintenance and destruction of records and the person's right to request that the record or notice be maintained for purposes of using it to comply with future criminal record check requests made pursuant to section 256 of this title.

Sec. 21. 16 V.S.A. § 2959a(e) is amended to read:

(e) School districts shall utilize funds received under this section to pay for reasonable costs of administering the Medicaid claims process, and for prevention and intervention programs in grades pre-K through 12. The programs shall be designed to ensure all students achieve rigorous and challenging standards adopted in the Vermont framework of standards and learning opportunities or locally adopted standards. A school district shall provide an annual written justification to the commissioner of education of the use of the funds. Such annual submission shall show how the funds' use is expressly linked to those provisions of the school district's action plan that directly relate to improving student performance. A school district shall include in its annual report the amount of the prior year's Medicaid reimbursement revenues and the use of Medicaid funds consistent with the purposes set forth in this subsection.

Sec. 22. ACT 130 IMPLEMENTATION; EXCESS SPENDING PENALTY;
CALCULATION OF EDUCATION SPENDING; STUDIES;
COMMISSIONER OF EDUCATION

(a) Calculation of an equalized pupil count for union school districts for the purpose of enabling the setting of a union school district tax rate in the member districts has shown that weighting for secondary and elementary students may need to be adjusted to reflect actual differences in costs of educating these students. Therefore, the commissioner of education shall work with education administrators to study the actual costs of providing services to elementary and secondary pupils and, on or before January 30, 2007, shall make a recommendation to the general assembly regarding weighting of these pupils.

(b) Notwithstanding the provisions of No. 130 of the Acts of the 2003 Adj. Sess. (2004) and No. 54 of the Acts of 2005, which direct the commissioner of education to begin calculating two tax rates for member districts of a union school district in fiscal year 2008, one to reflect the school district budget and one to reflect its share of the union district budget, in order to enable the commissioner to study the potential need to readjust pupil weighting amounts and the general assembly time to respond to the commissioner's recommendation, in fiscal year 2008, municipalities shall be taxed under the system described in No. 54 for fiscal year 2007. In fiscal year 2009, tax rates in municipalities shall be calculated pursuant to the provisions of No. 130 of the Acts of the 2003 Adj. Sess. (2004).

(c) The commissioner of education shall study the effect of the provisions of 32 V.S.A. § 5401(12) and (13), relating to excess spending in school districts and district spending adjustment, on various types of school districts such as those that provide for the education of a significant portion or all of their students through paying tuition and those that have a small number of students. As part of the study, the commissioner shall consider the effect of removing the portion of secondary technical education tuition which is in excess of the district's equalized per pupil spending from the calculation of excess spending, and the effect of removing interest payments made on funds borrowed in anticipation of capital construction aid from the calculation of district spending adjustment. On or before January 30, 2007, the commissioner shall report the results of the study to the general assembly.

(d) The commissioner of education shall study alternatives for computing education spending, including alternative methods for counting the average daily membership. On or before January 30, 2007, the commissioner shall report the results of the study to the general assembly.

Sec. 23. PUBLIC SCHOOL CHOICE IN GRADES 9-12; REPEAL OF SUNSET

Sec. 4 of Act No. 150 of the Acts of the 1999 Adj. Sess. (2000), which repeals No. 150 on July 1, 2007, is repealed.

Sec. 24. EFFECTIVE DATES; SUNSET

(a) Sec. 16(c) of this act shall take effect on July 1, 2006 and shall remain in effect until July 1, 2007.

(b) The remainder of this act shall take effect on July 1, 2006.

Which was agreed to and third reading ordered.

Bill Read Second Time; Third Reading Ordered**H. 882**

Rep. Hutchinson of Randolph spoke for the committee on Government Operations.

House bill entitled

An act relating to approval of amendments to the charter of the town of Richmond;

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; Rules Suspended;
Bill Read the Third Time and Passed; Rules Suspended
and the Bill was Ordered Messaged to the Senate Forthwith**

H. 424

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

An act relating to guardianships;

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

Sec. 1. 14 V.S.A. § 3060a is added to read:

§ 3060a. RIGHTS OF PERSON IN NEED OF GUARDIANSHIP

A person in need of guardianship retains the same legal and civil rights guaranteed to all Vermont residents under the Vermont and United States constitutions and all the laws and regulations of Vermont and the United States. These rights include:

(1) The right to participate in decisions made by the guardian and to have personal preferences followed unless:

(A) the preference is unreasonable or would result in serious harm

and

(B) the person in need of guardianship is unable to understand fully the benefits and consequences of his or her chosen preference.

(2) The right, without interference from anyone, to retain an attorney and to communicate freely with counsel, the court, ombudsmen, and other advocates.

Sec. 2. 14 V.S.A. § 3061(12) is added to read:

(12) "Ward" means a person for whom a guardianship order has been entered.

Sec. 3. 14 V.S.A. § 3065 is amended to read:

§ 3065. COUNSEL

(a)(1) Counsel shall be appointed for the respondent in initial proceedings relating to an involuntary guardianship up to and including the appointment of a guardian under section 3069 or 3070 of this title or dismissal of the petition under section 3068 of this title. Respondents and wards shall have the right to be represented by counsel of their own choosing at any stage in guardianship proceedings. The court shall appoint counsel for the respondent if the respondent is unrepresented when a petition for guardianship is filed and may appoint counsel for a ward in any proceeding subsequent to the guardianship order. If counsel has not already been appointed, the court shall appoint counsel if the ward or an interested person requests appointment in writing.

(2) Counsel shall have the right to withdraw after a guardian is appointed or after dismissal.

(b) Counsel shall receive a copy of the petition upon appointment and copies of all other documents upon filing with the court. Counsel shall consult with the respondent or ward prior to ~~the~~ any hearing and, to the maximum extent possible, explain to the respondent or ward the meaning of the proceedings and of all relevant documents. Counsel for the respondent or ward shall act as an advocate for the respondent or ward and shall not substitute counsel's own judgment for that of the respondent or ward on the subject of what may be in the best interest of the respondent or ward. Counsel's role shall be distinct from that of a guardian ad litem if one is appointed. At a minimum, counsel shall endeavor to ensure that:

(1) the wishes of the respondent or ward as to the matter before the court are, if known, presented to the court;

(2) there is no less restrictive alternative to guardianship or to the matter before the court;

(3) proper due process procedure is followed;

(4) no substantial rights of the respondent or ward are waived, except as allowed by law;

(5) the petitioner proves allegations in the petition by clear and convincing evidence in an initial proceeding, and applicable legal standards are met in subsequent proceedings;

(6) the proposed guardian is a suitable person to serve or to continue to serve; and

(7) if a guardian is appointed, the initial order or any subsequent order leaves the ward with as much autonomy as is reasonably possible.

(c) Respondent's counsel shall be compensated from the respondent's estate unless the respondent is found indigent in accordance with Rule 3.1 of the Rules of Civil Procedure. For indigent respondents, the court shall maintain a list of pro bono counsel from the private bar to be used before appointing nonprofit legal services organizations to serve as counsel.

Sec. 4. 14 V.S.A. § 3073 is amended to read:

§ 3073. CHANGE OF RESIDENTIAL PLACEMENT

(a) When a guardian who has been granted the power to choose or change the residence of the ward pursuant to ~~section~~ subdivision 3069(b)(1) of this title wishes to admit the ward to a nursing home or change the residential placement of the ward from a private home to a boarding home, nursing home, residential care home, assisted living residence, group home, or other similar facility, the guardian must first file a motion for permission to do so. For any other change of residence sought by a guardian who has been granted the power to choose or change the residence of the ward pursuant to subdivision 3069(b)(1) of this title, the guardian shall give notice to all interested parties as soon as practicable prior to the change of placement.

(b)(1) In an emergency, the guardian may change the residential placement of the ward ~~from a private home to a boarding home, nursing home, residential care home, group home or other similar facility without petitioning the probate court for prior permission without petitioning the court for prior permission or without giving prior notice to interested persons under subsection (a) of this section.~~ Immediately after ~~the~~ any emergency change in residential placement requiring prior permission under subsection (a), the guardian shall file a motion for permission to continue the placement. A hearing on the change in residential placement. Immediately after any emergency change of placement not requiring prior permission under subsection (a) of this section, the guardian shall give notice of the change of placement to all interested parties.

(2)(A) Any interested party may request a hearing on a change in residential placement. The hearing shall be set for the earliest possible date and shall be given precedence over other probate matters.

(B) In a hearing on a change of placement, the court shall consider:

- (i) the need for the change of placement;
- (ii) the appropriateness of the new placement;
- (iii) the wishes of the ward, if known; and
- (iv) whether the guardian has considered alternatives.

Sec. 5. GUARDIANSHIP MONITORS

(a) The general assembly finds:

(1) Current law requires guardians to file annual reports with the court about the financial and personal status of the person in need of guardianship. Frequently, annual accountings and personal status reports either are not filed or are filed but contain incomplete or inaccurate information.

(2) Currently courts do not have the resources to monitor every guardianship and must rely on the information provided by the guardian in the annual report to identify problems that arise in the guardianship. Mistakes, conflicts of interest, and abuses of power may go unnoticed unless the guardian or interested party brings it to the court's attention.

(3) Current law requires annual notices to wards of the right to petition to terminate or modify guardianships. Frequently, these annual notices are not sent. Even when annual notices are sent, few wards are able to take steps on their own to bring issues to the attention of the court, even when very real issues exist.

(4) Comprehensive monitoring will help protect persons in need of guardianship and could determine the success or failure of a guardianship.

(b) A committee is established to study the feasibility of establishing a pilot guardianship monitor program in at least two probate court districts.

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

(1) Two sitting probate judges appointed by the Vermont association of probate judges.

(2) A member of the court administrator's office.

(3) A representative of the elder law committee of the Vermont bar association.

(4) A representative of the disability law committee of the Vermont bar association.

(5) A representative of Vermont Legal Aid, Inc.

(6) Two representatives appointed by the secretary of the agency of human services, including a representative from the office of public guardian.

(7) A representative of the committee of Vermont elders.

(8) A representative of Vermont protection and advocacy.

(9) A representative of the Vermont coalition of disability rights.

(d) The committee shall report its findings and recommendations to the house and senate committees on judiciary and the governor on or before January 15, 2007. The report shall include a complete description, analysis and recommendations for the following:

(1) The duties and responsibilities of the monitor.

(2) The number of monitors needed to staff the pilot program.

(3) The location and supervision of the monitor.

(4) The relationship of the monitor to the probate court judges and the court administrator's office.

(5) The average caseload of a monitor.

(6) The cost of establishing a pilot guardianship monitor program.

(7) The probate court districts which will be included in the pilot program.

(8) The method for measuring the outcome of the pilot program.

(9) The duration of the pilot program.

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

Thereupon, Rep. Lippert of Hinesburg asked and was granted leave of the House to withdraw the recommendation of amendment offered by the committee on Judiciary.

