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Donald G. Milne, Clerk of the House and Cathleen M. Cameron, Journal Clerk**

Journal of the House

of the State of Vermont

Adjourned Session, 2008

TUESDAY, JANUARY 8, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend Michael Augustinowitz of St. Augustine, Montpelier.

Pledge of Allegiance

Page Sara Levine of Westminster led the House in the Pledge of Allegiance.

Communication from Rep. David Sunderland

"December 10, 2007

Governor Jim Douglas
109 State Street, Pavilion
Montpelier, VT 05609-0101

Mr. Governor,

I regret to Inform you that I am resigning my position in the Vermont House of Representatives. This summer I began a new job as Plant Manager of Bison Surface Technologies in North Clarendon, VT. It is clear that remaining in the legislature while also continuing with these new responsibilities will serve neither entity well.

It has been one of the highest honors of my life to serve the people of Rutland Town in the Legislature. I have greatly enjoyed working with my colleagues in the House as well as the members of your administration.

I wish you all the best as you continue you work on behalf of Vermonters.

Sincerely,
/s/Rep. David Sunderland
Rutland Town"

Communication from Governor

"January 7, 2008

The Honorable Gaye R. Symington
Speaker of the House
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Speaker Symington,

I have the honor to inform you that I have appointed James McNeil to serve in the General Assembly representing House District Rutland - 4 formerly held by Representative David Sunderland.

Sincerely,
/s/James H. Douglas
Governor

JHD/ms

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

Oath Administered

The Speaker directed Sergeant at Arms, Francis K. Brooks, to conduct **James McNeil of Rutland Town**, the appointed member from Rutland-4 District, to the bar of the House where he took the subscribed oath, administered by the Clerk, as required by the Constitution and laws of the State.

New Member Seated

Rep. McNeil of Rutland Town, the newly appointed member, having taken and subscribed the oath administered by the Clerk, as required by the Constitution and laws of the State, was conducted to his seat by Sergeant at Arms, Francis K. Brooks.

House Bills Introduced

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

H. 552

By Rep. O'Donnell of Vernon,

An act relating to continuity of health insurance coverage for college students;

To the committee on Health Care.

H. 553

By Rep. Otterman of Topsham,

An act relating to the codification of existing state law establishing regional school choice for public school students in grades 9 through 12;

To the committee on Education.

H. 554

By Rep. Klein of East Montpelier,

An act relating to property tax adjustments for newly constructed homesteads;

To the committee on Ways and Means.

H. 555

By Rep. O'Donnell of Vernon,

An act relating to catamount health for individuals on high-deductible health insurance plans;

To the committee on Health Care.

H. 556

By Rep. Branagan of Georgia,

An act relating to authorizing alternative, cost-containing measures by school districts;

To the committee on Education.

H. 557

By Rep. Adams of Hartland,

An act relating to postponing the sunset of the fish and wildlife board's authority to adopt rules regulating the deer herd;

To the committee on Fish, Wildlife and Water Resources.

H. 558

By Rep. Klein of East Montpelier,

An act relating to waste facility franchise tax exemption for mining waste;

To the committee on Ways and Means.

H. 559

By Reps. Koch of Barre Town, Donahue of Northfield, McDonald of Berlin and McFaun of Barre Town,

An act relating to flood control along the Honey Brook in Barre Town;

To the committee on Appropriations.

H. 560

By Rep. Emmons of Springfield,

An act relating to elimination of the offender work programs board;

To the committee on Institutions.

H. 561

By Rep. Ancel of Calais,

An act relating to allowing business directional signs in adjoining municipalities;

To the committee on Natural Resources and Energy.

H. 562

By Rep. Donahue of Northfield,

An act relating to secure transportations of children;

To the committee on Human Services.

H. 563

By Rep. Kitzmiller of Montpelier,

An act relating to the uniform commercial code;

To the committee on Commerce.

H. 564

By Rep. Otterman of Topsham,

An act relating to withdrawal from streamlined agreement, repeal of sales tax exemptions, expansion of tax to services and food, reduction of rate to one percent, supermajority vote to increase rate;

To the committee on Ways and Means.

H. 565

Rep. Condon of Colchester introduced a bill, entitled

An act relating to appeal of late-filed property tax adjustment claim;

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

H. 566

Rep. Howrigan of Fairfield introduced a bill, entitled

An act relating to registering with the selective service system through motor vehicle permit and license applications;

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

Committee Appointments

The Speaker announced the following committee appointments:

Rep. Larrabee of Danville to Commerce

Rep. McNeil of Rutland Town to Agriculture

Rep. Valliere of Barre City to Institutions

Rep. Turner of Milton to General, Housing and Military Affairs

Rep. Trombley of Grand Isle was appointed Vice-Chair of General Housing and Military Affairs.

Message from the Senate No. 1

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

Madam Speaker:

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

J.R.S. 40. Joint resolution to provide for a Joint Assembly to receive the State-of-the State message from the Governor.

J.R.S. 41. Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

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

Adjournment

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

WEDNESDAY, JANUARY 9, 2008

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

Joint Resolution Adopted in Concurrence**J.R.S. 40**

Joint resolution, entitled

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

By Senator Shumlin,

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, January 10, 2008, at two o'clock in the afternoon to receive the State-of-the-State message from the Governor.

Was taken up read and adopted in concurrence.

Adjournment

At one o'clock and five minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Friday, January 11, 2008, at nine o'clock and thirty minutes in the forenoon.

FRIDAY, JANUARY 11, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend Wendy Manley of Christ Episcopal Church, Montpelier.

Memorial Service

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

John R. Finn of St. Albans City
Member of the Senate

Sessions 1983 and 1985
Sessions 1985-1993

John S. Burgess of Brattleboro
Lt. Governor

Sessions 1966, 1967 and 1969
Sessions 1971 and 1973

Speaker of the House**Sessions 1969-1971****Elizabeth Lantman of Hinesburg****Session of 1945****Theodore M. Riehle, Jr., of S Burlington Sessions 1966 and 1967**

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

House Bills Introduced

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

H. 567

By Rep. Hosford of Waitsfield,

An act relating to carbon-fiber bicycle sales tax exemption;

To the committee on Ways and Means.

H. 568

By Rep. Marcotte of Coventry,

An act relating to the treatment of independent contractors in the field of workers' compensation and unemployment insurance;

To the committee on Commerce.

H. 569

By Rep. Branagan of Georgia

An act relating to cash payment of certain property tax adjustment claims;

To the committee on Ways and Means.

H. 570

By Reps. Branagan of Georgia and Otterman of Topsham,

An act relating to income tax exemptions and credits, rates, and supermajority to raise rates;

To the committee on Ways and Means.

H. 571

By Rep. Hosford of Waitsfield (By Request),

An act relating to partial property tax exemption for non-winterized camps;
To the committee on Ways and Means.

H. 572

By Reps. Jerman of Essex, Hunt of Essex, Evans of Essex, Heath of Westford and Myers of Essex,

An act relating to 100 percent commonlevel of appraisal after townwide reappraisal;

To the committee on Ways and Means.

H. 573

By Reps. Larrabee of Danville, LaVoie of Swanton, Lawrence of Lyndon and Shaw of Derby,

An act relating to tax reduction for unposted current use land;

To the committee on Ways and Means.

H. 574

By Rep. Marcotte of Coventry,

An act relating to requiring beverage container manufacturers to pay an additional one-half cent per container to retailers who do not commingle containers;

To the committee on Natural Resources and Energy.

H. 575

By Reps. Shand of Weathersfield, Bissonnette of Winooski, Botzow of Pownal, Clerkin of Hartford, Consejo of Sheldon, Kitzmiller of Montpelier, Livingston of Manchester and Marcotte of Coventry,

An act relating to small eligible telecommunications carriers;

To the committee on Commerce.

H. 576

By Reps. McFaun of Barre Town and Fitzgerald of St. Albans City,

An act relating to anatomical gifts and driver license fees;

To the committee on Transportation.

H. 577

By Reps. Kitzmiller of Montpelier, Kupersmith of S. Burlington, Jewett of Ripton, Klein of East Montpelier, McCullough of Williston and Minter of Waterbury,

An act relating to the operation of a motor vehicle as it affects vulnerable users;

To the committee on Judiciary.

H. 578

By Reps. Kitzmiller of Montpelier, Jewett of Ripton, Klein of East Montpelier, Kupersmith of S. Burlington, McCullough of Williston and Minter of Waterbury,

An act relating to the operation of bicycles on highways;

To the committee on Transportation.

H. 579

By Reps. Dostis of Waterbury and Minter of Waterbury

An act relating to requiring the department of human resources to report on state employee telecommuting opportunities;

To the committee on Government Operations.

H. 580

By Reps. French of Randolph, Andrews of Rutland City, Donahue of Northfield, Fisher of Lincoln, Frank of Underhill, Haas of Rochester, McAllister of Highgate, Mrowicki of Putney and Pugh of S. Burlington,

An act relating to terms of members of the Vermont Tobacco Evaluation and Review Board;

To the committee on Government Operations.

H. 581

By Rep. Bissonnette of Winooski (By Request),

An act relating to telephone numbers on school buses;

To the committee on Transportation.

H. 582

By Reps. Ancel of Calais, Bray of New Haven and Jewett of Ripton

An act relating to school construction funds and the excess spending amount;

To the committee on Education.

H. 583

By Rep. Obuchowski of Rockingham,

An act relating to automobile insurance policies for volunteer drivers;

To the committee on Commerce.

H. 584

By Reps. Sharpe of Bristol, Botzow of Pownal, Browning of Arlington, Cheney of Norwich, Condon of Colchester, Courcelle of Rutland City, Deen of Westminster, Fisher of Lincoln, Grad of Moretown, Marek of Newfane, Masland of Thetford, Otterman of Topsham and Winters of Williamstown,

An act relating to property tax adjustment confidentiality;

To the committee on Ways and Means.

H. 585

By Rep. Obuchowski of Rockingham,

An act relating to sales tax included;

To the committee on Ways and Means.

H. 586

By Rep. O'Donnell of Vernon and Keogh of Burlington,

An act relating to nursing and military service.

To the committee on Government Operations.

H. 587

By Reps. O'Donnell of Vernon, Marek of Newfane, Milkey of Brattleboro and Mrowicki of Putney,

An act relating to an emergency response assistance grant program;

To the committee on Government Operations.

H. 588

By Reps. Bostic of St. Johnsbury, Sweaney of Windsor, Acinapura of Brandon, Heath of Westford, Hunt of Essex, Hutchinson of Randolph, Keenan of St. Albans City and Miller of Shaftsbury,

An act relating to property loaned to museums;

To the committee on Judiciary.

H. 589

By Reps. Hosford of Waitsfield, Deen of Westminster, French of Randolph, Martin of Springfield, Spengler of Colchester and Sweaney of Windsor,

An act relating to the sale or distribution of brominated flame retardants;

To the committee on Commerce.

H. 590

By the committee on Government Operations,

An act relating to the spelling of the name of the town and village of Alburg;

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

H. 591

By Reps. Grad of Moretown and Donaghy of Poultney,

An act relating to criminal history records;

To the committee on Government Operations.

H. 592

By Reps. O'Donnell of Vernon, Marek of Newfane, Milkey of Brattleboro and Mrowicki of Putney,

An act relating to establishing a Medicaid co-pay for nonemergency use of ambulance services;

To the committee on Health Care.

H. 593

By Reps. O'Donnell of Vernon, Marek of Newfane, Milkey of Brattleboro and Mrowicki of Putney,

An act relating to health insurance coverage for ambulance services;

To the committee on Health Care.

H. 594

By Reps. Gilbert of Fairfax, Branagan of Georgia and Deen of Westminster,

An act relating to according party status to municipal conservation commissions;

To the committee on Government Operations.

H. 595

By Reps. McFaun of Barre Town and Fitzgerald of St. Albans City,

An act relating to a cost of living adjustment for home heating fuel assistance;

To the committee on Human Services.

H. 596

By Reps. Condon of Colchester, Andrews of Rutland City, Branagan of Georgia, Brennan of Colchester, Chen of Mendon, Consejo of Sheldon, Courcelle of Rutland City, Devereux of Mount Holly, Donahue of Northfield, Emmons of Springfield, Evans of Essex, Frank of Underhill, French of Randolph, Godin of Milton, Head of S. Burlington, Howard of Rutland City, Keogh of Burlington, Larson of Burlington, Lenex of Shelburne, Manwaring of Wilmington, McCullough of Williston, Morrissey of Bennington, Spengler of Colchester and Zenie of Colchester,

An act relating to state employee leaves of absence of bone marrow or organ donation;

To the committee on Government Operations.

H. 597

By Rep. Pillsbury of Brattleboro,

An act relating to suspending or revoking motor vehicle registration for drug use or unpaid parking tickets;

To the committee on Judiciary.

H. 598

By Reps. Clarkson of Woodstock, Pellett of Chester and Grad of Moretown,

An act relating to statewide drug court study;

To the committee on Judiciary.

H. 599

By Reps. Jewett of Ripton, Flory of Pittsford, Gervais of Enosburg, Marek of Newfane and Pellett of Chester,

An act relating to boating while intoxicated and driving while intoxicated;

To the committee on Judiciary.

H. 600

By Reps. Kitzmiller of Montpelier and Obuchowski of Rockingham,

An act relating to credit card merchant fees;

To the committee on Commerce.

H. 601

By Rep. Deen of Westminster,

An act relating to groundwater withdrawal permit program;

To the committee on Fish, Wildlife and Water Resources.

H. 602

By Rep. Deen of Westminster,

An act relating to encroachments on public waters;

To the committee on Fish, Wildlife and Water Resources.

H. 603

By Rep. Fisher of Lincoln,

An act relating to fully funding child care subsidies for low income Vermonters;

To the committee on Ways and Means.

Message from the Senate No. 2

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

Madam Speaker:

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

J.R.S. 42. Joint resolution relating to weekend adjournment.

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

Joint Resolution Adopted in Concurrence

J.R.S. 41

Joint resolution, entitled

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

By Senator Shumlin,

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Tuesday, January 22, 2008, at two o'clock in the afternoon to receive the budget message of the Governor.

Was taken up read and adopted in concurrence.

Joint Resolution Adopted in Concurrence

J.R.S. 42

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Shumlin,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 11, 2008, it be to meet again no later than Tuesday, January 15, 2008.

Was taken up read and adopted in concurrence.

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

H. 580

Rep. Sweaney of Windsor moved that the committee on Government Operations be relieved of House bill, entitled

An act relating to terms of members of the Vermont Tobacco Evaluation and Review Board;

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

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

H. 432

Rep. Head of South Burlington moved that the committee on General, Housing and Military Affairs be relieved of House bill, entitled

An act establishing Juneteenth National Freedom Day;

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

Adjournment

At nine o'clock and fifty-five minutes in the forenoon, on motion of **Rep. Johnson of Canaan**, the House adjourned until Tuesday, January 15, 2008, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 42.

TUESDAY, JANUARY 15, 2008

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

Devotional Exercises

Devotional exercises were conducted by Rep. David Sharpe of Bristol.

Pledge of Allegiance

Page Evan Hollar of Montpelier led the House in the Pledge of Allegiance.

House Bills Introduced

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

H. 604

By Reps. Davis of Washington, Helm of Castleton, Botzow of Pownal, Mitchell of Barnard and Sharpe of Bristol,

An act to relating to exempting biodiesel fuel produced by an individual for personal use from the motor fuel tax;

To the committee on Ways and Means.

H. 605

By Rep. Chen of Mendon,

An act relating to homestead declaration checkoff;

To the committee on Ways and Means.

H. 606

By Rep. Chen of Mendon,

An act relating to property tax adjustment ineligibility;

To the committee on Ways and Means

H. 607

By Rep. Nuovo of Middlebury,

An act relating to municipal authority to set speed limits on state and town highways;

To the committee on Transportation.

H. 608

By Rep. Chen of Mendon,

An act relating to clarifying that some homeworkers are independent contractors;

To the committee on Commerce.

H. 609

By Reps. Mrowicki of Putney, Edwards of Brattleboro, Frank of Underhill, French of Randolph, Haas of Rochester, Orr of Charlotte and Pugh of South Burlington,

An act relating to evacuation of children and the elderly;

To the committee on Government Operations.

H. 610

By Reps. Branagan of Georgia and Barnard of Richmond,

An act relating to hunting and fishing licenses for members of the United States military and the Vermont National Guard;

To the committee on Fish, Wildlife and Water Resources.

H. 611

By Rep. Pillsbury of Brattleboro,

An act relating to making the impersonation of a security guard a criminal offense.

To the committee on Judiciary.

House Concurrent Resolution Referred to Committee

H.C.R. 170

Rep. Obuchowski of Rockingham offered a concurrent resolution, entitled

House concurrent resolution urging the states of Vermont and New Hampshire to work cooperatively to establish a New England regional presidential primary;

Whereas, for many decades, the state of New Hampshire, pursuant to section 653 of the New Hampshire Statutes, has conducted the nation's first presidential primary at least seven days prior to any other similar primary, and

Whereas, the New Hampshire statute also provides for that election to be held on the second Tuesday in March unless the New Hampshire secretary of state determines that an earlier date is required to meet the specific timing requirements of the law, and

Whereas, because of the acceleration of the presidential primary schedule, the New Hampshire primary has been scheduled earlier and earlier, and the 2008 date was January 8, and

Whereas, this rescheduling, necessitated by other states' decisions to schedule their presidential primaries in late January and early February, has forced an earlier initiation of intensive campaigning and clustered primaries across the country on a few dates in February and the beginning of March, and

Whereas, this truncated primary schedule poses logistical challenges for candidates, and

Whereas, the states' leapfrogging each other has now caused intraparty disputes between national and state political parties, with the national party committees voting to deny more than one state's delegates due to violations of the national parties' primary scheduling rules, and

Whereas, scholars and political activists have examined the establishment of regional primaries as an alternative to the states' increasing proclivity to leapfrog each other when scheduling their presidential primaries in order to claim the earliest possible date and the attendant publicity and perceived political influence, and

Whereas, were a New England regional primary established, it could set a precedent for other regions to establish primaries based on a more logically staggered schedule and end the unprecedented competition between the states that has occurred this presidential primary election season, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly invites the New Hampshire General Court to work cooperatively to establish the framework for a regional New England presidential primary, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to New Hampshire Speaker of the House Terie Norelli, New Hampshire Senate President Sylvia Larsen, and New Hampshire Secretary of State William M. Gardner.

Was taken up and, in the Speaker's discretion, treated as a bill and referred to the committee on Government Operations.