Pending the question, Shall the bill be read the third time? **Reps. Haas of Rochester, Pugh of South Burlington, Fisher of Lincoln, Frank of Underhill, French of Randolph, Koch of Barre Town, McAllister of Highgate, Niquette of Colchester and Turner of Milton** moved to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14 V.S.A. § 3061 is amended to read:

§ 3061. DEFINITIONS

The words and phrases used in this subchapter shall be defined as follows:

* * *

(4) "~~Mentally retarded~~" "Developmentally disabled" means significantly subaverage intellectual functioning which exists concurrently with deficits in adaptive behavior;

* * *

(11) "Respondent" means a person who is the subject of a petition filed pursuant to section 3063 of this title or a ward who is the subject of any subsequent petition, motion or action filed pursuant to this subchapter.

(12) "Party" shall have the same meaning as defined by Rule 17(a)(3) and (b) of the Vermont Rules of Probate Procedure.

(13) "Ward" means a person under a guardianship order.

Sec. 2. 14 V.S.A. § 3065 is amended to read:

§ 3065. COUNSEL

(a)(1) ~~Counsel shall be appointed for the respondent in initial proceedings relating to an involuntary guardianship up to and including the appointment of a guardian under section 3069 or 3070 of this title or dismissal of the petition under section 3068 of this title. Counsel shall have the right to withdraw after a guardian is appointed or after dismissal. The respondent shall have the right to be represented by counsel of his or her own choosing at any stage of a guardianship proceeding. Unless a respondent is already represented, the court:~~

(A) shall appoint counsel for the respondent when an initial petition for guardianship is filed;

(B) shall appoint counsel for the respondent in any subsequent proceeding if the respondent or a party requests appointment in writing; and

(C) may appoint counsel for the respondent on the court's initiative in any subsequent proceeding.

(2) Appointed counsel shall have the right to withdraw upon conclusion of the proceeding for which he or she has been appointed.

(b) Counsel shall receive a copy of the petition upon appointment and copies of all other documents upon filing with the court. Counsel shall consult with the respondent prior to ~~the~~ any hearing and, to the maximum extent

possible, explain to the respondent the meaning of the proceedings and of all relevant documents. Counsel for the respondent shall act as an advocate for the respondent and shall not substitute counsel's own judgment for that of the respondent on the subject of what may be in the best interest of the respondent. Counsel's role shall be distinct from that of a guardian ad litem if one is appointed. At a minimum, counsel shall endeavor to ensure that:

(1) the wishes of the respondent, including those contained in an advance directive, as to the matter before the court are presented to the court;

(2) there is no less restrictive alternative to guardianship or to the matter before the court;

(3) proper due process procedure is followed;

(4) no substantial rights of the respondent are waived, except with the respondent's consent and the court's approval, provided that the evaluation and report required under section 3067 of this title and the hearing required under section 3068 of this title may not be waived;

(5) the petitioner proves allegations in the petition by clear and convincing evidence in an initial proceeding, and applicable legal standards are met in subsequent proceedings;

(6) the proposed guardian is a suitable person to serve or to continue to serve; and

(7) if a guardian is appointed, the initial order or any subsequent order leaves the ward with as much autonomy as is reasonably possible.

(c) Respondent's counsel shall be compensated from the respondent's estate unless the respondent is found indigent in accordance with Rule 3.1 of the Rules of Civil Procedure. For indigent respondents, the court shall maintain a list of pro bono counsel from the private bar to be used before appointing nonprofit legal services organizations to serve as counsel.

Sec. 3. 14 V.S.A. § 3068a is added to read:

§ 3068a. RIGHTS OF A WARD

A ward retains the same legal and civil rights guaranteed to all Vermont residents under the Vermont and United States constitutions and all the laws and regulations of Vermont and the United States. These rights include:

(1) The right to participate in decisions made by the guardian and to have personal preferences followed unless:

(A) the preference is unreasonable and would result in actual harm

or

(B) the ward does not have a basic understanding of the benefits and consequences of his or her chosen preference.

(2) The right, without interference from anyone, to retain an attorney and to communicate freely with counsel, the court, ombudsmen, advocates of his or her choosing, and other persons authorized by law to act as an advocate for the ward.

Sec. 4. 14 V.S.A. § 3069(b)(5) is amended to read:

(5) to consent to surgery or other medical procedures, subject to the provisions of section 3075 of this title, section 9711(g) of Title 18, and any constitutional right of the ward to refuse treatment;

Sec. 5. 14 V.S.A. § 3073 is amended to read:

§ 3073. CHANGE OF RESIDENTIAL PLACEMENT

(a)(1) When a guardian who has been granted the power to choose or change the residence of the ward pursuant to ~~section~~ subdivision 3069(b)(1) of this title wishes to admit the ward to a nursing home or change the residential placement of the ward from a private home to a boarding home, ~~nursing home~~, residential care home, assisted living residence, group home, or other similar facility, the guardian must first file a motion for permission to do so.

(2) For any other change of residence sought by a guardian who has been granted the power to choose or change the residence of the ward pursuant to subdivision 3069(b)(1) of this title, the guardian shall give notice to all parties and to such other persons as the court directs as soon as practicable prior to the change of placement.

(b)(1) In an emergency, the a guardian who has been granted the power to choose or change the residence of the ward pursuant to subdivision 3069(b)(1) of this title may change the residential placement of the ward from a private home to a boarding home, nursing home, residential care home, group home or other similar facility without petitioning the probate court for prior permission without petitioning the court for prior permission or without giving prior notice to parties. Immediately after the any emergency change in residential placement for which prior permission under subsection (a) of this section would be required in the absence of an emergency, the guardian shall file a motion for permission to continue the placement. A hearing on the change in residential placement

(2) Immediately after any emergency change of placement for which prior permission under subsection (a) of this section is not required, the guardian shall give notice of the change of placement to all parties and to such other persons as the court directs.

(3) Any party may request a hearing on a change in residential placement. The hearing shall be set for the earliest possible date and shall be given precedence over other probate matters.

(c) In a hearing on a change of placement, the court shall consider:

- (1) the need for the change of placement;
- (2) the appropriateness of the new placement;
- (3) the wishes of the ward, if known; and
- (4) whether the guardian has considered alternatives.

Sec. 6. STUDY; GUARDIANSHIP MONITORS

(a) The general assembly finds:

(1) Current law requires guardians to file annual reports with the court about the financial and personal status of the person in need of guardianship. Frequently, annual accountings and personal status reports either are not filed or are filed but contain incomplete or inaccurate information.

(2) Currently, courts may not have the resources to monitor even guardianship and must rely on the information provided by the guardian in the annual report to identify problems that arise in the guardianship. Mistakes, conflicts of interest, and abuses of power may go unnoticed unless the guardian or a person interested in the welfare of the ward brings it to the court's attention.

(3) Current law requires annual notices to wards of the right to petition to terminate or modify guardianships. Even when annual notices are sent, wards may not be able to take steps on their own to bring issues to the attention of the court, even when real issues exist.

(4) A system of comprehensive monitoring may help protect the rights and interests of persons under guardianship.

(b) A committee is established to study the need for and feasibility of establishing a pilot guardianship monitor program in at least two probate court districts.

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

(1) Two sitting probate judges appointed by the Vermont association of probate judges. The association shall designate one of its appointees as the convening authority.

(2) A member of the court administrator's office.

(3) A representative of the elder law committee of the Vermont bar association.

(4) A representative of the disability law committee of the Vermont bar association.

(5) A representative of Vermont Legal Aid, Inc.

(6) Two representatives appointed by the secretary of the agency of human services, including a representative from the department of disabilities, aging, and independent living.

(7) A representative of the community of Vermont elders.

(8) A representative of Vermont protection and advocacy.

(9) A representative of the Vermont coalition of disability rights.

(d) The committee shall report its findings and recommendations to the house and senate committees on judiciary and the governor on or before January 15, 2007. The report shall include a recommendation of whether a system of guardianship monitoring is needed and, if so, a complete description, analysis, and recommendations for the following:

(1) The duties and responsibilities of the monitor.

(2) The number of monitors needed to staff a pilot program.

(3) The location and supervision of the monitor.

(4) The relationship of the monitor to the probate judges and the court administrator's office.

(5) The average caseload of a monitor.

(6) The cost of establishing a pilot guardianship monitor program and the cost of a statewide guardianship monitor program.

(7) The probate court districts which will be included in a pilot program.

(8) The method for measuring the outcome of a pilot program.

(9) The duration of a pilot program.

Sec. 7. STATUTORY REVISION

The office of legislative council shall revise subchapter 12 of chapter 111 of Title 14 by substituting the term "developmentally disabled" for the term "mentally retarded" wherever it appears.

Which was agreed to and third reading ordered.

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

Favorable Report; Third Reading Ordered

S. 190

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

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

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 630

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

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

By striking the title in its entirety and inserting in lieu thereof the following

"AN ACT RELATING TO SUICIDE PREVENTION EDUCATION IN PUBLIC SCHOOLS"

Which proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed; Rules Suspended
and Bill was Ordered Messaged to the Senate Forthwith**

H. 864

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

An act relating to capital construction and state bonding;

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

*** * * Capital Appropriations * * ***

Sec. 1. STATE BUILDINGS

The sum of \$10,757,418 is appropriated to the department of buildings and general services, and the commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however,

no project shall be canceled unless the chairs of the house and senate committees on institutions are notified before that action is taken. The individual appropriations in this section are estimates only.

- (1) Burlington, Cherry Street garages, continued repairs: (600,000)
- (2) Montpelier, 133 State Street, complete renovations: (1,700,000)
- (3) Montpelier, 109 State Street, complete third floor renovations: (132,418)

(4) Montpelier, secretary of state and department of motor vehicles, for final designs and site assessment for a new archives building of up to 25,000 cubic feet, which shall be designed and positioned to permit future expansion of up to 15,000 cubic feet, and for design and site assessment for a department of motor vehicles facility, both to be located at the "triangle" site, so-called, in Montpelier as part of a longer-term relocation project that will include locating the secretary of state and the department of education at 120 State Street and selling the Redstone Building:

(A) Motor vehicles facility: (500,000)

(B) Archives building: (500,000)

(5) Springfield, state office building; retaining wall, phase 1: (100,000)

(6) Waterbury, state office complex, condensate line replacement: (650,000)

(7) Statewide, major maintenance, to include up to \$250,000 for maintenance of the heat distribution system at the Vermont Veterans' Home: (5,600,000)

(8) Statewide, Americans with Disabilities Act (ADA)

(A) Accessibility to public buildings: (175,000)

(B) State-supported domestic violence centers, phase II: (50,000)

(9) Statewide, contingency fund: (500,000)

(10) Statewide, building reuse: (100,000)

(11) Statewide, planning: (25,000)

(12) State House, continued restoration of two remaining senate committee rooms and creation of a dedicated committee room for the senate committee on agriculture in the area currently used as the "bill room" while continuing to provide public access to bill copies, to be completed for occupancy on or before January 3, 2007: (125,000)

(Total appropriation – Section 1

\$10,757,418)

Sec. 2. TAXES

The sum of \$100,000 is appropriated to the department of taxes as the third appropriation in an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping; provided, however, if weather conditions preclude full expenditure of the funds appropriated in this section on or before July 1, 2006, then any remaining funds are reallocated to the department of buildings and general services for major maintenance.

(Total appropriation – Section 2

100,000)

Sec. 3. HEALTH AND PUBLIC SAFETY LABORATORIES

The sum of \$8,635,574 is appropriated to the department of buildings and general services for the departments of health and of public safety to purchase IBM Building #617 in Essex and to begin construction and renovation of the property for the health and forensic laboratories.

(Total appropriation – Section 3

\$8,635,574)

Sec. 4. HUMAN SERVICES

(a)(1) The sum of \$1,350,000 shall be expended by the department of buildings and general services for the agency of human services for continued planning, design, and permitting associated with the creation of a new inpatient facility to replace the current Vermont state hospital, which shall be from general funds appropriated in No. X of the Acts of the 2005 Adj. Sess. (2006) (the Fiscal Year 2007 Appropriations Act).

(2) No portion of this appropriation shall be encumbered or disbursed:

(A) Unless used solely for costs incurred in connection with work required by the Vermont State Hospital Futures Plan ("the Plan") required by Sec. 141a of No. 122 of the Acts of the 2003 Adj. Sess. (2004), as approved on March 22, 2006; and

(B) Until a detailed itemization of the specific manner in which the funds shall be spent is presented to and approved by the JMHOC and the JFC.

(3) The department of buildings and general services and the agency of human services shall report at each remaining meeting of the JMHOC during calendar year 2006 regarding:

(A) The progress made on the planning, design, siting, and permitting of the new state hospital facility, with specific updates on the certificate of need process.

(B) The status of negotiations, if any, with a nonstate partner regarding the resolution of outstanding issues, including building ownership, staffing, and administrative responsibilities. '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.

(4) On or before January 15, 2007, the department of buildings and general services and the agency of human services shall provide a detailed written report to the house committee on human services, the senate committee on health and welfare, and the house and senate committees on appropriations and on institutions, regarding the items listed in subdivision (3) of this subsection.

(b) The sum of \$50,000 is appropriated to the department of buildings and general services for the agency of human services for architectural fees necessary to convert underutilized racquetball courts into classrooms at the Woodside juvenile rehabilitation center.

(c) The sum of \$750,000 is appropriated to the department of buildings and general services for the agency of human services, department of corrections, to complete the design of and acquire a site for a new minimum security dormitory-style work camp.

(d) The sum of \$200,000 is appropriated to the department of buildings and general services for the agency of human services, department of corrections, for electrical system upgrades at the Chittenden regional correctional facility in South Burlington.

(e) The sum of \$50,000 is appropriated to the department of buildings and general services for the agency of human services, department of corrections, to evaluate and provide estimates and options for a sewage upgrade project at the northwest state correctional facility in St. Albans.

(f) The sum of \$450,000 is appropriated to the department of buildings and general services for the agency of human services to renovate space in the Springfield state office building for use by the agency.

(g) Vermont state hospital; renovations. The sum of \$100,000 is appropriated to the department of buildings and general services for the agency of human services for safety enhancements for patients and staff, to be substantially complete by July 1, 2007. On or before January 15, 2007, the commissioner of buildings and general services shall report to the house and senate committees on institutions regarding implementation of this subsection.

(Total appropriation – Section 4

\$2,950,000)

Sec. 5. JUDICIARY

(a) The sum of \$100,000 is appropriated to the department of buildings and general services for the judiciary to:

(1) Determine the feasibility of adding space to the Lamoille County courthouse, of potentially acquiring additional land, and of reconfiguring existing space to improve security, provide better access for people with disabilities, upgrade the utility services, and create more accessible restrooms; and

(2) Assist with relocation of the existing communications tower.

(b) The sum of \$150,000 is appropriated to the department of buildings and general services for the judiciary for security and space design and renovations at the Windham district and family courts.

(c) The sum of \$200,000 is appropriated to the department of buildings and general services for the judiciary to complete necessary renovations to the Bennington district and family courts to enhance security and litigant service.

(d) The sum of \$250,000 is appropriated to the department of buildings and general services for the judiciary to complete necessary roof and structural repairs at the Grand Isle County courthouse.

(e) The sum of \$100,000 is appropriated to the department of buildings and general services for the judiciary for Orange County to assist with the purchase of land and a structure adjacent to the Orange County courthouse.

(Total appropriation – Section 5

\$800,000)

Sec. 6. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The sum of \$200,000 is appropriated to the department of buildings and general services for the agency of commerce and community development for major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the department of buildings and general services.

(b) The sum of \$30,000 is appropriated to the agency of commerce and community development for underwater preserves.

(c) The sum of \$10,000 is appropriated to the agency of commerce and community development for roadside historic site markers.

(d) The sum of \$230,000 is appropriated to the department of buildings and general services for the agency of commerce and community development to exercise an option to purchase the Hoskison property which will become part

of the Calvin Coolidge state historic site in Plymouth Notch, pursuant to the authority granted in Sec. 25 of this act.

(e) The sum of \$80,000 is appropriated to the department of buildings and general services for the agency of commerce and community development for design of a visitor's center at the Calvin Coolidge state historic site in Plymouth Notch.

(f) The sum of \$15,000 is appropriated to the agency of commerce and community development for the unmarked burials fund established in 18 V.S.A. § 5212b. If additional funds are needed in fiscal year 2007 for the purposes set forth in section 5212b, the agency is authorized to use funds appropriated in subsection (a) of this section for those purposes. Any federal or other funds received by the state as reimbursement of funds expended in connection with unmarked burials shall be used solely for the purposes specified in section 5212b.

(Total appropriation – Section 6

\$565,000)

Sec. 7. EDUCATION

(a) The sum of at least \$8,532,000 shall be expended by the department of education for state aid for school construction projects pursuant to section 3448 of Title 16; provided that no more than \$3,600,000 of the total appropriation in this subsection shall be used for renewable energy projects and projects to extend the life of a building; and further provided that of the total amount authorized by this subsection:

(1) The sum of \$1,100,000 shall be from capital funds appropriated by this act;

(2) The sum of \$432,000 shall be from account #5100890501 (capital construction aid) as set forth in Sec. 19 of this act; and

(3) The remaining sums shall be from general funds to be appropriated in the "Big Bill" for the 2006 adjourned session (the Fiscal Year 2007 Appropriations Act).

(b)(1) The sum of \$700,000 is appropriated to the department of education for regional technical education centers and comprehensive high schools to assist with the purchase of educational program equipment, to be distributed in equal amounts to each center and high school with no local matching funds required; provided it is the intent of the legislature that the equipment purchased with these funds will meet or exceed a 15-year life cycle.

(2) The department of education shall consider and, on or before January 15, 2007, provide recommendations to the senate and house committees on institutions regarding:

(A) The type of equipment that should be eligible for purchase with capital funds; and

(B) Options for ways in which additional funding could be made available for equipment purchase by using education fund dollars.

(c) The sum of \$500,000 is appropriated to the department of buildings and general services for the Brattleboro Union High School District #6 in partial payment of the state's obligation to pay 100 percent of the approved cost of the Windham Regional Career Center (Southeastern Vermont Career Education Center) project, which shall be from account #5100890501 (capital construction aid) as set forth in Sec. 19 of this act.

(d) If fiscal year 2007 general fund appropriations are made for school construction aid in addition to those otherwise accounted for in this section, then those additional general fund appropriations shall be distributed, to the extent funds are available, as follows:

(1) First, the sum of \$3,691,837 for state aid for school construction projects pursuant to section 3448 of Title 16.

(2) Second, Windham Regional Career Center: (4,000,000)

(3) Third, Patricia A. Hannaford Career Center: (2,206,785)

(4) Fourth, Green Mountain Technology and Career Center: (2,000,000)

(5) Fifth, North Country Career Center: (2,000,000)

(6) Sixth, notwithstanding any provision of law to the contrary, the sum of \$173,065 shall be state aid for the Windsor State Street School project.

(7) Seventh, notwithstanding any provision of law to the contrary, the sum of \$108,750 shall be for the East Haven School to equal 25 percent of construction aid for the state's total share of costs incurred for a classroom addition.

(8) Eighth, notwithstanding any provision of law to the contrary, including subdivision 3448(a)(5) of Title 16 requiring approval of a final application by the state board of education as a precondition to receipt of school construction aid, the sum of \$19,563.15 is appropriated to the department of education for the Lowell Town School District to equal 25 percent of construction aid for the state's total share of costs incurred in connection with a roof project at the Lowell School.

(Total appropriation – Section 7

\$9,732,000)

Sec. 8. UNIVERSITY OF VERMONT

The sum of \$1,800,000 is appropriated to the University of Vermont to assist with construction of the plant sciences building and with major facility maintenance to the university campus. The university shall file with the general assembly an annual report, on or before January 15, that details the status of capital projects funded in whole or in part by state capital appropriations.

(Total appropriation – Section 8

\$1,800,000)

Sec. 9. VERMONT STATE COLLEGES

The sum of \$1,800,000 is appropriated to the Vermont state colleges for major facility maintenance. The state colleges shall file with the general assembly an annual report, on or before January 15, that details the status of capital projects funded in whole or in part by state capital appropriations.

(Total appropriation – Section 9

\$1,800,000)

Sec. 10. NATURAL RESOURCES

(a) The sum of \$5,800,000 is appropriated to the agency of natural resources for water pollution grants and the state match for the pollution control and public drinking water supply program state revolving fund loans, all in accordance with chapter 55 of Title 10 and chapter 120 of Title 24 for projects on a list prepared by the agency of natural resources, dated May 20, 2003 entitled “Wastewater Project Phase-In List from the Capital Bill Conference Committee 2003 Legislative Session” and referenced in Sec. 55 of No. 63 of the Acts of 2003; of the appropriation made in this subsection, the sum of up to \$140,000 shall be paid to the Town of Pownal for anticipated short-term financing interest costs in fiscal year 2007 in connection with the Pownal wastewater system project; of the appropriation made in this subsection, the sum of \$800,000 shall be for the ongoing pollution control project in Pownal, provided, however, that if the project is awarded a State and Tribal Assistance Grant (“STAG”) from the United States Environmental Protection Agency as part of the federal FY07 budget process, then this sum of \$800,000 shall be used by the agency of natural resources for other projects on the May 20, 2003 list.

(b)(1) The sum of \$2,870,000 is appropriated to the agency of natural resources for the clean and clear program to accelerate the reduction of phosphorus discharges into Lake Champlain and other waters of the state, as follows:

(A) Stream stabilization grants:

(1,250,000)

<u>(B) Wetlands restoration and protection:</u>	<u>(250,000)</u>
<u>(C) Stormwater assistance to municipalities:</u>	<u>(120,000)</u>
<u>(D) Hardwick phosphorus removal:</u>	<u>(750,000)</u>
<u>(E) Waterbury phosphorus removal:</u>	<u>(500,000)</u>

(2) The sum of \$120,000 appropriated in subdivision (1)(C) of this subsection shall be transferred to the state treasurer for deposit in the local community implementation fund created in 10 V.S.A. § 1264c, for the administrative and management needs of municipalities in developing total maximum daily load plans and water quality remediation plans for stormwater-impaired waters of the state.

(c) The sum of \$100,000 is appropriated to the agency of natural resources for beaver dam removal and dredging of the Dog River in Roxbury and for an assessment, to be presented to the senate and house committees on institutions on or before January 15, 2007, of the costs and feasibility of restoring the river to its original channel.