Bill Amended; Third Reading Ordered

H. 550

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

An act relating to approval of amendment to the charter of the city of South Burlington regarding voter approval of city and school district budgets;

Reported in favor of its passage when amended by striking Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 as to read as follows:

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

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

Adjournment

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

Concurrent Resolutions Adopted

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

H.C.R. 164

House concurrent resolution congratulating Gladys Walker on her 100th birthday

H.C.R. 165

House concurrent resolution honoring Janet Leonard for her 30 years of dedicated service to the Vermont General Assembly

H.C.R. 166

House concurrent resolution recognizing the academic achievements of the Addison Central Supervisory Union's Essential Early Education and Early Education Initiative Programs

H.C.R. 167

House concurrent resolution congratulating Becky Auger on being named the 2008 Vermont-NEA Education Support Professional of the Year

H.C.R. 168

House concurrent resolution congratulating the Burtland Farm in Georgia as a recipient of a 2006 Lake Champlain Farm Award

H.C.R. 169

House concurrent resolution congratulating the 2007 Bellows Free Academy Bullets 2007 Division III championship boys' cross-country team

H.C.R. 171

House concurrent resolution congratulating the Jelly Bean Tree crafts cooperative on its 30th anniversary

H.C.R. 172

House concurrent resolution congratulating Vermont Business Magazine 5x5x5 Award winners Chamberlain Machine, Inc. and Chroma Technology Corporation of Bellows Falls

H.C.R. 173

House concurrent resolution congratulating Mary Lou Smith on her designation as the 2007 Vermont Elementary Physical Education Teacher of the Year

H.C.R. 174

House concurrent resolution congratulating the town of Brookline on the completion of its municipal office building addition

H.C.R. 175

House concurrent resolution honoring Douglas MacPhee, the voice of Bellows Falls Union High School football

S.C.R. 25.

Senate concurrent resolution congratulating Bernie Gonyaw on his retirement as the press foreman at the Newport Express.

[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 2008, sixty-ninth Adjourned session]

Message from the Senate No. 3

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

Madam Speaker:

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

S.C.R. 25. Senate concurrent resolution congratulating Bernie Gonyaw on his retirement as the press foreman at the Newport Express.

WEDNESDAY, JANUARY 16, 2008

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

Devotional Exercises

Devotional exercises were conducted by Speaker, Gaye Symington of Jericho.

Message from the Senate No. 4

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

Madam Speaker:

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

H.C.R. 164. House concurrent resolution congratulating Gladys Walker on her 100th birthday.

H.C.R. 165. House concurrent resolution honoring Janet Leonard for her 30 years of dedicated service to the Vermont General Assembly.

H.C.R. 166. House concurrent resolution recognizing the academic achievements of the Addison Central Supervisory Union's Essential Early Education and Early Education Initiative Programs.

H.C.R. 167. House concurrent resolution congratulating Becky Auger on being named the 2008 Vermont-NEA Education Support Professional of the Year.

H.C.R. 168. House concurrent resolution congratulating the Burtland Farm in Georgia as a recipient of a 2006 Lake Champlain Farm Award.

H.C.R. 169. House concurrent resolution congratulating the 2007 Bellows Free Academy Bullets 2007 Division III championship boys' cross-country team.

H.C.R. 171. House concurrent resolution congratulating the Jelly Bean Tree crafts cooperative on its 30th anniversary.

H.C.R. 172. House concurrent resolution congratulating Vermont Business Magazine 5x5x5 Award winners Chamberlain Machine, Inc. and Chroma Technology Corporation of Bellows Falls.

H.C.R. 173. House concurrent resolution congratulating Mary Lou Smith on her designation as the 2007 Vermont Elementary Physical Education Teacher of the Year.

H.C.R. 174. House concurrent resolution congratulating the town of Brookline on the completion of its municipal office building addition.

H.C.R. 175. House concurrent resolution honoring Douglas MacPhee, the voice of Bellows Falls Union High School football.

House Bills Introduced

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

H. 612

By Rep. O'Donnell of Vernon,

An act relating to sustainable health care financing;

To the committee on Health Care.

H. 613

By Reps. Masland of Thetford and Martin of Wolcott,

An act relating to displaying motor vehicle vintage plates;

To the committee on Transportation.

H. 614

By Reps. Atkins of Winooski and Bissonnette of Winooski,

An act relating to excluding TIF district property from the common level of appraisal calculation;

To the committee on Ways and Means.

H. 615

By Reps. Lippert of Hinesburg and Pugh of South Burlington,

An act relating to juvenile judicial proceedings;

To the committee on Judiciary.

H. 616

By Reps. Pellett of Chester, Hutchinson of Randolph, Ancel of Calais, Anderson of Montpelier, Bostic of St. Johnsbury, Botzow of Pownal, Cheney of Norwich, Clarkson of Woodstock, Copeland-Hanzas of Bradford, Davis of Washington, Devereux of Mount Holly, Donaghy of Poultney, Donahue of

Northfield, Dostis of Waterbury, Edwards of Brattleboro, Emmons of Springfield, Evans of Essex, Fallar of Tinmouth, Fisher of Lincoln, Frank of Underhill, French of Randolph, Gilbert of Fairfax, Haas of Rochester, Head of S. Burlington, Heath of Westford, Helm of Castleton, Hosford of Waitsfield, Howard of Rutland City, Howrigan of Fairfield, Hube of Londonderry, Jewett of Ripton, Johnson of South Hero, Kilmartin of Newport City, Kitzmiller of Montpelier, Klein of East Montpelier, Komline of Dorset, Larson of Burlington, Lenos of Shelburne, Leriche of Hardwick, Lippert of Hinesburg, Lorber of Burlington, Manwaring of Wilmington, Marek of Newfane, Martin of Springfield, Martin of Wolcott, Masland of Thetford, McCullough of Williston, Milkey of Brattleboro, Miller of Shaftsbury, Morley of Barton, Mrowicki of Putney, Nease of Johnson, Nuovo of Middlebury, Obuchowski of Rockingham, Orr of Charlotte, Pearson of Burlington, Peltz of Woodbury, Potter of Clarendon, Randall of Troy, Rodgers of Glover, Shand of Weathersfield, Sharpe of Bristol, Smith of Morristown, Sweaney of Windsor, Trombley of Grand Isle and Weston of Burlington,

An act relating to farm-fresh milk;

To the committee on Agriculture.

Joint Resolution Adopted

J.R.H. 43

Joint resolution, entitled

Joint resolution designating October 18, 2008 as Vermont Pumpkin Carving Day;

Whereas, the carving and displaying of pumpkins are nearly as symbolic of October in Vermont as the countryside's colorful pageantry of leaves, and

Whereas, sensing an unexpected opportunity to increase Manchester's fame and fortune, Jay Hathaway contacted the Guinness World Record office in Great Britain and established the criteria for a second and brand-new record-setting event for "the most people carving a pumpkin at one time," and

Whereas, on Saturday, October 28, 2006, despite terrible weather, nearly 300 individuals gathered outside cosponsor Orvis's flagship store to witness this historic carving event at which 120 individuals carved pumpkins simultaneously, and Manchester's Guinness World Record objectives were met, and

Whereas, the 2006 Manchester pumpkin carving's great success convinced the Manchester & the Mountains Regional Chamber of Commerce to make this an annual event and to expand the geographic scope of this newly established activity, and

Whereas, on October 13, 2007, the first legislatively designated Vermont Pumpkin Carving Day was conducted in Manchester and other communities throughout the state with great success, and

Whereas, a small, but nonetheless important, first step to facilitate pumpkin carving activities is the newly established four-acre pumpkin patch in Manchester which includes one acre reserved for schoolchildren's use, and

Whereas, in order to celebrate the art of pumpkin carving, and as an incentive to encourage the economically important Columbus Day holiday weekend visitors to linger in Vermont just a little longer, a statewide pumpkin carving day would encourage other communities to conduct pumpkin carving festivities, now therefore be it

Resolved by the Senate and House of Representatives:

That this legislative body designates Saturday, October 18, 2008 as statewide pumpkin carving day, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Jay Hathaway at the Manchester & Mountain Regional Chamber of Commerce and to Commissioner of Tourism and Marketing Bruce Hyde.

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

Third Reading; Bill Passed

H. 550

House bill, entitled

An act relating to approval of amendment to the charter of the city of South Burlington regarding voter approval of city and school district budgets;

Was taken up, read the third time and passed.

Bill Read Second Time; Third Reading Ordered

H. 590

Rep. Devereux of Mount Holly spoke for the committee on Government Operations.

House bill entitled

An act relating to the spelling of the name of the town and village of Alburg;

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

Adjournment

At one o'clock and twenty minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at one o'clock in the afternoon.

THURSDAY, JANUARY 17, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend Richard Forcier of the Universalist Church, Barre.

Message from the Senate No. 5

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

Madam Speaker:

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

S. 318. An act relating to the authority of Vermont municipalities to acquire facilities and other assets.

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

House Bills Introduced

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

H. 617

By Reps. Jewett of Ripton, Clarkson of Woodstock and Flory of Pittsford,

An act relating to guardianships;

To the committee on Judiciary.

H. 618

By Rep. Ancel of Calais,

An act relating to an appropriation to the Vermont center for independent living's youth leadership forum;

To the committee on Appropriations.

H. 619

By Rep. Pellett of Chester,

An act relating to the regulation of sexual assault nurse examiners;

To the committee on Government Operations.

H. 620

By Rep. Obuchowski of Rockingham,

An act relating to employment breaks;

To the committee on General, Housing and Military Affairs.

H. 621

By Reps. Jewett of Ripton, Flory of Pittsford and Minter of Waterbury,

An act relating to establishing a cost-containment committee within the Agency of Transportation;

To the committee on Transportation.

H. 622

By Reps. Clarkson of Woodstock and Grad of Moretown,

An act relating to conditional licenses, penalties, and treatment for persons convicted of DUI;

To the committee on Judiciary.

H. 623

By Reps. Bray of New Haven, Ainsworth of Royalton, Godin of Milton, Malcolm of Pawlet and Perry of Richford,

An act relating to workers' compensation and agriculture;

To the committee on Agriculture.

H. 624

By Reps. Ojibway of Hartford, Clerkin of Hartford, Courcelle of Rutland City, Keogh of Burlington, Leriche of Hardwick, Mitchell of Barnard and Mrowicki of Putney,

An act relating to credit and debit card number truncation;

To the committee on Commerce.

H. 625

By Reps. Allard of St. Albans Town, Atkins of Winooski, Baker of West Rutland, Donaghy of Poultney, Fitzgerald of St. Albans City, Gervais of

Enosburg, Helm of Castleton, Howrigan of Fairfield and McAllister of Highgate,

An act relating to crimes against an unborn child;

To the committee on Judiciary.

H. 626

By Reps. Flory of Pittsford, Acinapura of Brandon, Bostic of St. Johnsbury, Canfield of Fair Haven, Errecart of Shelburne, Helm of Castleton, Hube of Londonderry, Johnson of Canaan, Komline of Dorset, Krawczyk of Bennington, LaVoie of Swanton, McAllister of Highgate, McDonald of Berlin, McNeil of Rutland Town, Peaslee of Guildhall, Scheuermann of Stowe, Shaw of Derby, Valliere of Barre City, Westman of Cambridge and Wright of Burlington,

An act relating to contribution limits, reporting, and access to campaign finance information;

To the committee on Government Operations.

H. 627

By Rep. Pillsbury of Brattleboro (By Request),

An act relating to sled dogs;

To the committee on Agriculture.

Senate Bill Referred

S. 318

Senate bill, entitled

An act relating to the authority of Vermont municipalities to acquire facilities and other assets;

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

Joint Resolution Referred to Committee

J.R.H. 44

Reps. Maier of Middlebury and Zenie of Colchester offered a joint resolution, entitled

Joint resolution approving the Vermont information technology leaders' (VITL) health information technology plan as required by 22 V.S.A. §903(g);

Whereas, the Vermont Information Technology Leaders, Inc. (VITL) is a nonprofit, public-private partnership incorporated in Vermont, and

Whereas, VITL is an integral part of the development of health information technology in this state, and

Whereas, VITL has developed the Vermont health information technology plan pursuant to 22 V.S.A. § 903(c), and

Whereas, the Vermont health information technology plan outlines a vision for health information technology in Vermont; identifies key stakeholders, strategies, and objectives; provides standards for health information exchange, including a privacy and security framework; presents an overview of the technology architecture; and details the funding and governance of health information technology in this state, and

Whereas, 22 V.S.A. § 903(g) allows the Vermont health information technology plan, upon recommendation of the commissioner of information and innovation and approval by the general assembly, to serve as the framework within which the commissioner reviews certificate of need applications for information technology, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly approves the Vermont health information technology plan, as submitted by VITL, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the Vermont Information Technology Leaders, Inc.

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

House Resolution Referred to Committee

H.R. 28

Reps. Konline of Dorset, Adams of Hartland, Ainsworth of Royalton, Baker of West Rutland, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Clark of St. Johnsbury, Clark of Vergennes, Clerkin of Hartford, Devereux of Mount Holly, Donaghy of Poultney, Errecart of Shelburne, Flory of Pittsford, Hube of Londonderry, Hudson of Lyndon, Johnson of Canaan, Kilmartin of Newport City, Koch of Barre Town, Krawczyk of Bennington, Larocque of Barnet, Larrabee of Danville, LaVoie of Swanton, Lawrence of Lyndon, Livingston of Manchester, Marcotte of Coventry, McAllister of Highgate, McDonald of Berlin, McFaun of Barre Town, McNeil of Rutland Town, Morrissey of Bennington, Myers of Essex, O'Donnell of Vernon, Oxholm of Vergennes, Peaslee of Guildhall, Scheuermann of Stowe, Shaw of Derby, Turner of Milton, Valliere of Barre

City, Westman of Cambridge, Winters of Williamstown and Wright of Burlington offered a House resolution, entitled

House resolution directing the committee on appropriations, as part of the FY 2008 budget adjustment bill, to reduce funding for the 2008 legislative session in the amount of \$1,000,000.00, and to add \$1,000,000.00 to the Low Income Heating Assistance Program;

Whereas, the FY 2009 state budget is anticipated to be extremely tight, and essential state government services of extreme importance to many Vermonters are threatened with potential cutbacks in their appropriations, and

Whereas, the Low Income Heating Assistance Program (LIHEAP) provides essential financial assistance to many Vermonters who are experiencing a tremendous economic strain because of the skyrocketing increase in the cost of heating fuel this winter, and

Whereas, regardless of budgetary developments that may emerge later this session, LIHEAP is confronted with an immediate need for additional revenue as heating fuel assistance has already been cut, and

Whereas, this reduced allocation for heating assistance support has created a severe burden on many Vermonters, and

Whereas, the general assembly, if it performs its legislative duties in a timely and efficient manner, should be able to transact its business by April 12 without sacrificing careful review and deliberations on pending matters, and

Whereas, if the general assembly completed the 2008 legislative session on April 12, there would be a net savings of approximately \$1,000,000.00 that could be reallocated to LIHEAP funding, now therefore be it

Resolved by the House of Representatives:

That the committee on appropriations is directed, as part of the FY 2008 budget adjustment bill, to reduce funding for the 2008 legislative session in the amount of \$1,000,000.00, and to add \$1,000,000.00 to the Low Income Heating Assistance Program in addition to the funds already appropriated to this program in Act 65 for fiscal year 2008.

Which was read and referred to the committee on Appropriations.

Rep. Partridge of Windham in Chair.

Remarks Journalized

On motion of **Rep. Pellett of Chester**, the following remarks by **Rep. Symington of Jericho** were ordered printed in the Journal:

“Madam Speaker:

I'd like to share with you my observations of a scene that has been in my thoughts for the last few days.

Last weekend I visited Representative Westman at his parents' home on Westman Road which begins in my district, in Underhill. The previous evening I had started up the wrong end of the road and was deterred by the ruts of a dirt road in midwinter thaw without daylight. On my second try in mid-Sunday daylight, from the other end of the horseshoe road, I found very impressive newly laid cracked rock (gravel would be too dainty a term) leading up to the Westman farmhouse.

Rich was just inside the door, with his mom seated in a comfortable arm chair behind him. Two other legislative colleagues, the members from Waterbury, were already there. I took a seat on the couch, looking out over fields of what is appropriately named, the Pleasant Valley. To my right the Old Man of Mount Mansfield's profile filled the eastern window. To drive south from Cambridge to Underhill on Pleasant Valley is to appreciate the power of the sleeping man of the mountain, the power and peace he brings to this valley.

Rich pointed to a red brick house, just a bit up the valley. In that house, in the room where he spent many hours, four generations of his family had been born. His mother had grown up in Jeffersonville. She and Rich's dad had rented the farm from his grandfather until the 1970's when they bought it.

Rich's father is 74 and still milks 70 cows out of a herd of 100 animals on the farm. Entering the barn for morning milking now almost 2 weeks ago, with arms loaded with Clorox, he had fallen and hit his hip on the lip of the concrete entranceway, shattering the ball of his hip. He drew himself inside and waited for a couple of hours until he could be helped. He now boasts a new ceramic hip and I predict there's a reverse-generation tussle ahead, with different opinions of how long it will be before he's back in the barn. Son says not until April. Father isn't specific, but there's a light in his eye that is likely to burn sooner. He estimated he has missed no more than 12 milkings in the last 11 years since he was last laid up with illness.

Rich's mother has been undergoing treatment for cancer for the last year. She and her family have decided to stop her chemotherapy treatments and now she is home, sitting or lying on a bed in the front room, with full view of the farm and under the shadow of Mount Mansfield, where she has raised her family, carried her share of the farm, and watched her son become a respected leader in the Vermont community. She speaks of Vermont politics with strong opinions, gently needling us to remind us of our imperfections, regardless of what party label we carry. Coming up the road, I had thought that big load of cracked rock could be attributed to the Chair of the Transportation Committee

living here. I left with the distinct impression that his mother could have laid it there herself, or had single handedly managed to make sure it was there.

We listened to the connections to families down the valley, family names I, as a relative newcomer, know by the road names Corbett and Ellsworth. We looked through a book of pictures from the life and recent death of an aunt and the family she shared her life with. We learned that the Blands and Fergusons and others down the road had organized meals to such an extent that their freezer is overloaded. As we spoke, Rich attended to his mother, adjusting her blankets and eventually helping her with a strong but gentle arm, to move to her bed just nearby.

This was a scene of a family supporting itself through a painful transition and looking back through a life well lived, of a community reaching out to do what it can to give support, of a son giving a wonderful gift to his mother through his arm at her back when she needs it, the teasing when she's ready for it, the bacon and eggs he cooks each morning for her that she doesn't really want but he knows she needs. These are the simple acts of strength and love that bind us as a human family. And, to the east the Man in the Mountain waits, providing the welcome, power and peace it has provided to those four generations of Westmans through the daily miracles of their lives and through the miracles still ahead.