(d) The sum of \$100,000 is appropriated to the agency of natural resources for maintenance and repair of state-owned dams.

(e) The sum of \$400,000 is appropriated to the agency of natural resources for the department of forests, parks and recreation for rehabilitation of aging state park infrastructure.

(f) The sum of \$100,000 is appropriated to the agency of natural resources for the Green Mountain Club, Inc. for the procurement, in fee simple or by easement, of properties along the Long Trail.

(g) The sum of \$50,000 is appropriated to the agency of natural resources for the Lake Champlain Walleye Association, Inc. to upgrade and repair walleye rearing, restoration, and stocking infrastructure.

(h) The sum of \$50,000 is appropriated to the agency of natural resources to develop or improve fishing access points throughout the state.

(i) The sum of \$115,000 is appropriated to the agency of natural resources for the department of fish and wildlife to replace roofs at the Buck Lake conservation camp and the Roxbury hatchery; provided that the construction shall be directed by the department of buildings and general services.

(j) The sum of \$100,000 is appropriated to the agency of natural resources for the department of fish and wildlife toward completion of construction of a dining hall and education center at the Kehoe conservation camp in Castleton.

(Total appropriation – Section 10

\$9,685,000)

Sec. 11. MILITARY

(a) The sum of \$180,000 is appropriated to the department of the military for major maintenance to make life safety improvements at Camp Johnson, and to address accessibility concerns at up to three armories.

(b) The sum of \$20,000 is appropriated to the department of the military for the identification of civil war-related sites in Vermont in connection with the nationwide activities commencing in 2010 to recognize the 150th anniversary of the war.

(Total appropriation – Section 11

\$200,000)

Sec. 12. PUBLIC SAFETY

(a) The sum of \$2,900,000 is appropriated to the department of buildings and general services for the department of public safety to finalize construction and fit-up of a new Franklin County state police station in St. Albans.

(b) The sum of \$100,000 is appropriated to the department of buildings and general services for the department of public safety to complete construction of the new Addison County state police station in New Haven.

(c) The sum of \$80,000 is appropriated to the department of buildings and general services for the department of public safety for planning and preliminary engineering of a new emergency operations center.

(d) The sum of \$10,000 is appropriated to the department of buildings and general services for the department of public safety for the joint implementation by the two departments of a pilot project to create public safety "outposts" at the northbound rest area in Guilford and the southbound rest area in Williston. On or before January 15, 2007, the departments shall report to the senate and house committees on institutions concerning implementation of the pilot project and recommendations for the future.

(e) The sum of \$25,000 is appropriated to the department of buildings and general services for the departments of public safety and of motor vehicles to renovate a corner office currently used by the department of motor vehicles in the Caledonia County state police station in St. Johnsbury so that it can also be used by the state police and by the community for public safety purposes and to make other related improvements and renovations.

(Total appropriation – Section 12

3,115,000)

Sec. 13. CRIMINAL JUSTICE AND FIRE SERVICE TRAINING COUNCILS

(a) The sum of \$50,000 is appropriated to the department of buildings and general services to replace the cafeteria cooler/freezer at the Vermont criminal justice training council in Pittsford.

(b) The sum of \$30,000 is appropriated to the department of buildings and general services to construct a new wood storage building to replace two storage trailers at the Vermont criminal justice training council in Pittsford.

(c) The sum of \$325,000 is appropriated to the department of buildings and general services to provide bathroom, shower, and laundry facilities for staff and trainees at the Vermont fire service training council in Pittsford.

(Total appropriation – Section 13

405,000)

Sec. 14. AGRICULTURE, FOOD AND MARKETS

(a) The sum of \$1,800,000 is appropriated to the agency of agriculture, food and markets, best management practice implementation cost share program, for agricultural nonpoint source pollution reduction. Farmers participating in this program may receive a maximum of 80 percent of state aid when no federal dollars are available.

(b) The sum of \$200,000 is appropriated to the agency of agriculture, food and markets for the competitive grants program for agricultural fair capital projects. No single entity shall be awarded more than ten percent of this appropriation.

(Total appropriation – Section 14

2,000,000)

Sec. 15. VERMONT RURAL FIRE PROTECTION

The sum of \$100,000 is appropriated to the department of buildings and general services for the Vermont rural fire protection task force to continue the dry hydrant program.

(Total appropriation – Section 15

\$100,000)

Sec. 16. BUILDING COMMUNITIES GRANTS

(a) The following sums are appropriated to the agency of commerce and community development, division for historic preservation, for:

(1) The historic preservation grant program:

(150,000)

(2) The historic barns preservation grant program:

(150,000)

(b) The sum of \$200,000 is appropriated to the agency of commerce and community development, division for historic preservation, for the cultural

facilities competitive grant program, to be administered by the Vermont Arts Council and made available on a one-for-one matching basis with funds raised from nonstate sources; no such grant shall be available for a project receiving funding from any other appropriation of this act. No portion of this appropriation shall be used to pay salaries. The appropriation shall be awarded on a competitive basis. In recommending grant awards, a review panel shall give priority consideration to applicants who demonstrate greater financial need or are in underserved areas of the state.

(c) The sum of \$200,000 is appropriated to the department of buildings and general services for the recreational and educational facilities grant program.

(d) The sum of \$200,000 is appropriated to the agency of commerce and community development for the broadband development grant program.

(e) The sum of \$200,000 is appropriated to the department of buildings and general services for the human service grant program.

(f) On or before July 1, 2007, the secretary of commerce and community development, the executive director of the Vermont arts council, and the commissioner of buildings and general services shall implement for the annual grant cycles beginning in fiscal year 2008 for the grant programs awarded appropriations in subsections (a)(1), (b), (c), and (e) of this section:

(1) Similar application forms;

(2) A common application deadline; and

(3) Protocols to prevent projects from receiving grants from more than one capital bill-funded grant program in the same fiscal year.

(Total appropriation – Section 16 \$1,100,000)

Sec. 17. VERMONT PUBLIC TELEVISION

(a) The sum of \$520,000 is appropriated to the department of buildings and general services for Vermont Public Television for continued work on the federally mandated conversion of Vermont Public Television's transmission sites to digital broadcasting format.

(b) The sum of \$303,000 is appropriated to the department of buildings and general services for Vermont Public Television for its share of the costs of a state-mandated collocation project on Mount Mansfield.

(Total appropriation – Section 17 \$823,000)

Sec. 18. VERMONT INTERACTIVE TELEVISION

The sum of \$172,000 is appropriated to the department of buildings and general services for Vermont Interactive Television for multipoint control unit, codec, and router upgrades.

(Total appropriation – Section 18

\$172,000)

*** Financing this Act ***

Sec. 19. REALLOCATION OF FUNDS

(a) Of the amount appropriated in Sec. 8(a)(6) of No. 62 of the Acts of 1997 (distance learning), the sum of \$3,368 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(b) Of the amount appropriated in Sec. 18(a) of No. 62 of the Acts of 1997 (natural resources), the sum of \$821 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(c) Of the amount appropriated by Sec. 8(b) of No. 148 of the Acts of the 1997 Adj. Sess. (1998) (technical centers), the sum of \$10,000 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(d) Of the amount received from the sale of state-owned land in Montpelier, authorized by Sec. 31 of No. 148 of the Acts of the 1997 Adj. Sess. (1998), the sum of \$8,800 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(e) Of the amount received from the sale of state-owned land in St. Albans, authorized by Sec. 2(f) of No. 61 of the Acts of 2001, the sum of \$50,000 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(f) Of the amount received from the sale of state-owned land in Montpelier, authorized by Sec. 33 of No. 149 of the Acts of the 2001 Adj. Sess. (2002), the sum of \$100 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(g) Of the amount appropriated in Sec. 12 of No. 149 of the Acts of the 2001 Adj. Sess. (2002) (criminal justice and fire service training councils), the sum of \$58,641.31 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(h) Of the amount appropriated in Sec. 5(b) of No. 63 of the Acts of 2003 (technical centers), the sum of \$120,897.26 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(i) Of the amount appropriated in Sec. 13(b) of No. 63 of the Acts of 2003 (fire service training council), the sum of \$19,444.72 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(j) Of the amount appropriated in Sec. 14b of No. 121 of the Acts of the 2003 Adj. Sess. (2004) (fire service training council), the sum of \$35,919.87 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(k) Of the amount appropriated in Sec. 20 of No. 43 of the Acts of 2005 (Vermont veterans' memorial cemetery), the sum of \$200,000 is reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 (buildings and general services) of this act.

(l) Of the amount appropriated in Sec. 14(b) of No. 43 of the Acts of 2005 (agriculture – match for federal conservation reserve enhancement program), the sum of \$300,000 is reallocated to the agency of agriculture, food and markets to defray expenditures authorized in Sec. 14(a) (agricultural nonpoint source pollution reduction) of this act.

(m) Of the amount in account #5100890501 (capital construction aid), the sum of \$932,000 shall be reallocated to the department of education to defray expenditures authorized in Secs. 7(a) (K-12 school construction) and 7(c) (technical center construction) of this act.

(Total reallocation– Section 19

\$1,739,992.16)

Sec. 20. GENERAL OBLIGATION BONDS

The state treasurer is authorized to issue general obligation bonds in the amount of \$45,000,000 for the purpose of funding the appropriations of this act. The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The state treasurer shall allocate the estimated cost of bond issuance, or issuances, to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

(Total bonding – Section 20

\$45,000,000)

* * * Managing this Act * * *

Sec. 21. REALLOCATION; TRANSFER OF FUNDS

(a) Historic sites. The commissioner of buildings and general services may reallocate the funds in Sec. 6(a) of this act (commerce and community development) to state historic sites other than those presented to the general assembly during the 2005 legislative session only for major maintenance, should a more pressing need arise following the legislative session. On or before January 15, 2007, the commissioner shall report to the chairs and vice chairs of the senate and house committees on institutions regarding the reallocations made pursuant to this subsection.

(b) Natural resources. The secretary of natural resources, with the approval of the secretary of administration, may transfer any unexpended project balances between projects authorized in Sec. 10 of this act (natural resources). On or before January 15, 2007, the secretary shall report to the chairs and vice chairs of the senate and house committees on institutions regarding the transfers made pursuant to this subsection.

Sec. 22. ACCEPTANCE OF GRANTS AND OTHER FUNDS

(a) Notwithstanding section 5 of Title 32 (acceptance of grants):

(1) The commissioner of environmental conservation, with the approval of the secretary of natural resources, may accept federal grants made available through the federal Clean Water Act and the federal Drinking Water Act in accordance with chapter 120 of Title 24. Acceptance of this grant money is hereby approved, provided all notifications are made under subsection 4760(a) of Title 24.

(2) The commissioner of corrections, with the approval of the secretary of human services, may accept federal grants made available through federal crime bill legislation.

(3) The commissioner of buildings and general services may accept grants of funds, equipment, and services from any source, including federal appropriations, for the installation, operation, implementation, or maintenance of energy conservation measures or improvements at state buildings.

(4) The commissioner of buildings and general services may accept federal grant funds in connection with the state health and forensic laboratories. These funds may be used to defray or supplement costs in Sec. 3 of this act.