May we all keep this special family and this beautiful valley in our thoughts and prayers."

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

H. 559

Rep. Helm of Castleton moved that the committee on Appropriations be relieved of House bill, entitled

An act relating to flood control along the Honey Brook in Barre Town;

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

Third Reading; Bill Passed

H. 590

House bill, entitled

An act relating to the spelling of the name of the town and village of Alburg;

Was taken up, read the third time and passed.

Message from the Senate No. 6

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

Madam Speaker:

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

J.R.S. 43. Joint resolution relating to Town Meeting adjournment.

J.R.S. 44. Joint resolution relating to weekend adjournment.

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

Adjournment

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

FRIDAY, JANUARY 18, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend Gil Ott of Trinity United Methodist Church, Montpelier.

House Bills Introduced

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

H. 628

By Reps. Godin of Milton, Allard of St. Albans Town, Branagan of Georgia, Consejo of Sheldon, Fitzgerald of St. Albans City, Gilbert of Fairfax, Howrigan of Fairfield, Johnson of South Hero, Keenan of St. Albans City, Nease of Johnson and Trombley of Grand Isle,

An act relating to purchase of an aquatic weed harvester for Lake Champlain;

To the committee on Institutions.

H. 629

By Reps. Emmons of Springfield, Haas of Rochester and Lorber of Burlington,

An act relating to an evaluation of Vermont's system of caring for mentally ill offenders;

To the committee on Institutions.

H. 630

By Reps. Trombley of Grand isle and Johnson of South Hero,

An act relating to providing notice of elementary and secondary tuition rates;

To the committee on Education.

H. 631

By Reps. McAllister of Highgate, Ainsworth of Royalton, Baker of West Rutland, Brennan of Colchester, Howrigan of Fairfield, Keogh of Burlington, Larocque of Barnet, Larrabee of Danville, LaVoie of Swanton and Winters of Williamstown,

An act relating to penalties for the incineration of refuse;

To the committee on Fish, Wildlife and Water Resources.

H. 632

By Reps. Trombley of Grand Isle and Johnson of South Hero,

An act relating to use of cleansing products containing phosphorus on boats using Vermont waterways;

To the committee on Fish, Wildlife and Water Resources.

H. 633

By Reps. Ainsworth of Royalton, Acinapura of Brandon, Branagan of Georgia, Bray of New Haven, Clark of St. Johnsbury, Devereux of Mount Holly, Godin of Milton, Larrabee of Danville, LaVoie of Swanton, Lawrence of Lyndon, Moran of Wardsboro, Perry of Richford, Stevens of Shoreham, Winters of Williamstown and Zuckerman of Burlington,

An act relating to property tax exemption for homeowner alternative energy improvements;

To the committee on Ways and Means.

H. 634

By Rep. Chen of Mendon,

An act relating to a parent consenting to mental health treatment for a minor under the age of 18;

To the committee on Human Services.

H. 635

By Reps. Lippert of Hinesburg and Pugh of South Burlington,

An act relating to reports of child abuse or neglect;

To the committee on Human Services.

H. 636

By Reps. Flory of Pittsford and Jewett of Ripton,

An act relating to embezzlement by a public official;

To the committee on Judiciary.

H. 637

By Reps. Komline of Dorset, Branagan of Georgia, Clerkin of Hartford, Devereux of Mount Holly, Errecart of Shelburne, Flory of Pittsford, Hube of Londonderry, Johnson of Canaan, Kilmartin of Newport City, Koch of Barre Town, Krawczyk of Bennington, Larrabee of Danville, McDonald of Berlin, McFaun of Barre Town, McNeil of Rutland Town, Morrissey of Bennington, O'Donnell of Vernon, Oxholm of Vergennes, Peaslee of Guildhall, Pillsbury of Brattleboro, Scheuermann of Stowe, Shaw of Derby, Turner of Milton, Valliere of Barre City, Winters of Williamstown and Wright of Burlington,

An act relating to legislative fiscal notes for bills that would affect the expenditures or revenues of the state or a municipality;

To the committee on Appropriations.

H. 638

By Rep. Shand of Weathersfield,

An act relating to municipal authority to regulate the hours of operation at sport shooting ranges;

To the committee on Government Operations.

H. 639

By Rep. Pugh of South Burlington,

An act relating to internet and mail order sales of tobacco products;

To the committee on Human Services.

H. 640

By Rep. Pugh of South Burlington,

An act relating to requiring postsecondary credits in African American history as a condition of teacher licensing;

To the committee on Education.

H. 641

By Reps. Grad of Moretown, Copeland-Hanzas of Bradford, Donahue of Northfield, Fisher of Lincoln, Jewett of Ripton, McCormack of Rutland City, Minter of Waterbury, Pugh of S. Burlington and Trombley of Grand Isle,

An act relating to nursing mothers in the workplace;

To the committee on General, Housing and Military Affairs.

H. 642

By Reps. Flory of Pittsford, Brennan of Colchester, Canfield of Fair Haven, Johnson of Canaan, Koch of Barre Town, Komline of Dorset, Krawczyk of Bennington, McAllister of Highgate, McDonald of Berlin, McNeil of Rutland Town, Oxholm of Vergennes, Peaslee of Guildhall, Shaw of Derby, Turner of Milton, Valliere of Barre City and Wright of Burlington,

An act relating to cash payment of property tax adjustments for certain closings;

To the committee on Ways and Means.

H. 643

By Reps. Hunt of Essex and Jerman of Essex,

An act relating to amending the charter of the village of Essex Junction;

To the committee on Government Operations.

H. 644

By the committee on General, Housing and Military Affairs,

An act relating to debt financing for the Vermont housing finance agency;

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

H. 645

By Reps. Sharpe of Bristol, Fisher of Lincoln, Fitzgerald of St. Albans City and Zenie of Colchester,

An act relating to the noise levels of motorcycles and all-terrain vehicles;

To the committee on Transportation.

H. 646

By Rep. Komline of Dorset,

An act relating to ten percent household income limit on education property tax;

To the committee on Ways and Means.

H. 647

By Rep. Chen of Mendon,

An act relating to prohibiting the use of artificial trans fat by food service establishments;

To the committee on Human Services.

H. 648

By Rep. Chen of Mendon,

An act relating to immunizations;

To the committee on Human Services.

Joint Resolution Placed on Calendar

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

J.R.S. 43

By Senator Shumlin,

Joint resolution relating to Town Meeting adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 29, 2008, or Saturday, March 1, 2008, it be to meet again no later than Tuesday, March 11, 2008.

Joint Resolution Adopted in Concurrence

J.R.S. 44

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Shumlin,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 18, 2008, it be to meet again no later than Tuesday, January 22, 2008.

Was taken up read and adopted in concurrence.

Bill Amended; Third Reading Ordered**H. 580**

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

An act relating to terms of members of the Vermont Tobacco Evaluation and Review Board;

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

Sec. 1. 18 V.S.A. § 9504(b) is amended to read:

(b) The board shall consist of 14 members, including ex officio the commissioner of health and the commissioner of education, or their designees; the commissioner of the department of liquor control or designee; the attorney general or designee; a member of the house of representatives appointed by the speaker of the house; a member of the senate appointed by the committee on committees; a member representing a nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-tobacco activities appointed by the speaker of the house; a member representing the low income community appointed by the senate committee on committees; two persons under the age of 30, one appointed by the speaker of the house and one appointed by the senate committee on committees; and four members appointed by the governor with the advice and consent of the senate, including: one K-12 educator involved in prevention education; one tobacco use researcher; one member representing the health care community; and one tobacco industry countermarketing expert. The public members shall serve for three-year terms, beginning on ~~February 1~~ July 1 of the year in which the appointment is made, except that the first members appointed by the governor to the board shall be appointed, two for a term of two years, one for a term of three years and one for a term of four years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

Sec. 2. TRANSITIONAL PROVISIONS; APPLICATION

This act shall apply to current members of the Vermont tobacco evaluation and review board so that the term of a member which would have expired on January 31, 2008, shall be extended until June 30, 2008, and the term of a

member who was appointed prior to the effective date of this act shall be deemed to have begun on July 1 of the year in which the appointment was made.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

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

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

S. 318

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

An act relating to the authority of Vermont municipalities to acquire facilities and other assets;

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

Rep. Kitzmiller of Montpelier, for the committee on Commerce, to which the bill had been referred reported in favor of its passage.

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

On motion of **Rep. Kitzmiller of Montpelier**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence.

The bill was read the third time and passed in concurrence and, on motion of **Rep. Kitzmiller of Montpelier**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Adjournment

At ten o'clock in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, January 22, 2008, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 44.

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. 176

House concurrent resolution in memory of the American military personnel who have died in the service of their nation in Iraq from December 30, 2006 through December 19, 2007

H.C.R. 177

House concurrent resolution congratulating the 2007 Woodstock Union High School Lady Wasps Division II championship field hockey team

H.C.R. 178

House concurrent resolution in memory of Rosendo Cueto

H.C.R. 179

House concurrent resolution congratulating Sydney Perry of Middlesex on her winning the 2007 Miss Vermont Teen USA title

H.C.R. 180

House concurrent resolution congratulating the 2007 Essex High School Hornets Division I championship girls' soccer team

H.C.R. 181

House concurrent resolution honoring Sally Bouffard for over four decades of dedicated public service at the department of education and state board of education

H.C.R. 182

House concurrent resolution in memory of former Representative Ruth H. Towne of Berlin

H.C.R. 183

House concurrent resolution honoring Elizabeth Christie for her efforts to improve the lives of Vermont's children

H.C.R. 184

House concurrent resolution honoring the participants in the construction of the new "Extreme Makeover: Home Edition" home for the Vitale family in Athens

S.C.R. 26.

Senate concurrent resolution congratulating the 2007 Hartford Hurricanes Division I championship football team.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2008, sixty-ninth Adjourned session]

TUESDAY, JANUARY 22, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend David Vanderlinde-Abernathy of the Congregational Church, Barre.

Pledge of Allegiance

Page Will Kunin of South Burlington led the House in the Pledge of Allegiance.

Message from the Senate No. 7

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

Madam Speaker:

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

J.R.H. 43. Joint resolution designating October 18, 2008 as Vermont pumpkin carving day.

And has adopted the same in concurrence.

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

S.C.R. 26. Senate concurrent resolution congratulating the 2007 Hartford Hurricanes Division I championship football team.

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

H.C.R. 176. House concurrent resolution in memory of the American military personnel who have died in the service of their nation in Iraq from December 30, 2006 through December 19, 2007.

H.C.R. 177. House concurrent resolution congratulating the 2007 Woodstock Union High School Lady Wasps Division II championship field hockey team.

H.C.R. 178. House concurrent resolution in memory of Rosendo Cueto.

H.C.R. 179. House concurrent resolution congratulating Sydney Perry of Middlesex, on her winning the 2007 Miss Vermont Teen USA title.

H.C.R. 180. House concurrent resolution congratulating the 2007 Essex High School Hornets Division I championship girls' soccer team.

H.C.R. 181. House concurrent resolution honoring Sally Bouffard for over four decades of dedicated public service at the department of education and state board of education.

H.C.R. 182. House concurrent resolution in memory of former Representative Ruth H. Towne of Berlin.

H.C.R. 183. House concurrent resolution honoring Elizabeth Christie for her efforts to improve the lives of Vermont's children.

H.C.R. 184. House concurrent resolution honoring the participants in the construction of the new "Extreme Makeover: Home Edition" home for the Vitale family in Athens.

House Bills Introduced

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

H. 649

By Reps. Otterman of Topsham Branagan of Georgia and Hube of Londonderry,

An act relating to repeal of property tax exemptions;

To the committee on Ways and Means.

H. 650

By Reps. Grad of Moretown, Chen of Mendon, Keogh of Burlington and Masland of Thetford,

An act relating to the appointment of medical examiners;

To the committee on Transportation.

H. 651

By Reps. Shand of Weathersfield, Chen of Mendon, Fallar of Tinmouth, Howrigan of Fairfield, Johnson of South Hero, Mitchell of Barnard and Turner of Milton,

An act relating to novelty lighters;

To the committee on General, Housing and Military Affairs.

H. 652

By Reps. Grad of Moretown and Donaghy of Poultney,

An act relating to assault on a law enforcement officer, firefighter, or emergency personnel member;

To the committee on Judiciary.

H. 653

By Rep. Obuchowski of Rockingham,

An act relating to a Vermont wind power authority;

To the committee on Natural Resources and Energy.

H. 654

By Reps. Dostis of Waterbury and Klein of East Montpelier,

An act relating to the attorney general consumer fraud rules with respect to the sale of liquefied petroleum gas and heating oil;

To the committee on Commerce.

H. 655

By Reps. Gilbert of Fairfax, Allard of St. Albans Town, Anderson of Montpelier, Branagan of Georgia, Clark of Vergennes, Consejo of Sheldon, Fitzgerald of St. Albans City, Gervais of Enosburg, Godin of Milton, Howrigan of Fairfield, McAllister of Highgate, Peltz of Woodbury and Westman of Cambridge,

An act relating to nonprofit organizations and casino nights;

To the committee on General, Housing and Military Affairs.

H. 656

By Reps. Anderson of Montpelier, McCullough of Williston, Ainsworth of Royalton, Ancel of Calais, Andrews of Rutland City, Audette of S. Burlington, Barnard of Richmond, Clarkson of Woodstock, Copeland-Hanzas of Bradford, Courcelle of Rutland City, Deen of Westminster, Dostis of Waterbury, Evans of Essex, Fisher of Lincoln, Fitzgerald of St. Albans City, French of Randolph, Gilbert of Fairfax, Hosford of Waitsfield, Hutchinson of Randolph, Keenan of St. Albans City, Kitzmiller of Montpelier, Larocque of Barnet, Maier of Middlebury, Malcolm of Pawlet, Martin of Wolcott, Masland of Thetford, McFaun of Barre Town, Minter of Waterbury, Mitchell of Barnard, Monti of Barre City, Moran of Wardsboro, Mrowicki of Putney, Ojibway of Hartford, Pearson of Burlington, Randall of Troy, Shand of Weathersfield, Shaw of

Derby, Smith of Morristown, Spengler of Colchester, Trombley of Grand Isle, Turner of Milton, Wheeler of Derby and Zuckerman of Burlington,

An act relating to the management of waste tires;

To the committee on Fish, Wildlife and Water Resources.

H. 657

By Reps. Maier of Middlebury, Chen of Mendon, Copeland-Hanzas of Bradford, Keogh of Burlington, Leriche of Hardwick, McFaun of Barre Town, Milkey of Brattleboro, O'Donnell of Vernon, Ojibway of Hartford, Wheeler of Derby and Zenie of Colchester,

An act relating to Medicaid coverage of naturopathic physicians;

To the committee on Health Care.

H. 658

By Rep. Brenan of Colchester,

An act relating to transfer of general fund balance to the transportation fund;

To the committee on Appropriations.

H. 659

By Reps. Gervais of Enosburg, Allard of St. Albans Town, Branagan of Georgia, Consejo of Sheldon, Fitzgerald of St. Albans City, Gilbert of Fairfax, Howrigan of Fairfield, Keenan of St. Albans City, LaVoie of Swanton, McAllister of Highgate and Perry of Richford,

An act relating to approval of the adoption of the charter of the town of Enosburg;

To the committee on Government Operations.

H. 660

By Reps. Livingston of Manchester, Bissonnette of Winooski, Botzow of Pownal, Consejo of Sheldon, Donahue of Northfield, Komline of Dorset, Larrabee of Danville and Marcotte of Coventry,

An act relating to evictions, collection of unpaid rent, and disposal of abandoned personal property;

To the committee on General, Housing and Military Affairs.

H. 661

By Reps. Moran of Wardsboro, Consejo of Sheldon, Deen of Westminster, Donovan of Burlington, Edwards of Brattleboro, Fisher of Lincoln, Howard of Rutland City, Hutchinson of Randolph, Martin of Springfield, Masland of

Thetford, McCormack of Rutland City, Mook of Bennington, Sharpe of Bristol, Smith of Morristown and Weston of Burlington,

An act relating to ensuring health and safety on public construction projects by requiring OSHA safety training;

To the committee on General, Housing and Military Affairs.

H. 662

By Reps. Donahue of Northfield, Andrews of Rutland City and Koch of Barre Town,

An act relating to guardianship and medical surrogacy;

To the committee on Judiciary.

H. 663

By Reps. Branagan of Georgia, Allard of St. Albans Town, Consejo of Sheldon, Fitzgerald of St. Albans City, Gervais of Enosburg, Gilbert of Fairfax, Keenan of St. Albans City, LaVoie of Swanton, McAllister of Highgate and Perry of Richford,

An act relating to Vermont economic growth incentive first-year target;

To the committee on Commerce.

H. 664

By Rep. Pugh of South Burlington,

An act relating to unemployment insurance;

To the committee on Commerce.

H. 665

By Reps. Marek of Newfane and Flory of Pittsford,

An act relating to political party state committee membership;

To the committee on Government Operations.

Joint Resolution Referred to Committee

J.R.H. 45

Reps. Obuchowski of Rockingham, Ancel of Calais, Heath of Westford and Westman of Cambridge offered a joint resolution, entitled

Joint resolution urging Congress to repeal the planned Competitive Loan Auction Pilot program for the Federal Family Education Loan program's PLUS LOANS to parents;

Whereas, the Higher Education Act of 1965 represented a major milestone in the expansion of the availability of a college education for millions of American youths, and

Whereas, an essential element in extending the affordability of a college education has been the availability of federally guaranteed loans through the Federal Family Education Loan program, and

Whereas, in the summer of 2007, Congress passed and the President signed an amendment to the Higher Education Act of 1965, Public Law 110-84, known as the "College Cost Reduction and Access Act of 2007," and

Whereas, although this legislation contained many improvements to the accessibility and affordability of federal financial assistance, in the form of both grants and loans, for the nation's college students, one extremely troublesome aspect of the Act is Section 701, directing the U.S. Secretary of Education to establish a "Competitive Loan Auction Pilot Program" that would require all of the prequalified participating lenders in each state of PLUS loans to parents under the Federal Family Education Loan program to submit a bid to serve as one the state's two exclusive lenders of these loans, beginning in July 2009 for all new loan applicants, and

Whereas, the two lowest bidders would be designated as the exclusive PLUS loan originators in their respective states for a two-year period, and

Whereas, although the auction process would not be applicable to the lending of PLUS loans to graduate students or federal Stafford Loans, or to the interest rate on PLUS loans charged to parents, it could significantly impair parents' accessibility to PLUS loans, and

Whereas, the auction process proposed under the Act is to be based on the procedure that the Federal Communications Commission uses to award certain frequencies on the broadcast spectrum, and

Whereas, the Center for American Progress has stated that the FCC spectrum auctions "neither serve the public interest nor realize the promised market efficiencies" and "have systematically resulted in market concentration and the growth of oligopolistic market power of major actors in the telecommunications industry," and

Whereas, the National Association of Student Financial Aid Administrators has stated in a discussion paper that "loan auctions are riddled with problems for both taxpayers and borrowers," and the paper predicts that families of college students who do not qualify for sources of need-based aid other than PLUS Loans "will be the biggest losers . . . and may be stuck with higher costing student loans," and

Whereas, a 2001 study by the U.S. General Accounting Office suggested that "the diversity of lenders would likely decline" were an auctioning system for PLUS loans adopted, and

Whereas, the adoption of the auction system serves no beneficial purpose and will possibly add new financial burdens on the families of college students, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to repeal the planned Competitive Loan Auction Pilot program for the Federal Family Education Loan program's PLUS LOANS to parents, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the members of the Vermont Congressional Delegation.