(b) Each receipt of a grant or gift authorized by this section shall be reported by the commissioner of the department receiving the funds to the

chairs of the house and senate committees on institutions and to the joint fiscal committee.

* * * Buildings and General Services; State Buildings * * *

Sec. 23. PROJECTS FUNDED IN PRIOR YEARS

The commissioner of buildings and general services is authorized to use funds appropriated under this act for capital projects requiring additional support that were funded with capital or general appropriations made in prior years. On or before January 15, 2007, the commissioner shall report to the chairs and vice chairs of the senate and house committees on institutions regarding funding choices made pursuant to this section.

Sec. 24. ENERGY CONSERVATION IN STATE BUILDINGS

The department of buildings and general services shall develop a plan for one or more incentive programs to encourage energy conservation in state buildings. The department shall present the plan or plans to the house and senate committees on institutions on or before January 15, 2007 together with proposals for any legislation necessary for implementation.

Sec. 25. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) The commissioner of buildings and general services is authorized, after obtaining an appraisal and the approval of the secretary of administration, to sell the following properties. The sales shall be pursuant to 29 V.S.A. § 166. After the public auction required by that section, if the highest bid is less than the appraised value of the property, the commissioner may reject all bids. Proceeds from the sale, net of sale costs, shall be paid into a capital fund to be used either for future capital construction projects as authorized by the general assembly.

(1) Colchester Avenue, Burlington (department of health laboratory); approximately 1.38 acres.

(2) A noncontiguous parcel of land isolated from the main parcel at the former Weeks School, east of Comfort Hill Road, Vergennes; approximately 7.42 acres.

(b) The commissioner of buildings and general services is authorized to exercise the state's option to purchase real property known as the Hoskison property to become part of the Calvin Coolidge homestead state historical site in Plymouth Notch.

(c) The commissioner of buildings and general services shall explore the financial and other implications of moving the state police field station from St. George Avenue in Williston to Building #617 in Essex, referenced in

Sec. 28 of this act, and shall report the study's conclusions to the house and senate committees on institutions on or before January 15, 2007.

(d) The commissioner of buildings and general services is authorized to move the E-911 center from St. George Avenue in Williston to Building #617 in Essex.

Sec. 26. PROPERTY TRANSACTIONS; BRANDON

Notwithstanding any provision of Sec. 1(b) of No. 59 of the Acts of 1993, of Sec. 23 of No. 62 of the Acts of 1995, or of Sec. 26 of No. 43 of the Acts of 2005 to the contrary, the amount received from the sale of state-owned land in the town of Brandon, authorized by No. 59 of the Acts of 1993, which is anticipated to be in the amount of \$400,000 more or less after payment of costs and fees associated with the sale, shall be disbursed to the department of buildings and general services for major maintenance.

Sec. 27. PROPERTY TRANSACTIONS; THAYER SCHOOL BUILDING

The commissioner of buildings and general services is authorized, with the approval of the secretary of administration, to sell, renovate, or demolish for purposes of future development the property or the building at 1193 North Avenue, Burlington referred to as the "Thayer School"; provided, however, only that portion of the building that does not currently house the department of motor vehicles may be demolished. If sold, the sale shall be pursuant to 29 V.S.A. § 166 and shall contain as a condition of sale the requirement that the department of motor vehicles remains on that property. Proceeds from the sale, net of sale costs, shall be paid into a capital fund to be used either for future capital construction projects as authorized by the general assembly.

Sec. 28. PROPERTY TRANSACTIONS; IBM BUILDING #617

The commissioner of buildings and general services is authorized to exercise the state's option to purchase real property located at 30 and 42 Allen Martin Drive ("Building #617") in Essex for co-located health and forensic laboratories and for other state purposes.

Sec. 29. 29 V.S.A. § 902(f) is amended to read:

(f) The commissioner of buildings and general services may also

(1) establish and supervise inventory methods to be used by all government agencies;

(2) ~~maintain and operate warehouses for supplies and stores; [Deleted.]~~

(3) maintain and operate the office supply service;

(4) receive, warehouse, manage, and distribute all state property and commodities except alcoholic beverages purchased for the liquor control board; and all surplus federal property and commodities;

(5) maintain central inventory of all state property and equipment other than lands and buildings; and

(6) maintain and operate the state's fleet management system.

Sec. 30. 29 V.S.A. § 907(b) is amended to read:

(b) The commissioner of buildings and general services may establish a purchasing card program for the purpose of authorizing all spending units of the state to use a purchasing card as an alternative payment method for official state purchases. The commissioner may contract with one or more financial institutions, card-issuing banks, credit card companies, charge card companies, debit card companies, or third-party merchant banks to provide state purchasing cards. The commissioner may accept receipts from the purchasing card program. The commissioner is authorized to establish policies for participation in the program and use of the purchasing card.

Sec. 31. 29 V.S.A. § 821(a)(2) is amended to read:

(2) ~~"Vermont Fire and Police Training Academy"~~ "Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont" shall be the name of the buildings and grounds now known as the ~~"Vermont Police Academy and Fire Service Training Facility"~~ "Vermont Fire and Police Training Academy" in Pittsford.

Sec. 32. THE ROBERT H. WOOD, JR. CRIMINAL JUSTICE AND FIRE SERVICE TRAINING CENTER OF VERMONT

On or before November 1, 2006 and in consultation with the family of former Representative Robert H. Wood, Jr., the department of buildings and general services shall erect a sign and conduct a dedication ceremony consistent with the provisions of Sec. 31 of this act.

Sec. 33. STATE HOUSE; SAFETY CONCERNS

On or before January 15, 2007, the department of public safety, division of fire safety, and the department of buildings and general services shall consider and make recommendations to the senate and house committees on institutions for protocols, changes in the use of existing space, and capital improvements that would increase the ease of egress from house committee rooms in the event of an emergency.

Sec. 34. ELECTRONIC RECORDS

The electronic version of all documents created by the Town of Colchester as it converts from paper to electronic format shall be exempt from the definition of "public record" or "public document" under 1 V.S.A. § 317(b); provided that the town shall retain the paper documents from which the electronic documents are created and further provided that those paper documents shall be subject to public disclosure as appropriate under subchapter 3 of chapter 5 of Title 1.

Sec. 35. SUNSET

Sec. 34 of this act shall expire on July 1, 2007.

* * * Judiciary * * *

Sec. 36. COUNTY COURTHOUSES; ALLOCATION OF CAPITAL COSTS

(a) A committee to consist of the members listed in subsection (b) of this section is created to consider the relative obligations of the state and the counties in connection with capital expenditures at county courthouses. On or before January 15, 2007, the committee shall report and make recommendations to the senate and house committees on institutions regarding this charge.

(b) The committee shall consist of:

(1) Two assistant judges to be chosen by the Vermont Association of County Judges who represent one county with a high population and one with a relatively low population.

(2) One county clerk to be chosen by the Vermont County Clerks Association.

(3) One district or family court clerk to be chosen by the court administrator.

(4) The court administrator or the administrator's designee.

(5) One district or superior court judge to be chosen by the administrative judge for trial courts.

(6) The commissioner of buildings and general services or the commissioner's designee, who shall serve as chair of the committee.

(c) The commissioner of buildings and general services shall convene the first meeting of the committee which shall occur on or before July 1, 2006. The committee shall meet no more than three times. The professional services of the joint fiscal office and the legislative council shall be available to the committee.

Sec. 37. ORANGE COUNTY; BORROWING AUTHORIZED: ASSISTANT JUDGES

(a) Notwithstanding any provisions of 24 V.S.A. § 82 to the contrary, the assistant judges of Orange County may borrow a sum not to exceed \$100,000 to purchase a parcel of real property adjacent to the Orange County courthouse in the Town of Chelsea. Notes or other evidence of indebtedness not exceeding that amount, payable in not more than five years from the date of execution, may be issued by the county treasurer on behalf of the County of Orange. All such notes or evidence of indebtedness shall contain on their face a statement of purpose for which they are issued and of the authority conferred by this section and shall be evidence of the county's liability to the holder of the instrument. The form, denominations, maturities, interest rates, and other terms, conditions, and details of the instrument shall be determined by resolution of the assistant judges of Orange County. Notes or other evidence of indebtedness issued under this section shall be paid by issuance of a bond approved pursuant to 24 V.S.A. § 24.

(b) The authority to borrow conferred by subsection (a) of this section shall terminate on January 1, 2007. Any funds borrowed or notes or other forms of indebtedness issued prior to that date shall be subject to the terms of this section until repaid.

* * * Education * * *

Sec. 38. Sec. 6(a) of No. 43 of the Acts of 2005 is amended to read:

Sec. 6. EDUCATION

(a) The sum of ~~\$9,300,000~~ \$13,563,000 shall be expended by the department of education for state aid for school construction projects pursuant to section 3448 of Title 16, of which amount the sum of \$5,300,000 shall be appropriated from capital funds in this act and the sum of ~~\$4,000,000~~ \$8,263,000 shall be from general funds appropriated by ~~Sec. 255(b) of~~ in No. 71 of the Acts of 2005 (the Fiscal Year 2006 Appropriations Act); provided that, notwithstanding any provision of section 3448 of Title 16 or state board of education rule to the contrary:

* * *

Sec. 39. 16 V.S.A. § 3448(a)(7)(B) is amended to read:

(B) The amount of an award for the incremental costs associated with the installation of a space heating, water heating, cooling, or refrigeration system that uses biomass, a geothermal/ground source, wind, or solar energy as the primary heating or cooling source shall be 90 percent of the approved cost of the incremental costs of the project, or ~~40 percent of the approved cost of a~~

fuel system that would reduce fuel use by 10 percent or more. Only those costs in excess of the costs for a traditional fossil fuel system shall be eligible for the award, and those elements of the project specifically related to the renewable fuel source being used; provided that those elements may include the costs of additional square footage, necessary equipment, an additional chimney, and air quality technology, and additional square footage necessary to house the heating unit and fuel; and further provided that those elements shall not include the costs of staff areas, site improvements relating to fuel delivery, and other ancillary costs as determined by the commissioner.

Sec. 40. 16 V.S.A. § 3448(a)(3)(A) is amended to read:

(A) First priority is given to emergency projects in excess of ~~\$50,000.00~~ \$100,000.00 which address threats to the safety and health of students or employees created by unanticipated circumstances or events.

Sec. 41. 16 V.S.A. § 3448(d) is amended to read:

(d) Emergency aid. Notwithstanding any other provision of this section, the commissioner may grant aid pursuant to subdivision (a)(7) of this section for a project the commissioner deems to be an emergency, up to a maximum total project cost of ~~\$50,000.00~~ \$100,000.00.

Sec. 42. 24 V.S.A. § 1758(b)(3) is added to read:

(3) The warning and ballot shall contain the following set forth in bold-faced type:

The district is solely responsible for all costs incurred in connection with any borrowing done in anticipation of state school construction aid. State funds may not be available at the time this project is otherwise eligible to receive state school construction aid.

Sec. 43. SCHOOL CONSTRUCTION AID; ACKNOWLEDGEMENT
REQUIRED

As part of the application process for state aid for capital construction costs under chapter 123 of Title 16, the state board of education shall require that each applicant submit with its application a signed form acknowledging that the state is not obligated to pay its share of the approved costs of construction until state funds are available, that state funding may not be available at the time that the project would otherwise be eligible for payment, and that the applicant is solely responsible for the costs associated with any borrowing done in anticipation of state aid.