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

Remarks Journalized

On motion of **Rep. Nuovo of Middlebury**, the following remarks by **Reps. Sweaney of Windsor** and **Rep. Lawrence of Lyndon** were ordered printed in the Journal:

Remarks of Rep. Sweaney of Windsor:

"Madam Speaker:

Today we begin our session minus the Member from Lyndon who has been in his seat almost every day that the legislature has met for the past 35 years. The passing of Rep. Cola Hudson leaves us with an immense void. Since coming here 12 years ago and serving continuously on Gov. Ops., I have grown to consider Cola my dear friend, mentor and counsel. It will be hard to hold committee without his presence.

Ten years ago I placed his name in nomination for the Board of Trustee of the Vermont State Colleges to serve the unexpired 2-year term of the late Representative Robert Harris of Windsor. I learned so much about him during the process of information gathering and writing my nominating speech. I want to share some of what I learned with you.

Cola's values reflect all that we hold dear in Vermont: Quality, Loyalty, Fairness, Common Sense, and, above all, a commitment to the belief that people come before politics. Because of those beliefs, this self-described conservative Republican developed a very special, long-standing camaraderie with Governor Madeleine Kunin. He also valued his friendship with

Representative Sara Edwards, or “the atomic blonde” as he lovingly dubbed her, and he found a new friend with Rep. Chris Pearson who he liked to joke with Cola about his liberal ideas. He loved Rep. Westman and Rep. McDonald and in fact he loved us all in spite of our faults. We were his family.

Cola was born in 1926 in Lyndon, Vermont to Merle and Dorothy Hudson, and he grew up in the home where his mother was born. He milked cows, mowed hay, cut wood and was active in the 4-H. He attended a one-room school in Lyndon through the eighth grade, and then graduated from the Lyndon Institute in 1944.

He attended Lyndon State College, majoring in history and philosophy. His non-partisan outlook on life had its beginnings early on in his life since both of his parents, according to him, were Democrats. He had two brothers, both of whom predeceased him.

In 1966 Cola started working for the Lyndon School District as a janitor. And all of us who have worked in schools know that the individual in this position holds the true power and ability to understand the organization and get things done. In addition to his regular duties, he spent numerous hours in school consoling not only distraught students, but distraught teachers as well. Cola had a special fondness for young people and especially those who would take the time to listen to his sage advice.

Cola Hudson was elected to his seat in the Vermont House of Representatives in 1972 and is now in the 35th year of service to the people of Lyndon and the rest of Vermont. His dedication to people and their needs was further demonstrated by his volunteer service on the Board of the Northeast Training Organization, as well as serving on the board of the Community Action Program in the Snelling Administration. This social service agency focused on helping low income families to access food, shelter and clothing.

There is probably no other member of this body who better understands the workings of state government agencies, since most of his legislative career was spent on the Committee on Government Operations. He chaired that committee from 1983 through 1986 and again in 2001 through 2004 and he was presently the ranking member. His counsel and sound advice have made him a much-respected advocate for quality in state government.

During his tenure in the Legislature he served previously on the VT State Colleges Board of Trustees. He authored the bill in 1978 that allocated the two legislator positions on that board.

When I was elected to the Windsor House seat, my mentor and campaign manager, Bob Harris, gave me lots of advice. One piece that stands out among his words of guidance was that, of all the Legislators in the House, Cola

Hudson was the one person that I should get to know. I have since learned to value Cola's wisdom, his intellect, and his counsel. Cola was my dear friend. I am thankful for the lovely day we spent together this fall in his beautiful Kingdom, the kingdom that he served so well. I have our picture, taken that day, over my desk at home. He will continue to give me advice and I will continue to love him and his memory. Vermont suffers a great lose with his passing.

ENOUGH SAID, MADAME SPEAKAH"

Remarks by Rep. Lawrence of Lyndon.

"Madam Speaker:

This past weekend I lost a district mate and true Vermont friend. This presentation is not to share the sadness that many of us have, but to openly express the joy that many of us have had by having Representative Cola Hudson as our associate.

Representative Hudson served the people of his district and people of Vermont for three and one-half decades. Think of that for a moment, that is longer than many of this legislative body have in years of birthday anniversaries.

Cola was proud of his accomplishments in whatever he was doing. He was employed as a janitor for many years prior to coming to Montpelier. He and I often discussed his experiences with the students, the teachers and the principals. He was proud that he had the ability and interest to help a child who was having a bad day at school and the time spent with that student resulted in a better learning experience.

Cola stated that the proudest moment in his life was when he took his oath as a Freshman legislator in this House; he realized the responsibility that the people of his district had given him and he was going to represent them as best as he could. I believe he did that.

I know Cola would like to thank the people of this body because you were his friends and family. Many of you made special efforts to call or visit him this past weekend, he made mention of that to me and in the short visits I was able to make, he reflected how important that was to him.

Not many of us will have the fortunate experience of being in a position of doing what we would like to do best at the end of our life; Cola was in control up until the very end, may we all be thankful for that.

Remarks Journalized

On motion of **Rep. Flory of Pittsford**, the following remarks by **Reps. Kilmartin of Newport City and Rep. Edwards of Brattleboro** were ordered printed in the Journal:

Remarks by Rep. Kilmartin of Newport City:

"Madam Speaker:

I penned these words very early Monday morning to share with Cola's three longtime roommates: Rich Westman, whose personal burden at this moment are already enormous; Bill Johnson; and Bob Helm; because their loss and grief I suspect are equal to or greater than that experienced by the rest of us.

Cola was a plain homespun man of elegance, simplicity and civility. He was plain spoken and always demonstrated "uncommon" common sense, profound insight, and intelligence. I envy you who served with him for more years than I, especially Obie.

I sense that while our loss is very great now, it will be even more so in the future, when we all look for that plain spoken wisdom and experience to guide and strengthen us, but he is not there to provide it.

That empty seat in the Chamber speaks volumes of the emptiness we feel, and will not soon, if ever, be filled with a man of Cola's stature. I dread looking at that empty seat. I rode the elevator three times with Cola on Thursday last, and talked about sitting down for a talk...now there will be silence and only memories.

Cola was always supportive of me, even when I "stepped out of line". He got mad at me, but it soon passed. I think he thought of me as an "errant grandson, who sooner or later would get back on the reservation and stay there." I hope I did. I know I grew to desire Cola's respect and approval more than anyone else in the House.

I soon learned, even in those first two years of my "freshman rant" that it was best to go to Cola and "sound him out" or "get advice". My respect and affection for Cola had no boundaries, and I remember fondly several trips to his mountaintop home in the dead of winter, from which you could see forever. I am confident that today Cola has a far better and joyous view than we have.

Thank you for letting me share with you."

Remarks by Rep. Edwards of Brattleboro:

"Madam Speaker:

Rep. Hudson and I were having a philosophical conversation at his seat in the well, when he brought to my attention a speech he had given to the eighth

grade graduating class of 1973, Lyndon Campus School. Please allow me to read aloud the following:

'I think the last few weeks of trying to decide on what to speak about tonight has been one of the most searching periods of my whole life.

When I accepted the invitation to be the speaker at your program, I realized that unless I truly believed what I told you, then I had no business to pass along thirty minutes of my thoughts for your consideration. Especially on one of the hopefully greatest nights of your life.

With this in the back of my mind then the job became one of deciding what would be the most helpful thoughts to express to a group of 8th grade graduates just starting out on a journey, that will hopefully, take you perhaps 75 years or more to complete. Thoughts that sometime during that journey might have some meaning to you personally, and, I hope most sincerely, might be of help to you as you travel.

I finally narrowed my thinking down to three areas which are: No.1. Trust yourself; No. 2. Never stop learning and thinking; No. 3. Never give up a certain amount of dreaming in your life. With this done the rest of the message will become a fill-in of my thoughts on these three areas.'

Cola was very proud of his speech and with good reason. No one I know walked the talk better than Cola Hudson."

Remarks Journalized

On motion of **Rep. Barnard of Richmond**, the following remarks by **Reps. Ancel of Calais, Wright of Burlington, Partridge of Windham, Livingston of Manchester and Clark of Vergennes** were ordered printed in the Journal:

Remarks by Rep. Ancel of Calais:

"Madam Speaker:

"In 1973 I was a newly hired staff person at the Legislative Council. Cola Hudson was a newly elected legislator. Our friendship began when Cola was asked to serve on the Government Operations Committee which was the committee I was assigned to staff.

Cola and I probably disagreed more than we agreed. But we shared a common past and a love for this institution and especially this House. Our friendship lasted 35 years.

Last week we shared a hug and best wishes for the New Year. This Chamber will not be the same without him."

Remarks by Rep. Wright of Burlington:

"Madam Speaker:

One of the things I was cautioned about when I first joined the legislature was: never block Cola's parking space. He was the chairman of my committee so I took this advice seriously. One day I had the misfortune of having to park awkwardly next to Cola's car. The attendant told me he'd find me if I had to move my car.

The Sergeant-at-Arms came to find me a few hours later. Cola had a dentist appointment and couldn't move his car. I quickly went out to the parking lot to find Cola waiting for me. It would be inappropriate to repeat the remarks Cola made to me but I can tell you they were very colorful. I asked Cola why it was okay for Representative Bostic to park in his space. Cola replied, "I gotta protect my boys from the kingdom". That was Cola - he always looked out for his representatives from the kingdom, his district and the people of Vermont. People from across the state of Vermont that knew Cola would say "he was one of us".

Remarks by Rep. Partridge of Windham:

"Madam Speaker:

When I was a brand new legislator, my friend, the member from Springfield, Rep. Emmons, said, "You're a school bus driver, right?" I said that, yes, I was, and she said, "Well there's someone you have to meet!" She took me over and introduced me to Cola. We exchanged a few words about being school bus drivers and over the years, I grew to really care for Cola. Though Cola and I rarely voted the same way, I considered him a friend - he was a dear heart. I will miss him terribly. But I know that on into the future, when the debate on the Floor goes on for an extended period of time, I will hear Cola's voice saying, "Madam Speaker, I hope I live long enough to vote on this bill!"

Remarks by Rep. Livingston of Manchester:

Madam Speaker:

"Cola was not a fashion plate - I think he wore the same old green jacket and brown pants every day for all the fourteen years we worked together. So one day I brought him several suits from a family member figuring we could really dress him up. Weeks went by - months maybe - and I never saw any of the suits and they were nice suits; pin-strip, three pieces..... Finally, on a special occasion on the floor, I looked over and saw a pin-striped suit on Cola! But when he stood up, sure enough, he had on the same old brown pants. Bless him, Cola was not about image, just substance."

Remarks by Rep. Clark of Vergennes:

"Madam Speaker:

We all know that Rep. Cola Hudson was a school custodian in his Lyndonville area, but we also know he was more than just a school custodian, he was in fact a custodian – a savior of our old Vermont spirit of patience, commitment, conservatism, fiscal responsibility and humor. We will not only miss Cola Hudson in person but the spirit of Vermont which he embodied."

Remarks Journalized

On motion of **Rep. Wright of Burlington**, the following remarks by **Rep. Atkins of Winooski** were ordered printed in the Journal:

"Madam Speaker:

Cola would be getting antsy right about now. He would be ready to give one of his famous one-liners. My favorite is, "Madam Speaker, everything's been said, just everybody ain't said it yet."

When Government Operations votes on a bill, one of my first thoughts always is "what does Cola think?" I hope all of us will ask that question in all our deliberations. We must not lose Cola's conservative viewpoint.

I hope Cola continues to give us all direction and when we stray too far, I hope he gives us a Cola Adjustment.

Thank you Madam Speaker."

Message from the Senate No. 8

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

Madam Speaker:

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

S. 257. An act relating to Medicaid coverage of naturopathic physicians.

S. 278. An act relating to financing campaigns.

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

Remarks Journalized

On motion of **Rep. Copeland-Hanzas of Bradford**, the following remarks by **Rep. Aswad of Burlington** were ordered printed in the Journal:

"Madam Speaker:

In the early 1930's, before almost all of the members of this body were born, my classmate and best friend's mother died.

She had had an extra-marital affair, became pregnant and panicked for fear of her abusive husband. Abortions were illegal then; so she went to a clandestine abortion clinic. They botched the procedure and she contracted a severe tetanus infection. There were no strong antibiotics in our formulary then so she succumbed to a painful and tragic death.

Madam Speaker, that tragedy should not and cannot happen today because the United States Supreme Court, in the case of *Roe Vs Wade*, in a seven to two decision, ruled that every woman has the right to privacy, autonomy, and safety in making personal decisions regarding reproduction and family planning. It still allows that, in our free society, all individuals will make correct decisions affecting themselves and their families in light of their own moral and religious beliefs.

Today we celebrate the 35th anniversary of that historic decision. May it ever be so."

Third Reading; Bill Passed

H. 580

House bill, entitled

An act relating to terms of members of the Vermont Tobacco Evaluation and Review Board;

Was taken up, read the third time and passed.

Bill Amended; Third Reading Ordered

H. 599

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

An act relating to boating while intoxicated and driving while intoxicated;

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

Sec. 1. LEGISLATIVE INTENT

It is the intent of the general assembly in this act to address, among other issues, the Vermont supreme court's decisions in *State v. LaBounty*, 2005 VT 124, and *State v. Martin*, 2007 VT 96. In *LaBounty*, the court held that if more than one person was injured an offender could be charged with only one count

of grossly negligent operation of a motor vehicle with injury resulting. Similarly, the court held in *Martin* that if more than one person was killed an offender could be charged with only one count of boating while intoxicated with death resulting. In this act, the general assembly responds to *Martin* and *LaBounty* by amending several motor vehicle statutes to permit an offender to be charged with a separate count of violating the statute for each person who was killed or injured as a result of the offense.

Sec. 2. 23 V.S.A. § 1091(b) is amended to read:

(b) Grossly negligent operation.

(1) A person who operates a motor vehicle on a public highway in a grossly negligent manner shall be guilty of grossly negligent operation.

(2) The standard for a conviction for grossly negligent operation in violation of this subsection shall be gross negligence, examining whether the person engaged in conduct which involved a gross deviation from the care that a reasonable person would have exercised in that situation.

(3) A person who violates this subsection shall be imprisoned not more than two years or fined not more than \$5,000.00, or both. If the person has previously been convicted of a violation of this section, the person shall be imprisoned not more than four years or fined not more than \$10,000.00, or both. If serious bodily injury as defined in section 1021 of Title 13 or death of any person other than the operator results, the person shall be imprisoned for not more than 15 years or fined not more than \$15,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.

Sec. 3. 23 V.S.A. § 1133 is amended to read:

§ 1133. ATTEMPTING TO ELUDE A POLICE OFFICER

(a) No operator of a motor vehicle shall fail to bring his or her vehicle to a stop when signaled to do so by an enforcement officer:

(1) displaying insignia identifying him or her as such; or

(2) operating a law enforcement vehicle sounding a siren and displaying a flashing blue or blue and white signal lamp.

(b)(1) A person who violates subsection (a) of this section shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both.

(2)(A) In the event that death or serious bodily injury to any person other than the operator is proximately caused by the operator's knowing violation of subsection (a) of this section, the operator shall be imprisoned for not more than five years or fined not more than \$3,000.00, or both.

(B) If death or serious bodily injury to more than one person other than the operator is proximately caused by the operator's knowing violation of subsection (a) of this section, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.

(c) In a prosecution under this section, the operator may raise as an affirmative defense, to be proven by a preponderance of the evidence, that the operator brought his or her vehicle to a stop in a manner, time, and distance that was reasonable under the circumstances.

* * *

Sec. 4. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF
INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL
REFUSAL

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person's alcohol concentration is 0.08 or more, or 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(2) when the person is under the influence of intoxicating liquor; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of driving safely; or

(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.

* * *

(e) A person may not be convicted of more than one ~~offense under~~ violation of subsection (a) of this section arising out of the same incident.

* * *

Sec. 5. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

* * *

(e)(1) Death resulting. If the death of any person results from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$10,000.00 or imprisoned not less than one year nor more than 15 years, or both. The provisions of this subsection do not limit or restrict prosecutions for manslaughter.

(2) If the death of more than one person results from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each decedent.

(f)(1) Injury resulting. If serious bodily injury, as defined in 13 V.S.A. § 1021(2), results to any person other than the operator from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$5,000.00, or imprisoned not ~~less than one year nor~~ more than 15 years, or both.

(2) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to more than one person other than the operator from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each person injured.

* * *

Sec. 6. 23 V.S.A. § 3317 is amended to read:

§ 3317. PENALTIES

* * *

(d) Boating while intoxicated; privilege suspension. Any person who is convicted of violating section 3323 of this title shall have his or her privilege to operate a vessel, except a nonmotorized canoe and a nonmotorized rowboat, suspended for a period of one year and until the person complies with section 1209a of this title.

(e) Boating while intoxicated; criminal penalty. Any person who violates a provision of section 3323 of this title shall be imprisoned for not more than one year and subject to the following fines:

- (1) for a first offense, not less than \$200.00 nor more than \$750.00;
- (2) for a second or subsequent offense, not less than \$250.00 nor more than \$1,000.00.

(f)(1)(A) Boating while intoxicated; death resulting. If the death of any person results from the violation of section 3323 of this title, the person convicted shall, instead of any other penalty imposed in this section, be

imprisoned not ~~less than one year nor more than five~~ 15 years or fined not more than ~~\$2,000.00~~ \$10,000.00, or both; but the provisions of this section shall not be construed to limit or restrict prosecutions for manslaughter.

(B) If the death of more than one person results from a violation of section 3323 of this title, the operator may be convicted of a separate violation of this subdivision for each decedent.