Sec. 44. Sec. 63 of No. 149 of the Acts of the 2001 Adj. Sess. (2002) as amended by Sec. 53 of No. 121 of the 2003 Adj. Sess. (2004) is further amended to read:

Sec. 63. TRANSITIONAL PROVISIONS; CONSTRUCTION AID FOR
TECHNICAL CENTERS

(a) Notwithstanding any provision of law to the contrary, the amount of an award for the construction or purchase of a new technical center building or additions or alterations to an existing technical center building for the following projects shall be 100 percent of the approved cost of the project:

* * *

(2) Any portion of the combined technical center project dedicated specifically to the provision of state-approved technical education programming in Chittenden County, provided nothing in this section shall apply to any ~~noncombined~~ project providing technical education in Chittenden County that is not located solely on one regional campus and does not receive regional voter approval on or before April 1, 2007.

* * *

Sec. 45. SCHOOL CONSTRUCTION STANDARDS

(a) A school construction standards committee is created and consists of the members listed in subsection (b) of this section. The committee shall develop a comprehensive proposal to incorporate high performance school design and construction standards into Vermont school construction projects that address indoor environmental quality, energy efficiency, use of renewable energy, water efficiency, building materials selection, building siting, construction practices, and ongoing building operations and maintenance.

(b) The school construction standards committee shall consist of:

(1) The commissioner of education or the commissioner's designee, who shall serve as chair of the committee.

(2) The commissioner of public service or the commissioner's designee.

(3) The commissioner of buildings and general services or the commissioner's designee.

(4) A representative of the Vermont Chapter of the American Institute of Architects.

(5) A representative of the Vermont Energy Investment Corporation.

(6) The executive director of the Vermont superintendents association or the executive director's designee.

(c) The commissioner of education shall convene the initial meeting of the committee no later than July 15, 2006.

(d) On or before January 15, 2007, the committee shall report to the members of the house and senate committees on institutions regarding its recommendations under this section, which shall include a detailed financial analysis.

(e) The professional services of the joint fiscal office and the legislative council shall be available to the committee.

Sec. 46. 16 V.S.A. § 3448e(d) is amended to read:

(d) Involvement of the department of buildings and general services. The department of buildings and general services, ~~in its discretion~~, shall be ~~responsible for carrying out~~ available to consult with and share its expertise with the school district regarding the design and construction of any new technical education facility or any alterations to existing technical education facilities, and for the analysis ~~and approval~~ of any lease or lease-purchase proposal. ~~All state construction aid for these projects shall be appropriated to the department of buildings and general services for this purpose. Such funds may be used to hire temporary or contract staff to assist with these responsibilities.~~

Sec. 47. Sec. 63 of No. 149 of the Acts of the 2001 Adj. Sess. (2002) as amended by Sec. 53 of No. 121 of the 2003 Adj. Sess. (2004) is further amended to read:

Sec. 63. TRANSITIONAL PROVISIONS; CONSTRUCTION AID FOR
TECHNICAL CENTERS

* * *

(c) Notwithstanding any other provision of law, no disbursement of state aid shall be made pursuant to this section until the department of buildings and general services ~~shall be responsible for all~~ approves the design, construction, or and purchase of any new buildings or alterations of existing buildings together with all associated expenditures. All state construction aid for these projects shall be appropriated to the department of buildings and general services for this purpose. ~~Such funds may be used to hire temporary or contract staff to assist with these responsibilities.~~

* * * State Colleges * * *

Sec. 48. SPENDING AND BONDING AUTHORIZATION; VERMONT
STATE COLLEGES

(a) In conformity with subsection 2171(e) of Title 16, the general assembly approves the expenditure by the Vermont State Colleges from its revenues other than state appropriations, and from its self-generated revenues established for the purpose of capital improvements on housing, dining, and

general purpose facilities, to an aggregate of \$1,509,000.00 for necessary capital improvements.

(b) The chancellor of the Vermont State Colleges may accept and expend for capital purposes federal grants awarded in connection with the Castleton State College math and science center.

* * * Natural Resources * * *

Sec. 49. AWARD UNDER WATER POLLUTION ABATEMENT
PROGRAM TO PREVENT CREATION OF PUBLIC HEALTH
HAZARDS

Notwithstanding any provision of 10 V.S.A. § 1625 to the contrary, the water pollution abatement project currently proposed by the Town of Waitsfield shall be placed on the prioritized list of projects eligible to receive grants under section 1625. The portions of the project eligible to receive grant funding will be those determined by the department of environmental conservation as necessary to prevent a public health hazard arising from the existence of wastewater systems within the municipality that fail to meet current isolation distances to drinking water supplies.

Sec. 50. ACTION REGARDING STATE LAND

Pursuant to 10 V.S.A. § 2603(b), the commissioner of forests, parks and recreation is authorized to exchange or convey certain state lands, as follows:

(1) To convey a permanent easement to the Town of Alburgh Fire District across a portion of state-owned lands within Alburgh Dunes State Park to accommodate a buried water line.

(2) To exchange lands and interests in lands in the Towns of Lowell and Stowe by which the department would convey the 17-acre+/- "Fiddler's Elbow" parcel of land in the Town of Lowell (currently under the control of the agency of transportation) to Dale Percy in exchange for title to up to 15 acres of a larger parcel (the "Percy parcel") located immediately adjacent to the Moss Glen Falls portion of the C.C. Putnam State Forest in the Town of Stowe and for a right-of-way across the portion of the Percy parcel not conveyed to the state. This land exchange is contingent on the following:

(A) Transfer by the agency of transportation to the department of forests, parks and recreation of the Fiddler's Elbow parcel as surplus property at no cost;

(B) The appraised value of the land and right-of-way transferred by Mr. Percy being equal to or greater than the appraised value of the Fiddler's Elbow parcel; and

(C) Approval by the chairs and vice chairs of the senate and house committees on institutions.

Sec. 51. SEYON RANCH; GROTON

The agency of natural resources shall not enter into a contract with a private entity for operation of the Seyon Ranch in Groton unless it has:

(1) Conducted at least one public hearing in the Town of Groton on the proposed contractual relationship; and

(2) Obtained approval of the proposed contract terms from the chairs and vice chairs of the senate and house committees on institutions.

* * * Clean and Clear; Agriculture, Food and Markets * * *

Sec. 52. 6 V.S.A. chapter 215, subchapter 6 is added to read:

Subchapter 6. Vermont Agricultural Buffer Program

§ 4900. VERMONT AGRICULTURAL BUFFER PROGRAM

(a) The secretary of agriculture, food and markets is authorized to develop a Vermont agricultural buffer program in addition to the federal conservation reserve enhancement program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative buffers on annual cropland adjacent to the surface waters of the state.

(b) The establishment and annual incentive payments from the agency of agriculture, food and markets under the Vermont agricultural buffer program shall not exceed 40 percent of the combined federal and state payment that the relevant cropland would be eligible for under the federal conservation reserve enhancement program. The incentive payment shall be made annually at the end of the cropping season for a nonrenewable five-year period.

(c) The secretary of agriculture, food and markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont agricultural buffer program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in "active use" as that term is defined in 32 V.S.A. § 3752(15).

(e) As used in this section, "surface waters" means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, and springs which are contained within, flow through, or border upon the state or any portion of it.

Sec. 53. CONTROL OF GROWTH OF INVASIVE AQUATIC PLANTS IN LAKE CHAMPLAIN

Notwithstanding any provision of law to the contrary or any administrative agreement entered into pursuant to that law, the secretary of administration shall allow up to \$335,000 of the debt forgiveness negotiated by the state treasurer under Sec. 282 of No. 122 of the Acts of the 2003 Adj. Sess. (2004) to be used by the agency of natural resources to purchase mechanical harvesting equipment which shall be leased to nonprofit organizations to control the growth of invasive aquatic plants in Lake Champlain.

Sec. 54. SUNSET

Sec. 52 of this act (Vermont agricultural buffer program) shall expire on June 30, 2011.

Sec. 55. VERMONT PRODUCTS; STATE HOUSE CAFETERIA

The sergeant at arms, in consultation with the agency of agriculture, food and markets and the department of buildings and general services, shall work with the organization providing food service at the state house cafeteria to increase the use, sale, and visibility of ingredients and food products that are grown or produced in Vermont.

* * * Vermont Veterans' Home * * *

Sec. 56. VERMONT VETERANS' HOME

The general assembly intends to continue its support for the construction of a new geothermal heating plant at the Vermont Veterans' Home.

* * * Capital Funding * * *

Sec. 57. CAPITAL OBLIGATIONS; STUDY

(a) The capital obligations of the state exceed available capital funds and are projected to continue to do so for the foreseeable future. Therefore, there is created a committee to study and develop options to manage existing and future state capital obligations in order to stay within the level of funding approved by the capital debt affordability committee.

(b) The members of the committee shall be:

- (1) The state treasurer or the treasurer's designee.
- (2) The secretary of administration or the secretary's designee.
- (3) The commissioner of buildings and general services or the commissioner's designee.
- (4) The secretary of natural resources or the secretary's designee.
- (5) The commissioner of education or the commissioner's designee.

(6) The chief fiscal officer of the legislature or the officer's designee.

(7) The chief legislative counsel or the counsel's designee.

(c) The chief fiscal officer of the legislature shall convene the first meeting of the committee, which shall be no later than July 15, 2006.

(d) On or before January 15, 2007, the committee shall present its recommendations to the senate and house committees on institutions and to the joint fiscal committee together with any proposed legislation.

* * * Effective Date * * *

Sec. 58. EFFECTIVE DATE

(a) This act shall take effect on passage. The sums appropriated and the spending authority authorized by this act shall be continuing and shall not revert at the end of the fiscal year.

(b) Sec. 39 (renewable energy projects) of this act shall apply to all applicable projects for which the state board of education has not determined the level of state aid on or before the effective date of this act.

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

Rep. Emmons of Springfield.

Rep. Fallar of Tinmouth

Rep. Myers of Essex

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

Action on Resolution Postponed

J.R.H. 57

Joint resolution, entitled

Joint resolution opposing the implementation of the proposed rules under the western hemisphere travel initiative;

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Trombley of Grand Isle**, action on the resolution was postponed until the next legislative day.

Adjournment

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

WEDNESDAY, APRIL 5, 2006

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

Devotional Exercises

Devotional exercises were conducted by Charles Delaney- Megeso member of the MaziPSkwik Abenaki and the Waaubowim Society, Burlington, VT.

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

H. 544 An act relating to the process for locating and altering municipal lines

Message from the Senate No. 47

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

Madam Speaker:

I am directed to inform the House the Senate has considered bills originating in the House of the following titles:

H. 611. An act relating to life threatening chronic allergies and illnesses in schools.

H. 710. An act relating to organization of supervisory districts.

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. 655. An act relating to the towns and gores of Essex County.

And has passed the same in concurrence.