(2)(A) Boating while intoxicated; serious bodily injury resulting. If serious bodily injury, as defined in 13 V.S.A. § 1021(2), results to any person other than the operator from a violation of section 3323 of this title, the person convicted of the violation shall be fined not more than \$5,000.00 or imprisoned not more than 15 years, or both.

(B) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to more than one person other than the operator from a violation of section 3323 of this title, the operator may be convicted of a separate violation of this subdivision for each person injured.

* * *

Sec. 7. 23 V.S.A. § 3323 is amended to read:

§ 3323. OPERATING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; B.W.I.

(a) A person shall not operate, attempt to operate, or be in actual physical control of a vessel on the waters of this state while:

(1) there is 0.08 percent or more by weight of alcohol in his or her blood, as shown by analysis of his or her breath or blood; or

(2) under the influence of intoxicating liquor; or

(3) under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of operating safely.

* * *

(e) A person may not be convicted of more than one ~~offense under~~ violation of subsection (a) of this section arising out of the same incident.

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

Joint Resolution Adopted in Concurrence

J.R.S. 43

Joint resolution, entitled

Joint resolution relating to Town Meeting adjournment;

Was taken up and adopted in concurrence.

Adjournment

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

WEDNESDAY, JANUARY 23, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend Susan Cooke-Kittredge of the Old Meeting House in East Montpelier.

House Bills Introduced

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

H. 666

By Reps. Keenan of St. Albans City, Deen of Westminster, Edwards of Brattleboro, Acinapura of Brandon, Bostic of St. Johnsbury, Hunt of Essex, Miller of Shaftsbury and Spengler of Colchester,

An act relating to phthalates in products for young children;

To the committee on Human Services.

H. 667

By Reps. Klein of East Montpelier, Ancel of Calais, Botzow of Pownal, Chen of Mendon, Cheney of Norwich, Copeland-Hanzas of Bradford, Courcelle of Rutland City, Davis of Washington, Deen of Westminster, Donovan of Burlington, Edwards of Brattleboro, Emmons of Springfield, Fisher of Lincoln, French of Randolph, Gilbert of Fairfax, Haas of Rochester, Hunt of Essex, Hutchinson of Randolph, Kitzmiller of Montpelier, Larson of Burlington, Leriche of Hardwick, Lorber of Burlington, Maier of Middlebury, Marek of Newfane, Martin of Springfield, McCullough of Williston, Minter of Waterbury, Mitchell of Barnard, Monti of Barre City, Mook of Bennington, Mrowicki of Putney, Nuovo of Middlebury, Pearson of Burlington, Pellett of Chester, Peltz of Woodbury, Potter of Clarendon, Sharpe of Bristol, Weston of Burlington and Zuckerman of Burlington,

An act relating to electric generating facility kilowatt hour tax;
To the committee on Ways and Means.

H. 668

By Reps. Morley of Barton, Bostic of St. Johnsbury, Clark of St. Johnsbury, Hudson of Lyndon, Johnson of Canaan, Kilmartin of Newport City, Larocque of Barnet, Larrabee of Danville, Lawrence of Lyndon, Leriche of Hardwick, Marcotte of Coventry, Peaslee of Guildhall, Randall of Troy, Rodgers of Glover, Shaw of Derby and Wheeler of Derby,

An act relating to wood products income tax credit;
To the committee on Ways and Means.

H. 669

By Rep. Kitzmiller of Montpelier,
An act relating to the Vermont Historic Downtown;
To the committee on Commerce.

H. 670

By Rep. Botzow of Pownal,
An act relating to assuring that the agency of Natural Resources' permit handbook identify permits required for building demolition;
To the committee on Natural Resources and Energy.

H. 671

By Reps. Botzow of Pownal, Bissonnette of Winooski, Browning of Arlington, Clerkin of Hartford, Consejo of Sheldon, Davis of Washington, Livingston of Manchester, Malcolm of Pawlet, Marcotte of Coventry and Shand of Weathersfield,

An act relating to expansion of telecommunications services in the state;
To the committee on Commerce.

H. 672

By Rep. Heath of Westford,
An act relating to rules of the plumber's examining board;
To the committee on Natural Resources and Energy.

H. 673

By Reps. Hutchinson of Randolph, Sweaney of Windsor, Anderson of Montpelier, Andrews of Rutland City, Aswad of Burlington, Audette of S. Burlington, Bissonnette of Winooski, Brennan of Colchester, Clark of St. Johnsbury, Donovan of Burlington, Dostis of Waterbury, Edwards of Brattleboro, Emmons of Springfield, French of Randolph, Gervais of Enosburg, Howard of Rutland City, Johnson of Canaan, Keogh of Burlington, Kitzmiller of Montpelier, Krawczyk of Bennington, Lorber of Burlington, Marcotte of Coventry, Martin of Springfield, Martin of Wolcott, Masland of Thetford, Milkey of Brattleboro, Minter of Waterbury, Monti of Barre City, Mook of Bennington, Moran of Wardsboro, Mrowicki of Putney, Nease of Johnson, Orr of Charlotte, Pearson of Burlington, Pellett of Chester, Peterson of Williston, Shand of Weathersfield, Trombley of Grand Isle, Valliere of Barre City, Weston of Burlington, Wright of Burlington and Zuckerman of Burlington,

An act relating to full pilot funding;

To the committee on Appropriations.

H. 674

By Reps. McAllister of Highgate, LaVoie of Swanton, Allard of St. Albans Town, Brennan of Colchester, Condon of Colchester, Consejo of Sheldon, Gervais of Enosburg, Godin of Milton, Howrigan of Fairfield, McFaun of Barre Town, Perry of Richford, Trombley of Grand Isle, Turner of Milton and Zenie of Colchester,

An act relating to an appropriation for repair of the Highgate Recreation Arena;

To the committee on Appropriations.

H. 675

By Reps. Klein of East Montpelier, Ancel of Calais, Errecart of Shelburne, Canfield of Fair Haven, Donahue of Northfield, Johnson of Canaan, Larrabee of Danville, LaVoie of Swanton, Maier of Middlebury, McAllister of Highgate, McFaun of Barre Town and Shaw of Derby,

An act relating to facilitating the development of electricity from small hydroelectric projects;

To the committee on Fish, Wildlife and Water Resources.

H. 676

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

An act relating to motor vehicle lease disclosures;

To the committee on Commerce.

Senate Bills Referred

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

S. 257

Senate bill, entitled

An act relating to Medicaid coverage of naturopathic physicians;

To the committee on Health Care.

S. 278

Senate bill, entitled

An act relating to financing campaigns;

To the committee on Government Operations.

**Committee Relieved of Consideration
and Bill Committed to Other Committee****H. 588**

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

An act relating to property loaned to museums;

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

Third Reading; Bill Passed**H. 599**

House bill, entitled

An act relating to boating while intoxicated and driving while intoxicated;

Was taken up, and pending third reading of the bill, **Rep. LaVoie of Swanton** moved that the bill be amended as follows:

By adding new Secs. 8 -12 to read as follows:

Sec. 8. 23 V.S.A. § 303 is amended to read:

§ 303. APPLICATION REQUIRED

(a) The commissioner or his or her duly authorized agent shall register a motor vehicle, trailer, or semi-trailer when application therefore, on a form prescribed by the commissioner, showing such motor vehicle to be properly equipped and in good mechanical condition, is filed with him or her, accompanied by the required registration fee, the proof of financial responsibility required under section 800 of this title, and evidence of the applicant's ownership of the vehicle in such form as the commissioner may reasonably require. Except for state or municipal vehicles, registrants and titled owners shall be identical.

(b) An application for registration may be refused by the commissioner if it is not accompanied by proof of payment of the use tax imposed by ~~section~~ Section 4481 of the Internal Revenue Code of 1986 in such form as may be prescribed by the Secretary of the Treasury or in another form acceptable to the commissioner in the case of vehicles which are subject to the tax.

(c) An application for registration shall be refused by the commissioner if the applicant's license or learner's permit is suspended or revoked in any jurisdiction.

Sec. 9. 23 V.S.A. § 1130 is amended to read:

§ 1130. PERMITTING UNLICENSED PERSON TO OPERATE

(a) No person shall knowingly employ, as operator of a motor vehicle, a person not licensed as provided in this title.

(b)(1) No person shall knowingly permit a motor vehicle owned by him or her or under his or her control to be operated by a person who has no legal right to do so, or in violation of a provision of this title.

(2) If the death of any person results from a violation of subdivision (1) of this subsection, or if serious bodily injury as defined in 13 V.S.A.

§ 1021(2) results to any person other than the operator from the violation, the person convicted of the violation shall be fined not more than \$5,000.00 or imprisoned not more than two years, or both. The provisions of this subdivision do not limit or restrict prosecutions for manslaughter.

Sec. 10. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

* * *

(d) Third or subsequent offense. A person convicted of violating section 1201 of this title who has twice been convicted of violation of that section shall be fined not more than \$2,500.00 or imprisoned not more than five years, or both. ~~At least 400 hours of community service shall be performed, or 100 consecutive hours~~ six months of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed.

(e)(1) Death resulting. If the death of any person results from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$10,000.00 or imprisoned not less than one year nor more than 15 years, or both. The provisions of this subsection do not limit or restrict prosecutions for manslaughter.

(2) A sentence ordered pursuant to this subsection shall include at least a five-year term of imprisonment. The five-year term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year term of imprisonment.

* * *

Sec. 11. 23 V.S.A. § 1212 is amended to read:

§ 1212. CONDITIONS OF RELEASE AND PAROLE; ARREST UPON VIOLATION

* * *

(d) A law enforcement officer or a corrections officer who observes a person violating a condition of parole requiring that the person not operate a motor vehicle may promptly arrest the person for violating the condition and shall detain the person pursuant to section 551 of Title 28. The officer shall immobilize the vehicle and immediately notify the parole board of the suspected violation. If the parole board determines pursuant to section 552 of Title 28 that a parole violation has occurred, the board shall notify the state's attorney in the county where the violation occurred, who shall institute forfeiture proceedings against the vehicle under section 1213c of this title as soon as practicable.

Sec. 12. 23 V.S.A. § 1213b is amended to read:

§ 1213b. FORFEITURE OF VEHICLE

At the time of sentencing after a third or subsequent conviction under section 1201 of this title, or upon a determination by the parole board that a person has violated a condition of parole requiring that the person not operate a motor vehicle, the court may, upon motion of the state and in addition to any penalty imposed by law and after notice and hearing, order the motor vehicle operated by the defendant or parolee at the time of the offense forfeited and sold as provided in section 1213c of this title.

Thereupon, **Rep. LaVoie of Swanton** asked and was granted leave of the House to withdraw her amendment.

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

Bill Read Second Time; Third Reading Ordered

H. 644

Rep. Howrigan of Fairfield spoke for the committee on General, Housing and Military Affairs.

House bill entitled

An act relating to debt financing for the Vermont Housing Finance Agency;

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

Bill Amended; Third Reading Ordered

H. 563

Rep. Larrabee of Danville, for the committee on Commerce, to which had been referred House bill, entitled

An act relating to the Uniform Commercial Code;

Reported in favor of its passage when amended as follows:

In Sec. 2, 9 V.S.A. § 1-108, by striking

“(15 U.S.C. section 103(b))” and inserting in lieu thereof “(15 U.S.C. section 7003(b))”

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

Message from the Senate No. 9

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

Madam Speaker:

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

S. 342. An act relating to Lake Champlain commemorative motor vehicle plates.

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

Adjournment

At two o'clock in the afternoon, on motion of **Rep. Clark of St. Johnsbury**, the House adjourned until tomorrow at one o'clock in the afternoon.

THURSDAY, JANUARY 24, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend Paul Essaff of Lighthouse Christian Church, St. Johnsbury/Montpelier.

Message from the Senate No. 10

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

Madam Speaker:

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

S. 213. An act relating to the designation of a portion of state highways in the town of Manchester as class 1 town highways.

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

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

J.R.S. 45. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

J.R.S. 46. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2008.

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

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

House Bills Introduced

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

H. 677

By Reps. Botzow of Pownal, Bissonnette of Winooski, Donahue of Northfield, Fisher of Lincoln, French of Randolph, Johnson of South Hero, Keenan of St. Albans City, Kitzmiller of Montpelier, Krawczyk of Bennington, Kupersmith of S. Burlington, Malcolm of Pawlet, Milkey of Brattleboro, Miller of Shaftsbury and Orr of Charlotte,

An act relating to the working people with disabilities task force;

To the committee on Human Services.

H. 678

By Reps. Peterson of Williston, Cheney of Norwich, Clarkson of Woodstock, Clerkin of Hartford, Deen of Westminster, Edwards of Brattleboro, Evans of Essex, Fisher of Lincoln, Keogh of Burlington, Livingston of Manchester, Masland of Thetford, McAllister of Highgate, Minter of Waterbury, Moran of Wardsboro, O'Donnell of Vernon, Pearson of Burlington, Perry of Richford, Rodgers of Glover and Zuckerman of Burlington,

An act relating to studying a lower drinking age;

To the committee on General, Housing and Military Affairs.

H. 679

By Rep. Atkins of Winooski,

An act relating to health and medical benefits for spouses and dependents of retired teachers;

To the committee on Government Operations.

H. 680

By Reps. Scheuermann of Stowe, Ainsworth of Royalton, Audette of S. Burlington, Branagan of Georgia, Brennan of Colchester, Corcoran of Bennington, Donaghy of Poultney, Fitzgerald of St. Albans City, Hube of Londonderry, Johnson of Canaan, Larrabee of Danville, LaVoie of Swanton, McAllister of Highgate, McNeil of Rutland Town, Minter of Waterbury,

O'Donnell of Vernon, Peaslee of Guildhall, Potter of Clarendon, Turner of Milton, Winters of Williamstown and Wright of Burlington,

An act relating to the reduction and elimination of transportation fund appropriations for nonagency of transportation expenses;

To the committee on Appropriations.

H. 681

By Rep. Lippert of Hinesburg,

An act relating to burial-transit permits;

To the committee on General, Housing and Military Affairs.

H. 682

By Rep. Atkins of Winooski,

An act relating to errors and omissions property tax appraisal appeal;

To the committee on Ways and Means.

H. 683

By Reps. Martin of Springfield and Emmons of Springfield,

An act relating to sales tax exemption for lettering or grave markers;

To the committee on Ways and Means.

H. 684

By Reps. Akins of Winooski and Consejo of Sheldon,

An act relating to the use of lead sinkers;

To the committee on Fish, Wildlife and Water Resources.

H. 685

By Rep. Deen of Westminster,

An act relating to enforcement of environmental laws;

To the committee on Fish, Wildlife and Water Resources.

H. 686

By Reps. Grad of Moretown, Donaghy of Poultney and Flory of Pittsford,

An act relating to motor vehicle points and driver training schools;

To the committee on Transportation.

H. 687

By Reps. Hosford of Waitsfield and Donahue of Northfield,

An act relating to services for youths with disabilities;

To the committee on Human Services.

H. 688

By Reps. Chen of Mendon, Bray of New Haven, Donaghy of Poultney, Johnson of South Hero, Keenan of St. Albans City, Minter of Waterbury, Pellett of Chester, Shand of Weathersfield and Turner of Milton,

An act relating to automated external defibrillators;

To the committee on Human Services.

H. 689

By Reps. Kitzmiller of Montpelier and Shand of Weathersfield,

An act relating to utility prescriptive rights;

To the committee on Commerce.

H. 690

By Reps. Bray of New Haven, Ainsworth of Royalton, Botzow of Pownal, Consejo of Sheldon, Godin of Milton, Lawrence of Lyndon, Perry of Richford, Spengler of Colchester and Stevens of Shoreham,

An act relating to Vermont Milk Commission;

To the committee on Agriculture.

Senate Bill Referred

S. 342

Senate bill, entitled

An act relating to Lake Champlain commemorative motor vehicle plates;

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

Joint Resolution Referred to Committee

J.R.H. 46

Reps. Hube of Londonderry, Keenan of St. Albans City, Acinapura of Brandon, Ainsworth of Royalton, Allard of St. Albans Town, Ancel of Calais, Anderson of Montpelier, Andrews of Rutland City, Aswad of Burlington, Atkins of Winooski, Audette of S. Burlington, Baker of West Rutland, Barnard of Richmond, Bissonnette of Winooski, Bostic of St. Johnsbury, Botzow of Pownal, Branagan of Georgia, Bray of New Haven, Brennan of Colchester,

Browning of Arlington, Canfield of Fair Haven, Chen of Mendon, Cheney of Norwich, Clark of St. Johnsbury, Clark of Vergennes, Clarkson of Woodstock, Clerkin of Hartford, Condon of Colchester, Consejo of Sheldon, Copeland-Hanzas of Bradford, Corcoran of Bennington, Courcelle of Rutland City, Davis of Washington, Deen of Westminster, Devereux of Mount Holly, Donaghy of Poultney, Donahue of Northfield, Donovan of Burlington, Dostis of Waterbury, Edwards of Brattleboro, Emmons of Springfield, Errecart of Shelburne, Evans of Essex, Fallar of Tinmouth, Fisher of Lincoln, Fitzgerald of St. Albans City, Flory of Pittsford, Frank of Underhill, French of Randolph, Gervais of Enosburg, Gilbert of Fairfax, Godin of Milton, Grad of Moretown, Haas of Rochester, Head of S. Burlington, Heath of Westford, Helm of Castleton, Hosford of Waitsfield, Howard of Rutland City, Howrigan of Fairfield, Hunt of Essex, Hutchinson of Randolph, Jerman of Essex, Johnson of South Hero, Johnson of Canaan, Keogh of Burlington, Kilmartin of Newport City, Kitzmiller of Montpelier, Klein of East Montpelier, Koch of Barre Town, Komline of Dorset, Krawczyk of Bennington, Kupersmith of S. Burlington, Larocque of Barnet, Larrabee of Danville, Larson of Burlington, LaVoie of Swanton, Lawrence of Lyndon, Lenes of Shelburne, Leriche of Hardwick, Lippert of Hinesburg, Livingston of Manchester, Maier of Middlebury, Malcolm of Pawlet, Manwaring of Wilmington, Marcotte of Coventry, Marek of Newfane, Martin of Springfield, Martin of Wolcott, Masland of Thetford, McAllister of Highgate, McCormack of Rutland City, McCullough of Williston, McDonald of Berlin, McFaun of Barre Town, McNeil of Rutland Town, Milkey of Brattleboro, Miller of Shaftsbury, Minter of Waterbury, Mitchell of Barnard, Monti of Barre City, Mook of Bennington, Moran of Wardsboro, Morley of Barton, Morrissey of Bennington, Mrowicki of Putney, Myers of Essex, Nease of Johnson, Nuovo of Middlebury, Obuchowski of Rockingham, O'Donnell of Vernon, Orr of Charlotte, Otterman of Topsham, Oxholm of Vergennes, Pearson of Burlington, Peaslee of Guildhall, Pellett of Chester, Perry of Richford, Peterson of Williston, Potter of Clarendon, Pugh of S. Burlington, Randall of Troy, Scheuermann of Stowe, Shand of Weathersfield, Sharpe of Bristol, Shaw of Derby, Smith of Morristown, Spengler of Colchester, Stevens of Shoreham, Sweaney of Windsor, Symington of Jericho, Trombley of Grand Isle, Turner of Milton, Valliere of Barre City, Westman of Cambridge, Weston of Burlington, Wheeler of Derby, Winters of Williamstown, Wright of Burlington, Zenie of Colchester and Zuckerman of Burlington offered a joint resolution, entitled

Joint resolution relating to advocating withdrawal of proposed U.S. Treasury regulations that the U.S. Internal Revenue Service issued on September 28, 2007 eliminating the deductibility of reserves of a captive insurance company participating in a consolidated federal income tax return;

Whereas, the cost and availability of insurance are significant challenges for many businesses, prompting an increasing number of corporations to establish within their corporate framework insurance subsidiaries known as captive insurance companies, and

Whereas, more than 5,000 captive insurance companies have now been established worldwide including 823 licensed in the state of Vermont, and

Whereas, over 25 years ago, the state of Vermont recognized that many captive insurance companies, if offered a comprehensive, knowledgeable, and stable regulatory environment would locate in this state, creating professional employment opportunities arising from the management and regulation of their operations, and

Whereas, beginning with Act 28 of 1981, the Vermont General Assembly adopted a series of laws, codified as chapter 141 of Title 8, that established a comprehensive, knowledgeable, and stable regulatory environment for the captive insurance industry, and

Whereas, the captive insurance industry now generates over 1,400 jobs (direct and indirect) in Vermont, and

Whereas, an additional incentive to organize a captive insurance company in the United States has been the ability, in accordance with existing U.S. Treasury Regulation § 1.1502, to take a current tax deduction for both the loss reserves and unearned income premium reserves that intercompany insurance transactions generate between members of a group of corporations filing on a consolidated basis, and

Whereas, these reserves represent an actuarially determined amount of funds that a captive insurance company must maintain under Vermont law to pay future claims and loss adjustment expenses, and

Whereas, on September 28, 2007, the U.S. Internal Revenue Service published proposed Treasury Regulation §1.1502-13(e) that for federal tax purposes would eliminate these reserves and would defer tax deductibility until a subsequent year in which the claim or expense is actually paid, and

Whereas, under the proposed regulation, affected insurance companies include members of a consolidated tax group (which by federal tax law excludes foreign insurance companies) that earn five percent or more of their premiums from insuring risks of other members of the group, and

Whereas, the finalization of proposed U.S. Treasury Regulation § 1.1502-13(e) would adversely impact a significant number of captive insurance companies domiciled in Vermont and their parent corporations, and

Whereas, the disallowance of this federal income tax benefit could result in captive insurance companies licensed in the state of Vermont and in other U.S. domiciles to consider relocating to offshore domiciles that the proposal does not affect, thereby continuing to enjoy the tax advantage of deductibility of reserves, and

Whereas, finalization of this proposed change in federal tax regulations would have a significant negative impact on Vermont jobs and would reduce state general fund revenue, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the U.S. Treasury secretary and the U.S. Internal Revenue Service to withdraw proposed U.S. Treasury Regulation § 1.1502-13(e), and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to U.S. Secretary of the Treasury Henry Paulson and to the Vermont Congressional Delegation.

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

Joint Resolutions Placed on Calendar

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

J.R.S. 45

By Senator Shumlin,

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

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 21, 2008, at ten o'clock and thirty minutes in the forenoon to elect two legislative Trustees of the Vermont State Colleges Corporation to serve a four year term commencing March 1, 2008, and expiring on March 1, 2012. In case election of all such Trustees shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such Trustees are elected.

J.R.S. 46

By Senator Shumlin,

Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2008.

Whereas, in recent years it has become increasingly necessary to shorten the length of time spent by the General Assembly in joint session for the election of various officials, and

Whereas, if elections for multiple vacancies were to be decided by a plurality vote, then a great savings of time can be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of two legislative trustees of the Vermont State Colleges Corporation at a Joint Assembly to be held on February 21, 2008, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be two.

(2) The two candidates receiving the greater number of votes shall be declared elected to fill the two vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for one or more of the two vacant positions, then voting shall continue on successive ballots until the vacancies have been filled, again by election declared of the two candidates receiving the greater number of votes.

Joint Resolution Adopted in Concurrence

J.R.S. 47

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Shumlin,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 25, 2008, it be to meet again no later than Tuesday, January 29, 2008.

Was taken up read and adopted in concurrence.

Third Reading; Bills Passed

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

H. 563

House bill, entitled

An act relating to debt financing for the Vermont Housing Finance Agency;

H. 644

House bill, entitled

An act relating to the Uniform Commercial Code.

Adjournment

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

FRIDAY, JANUARY 25, 2008

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

Devotional Exercises

Devotional exercises were conducted by Adam Courville and Debbie Lyons with Kids on the Block.

Memorial Service

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

Peter C. Martin of St. Albans Town

Cola H. Hudson of Lyndon

Sessions of 1991 and 1993

Sessions 1973 through 2007

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

House Bills Introduced

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

H. 691

By the committee on Ways and Means,
An act relating to executive and judicial branch fees;
Under the rule, placed on the Calendar for notice.

H. 692

By Rep. O'Donnell of Vernon,

An act relating to allowing an ambulance provider to bring a civil action against a negligent party to recover the costs of providing emergency medical treatment;

To the committee on Judiciary.

H. 693

By Reps. Marcotte of Coventry, Clerkin of Hartford, Kilmartin of Newport City and Valliere of Barre City,

An act relating to special motor vehicle registration plates for religious fraternal organizations;

To the committee on Transportation.

H. 694

By Reps. Adams of Hartland and Komline of Dorset,

An act relating to allowing municipal development review decisions to be made by majority vote, a quorum being present;

To the committee on Government Operations.

H. 695

By Reps. Adams of Hartland and Komline of Dorset,

An act relating to the payment of Act 250 fees;

To the committee on Ways and Means.

H. 696

By Reps. Adams of Hartland and Komline of Dorset,

An act relating to giving Act 250 applicants the option of on-the-record review;

To the committee on Natural Resources and Energy.

H. 697

By Reps. Adams of Hartland and Komline of Dorset,

An act relating to requiring that judicial review of planning and zoning chapter decisions in towns of more than 5,000 persons be conducted on the record;

To the committee on Natural Resources and Energy.

H. 698

By Reps. Adams of Hartland and Komline of Dorset,

An act relating to establishing a uniform fee-setting procedure for development review;

To the committee on Ways and Means.

H. 699

By Reps. Donovan of Burlington, Anderson of Montpelier, Atkins of Winooski, Barnard of Richmond, Bray of New Haven, Courcelle of Rutland City, Deen of Westminster, Edwards of Brattleboro, Evans of Essex, Fitzgerald of St. Albans City, Flory of Pittsford, Jerman of Essex, Kitzmiller of Montpelier, Klein of East Montpelier, Lippert of Hinesburg, Malcolm of Pawlet, Martin of Springfield, Martin of Wolcott, McCullough of Williston, Miller of Shaftsbury, Mrowicki of Putney, Potter of Clarendon, Randall of Troy, Smith of Morristown, Trombley of Grand Isle, Weston of Burlington and Wheeler of Derby,

An act relating to compliance testing of tobacco licensees;

To the committee on Human Services.

H. 700

By Reps. Manwaring of Wilmington and Moran of Wardsboro,

An act relating to sale of bottles of wine at festivals;

To the committee on General, Housing and Military Affairs.

H. 701

By Reps. Donovan of Burlington, Edwards of Brattleboro, Milkey of Brattleboro and Pearson of Burlington,

An act relating to prohibiting mandatory overtime for hospital employees;

To the committee on General, Housing and Military Affairs.

H. 702

By Reps. Hosford of Waitsfield, Barnard of Richmond, Branagan of Georgia, Cheney of Norwich, Condon of Colchester, Fisher of Lincoln, Gilbert of Fairfax, Lorber of Burlington, Marcotte of Coventry, McFaun of Barre Town, Mrowicki of Putney, Nease of Johnson, Obuchowski of Rockingham, Rodgers of Glover and Spengler of Colchester,

An act relating to awarding attorney's fees to a litigant who prevails in a suit disputing an insurer's denial of coverage;

To the committee on Commerce.

H. 703

By Rep. Anderson of Montpelier,

An act relating to amending Act 250 to authorize an applicant to mitigate the loss of certain necessary wildlife habitat;

To the committee on Fish, Wildlife and Water Resources.

H. 704

By Reps. Clerkin of Hartford, Bissonnette of Winooski, Botzow of Pownal, Consejo of Sheldon, Kitzmiller of Montpelier and Livingston of Manchester,

An act relating to notices of transfer of policies to an affiliate provided by an insurer;

To the committee on Commerce.

H. 705

By Reps. Clerkin of Hartford, Bissonnette of Winooski, Botzow of Pownal, Consejo of Sheldon, Kitzmiller of Montpelier and Livingston of Manchester,

An act relating to exemptions from filing and review of insurance rates;

To the committee on Commerce.

H. 706

By Rep. Nuovo of Middlebury,

An act relating to establishing an energy efficiency utility for space heating;

To the committee on Natural Resources and Energy.

H. 707

By Reps. Helm of Castleton, Pellett of Chester, Canfield of Fair Haven, Godin of Milton, Johnson of South Hero, Morley of Barton, Trombley of Grand Isle and Turner of Milton,

An act relating to emergency response plans for pollution abatement facilities;

To the committee on Fish, Wildlife and Water Resources.

H. 708

By Reps. Ojibway of Hartford, Clerkin of Hartford, Courcelle of Rutland City, Howard of Rutland City and McCormack of Rutland City,

An act relating to an exception to the suspension of state aid for school construction for certain energy performance contracts;

To the committee on Education.

H. 709

By Reps. Botzow of Pownal, Consejo of Sheldon, Johnson of South Hero, Livingston of Manchester, Marcotte of Coventry, Potter of Clarendon, Trombley of Grand Isle and Winters of Williamstown,

An act relating to campgrounds;

To the committee on General, Housing and Military Affairs.

H. 710

By Reps. Sweaney of Windsor, Atkins of Winooski, Clark of St. Johnsbury, Devereux of Mount Holly, Donovan of Burlington, Evans of Essex, Fallar of Tinmouth, Heath of Westford, Jerman of Essex, Manwaring of Wilmington, Martin of Wolcott, Mook of Bennington, Oxholm of Vergennes and Pearson of Burlington,

An act relating to public agency deferred compensation plans;

To the committee on Government Operations.

H. 711

By Reps. Botzow of Pownal, Johnson of South Hero, Malcolm of Pawlet and Stevens of Shoreham,

An act relating to agricultural, forestry, and horticultural education;

To the committee on Agriculture.

H. 712

By Reps. Pellett of Chester, Pillsbury of Brattleboro, Marek of Newfane and Gervais of Enosburg,

An act relating to separation of a victim of sexual assault and the perpetrator at the Woodside Juvenile Rehabilitation Center;

To the committee on Judiciary.

H. 713

By Rep. Trombley of Grand Isle,

An act relating to requiring schools receiving tuition to provide student assessment reports to sending districts;

To the committee on Education.

Senate Bill Referred**S. 213**

Senate bill, entitled

An act relating to the designation of a portion of state highways in the town of Manchester as class 1 town highways;

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

Joint Resolution Adopted**J.R.H. 47**

Joint resolution, entitled

Joint resolution designating the week of January 21, 2008 as nurse anesthetists week;

Offered by Keenan of St. Albans City,

Whereas, nurse anesthetists were the first professional group to provide anesthesia in the United States, and are the oldest recognized group of advanced practice registered nurse specialists, and

Whereas, these highly trained health care professionals are required to complete a graduate-level educational program in a nationally accredited program of nurse anesthesia, and, after graduation, they are qualified to take the national certifying examination to become a Certified Registered Nurse Anesthetist (CRNA), and

Whereas, CRNAs provide anesthesia services in all settings in which anesthesia is delivered, and

Whereas, according to the American Association of Nurse Anesthetists, more than 65 percent of all rural hospitals rely on CRNAs to provide anesthesia care, and without these advanced practice nurses, some 1,500 facilities would be unable to maintain trauma stabilization, surgical, and obstetrical capabilities, forcing many rural Americans to travel long distances for these services, and

Whereas, each year, CRNAs working in hospitals, ambulatory surgical centers, physician's offices, and the medical facilities of the U.S. Military, the U.S. Department of Veterans Affairs, and the U.S. Public Health Service are the hands-on providers of approximately 65 percent of all anesthetics given to patients in the United States, and, in rural communities, this percentage is even higher; and

Whereas, CRNAs serve Vermonters by providing needed anesthesia care in 10 of the state's 13 hospitals, in medical other facilities, and in physician's offices, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly recognizes the week of January 21, 2008 as Nurse Anesthetists Week in Vermont and celebrates the importance of Vermont's Certified Registered Nurse Anesthetists and their role in providing quality health care for the public, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the Vermont Association of Nurse Anesthetists.

Was read and adopted on the part of the House.

Bill Referred to Committee on Appropriations

H. 333

House bill, entitled

An act relating to school breakfast program expansion;

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

Joint Resolutions Adopted in Concurrence

The Speaker placed before the House the following Joint resolutions, which were read and adopted in concurrence on the part of the House.

J.R.S. 45

Joint resolution, entitled

Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State College Corporation

J.R.S. 46

Joint resolution, entitled

Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2008.

Message from the Senate No. 11

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

Madam Speaker:

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

H. 550. An act relating to approval of amendment to the charter of the city of South Burlington regarding voter approval of city and school district budgets.

And has passed the same in concurrence.

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

H.C.R. 185. House concurrent resolution congratulating Susan Hennessey on the receipt of a Milken Family Foundation National Educator Award.

H.C.R. 186. House concurrent resolution congratulating the Harwood Union High School Highlanders 2007 Division II championship boys' cross-country team.

H.C.R. 187. House concurrent resolution congratulating Jean Berthiaume on his receipt of the 2007 Victor R. Swenson Humanities Educator Award.

H.C.R. 188. House concurrent resolution congratulating the 2007 Harwood Union High School Highlanders Division II championship boys' soccer team.

H.C.R. 189. House concurrent resolution honoring former Windham State's Attorney Dan M. Davis.

H.C.R. 190. House concurrent resolution congratulating Cub Scout Pack 401 of Bellows Falls on being designated the 2007 Vermont Pack of the Year.

H.C.R. 191. House concurrent resolution in memory of former auditor of accounts Jay Gordon and his wife, Joan Gordon.

H.C.R. 192. House concurrent resolution congratulating the Mary Meyer Corporation on its 75th anniversary.

H.C.R. 193. House concurrent resolution congratulating the Vermont Association of Snow Travelers on its 40th anniversary.

H.C.R. 194. House concurrent resolution congratulating the Chittenden Fire and Rescue on its 50th anniversary.

H.C.R. 195. House concurrent resolution honoring Thomas Anthony Levesque for 28 years of public service as the Chittenden East Supervisory Union district treasurer.

H.C.R. 196. House concurrent resolution congratulating the 2007 Missisquoi Valley Union High School Thunderbirds championship Division II girls' cross-country team.

H.C.R. 197. House concurrent resolution congratulating Edward Koren of Brookfield as the recipient of the 2007 Governor's Award for Excellence in the Arts.

H.C.R. 198. House concurrent resolution in memory of Representative Cola Hudson, the dean of the House of Representatives.

Adjournment

At ten o'clock and eighteen minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, January 29, 2008, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 47.

Concurrent Resolutions Adopted

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

H.C.R. 185

House concurrent resolution congratulating Susan Hennessey on the receipt of a Milken Family Foundation National Educator Award

H.C.R. 186

House concurrent resolution congratulating the Harwood Union High School Highlanders 2007 Division II championship boys' cross-country team

H.C.R. 187

House concurrent resolution congratulating Jean Berthiaume on his receipt of the 2007 Victor R. Swenson Humanities Educator Award

H.C.R. 188

House concurrent resolution congratulating the 2007 Harwood Union High School Highlanders Division II championship boys' soccer team

H.C.R. 189

House concurrent resolution honoring former Windham State's Attorney Dan M. Davis

H.C.R. 190

House concurrent resolution congratulating Cub Scout Pack 401 of Bellows Falls on being designated the 2007 Vermont Pack of the Year

H.C.R. 191

House concurrent resolution in memory of former auditor of accounts Jay Gordon and his wife, Joan Gordon

H.C.R. 192

House concurrent resolution congratulating the Mary Meyer Corporation on its 75th anniversary

H.C.R. 193

House concurrent resolution congratulating the Vermont Association of Snow Travelers on its 40th anniversary

H.C.R. 194

House concurrent resolution congratulating the Chittenden Fire and Rescue on its 50th anniversary

H.C.R. 195

House concurrent resolution honoring Thomas Anthony Levesque for 28 years of public service as the Chittenden East Supervisory Union district treasurer

H.C.R. 196

House concurrent resolution congratulating the 2007 Missisquoi Valley Union High School Thunderbirds championship Division II girls' cross-country team

H.C.R. 197

House concurrent resolution congratulating Edward Koren of Brookfield as the recipient of the 2007 Governor's Award for Excellence in the Arts

H.C.R. 198

House concurrent resolution in memory of Representative Cola Hudson, the dean of the House of Representatives

[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 2008, sixty-ninth Adjourned session]

TUESDAY, JANUARY 29, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend Mark Pitton of Bethany Church of Christ, Montpelier.

Pledge of Allegiance

Page Kelsey Bean of Essex led the House in the Pledge of Allegiance.

House Bills Introduced

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

H. 714

By Reps. Botzow of Pownal, Ancel of Calais, French of Randolph, Kitzmiller of Montpelier, Klein of East Montpelier, Livingston of Manchester and Malcolm of Pawlet,

An act relating to appropriating matching funds for the Vermont Women's business Center;

To the committee on Appropriations.

H. 715

By Reps. Koch of Barre Town, Allard of St. Albans Town, Flory of Pittsford, Gervais of Enosburg, Kilmartin of Newport City, McNeil of Rutland Town and Rodgers of Glover,

An act relating to discrimination in public accommodations;

To the committee on Judiciary.