Pursuant to the request of the House for Committees of Conference on the disagreeing votes of the two Houses on the following House bills the President *pro tempore* announced the appointment as members of such Committees on the part of the Senate:

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

Senator Ayer
Senator White
Senator Maynard

H. 864. An act relating to capital construction and state bonding.

Senator Scott
Senator Mazza
Senator Campbell

Committee Bill Introduced

H. 890

Rep. Sweaney of Windsor, for the committee on Government Operations, introduced a bill, entitled

An act relating to emergency management and public safety;

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

Committee Bill Introduced

H. 891

Rep. Sweaney of Windsor, for the committee on Government Operations, introduced a bill, entitled

An act relating to the Vermont Web Portal;

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

Joint Resolution Adopted

J.R.H. 69

Joint resolution, entitled

Joint resolution designating April 5, 2006 as Vermont Nurses' Day at the State House;

Whereas, 9,900 registered nurses licensed in Vermont represent our state's largest health care resource, and

Whereas, 500 advanced practice registered nurses serve Vermonters as adult, pediatric, or family nurse practitioners, certified nurse midwives, clinical specialists, or nurse anesthetists, and

Whereas, registered nurses constitute 70 percent of the health care providers in Vermont, and

Whereas, these nurses use nursing research and evidence-based practice to provide care to Vermont residents in hospitals, long-term care facilities, schools, clinics, physician offices, correctional facilities, workplaces, and patients' homes, and

Whereas, registered nurses increase their education, design their practice, and direct their research to advance nursing care in collaboration with medical care, prevent illness, maintain wellness, improve the health care delivery system, and provide for the unmet health needs of our most vulnerable citizens, and

Whereas, nurses play a crucial role in the delivery of quality health care in Vermont, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly designates April 5, 2006 as Vermont Nurses' Day at the State House, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Peggy Sharpe, executive director of the Vermont State Nurses Association, in South Burlington.

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

Third Reading; Bill Passed

H. 674

House bill, entitled

An act relating to the health access oversight committee;

Was taken up, read the third time and passed.

Senate Proposal of Amendment Concurred in

J.R.H. 57

The Senate proposes to the House to amend Joint resolution, entitled

Joint resolution opposing the implementation of the proposed rules under the western hemisphere travel initiative;

By striking the resolution in its entirety and inserting in lieu thereof the following:

Whereas, Canada, particularly the province of Quebec, and Vermont have enjoyed a close, strong, and historical partnership, a relationship that has fostered important and substantial trade and cultural between Canada and Vermont; and

Whereas, bilateral trade between Vermont and Canada is important, accounts for more than \$3.9 billion in 2004, with \$1.3 billion in Vermont goods exported to Canada, and \$2.6 billion in Canadian goods imported into Vermont in 2004, and includes agricultural products, telecommunication goods, which represented 46 percent of the overall trade volume in 2004, forest products, which are Vermont's second largest export to Canada, and tourism, which accounted for nearly 600,000 Canadian visitors who generated \$79 million in tourism revenue to Vermont in 2004, and

Whereas, Vermont has historically relied on Canada as a secure source of energy, importing \$442 million in petroleum and coal products and natural gas in 2004, and

Whereas, more than 12,000 Vermont jobs are supported by the Canada/United States trade, and each day more than 300,000 business people, tourists, and regular commuters travel between the United States and Canada; and

Whereas, the economic viability of Vermont's tourism and hospitality industry greatly depends on facilitating border crossings, whether by air, land, or sea, but particularly for the land border crossing; and

Whereas, 56 percent of same day travelers from the United States, and 40 percent of same day travelers from Canada, and 50 percent of overnight travelers from the United States and 30 percent of overnight travelers from Canada do not have a passport; and

Whereas, a recent report, prepared for the Canadian Tourism Commission, estimates that by 2008, the passport requirement would result in 3.5 million fewer trips into the United States from Canada with a loss of approximately \$785 million in tourism revenue and 7.7 million fewer trips by U.S. citizens into Canada with a \$1.7 billion loss in revenue; and

Whereas, the Western Hemisphere Travel Initiative (WHTI) as currently outlined will be a deterrent to travel, particularly on lower income citizens, negatively impact the total number of border crossings and will have

significant negative implications for the economies of both Canada and the United States, and

Whereas, the state of Vermont recognizes that the security of our shared border with Canada is critical to ensuring the security of Vermont and that of the entire nation, and that the safety and security of all Americans is of paramount importance, and

Whereas, although the state of Vermont supports the intent of the WHTI to improve the security of Vermont's border crossings, it nevertheless has serious reservations about the efficiency and effectiveness of the proposed rules related to the WHTI that the U.S. Department of Homeland Security and the U.S. Department of State have jointly developed, and

Whereas, because the identification provisions in the recently enacted Real-ID Drivers' License Act and those in the WHTI are so similar and timed to take effect at approximately the same time, they should be brought together and implemented in a consolidated and coordinated manner, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests the U.S. Department of Homeland Security and the Department of Defense to conduct a thorough analysis of the impact of both proposals on all sectors of the economy, particularly in border regions, and to allow the use of more readily available and less expensive secure identification documents, such as Real-ID, to satisfy the secure identification requirements of the WHTI, and be it further

Resolved: That the General Assembly urges the President of the United States, and the United States Congress to delay the implementation of the specific rule that the Department of Homeland Security and Department of State are proposing under WHTI, requiring that, as an alternative to a passport, a separate new identification card would be required of all citizens of the United States, Canada, Mexico, and Bermuda, regardless of age, to enter or reenter the United States, until such time as the necessary analysis can be done and a more efficient and effective means of accomplishing the desired outcome can be developed, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the President of the United States, Secretary of Defense Donald Rumsfeld, Secretary of Homeland Security Michael Chertoff, Secretary of State Condoleezza Rice, and to the Vermont Congressional Delegation.

And that upon passage the title of the Resolution be amended to read: "JOINT RESOLUTION URGING MODIFICATION OF THE PROPOSED U.S. PASSPORT PLAN (WESTERN HEMISPHERE TRAVEL INITIATIVE)"

Which proposal of amendment was considered and concurred in.

Third Reading; Bills Passed

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

H. 867

House bill, entitled

An act relating to miscellaneous changes to education law.

H. 882

House bill, entitled

An act relating to approval of amendments to the charter of the town of Richmond.

H. 887

House bill, entitled

An act relating to Group D participation in the state employees defined contribution plan.

Third Reading; Bill Passed in Concurrence

S. 190

Senate bill, entitled

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

Was taken up, read the third time and passed in concurrence.

Action on Bill Postponed

H. 81

House bill, entitled

An act relating to operation of a vessel used for towing persons on water skis;

Was taken up and pending the reading of the report of the committee on Transportation, on motion of **Rep. Minter of Waterbury**, action on the bill was postponed until the next legislative day.

Bill Amended; Third Reading Ordered**H. 741**

Rep. Allaire of Rutland City, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to state college property tax exemption and payment in lieu of taxes;

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

Sec. 1. 32 V.S.A. § 3701(1)(A) is amended to read:

(1) "State-owned property" means:

(A) state-owned buildings, including buildings of the Vermont state colleges which are tax-exempt under section 2178 of Title 16 and; buildings of the University of Vermont and State Agricultural College used for educational and not commercial purposes; and buildings of the agency of transportation and the department of the military; but excluding the value of land on which the buildings are located, and excluding all highways and bridges and any land pertaining thereto; and

Sec. 2. 16 V.S.A. § 2178 is amended to read:

§ 2178. TAX EXEMPTION

All real and personal property owned by the corporation and used for educational and not commercial purposes shall be exempt from taxation.

Sec. 3. EFFECTIVE DATES

Sec. 1 of this act (payments in lieu of taxes for tax-exempt State College buildings) shall take effect July 1, 2006; and Sec. 2 of this act (limitation on State College property tax exemption to property used for educational and not commercial purposes) shall apply to grand lists of April 1, 2011 and after.

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

Proposal of Amendment Agreed to; Third Reading Ordered

S. 117

Rep. Brooks of Montpelier, for the committee on General, Housing and Military Affairs, to which had been referred Senate bill, entitled

An act relating to state recognition of the Abenaki People;

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

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

Sec. 1. 1 V.S.A. chapter 23 is added to read:

CHAPTER 23. ABENAKI PEOPLE

§ 851. FINDINGS

The general assembly finds that:

(1) At least 1,700 Vermonters claim to be direct descendants of the several indigenous Native American peoples, now known as Western Abenaki tribes, who originally inhabited all of Vermont and New Hampshire, parts of western Maine, parts of southern Quebec, and parts of upstate New York for hundreds of years, beginning long before the arrival of Europeans.

(2) There is ample archaeological evidence that demonstrates that the Missisquoi Abenaki were indigenous to and farmed the river floodplains of Vermont at least as far back as the 1100s A.D.

(3) The Western Abenaki, including the Missisquoi, have a very definite and carefully maintained oral tradition that consistently references the Champlain valley in western Vermont.

(4) Many contemporary Abenaki families continue to produce traditional crafts and intend to continue to pass on these indigenous traditions to the younger generations. In order to create and sell Abenaki crafts that may be labeled as Indian- or Native American-produced, the Abenaki must be recognized by the state of Vermont.

(5) Federal programs may be available to assist with educational and cultural opportunities for Vermont Abenaki and other Native Americans who reside in Vermont.

§ 852. VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS ESTABLISHED; AUTHORITY

(a) In order to recognize the historic and cultural contributions of Native Americans to Vermont, to protect and strengthen their heritage, and to address their needs in state policy, programs, and actions, there is hereby established the Vermont commission on Native American affairs (the "commission").

(b) The commission shall comprise seven members appointed by the governor for two-year terms from a list of candidates compiled by the division for historic preservation. The governor shall appoint a chair from among the

members of the commission. The division shall compile a list of candidates' recommendations from the following:

(1) Recommendations from the Missisquoi Abenaki and other Abenaki and other Native American regional tribal councils and communities in Vermont.

(2) Applicants who apply in response to solicitations, publications, and website notification by the division of historical preservation.

(c) The commission shall have the authority to assist Native American tribal councils, organizations, and individuals to:

(1) Secure social services, education, employment opportunities, health care, housing, and census information.

(2) Permit the creation, display, and sale of Native American arts and crafts and legally to label them as Indian- or Native American-produced as provided in 18 U.S.C. § 1159(c)(3)(B) and 25 U.S.C. § 305e(d)(3)(B).

(3) Receive assistance and support from the federal Indian Arts and Crafts Board, as provided in 25 U.S.C. § 305 et seq.

(4) Become eligible for federal assistance with educational, housing, and cultural opportunities.

(5) Establish and continue programs offered through the U.S. Department of Education Office on Indian Education pursuant to Title VII of the Elementary and Secondary Education Act established in 1972 to support educational and cultural efforts of tribal entities that have been either state or federally recognized.

(d) The commission shall meet at least three times a year and at any other times at the request of the chair. The agency of commerce and community development and the department of education shall provide administrative support to the commission.

(e) The commission may seek and receive funding from federal and other sources to assist with its work.

§ 853. RECOGNITION OF ABENAKI PEOPLE

(a) The state of Vermont recognizes all Abenaki and Native American people who reside in Vermont as a minority population.