H. 716

By Reps. Botzow of Pownal,

An act relating to requiring state agencies to notify municipalities of licenses, permits, and violations involving the use of real property;

To the committee on Government Operations.

H. 717

By Reps. Koch of Barre Town and Kilmartin of Newport City,

An act relating to authorizing public housing authorities to review the criminal records of applicants;

To the committee on General, Housing and Military Affairs.

H. 718

By Rep. Trombley of Grand Isle,

An act relating to high performance school design and construction standards;

To the committee on Education.

H. 719

By Reps. Botzow of Pownal and Malcolm of Pawlet,

An act relating to authorizing the clean energy development fund to be used for solar-powered equipment for use by a municipality;

To the committee on Natural Resources and Energy.

H. 720

By Reps. Deen of Westminster, Anderson of Montpelier, Clarkson of Woodstock, Godin of Milton, Howrigan of Fairfield, Jewett of Ripton, Martin of Springfield, Masland of Thetford, McCullough of Williston, Mitchell of Barnard, Mrowicki of Putney and Perry of Richford,

An act relating to aquatic nuisance control;

To the committee on Fish, Wildlife and Water Resources.

H. 721

By Reps. Godin of Milton, Edwards of Brattleboro, Fitzgerald of St. Albans City, Gilbert of Fairfax, Manwaring of Wilmington, Martin of Springfield, Milkey of Brattleboro, Peltz of Woodbury, Potter of Clarendon, Shand of Weathersfield and Wheeler of Derby,

An act relating to state payment of interest for school construction funds borrowed in anticipation of state aid;

To the committee on Appropriations.

H. 722

By Reps. Smith of Moretown, Flory of Pittsford, Haas of Rochester and Jewett of Ripton,

An act relating to real property;

To the committee on Judiciary.

H. 723

By Rep. Komline of Dorset,

An act relating to school choice for students who have been subject to harassment;

To the committee on Education.

H. 724

By Reps. Perry of Richford, Branagan of Georgia, Canfield of Fair Haven, Gervais of Enosburg, Keenan of St. Albans City, McAllister of Highgate and McNeil of Rutland Town,

An act relating to the repeal of restrictions on the idling of school bus engines and of voluntary provisions related to the idling of other motor vehicle engines;

To the committee on Education.

H. 725

By Rep. Komline of Dorset,

An act relating to voting for a supervisory union budget;

To the committee on Education.

H. 726

By Rep. Milkey of Brattleboro,

An act relating to expansion of rebate for low income claimants;

To the committee on Ways and Means.

H. 727

By Rep. Sweaney of Windsor,

An act relating to drug testing in the workplace;

To the committee on General, Housing and Military Affairs.

H. 728

By Reps. Perry of Richford, Gilbert of Fairfax, Lawrence of Lyndon, McAllister of Highgate, McNeil of Rutland Town, Spengler of Colchester and Stevens of Shoreham (by request),

An act relating to requiring wearing of blaze orange during regular deer season;

To the committee on Fish, Wildlife and Water Resources.

H. 729

By Reps. Milkey of Brattleboro, Botzow of Pownal, Frank of Underhill, Haas of Rochester, Nuovo of Middlebury and Zuckerman of Burlington,

An act relating to hospice care and pain management;

To the committee on Health Care.

H. 730

By Reps. Perry of Richford, Branagan of Georgia, Consejo of Sheldon, Fitzgerald of St. Albans City, Gervais of Enosburg, Gilbert of Fairfax, Keenan of St. Albans City, McAllister of Highgate and Spengler of Colchester,

An act relating to the East Highgate dam on the Missisquoi river;

To the committee on Fish, Wildlife and Water Resources.

H. 731

By Reps. Andrews of Rutland City, Courcelle of Rutland City, Howard of Rutland City and McCormack of Rutland City,

An act relating to exempting municipalities from the permit fees for discharge permits and water supply permits;

To the committee on Ways and Means.

H. 732

By Reps. Johnson of Canaan, Allard of St. Albans Town, Audette of S. Burlington, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Condon of Colchester, Fitzgerald of St. Albans City, Helm of Castleton, Howrigan of Fairfield, Keenan of St. Albans City, McAllister of Highgate, McFaun of Barre Town, Peaslee of Guildhall, Turner of Milton and Wright of Burlington,

An act relating to repealing the requirement to reopen the total maximum daioly6 load plan for Lake Champlain;

To the committee on Fish, Wildlife and Water Resources.

H. 733

By Reps. Canfield of Fair Haven, Baker of West Rutland, Barnard of Richmond, Bissonnette of Winooski, Brennan of Colchester, Clerkin of Hartford, Evans of Essex, Fitzgerald of St. Albans City, Helm of Castleton, Komline of Dorset, Krawczyk of Bennington, McAllister of Highgate, McFaun of Barre Town, McNeil of Rutland Town, Pillsbury of Brattleboro, Potter of Clarendon and Valliere of Barre City,

An act relating to exempting motorboats used exclusively for racing from motorboat registration;

To the committee on Transportation.

H. 734

By Reps. Haas of Rochester and Lorber of Burlington,

An act relating to children of arrested and incarcerated parents;

To the committee on Human Services.

H. 735

By Rep. Lorber of Burlington,

An act relating to a bill of rights for children of arrested and incarcerated parents;

To the committee on Human Services.

H. 736

By Reps. Lorber of Burlington and Haas of Rochester,

An act relating to children of incarcerated parents;

To the committee on Institutions.

H. 737

By the committee on Appropriations,

An act relating to fiscal year 2008 budget adjustments;

Under the rule, placed on the Calendar for notice.

H. 738

By Reps. Scheuermann of Stowe, Browning of Arlington, Jewett of Ripton, Manwaring of Wilmington and Winters of Williamstown,

An act relating to approval of county budgets;

To the committee on Government Operations.

H. 739

By Reps. Komline of Dorset and Adams of Hartland,

An act relating to allowing large hydropower facilities to be included within the speed program definition of renewable energy;

To the committee on Natural Resources and Energy.

H. 740

By Rep. Perry of Richford,

An act relating to international border tourist information center;

To the committee on Commerce.

H. 741

By Reps. Nuovo of Middlebury, Stevens of Shoreham, Bray of New Haven, Cheney of Norwich, Edwards of Brattleboro, Fallar of Tinmouth, French of Randolph, Godin of Milton, Haas of Rochester, Hutchinson of Randolph, Mitchell of Barnard, Mrowicki of Putney, Pearson of Burlington, Pillsbury of Brattleboro, Randall of Troy and Zuckerman of Burlington,

An act relating to the repeal of the requirement that budgets in excess of the maximum inflation amount be presented to the voters as a divided question;

To the committee on Education.

H. 742

By Reps. Komline of Dorset and Adams of Hartland,

An act relating to current use penalty waiver for affordable housing development;

To the committee on Ways and Means.

H. 743

By Reps. Donovan of Burlington, Edwards of Brattleboro, Miller of Shaftsbury, Mrowicki of Putney, Pearson of Burlington and Spengler of Colchester,

An act relating to tax on plastic bags;

To the committee on Ways and Means.

H. 744

By Reps. Courcelle of Rutland City, Andrews of Rutland City, Evans of Essex, Howard of Rutland City, McCormack of Rutland City and Potter of Clarendon,

An act relating to homeowners' insurance coverage for cleanup and removal of trees that fall onto neighboring property;

To the committee on Commerce.

Bill Amended; Third Reading Ordered

H. 557

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

An act relating to postponing the sunset of the Fish and Wildlife Board's authority to adopt rules regulating the deer herd;

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

Sec. 1. Sec. 7 of No. 136 of the Acts of the 2003 Adj. Sess. (2004) is amended to read:

Sec. 7. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

(a) Sec. 1 of this act shall take effect on July 1, 2004. At that time, the governor shall appoint fish and wildlife board members to fill all terms which have expired as well as seven new members to ensure that each county is represented on the board. However, the governor shall appoint the new members to terms of two to six years in a way which ensures that no more than three and no fewer than two terms expire in any one year. After 2004, members shall be appointed to six-year terms.

(b) Secs. 2, 3, 4, and 5 of this act shall take effect on July 1, 2004. However, on passage of this act, the fish and wildlife board is authorized to adopt temporary rules regarding management of the deer herd and shall follow the procedures for rulemaking contained in chapter 25 of Title 3 to the extent reasonably possible. For each such rule, the board shall conduct a hearing but, when necessary, may schedule the hearing for a day before the terms of the rule are expected to be determined. Rules adopted under this subsection shall:

(1) make provision for a regular rifle hunting season pursuant to section 4741 of Title 10, and for an archery season and a muzzle loader season unless there is a scientific reason not to do so.

(2) remain in effect until the board has adopted permanent rules regarding management of the deer herd or July 1, 2005, whichever is sooner.

(c) Secs. 6 and 7 of this act shall take effect on passage.

(d) Secs. 2, 3, and 4 of this act are repealed on June 30, ~~2009~~ 2014.

Sec. 2. Sec. 5 of No. 136 of the Acts of the 2003 Adj. Sess. (2004) is amended to read:

Sec. 5. SUSPENSION

(a) The following sections of Title 10 shall not be in effect from July 1, 2004 through June 30, ~~2009~~ 2014:

(1) § 4743, relating to muzzle loader season.

(2) § 4744, relating to bow and arrow season.

(3) § 4753, relating to annual deer limit.

* * *

Sec. 3. 10 V.S.A. § 4705 is amended to read:

§ 4705. SHOOTING FROM MOTOR VEHICLES OR AIRCRAFT; PERMIT

(a) A person shall not take, or attempt to take, a wild animal by shooting from a motor vehicle, motorboat, airplane, snowmobile, or other motor propelled craft or any vehicle drawn by a motor propelled vehicle except as permitted under subsection (e) of this section.

(b) A person shall not carry or possess while in or on a vehicle propelled by mechanical power or drawn by a vehicle propelled by mechanical power within the right of way of a public highway a rifle or shotgun containing a loaded cartridge or shell in the chamber, mechanism, or in a magazine, or clip within a rifle or shotgun, or a muzzle-loading rifle or shotgun that has been charged with powder and projectile and the ignition system of which has been enabled by having an affixed or attached percussion cap, primer, battery, or priming powder, except as permitted under subsections (d) and (e) of this section. A person who possesses a rifle or shotgun in or on a vehicle propelled by mechanical power, or drawn by a vehicle propelled by mechanical power within a right of way of a public highway shall upon demand of an enforcement officer exhibit the firearm for examination to determine compliance with this section.

(c) A person while on or within ten feet of the traveled portion of a public highway shall not take or attempt to take any wild animal by shooting with a firearm or bow and arrow.

(d) This section shall not restrict the possession or use of a loaded firearm by an enforcement officer in performance of his duty.

(e) Subsection (a) of this section shall not apply to a licensed hunter who is a paraplegic or is certified by a physician to be unable to pursue game because of permanent severe physical disability, if he obtains a permit as provided in this subsection. The commissioner on receipt of satisfactory proof of the disability of an applicant may issue a permit under this subsection. This permit shall be attached to the license, and shall remain in effect until the death of the holder, unless the commissioner has reason to believe the permit is misused. The holder of the permit shall carry it at all times while hunting, and shall produce it on demand for inspection by any game warden or other law enforcement officer authorized to make arrests. The holder of the permit may take game from a vehicle or boat but only if it is stationary and off of a public

highway. In no event shall the holder of a permit shoot across the traveled portion of a public highway.

(f) The phrase "public highway," as used in this section, means roads shown on the highway maps of the respective towns, made by the agency of transportation, but does not include foot trails or private roads.

Sec. 4. 10 V.S.A. § 4502 is amended to read:

§ 4502. UNIFORM POINT SYSTEM; REVOCATION OF LICENSE

(a) A uniform point system which assigns points to those convicted of a violation of a provision of this part is established. The conviction report from the court shall be prima facie evidence of the points assessed. In addition to other penalties assessed for violation of fish and wildlife statutes, the commissioner shall suspend licenses issued under this part which are held by a person who has accumulated ten or more points in accordance with the provisions of subsection (c) of this section.

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in Title 10 of Vermont Statutes Annotated):

(1) Five points shall be assessed for any violation of statutes or rules adopted under this part except those listed in subdivisions (2) and (3) of this subsection.

(2) Ten points shall be assessed for:

(A) § 4148. Trespass on state property

* * *

(HH) § 4827. A black bear doing damage

(JJ) Appendix § 37, as it applied to annual deer limits.

(3) Twenty points shall be assessed for:

(A) § 4192. General powers and duties-failure to obey warden

* * *

(T) § 4521. Failure to stop

(U) Appendix § 37, excluding violations of annual deer limits, requirements for youth deer hunting weekend, and limitations on feeding of deer.

(4) In addition to other points assessed under this subsection, a person shall be assessed one point for each fish, bird, animal or pelt possessed, taken,

transported, bought or sold in excess of the limits established in statutes or rules adopted under this part.

(c) Licenses shall be suspended as follows:

(1) For ten to 14 points accumulated in five years-a one-year suspension.

(2) For 15 to 19 points accumulated in five years-a two-year suspension.

(3) For 20 or more points accumulated in five years-a three-year suspension.

* * *

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

Message from the Senate No. 12

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

Madam Speaker:

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

J.R.H. 47. Joint resolution designating the week of January 21, 2008 as Nurse Anesthetist Week.

And has adopted the same in concurrence.

The Governor has informed the Senate that on the twenty-eighth day of January, 2008, he approved and signed a bill originating in the Senate of the following title:

S. 318. An act relating to the authority of Vermont municipalities to acquire facilities and other assets.

Adjournment

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

WEDNESDAY, JANUARY 30, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend Jerry Breen of Worcester Methodist Church, Worcester.

House Bills Introduced

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

H. 745

By Reps. Sharpe of Bristol, Maier of Middlebury, Botzow of Pownal, Bray of New Haven, Fisher of Lincoln, Jewett of Ripton, Klein of East Montpelier, Nuovo of Middlebury and Stevens of Shoreham,

An act relating to the confidentiality of library patron records;

To the committee on Judiciary.

H. 746

By Reps. Fisher of Lincoln, Ancel of Calais, Aswad of Burlington, Bray of New Haven, Edwards of Brattleboro, French of Randolph, Hosford of Waitsfield, Jewett of Ripton, Klein of East Montpelier, Marek of Newfane, Martin of Springfield, Masland of Thetford, McCullough of Williston, Milkey of Brattleboro, Minter of Waterbury, Mitchell of Barnard, Mrowicki of Putney, Nuovo of Middlebury, Ojibway of Hartford, Pearson of Burlington, Pellett of Chester, Pillsbury of Brattleboro, Shand of Weathersfield, Sharpe of Bristol, Spengler of Colchester, Weston of Burlington, Zenie of Colchester and Zuckerman of Burlington,

An act relating to the withdrawal of Vermont National Guard military forces from Iraq and the federal deployment of the National Guard;

To the committee on Judiciary.

H. 747

By Reps. Valliere of Barre City, Acinapura of Brandon, Baker of West Rutland, Branagan of Georgia, Brennan of Colchester, Helm of Castleton, Komline of Dorset and Perry of Richford,

An act relating to express assumption of risk and release from liability;

To the committee on Judiciary.

H. 748

By Reps. Clark of Vergennes, Errecart of Shelburne, Barnard of Richmond, Mook of Bennington, Gilbert of Fairfax, McDonald of Berlin, Oxholm of Vergennes and Peltz of Woodbury,

An act relating to permitting students to possess and self-administer life-saving medicine;

To the committee on Education.

H. 749

By Rep. Ancel of Calais,

An act relating to the slaughter of livestock;

To the committee on Agriculture.

Joint Resolution Referred to Committee

J.R.H. 48

Rep. Obuchowski of Rockingham offered a joint resolution, entitled

Joint resolution requesting Comcast Inc. to forgo its proposed cable television rate increase;

Whereas, Vermonters have come to rely on cable television as a relatively affordable source of news, public affairs, sports, and other types of information and entertainment, and

Whereas, cable television enables viewers to witness historic events, watch and cheer for their favorite athletic teams, and see drama and music presentations that they would never be able to view otherwise, and

Whereas, as the economic situation becomes more perilous, Vermonters may have no choice but to tighten their budgets and scale back or eliminate completely their cable television subscriptions, and

Whereas, given the great benefit that Vermonters derive from cable television, they are hoping there will not be a need to forgo cable television subscriptions which in many areas, given Vermont's mountainous geography, would mean the loss of even the most basic local station coverage, and

Whereas, Comcast Inc. is now the vendor providing cable television service for much of the state, and

Whereas, the company has recently published new rate increases that are scheduled to take effect on February 1, 2008, and

Whereas, included in these increases are two-dollar-per-instance increases for the reinstallation of a cable connection and for the installation of an additional outlet at the time of a reinstallation or an initial installation, and

Whereas, even higher rate increases of \$3.00 per month were announced for a standard cable subscription, one of the most popular service options for cable

subscribers, and for the digital service that an increasing number of viewers are choosing as television transmission is rapidly switching from the analogue to digital mode, and

Whereas, increases of this magnitude will be a burden on many Vermonters at this time of economic uncertainty with the result that Comcast may lose customers and end up with less revenue than it projects to receive from the rate increases, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests that Comcast Inc. forgo its proposed cable television rate increases, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Sena Fitzmaurice, senior director of corporate communications and government affairs at Comcast Inc. in Philadelphia.

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

Third Reading; Bill Passed

H. 557

House bill, entitled

An act relating to postponing the sunset of the Fish and Wildlife Board authority to adopt rules regulating the deer herd;

Was taken up, read the third time and passed.

Action on Bill Postponed

H. 691

House bill, entitled

An act relating to executive and judicial branch fees;

Was taken up and pending second reading of the bill, on motion of **Rep. Branagan of Georgia**, action on the bill was postponed until the next legislative day.

Message from the Senate No. 13

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

Madam Speaker:

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

S. 343. An act relating to the partnership for long-term care program.

S. 351. An act relating to consolidating management of public records.

S. 355. An act relating to debt financing for the Vermont housing finance agency

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

Adjournment

At one o'clock and thirty minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at one o'clock and thirty minutes in the afternoon.

THURSDAY, JANUARY 31, 2008

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

Devotional Exercises

Devotional exercises were conducted by Rep. Thomas Koch of Barre Town.

House Bills Introduced

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

H. 750

By the committee on Health Care,

An act relating to prescription drug pricing and information;

Under the rule, placed on the Calendar for notice.

H. 751

By Reps. Howrigan of Fairfield, Consejo of Sheldon, Fallar of Tinmouth, McCormack of Rutland City, Mrowicki of Putney, Shand of Weathersfield, Trombley of Grand Isle and Turner of Milton,

An act relating to volunteer fire and rescue workers' tax credit;

To the committee on Ways and Means.