(b) Recognition of the Native American or Abenaki people provided in subsection (a) of this section shall be for the sole purposes specified in subdivision 852(c)(2) of this title and shall not be interpreted to provide any

Native American or Abenaki person with any special rights or privileges that the state does not confer on or grant to other state residents.

(c) This chapter shall not be construed to recognize, create, extend, or form the basis of any right or claim to land or real estate in Vermont for the Abenaki people or any Abenaki individual and shall be construed to confer only those rights specifically described in this chapter.

Sec. 2. EFFECTIVE DATE; APPOINTMENTS TO COMMISSION

(a) This act shall take effect on passage.

(b) The governor shall make appointments to the commission no later than 90 days after the effective date of this act.

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 propose to the Senate to amend the bill as recommended by the committee on General, Housing and Military Affairs? **Rep. Lippert of Hinesburg** moved to amend the report of the committee on General, Housing and Military Affairs as follows:

First: In Sec. 1, 1 V.S.A. § 853, by striking subsection (a) in its entirety and inserting in lieu thereof the following:

(a) The state of Vermont recognizes the Abenaki people and recognizes all Native American people who reside in Vermont as a minority population.

Second: In Sec. 1, 1 V.S.A. § 853(b), by striking "subdivision" and inserting in lieu thereof "subsection", and by striking "852(c)(2)" and inserting in lieu thereof "852(c)" and before the words "special rights" by adding the word "other"

Which was agreed to.

Thereupon, the report of the committee on General, Housing and Military Affairs, as amended, was agreed to and third reading ordered.

Favorable Report; Third Reading Ordered

S. 251

Rep. Head of South Burlington, for the committee on General, Housing and Military Affairs, to which had been referred Senate bill, entitled

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

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Action on Bill Postponed

H. 841

House bill, entitled

An act relating to underground utility damage prevention system;

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Trombley of Grand Isle**, action on the bill was postponed until the next legislative day.

Joint Resolution Adopted

J.R.H. 68

Joint resolution, entitled

Joint resolution urging Congress to reject a proposed new federal tax on dairy farmers;

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

Adjournment

At two 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.

THURSDAY, APRIL 6, 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 the St. Andrews Highland Dancers of Vermont.

John Patrick Walter Dennis – Organizer

Heather Lanzetta – Instructor

Derek Davidson – Piper

Lauren Starkey – President

Dancers

Zack Warshaw

Emma Sicalowski

Megan Breen

Lindsay Breen

**Kelly Kort
Hannah Marshall
Madeline McIntire
Felicia Olmstead
Elizabeth Stevens
Annavita Rand
Kristen Macdonald**

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

H. 576 An act relating to a reorganization of the Vermont department of labor

Message from the Senate No. 48

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

Madam Speaker:

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

S. 27. An act relating to a safe haven defense to the crime of abandoning a baby.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

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

H. 33. An act relating to the uniform mediation act.

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. 101. An act relating to post-traumatic stress disorder and state police officers.

And has passed the same in concurrence.

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

J.R.S. 63. Joint resolution relating to weekend adjournment.

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

The Senate has considered joint resolutions originating in the House of the following titles:

J.R.H. 68. Joint resolution urging Congress to reject a proposed new federal tax on dairy farmers.

J.R.H. 69. Joint resolution designating April 5, 2006 as Vermont Nurses' Day at the State House.

And has adopted the same in concurrence.

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. 890

House bill, entitled

An act relating to emergency management public safety;

H. 891

House bill, entitled

An act relating to the Vermont web portal.

Second Committee of Conference Appointed

S. 18

Pursuant to the report of the first committee of conference on Senate bill, entitled

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

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

Rep. Jewett of Ripton
Rep. Gervais of Enosburg
Rep. Grad of Moretown

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

S. 285

Rep. Tracy of Burlington moved that the committee on Health Care be relieved of House bill, entitled

An act relating to continuation of group coverage following divorce without premium increase;

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

Bill Amended; Third Reading Ordered

H. 81

Rep. Minter of Waterbury, for the committee on Transportation, to which had been referred House bill, entitled

An act relating to operation of a vessel used for towing persons on water skis;

Reported in favor of its passage when amended as follows:

In Sec. 1, in §3315(a), following the words "operated along a", by inserting the words "American Water Ski Association".

The bill, having appeared on the Calendar 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 Transportation? **Rep. Minter of Waterbury** asked and was granted leave of the House to withdraw the amendment offered by the committee on Transportation.

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

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

Sec. 1. 23 V.S.A. § 3315(a) is amended to read:

(a) A Except as provided below, a person shall not operate a vessel on any waters of this state ~~for towing~~ to tow a person or persons on water skis,

aquaplane, kite skis, ~~surfboard~~ wakeboard, kneeboard, or similar device unless the person being towed is wearing a United States Coast Guard approved personal flotation device and unless there is in the vessel a person who is at least 12 years old, in addition to the operator, in a position to observe the progress of the person or persons being towed. Persons engaged in barefoot ~~water skiing~~ waterskiing may elect at their own risk to wear a non-Coast Guard approved barefoot wetsuit designed specifically for this activity. An observer in addition to the operator shall not be required if the vessel is:

(1) an American Water Ski Association approved tow boat equipped with a wide-angle mirror having a viewing surface of at least 48 square inches;

(2) being operated by a person who is at least 16 years of age; and

(3) being operated within an American Water Ski Association regulation slalom course or within reasonably necessary turning radii on either end of such a course.

Which was agreed to and third reading was ordered.

Third Reading; Bill Passed

H. 741

House bill, entitled

An act relating to state college property tax exemption and payment in lieu of taxes;

Was taken up, read the third time and passed.

Third Reading; Bill Passed in Concurrence with Proposal of Amendment

S. 117

Senate bill, entitled

An act relating to state recognition of the Abenaki People;

Was taken up and read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Valliere of Barre City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass in concurrence with proposal of amendment? was decided in the affirmative. Yeas, 130. Nays, 1.

Those who voted in the affirmative are:

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

Those who voted in the negative are:

Koch of Barre Town

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

Allard of St. Albans Town
Corcoran of Bennington
Endres of Milton
Fallar of Tinmouth
Helm of Castleton
Houston of Ferrisburgh

Larson of Burlington
Louras of Rutland City
Malcolm of Pawlet
Martin of Springfield
Morrissey of Bennington
Nease of Johnson

Niquette of Colchester
Pellett of Chester
Severance of Colchester
Smith of New Haven
Young of Orwell

Rep. Barnard of Richmond explained her vote as follows:

"Madam Speaker:

This bill touches a lot of us on many different levels – our government, our constituents, and our families. I have a personal story. My 19 ½ year old son, Taylor who was adopted at six days old, was given the birth name of Jeffrey Allen Sky-Eagle."

Rep. Howrigan of Fairfield explained his vote as follows:

"Madam Speaker:

My great grandmother was named Axie, certainly not from Dublin. Ojena and Zenapher were her sister and brother from Highgate and surrounding area called the French village. Now may they rest in Peace! Thank you."

Rep. LaVoie of Swanton explained her vote as follows:

"Madam Speaker:

Today's vote speaks not only to the future, but also to the past. It speaks to the acceptance of a heritage, a rising of a peoples, an acknowledgement of a state. Today's passing of S. 117 is the equitable thing to do, the moral thing to do, the right thing to do. The time has come."

Rep. Marcotte of Coventry explained his vote as follows:

"Madam Speaker:

I vote yes today in honor of my grandfather. As a naturalized U.S. citizen who was born in Quebec, his mother, a full-blooded native American, he very well knew racism because of his ability to speak French, his heritage and also because of his religious convictions as being Catholic. There is fear. I have fear, my constituents have fear, and many of us here have fear. But we have put our fears aside and put our faith in the commission to be formed that they will do right by all Vermonters, just as we, by this vote, have done what is right."

Third Reading; Bill Passed in Concurrence**S. 251**

Senate bill, entitled

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

Was taken up, read the third time and passed in concurrence.

Bill Read Second Time; Third Reading Ordered**H. 889**

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

House bill entitled

An act relating to state employee retiree dental benefits;

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

Proposal of Amendment Agreed to; Third Reading Ordered**S. 246**

Rep. Grad of Moretown, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to eminent domain;

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

In Sec. 1, 12 V.S.A. § 1040(b), by striking the words "of constructing, maintaining, or operating" and inserting in lieu thereof "including"

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

Favorable Report; Third Reading Ordered**S. 188**

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

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

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Remarks Journalized

On motion of **Rep. LaVoie of Swanton**, the following remarks by **Rep. Adams of Hartland** were ordered printed in the Journal:

"Madam Speaker:

My only regret in passing this bill today is that my friend the late Senator Julius Canns is not here to witness this event, although I'm sure he knows what we are doing. As many of you know, Senator Canns worked tirelessly on this issue for many years. I am proud to vote yes on this bill as an ode to Julius."

Adjournment

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

FRIDAY, APRIL 7, 2006

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

Devotional Exercises

Devotional exercises were conducted by Pastor Kim Hornung-Marcy of Williston, VT.

Bill Referred to Committee on Appropriations

S. 310

Senate bill, entitled

An act relating to common sense initiatives in health care;

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

Joint Resolution Adopted in Concurrence

J.R.S. 63

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, April 7, 2006, it be to meet again no later than Tuesday, April 11, 2006.

Was taken up read and adopted in concurrence.

Action on Bill Postponed

H. 678

House bill, entitled

An act relating to the department of banking, insurance, securities, and health care administration;

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Kitzmiller of Montpelier**, action on the bill was postponed until April 12, 2006.

Bill Amended, Read Third Time and Passed

H. 81

House bill, entitled

An act relating to operation of a vessel used for towing persons on water skis;

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

First: In Sec. 1., 23 V.S.A. § 3315(a), by striking the words “in addition to the operator” where they appear after “An observer” and before “shall not be required if”

Second: In Sec. 1, 23 V.S.A. § 3315(a)(1), by striking “an American Water Ski Association approved tow boat” where it appears and inserting in lieu thereof “a tow boat approved by the American Water Ski Association or equivalent to the American Water Ski Association standard and”

Thereupon, **Rep. Koch of Barre Town** asked that the question be divided.

Thereupon, the first recommendation of amendment was agreed to.

Thereupon, the second recommendation of amendment was agreed to.

Thereupon, the bill was read the third time and passed on a Division vote
Yeas, 53. Nays, 30.

Third Reading; Bill Passed

H. 889

House bill, entitled

An act relating to state employee retiree dental benefits;
Was taken up, read the third time and passed.

Third Reading; Bill Passed in Concurrence

S. 188

Senate bill, entitled

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

Was taken up, read the third time and passed in concurrence.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 246

Senate bill, entitled

An act relating to eminent domain;

Was taken up and pending third reading of the bill, **Rep. Grad of Moretown** moved to propose to the Senate to amend the bill as follows:

In Sec. 1., in subsection (b) by striking the words "purposes including" and inserting in lieu thereof "the following purposes"

Which was agreed to.

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

**Bill Amended; Third Reading Ordered; Rules Suspended;
Bill Read the Third Time and Passed**

H. 853

Rep. Hutchinson of Randolph spoke for the committee on Government Operations.

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

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

Reported in favor of its passage when amended as follows:

First: In Sec. 8, page 5, line 12, before the words "the department of health", by inserting the words "the division of mental health of"