H. 752

By Reps. French of Randolph, Head of South Burlington, McCormack of Rutland City, Spengler of Colchester and Trombley of Grand Isle,

An act relating to income tax checkoff for Alzheimer's commission donations;

To the committee on Ways and Means.

H. 753

By Rep. Malcolm of Pawlet,

An act relating to quitclaim deeds;

To the committee on Judiciary.

H. 754

By Reps. Marek of Newfane and Obuchowski of Rockingham,

An act relating to human trafficking;

To the committee on Judiciary.

H. 755

By Reps. Potter of Clarendon, Helm of Castleton, Bray of New Haven, Copeland-Hanzas of Bradford, Leriche of Hardwick, Marcotte of Coventry, Botzow of Pownal, Clarkson of Woodstock, Evans of Essex, Fisher of Lincoln, Haas of Rochester, Jewett of Ripton, Malcolm of Pawlet, McCullough of Williston, Mook of Bennington, Peltz of Woodbury, Perry of Richford, Randall of Troy, Sharpe of Bristol and Stevens of Shoreham,

An act relating to economic development of the forestry and forest products industries;

To the committee on Agriculture.

H. 756

By Reps. Potter of Clarendon, Helm of Castleton, Bray of New Haven, Copeland-Hanzas of Bradford, Leriche of Hardwick, Marcotte of Coventry, Botzow of Pownal, Clarkson of Woodstock, Evans of Essex, Haas of Rochester, Jewett of Ripton, Malcolm of Pawlet, McCullough of Williston, Mook of Bennington, Peltz of Woodbury, Perry of Richford, Randall of Troy, Sharpe of Bristol and Stevens of Shoreham,

An act relating to workers' compensation fraud in the forestry and forest products industries;

To the committee on Commerce.

H. 757

By Reps. Potter of Clarendon, Helm of Castleton, Bray of New Haven, Copeland-Hanzas of Bradford, Leriche of Hardwick, Marcotte of Coventry,

Botzow of Pownal, Clarkson of Woodstock, Evans of Essex, Fisher of Lincoln, Haas of Rochester, Jewett of Ripton, Malcolm of Pawlet, McCullough of Williston, Mook of Bennington, Peltz of Woodbury, Perry of Richford, Randall of Troy and Stevens of Shoreham,

An act relating to amending the Vermont Agricultural Credit Program to include forestry and forest products manufacturing;

To the committee on Agriculture.

H. 758

By Reps. Potter of Clarendon, Helm of Castleton, Bray of New Haven, Copeland-Hanzas of Bradford, Leriche of Hardwick, Marcotte of Coventry, Botzow of Pownal, Clarkson of Woodstock, Evans of Essex, Haas of Rochester, Jewett of Ripton, Malcolm of Pawlet, McCullough of Williston, Mook of Bennington, Peltz of Woodbury, Randall of Troy, Sharpe of Bristol and Stevens of Shoreham,

An act relating to the parcelization of Vermont forests;

To the committee on Natural Resources and Energy.

H. 759

By Reps. Potter of Clarendon, Helm of Castleton, Bray of New Haven, Copeland-Hanzas of Bradford, Leriche of Hardwick, Marcotte of Coventry, Botzow of Pownal, Clarkson of Woodstock, Evans of Essex, Haas of Rochester, Jewett of Ripton, Malcolm of Pawlet, McCullough of Williston, Mook of Bennington, Peltz of Woodbury, Perry of Richford, Randall of Troy, Sharpe of Bristol and Stevens of Shoreham,

An act relating to encouraging biomass energy production;

To the committee on Natural Resources and Energy.

H. 760

By Reps. Gilbert of Fairfax, Allard of St. Albans Town, Anderson of Montpelier, Atkins of Winooski, Barnard of Richmond, Bissonnette of Winooski, Branagan of Georgia, Clark of Vergennes, Clerkin of Hartford, Consejo of Sheldon, Errecart of Shelburne, Fallar of Tinmouth, Fitzgerald of St. Albans City, French of Randolph, Gervais of Enosburg, Godin of Milton, Howrigan of Fairfield, Johnson of South Hero, Keenan of St. Albans City, LaVoie of Swanton, Lenes of Shelburne, McAllister of Highgate, McDonald of Berlin, Mitchell of Barnard, Mook of Bennington, Moran of Wardsboro, Mrowicki of Putney, Oxholm of Vergennes, Pearson of Burlington, Pellett of Chester, Peltz of Woodbury, Perry of Richford, Pillsbury of Brattleboro, Potter

of Clarendon, Smith of Morristown, Spengler of Colchester, Stevens of Shoreham, Trombley of Grand Isle, Turner of Milton, Wheeler of Derby and Zenie of Colchester,

An act relating to granting postsecondary credit for successful completion of advanced placement courses, dual enrollment courses, and postsecondary courses completed through an on-line or correspondence course offered by an accredited postsecondary institution;

To the committee on Education.

H. 761

By Rep. Larson of Burlington,

An act relating to Medicaid liens;

To the committee on Health Care.

H. 762

By Reps. Dostis of Waterbury and Chen of Mendon,

An act relating to healthy students;

To the committee on Health Care.

H. 763

By Rep. Bray of New Haven,

An act relating to tracking agency reports requested by the Legislature;

To the committee on Government Operations.

H. 764

By Reps. Valliere of Barre City, Ainsworth of Royalton, Clark of St. Johnsbury, Koch of Barre Town, Krawczyk of Bennington, Lawrence of Lyndon, McFaun of Barre Town, Perry of Richford and Winters of Williamstown,

An act relating to expanded eligibility for Vermont veterans' medal;

To the committee on General, Housing and Military Affairs.

Senate Bills Referred

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

S. 343

Senate bill, entitled

An act relating to the partnership for long-term care program;
To the committee on Human Services.

S. 351

Senate bill, entitled

An act relating to consolidating management of public records;
To the committee on Government Operations.

S. 355

Senate bill, entitled

An act relating to debt financing for the Vermont housing finance agency;
To the committee on General, Housing and Military Affairs.

Message from the Senate No. 14

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

Madam Speaker:

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

S. 107. An act relating to mapping class four town highways and trails and mass discontinuances of unmapped town highways.

S. 284. An act relating to the department of banking, insurance, securities , and health care administration.

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

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

J.R.S. 48. Joint resolution relating to weekend adjournment.

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

Rep. Jewett of Ripton in Chair.

Bill Read Second Time; Third Reading Ordered

H. 691

Rep. Branagan of Georgia spoke for the committee on Ways and Means.

House bill entitled

An act relating to executive and judicial branch fees;
Was taken up, read the second time and third reading ordered.

Speaker Symington in Chair.

Bill Read Second Time; Third Reading Ordered

H. 737

Rep. Heath of Westford spoke for the committee on Appropriations.

House bill entitled

An act relating to fiscal year 2008 budget adjustments;

Having appeared on the Calendar one day for notice, was taken up, read the second time and pending the question, Shall the bill be read the third time?

Rep. Komline of Dorset moved to amend the bill as follows:

First: By striking Sec. 8 in its entirety and inserting in lieu thereof the following:

Sec. 8. Sec. 37 of No. 65 of the Acts of 2007 is amended to read:

Sec. 37. Legislature

Personal services	3,904,123	2,940,323
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Operating expenses	2,899,885	2,920,885
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Total	6,804,008	5,861,208
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Source of funds

General fund	6,804,008	5,861,208
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* * *

~~(b) It is the intent of the general assembly that funding for the legislature in fiscal year 2009 and beyond be included at a level sufficient to support an 18 week legislative session.~~

(b) It is the intent of the general assembly that the 2008 legislative session shall adjourn on April 12, 2008 and that funding for the legislature in fiscal year 2009 and beyond be included at a level sufficient to support a 14 week session.

Second: By adding a new Sec. 8a to read:

Sec. 8a. Fiscal Year 2008 LIHEAP Appropriation

The sum of \$1,000,000.00 shall be appropriated from the general fund to the department for children and families for home heating fuel assistance/LIHEAP. The funds appropriated in this section shall be expended during fiscal year 2008.

Pending the question, Shall the House amend the bill as recommended by Rep. Komline of Dorset? **Rep. Donaghy of Poultney** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by Rep. Komline of Dorset? was decided in the negative. Yeas, 36, Nays, 104.

Those who voted in the affirmative are:

Ainsworth of Royalton	Kilmartin of Newport City	McNeil of Rutland Town
Baker of West Rutland	Koch of Barre Town	Morrissey of Bennington
Branagan of Georgia	Komline of Dorset	Myers of Essex
Brennan of Colchester	Krawczyk of Bennington	O'Donnell of Vernon
Canfield of Fair Haven	Larocque of Barnet	Oxholm of Vergennes
Clark of Vergennes	Larrabee of Danville	Peaslee of Guildhall
Clerkin of Hartford	Lawrence of Lyndon	Scheuermann of Stowe
Devereux of Mount Holly	Livingston of Manchester	Stevens of Shoreham
Donaghy of Poultney	Marcotte of Coventry	Turner of Milton
Errecart of Shelburne	McAllister of Highgate	Valliere of Barre City
Flory of Pittsford	McDonald of Berlin	Winters of Williamstown
Johnson of Canaan	McFaun of Barre Town	Wright of Burlington

Those who voted in the negative are:

Acinapura of Brandon	Dostis of Waterbury	Keogh of Burlington
Allard of St. Albans Town	Edwards of Brattleboro	Kitzmiller of Montpelier
Ancel of Calais	Emmons of Springfield	Klein of East Montpelier
Anderson of Montpelier	Evans of Essex	Kupersmith of S. Burlington
Andrews of Rutland City	Fallar of Tinmouth	Larson of Burlington
Aswad of Burlington	Fisher of Lincoln	Lenes of Shelburne
Atkins of Winooski	Fitzgerald of St. Albans City	Leriche of Hardwick
Audette of S. Burlington	Frank of Underhill	Lippert of Hinesburg
Barnard of Richmond	French of Randolph	Lorber of Burlington
Bissonnette of Winooski	Gervais of Enosburg	Maier of Middlebury
Bostic of St. Johnsbury	Gilbert of Fairfax	Malcolm of Pawlet
Botzow of Pownal	Godin of Milton	Manwaring of Wilmington
Bray of New Haven	Grad of Moretown	Marek of Newfane
Browning of Arlington	Haas of Rochester	Martin, C. of Springfield
Chen of Mendon	Head of S. Burlington	Martin of Wolcott
Cheney of Norwich	Heath of Westford	Masland of Thetford
Clarkson of Woodstock	Helm of Castleton	McCormack of Rutland City
Condon of Colchester	Hosford of Waitsfield	McCullough of Williston
Consejo of Sheldon	Howard of Rutland City	Milkey of Brattleboro
Copeland-Hanzas of Bradford	Howrigan of Fairfield	Miller of Shaftsbury
Corcoran of Bennington	Hunt of Essex	Minter of Waterbury
Courcelle of Rutland City	Hutchinson of Randolph	Mitchell of Barnard
Deen of Westminster	Jerman of Essex	Monti of Barre City
Donahue of Northfield	Jewett of Ripton	Mook of Bennington
Donovan of Burlington	Johnson of South Hero	Moran of Wardsboro
	Keenan of St. Albans City	Morley of Barton

Mrowicki of Putney	Pellett of Chester	Shand of Weathersfield
Nease of Johnson	Peltz of Woodbury	Sharpe of Bristol
Nuovo of Middlebury	Perry of Richford	Smith of Morristown
Obuchowski of Rockingham	Peterson of Williston	Spengler of Colchester
Ojibway of Hartford	Pillsbury of Brattleboro	Sweaney of Windsor
Orr of Charlotte	Potter of Clarendon	Trombley of Grand Isle
Otterman of Topsham	Pugh of S. Burlington	Weston of Burlington
Partridge of Windham	Randall of Troy	Zenie of Colchester
Pearson of Burlington	Rodgers of Glover	Zuckerman of Burlington

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

Adams of Hartland	Hube of Londonderry	Westman of Cambridge
Clark of St. Johnsbury	LaVoie of Swanton	Wheeler of Derby
Davis of Washington	Shaw of Derby	

Thereupon, third reading was ordered.

Bill Amended; Third Reading Ordered

H. 575

Rep. Marcotte of Coventry, for the committee on Commerce, to which had been referred House bill, entitled

An act relating to small eligible telecommunications carriers;

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

Sec. 1. 30 V.S.A. § 227d is amended to read:

§ 227d. SMALL ELIGIBLE TELECOMMUNICATIONS CARRIERS

(a) A carrier which serves fewer than ten percent of subscriber lines installed in the aggregate statewide and has been designated as an eligible telecommunications carrier in a service area where a competitive eligible telecommunications carrier has also been designated may, by providing written notice to the public service board and to the department of public service, elect to be exempted from one or more of the regulatory requirements under sections 104, 105, 108, 225, 226, 227, 229, and 230, and 247 of this title, except for purposes of E-911 services, for switched or dedicated access to the local exchange by providers of long distance telephone service or for rates for utility pole attachments. For the purposes of this subsection, "eligible telecommunications carrier" means a telecommunications carrier designated eligible pursuant to 47 U.S.C. § 214(e).

(b) For any carrier that elects exemption under subsection (a) of this section:

(1) The carrier shall provide notice of its election to its existing customers within 30 days of its election and to any new customer at the time the new customer requests service from the carrier.

(2) The carrier shall maintain ~~the rate schedules that were required prior to the carrier's election~~ and upon request shall provide notice of any change to such rate schedules to the board and the department for informational purposes only.

(A) Notice of increases of rates for services offered by the carrier on or before June 30, 2005, shall be made at least 30 days in advance to the board and department.

(B) The carrier shall not withdraw any service subject to the jurisdiction of the board which it offered on June 30, 2005, without at least 30 days' advance notice to customers, the board, and the department.

(C) Rate schedules which are exempted from approval by the board under this section shall not have the effect of a tariff.

(3) ~~The board shall have continuing regulatory authority over service quality standards; access to carriers of long distance telecommunications services; customer deposits; disconnection of residential and nonresidential services; billing practices and procedures; access to emergency services; access to operators' services; access to directory services; the requirement under subsection 218(a) of this title that rates be just, reasonable, and nondiscriminatory; and the nine supported services required under 47 U.S.C. § 214(e) as related to basic exchange telecommunications service. For purposes of this subsection, "basic exchange telecommunications service" means the provision of publicly switched, voice grade interactive telecommunications services between or among two or more end-users, where a single central office provides that service to those two or more end-users any matter under its jurisdiction for which the authority of the board is not specifically limited by this section.~~

(4) The carrier shall not condition the purchase of basic exchange telecommunications service upon the purchase or subscription to bundles of or any combination of telecommunication services other than the one access line required for the provision of such service. For purposes of this subsection, "basic exchange telecommunications service" means the provision of publicly switched, voice grade interactive telecommunications services between or among two or more end users, where a single central office provides that service to those two or more end users.

(5) The carrier shall limit its prices as follows:

(A) the carrier shall not increase its price for basic exchange telecommunications service during the first year following such election ~~and;~~ during the second and third years following the end of the year in which the carrier has made such election, the carrier shall not increase its price for basic exchange telecommunications service by more than nine percent or by \$1.50, whichever is less; and during the fourth and fifth years following the end of the year in which the carrier has made such election, the carrier shall not increase its price for basic exchange telecommunications service by more than 11 percent or by \$2.00, whichever is less;

* * *

(c) Upon petition by the department, the board shall and upon its own initiative the board may investigate whether it should impose or reimpose any regulatory requirements which the carrier has elected out of pursuant to subsection (a) of this section. If the board finds, after notice and an opportunity for hearing, and, after considering the factors identified in subsection 227c(c) of this title, that the public is not sufficiently protected, the board may impose or reimpose any of the regulatory provisions listed in subsection (a) of this section. Pending any final order and subject to the provisions of section 12 of this title, the board may impose or reimpose any of the regulatory provisions listed in subsection (a) of this section on a temporary basis as it determines is just and reasonable. Upon petition of the carrier and after notice and opportunity for hearing, the board may modify, reduce, or suspend any regulatory requirement it has reimposed on the carrier.

Sec. 2. REPEAL

Sec. 2 of No. 73 of the Acts of 2005 (repeal of section 227d of Title 30) as amended by Sec. 17b of No. 79 of the Acts of 2007 is repealed.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

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

Bill Amended; Third Reading Ordered

H. 665

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

An act relating to political party state committee membership;

Reported in favor of its passage when amended as follows:

By adding a Sec. 2 as follows:

Sec. 2. EFFECTIVE DATE

This act shall take effect upon passage.

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

Favorable Report; Third Reading Ordered

H. 669

Rep. Bissonnette of Winooski, for the committee on Commerce, to which had been referred House bill, entitled

An act relating to the Vermont Historic Downtown;

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.

Adjournment

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

FRIDAY, FEBRUARY 1, 2008

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

Devotional Exercises

Devotional exercises were conducted by **Reverend Paul Hoffman** of the United Methodist Church in Northfield.

House Bills Introduced

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

H. 765

By Reps. Clark of Vergennes and Smith of Morristown,

An act relating to homestead property tax exemption;

To the committee on Ways and Means.

H. 766

By Reps. Fisher of Lincoln, Donahue of Northfield, Haas of Rochester and Pugh of South Burlington,

An act relating to mental health care provider shared service agreements;

To the committee on Health Care.

H. 767

By Reps. Fisher of Lincoln, Haas of Rochester, Masland of Thetford, Nuovo of Middlebury and Sharpe of Bristol,

An act relating to physical improvements to residential care homes;

To the committee on Human Services.

H. 768

By Rep. Errecart of Shelburne,

An act relating to beer tasting;

To the committee on General, Housing and Military Affairs.

H. 769

By Reps. Milkey of Brattleboro, Branagan of Georgia, French of Randolph, Klein of East Montpelier, Lenes of Shelburne, Manwaring of Wilmington, McAllister of Highgate, Minter of Waterbury, Morrissey of Bennington and Nuovo of Middlebury,

An act relating to regulation of commercial dog breeders in Vermont;

To the committee on Government Operations.

H. 770

By Rep. LaVoie of Swanton (By Request),

An act relating to hardwiring smoke and carbon monoxide detectors in homes;

To the committee on General, Housing and Military Affairs.

H. 771

By Rep. LaVoie of Swanton,

An act relating to write-in candidates;

To the committee on Government Operations.

H. 772

By Rep. LaVoie of Swanton,

An act relating to prohibiting smoking in motor vehicles when children are present;

To the committee on Human Services.

H. 773

By Rep. LaVoie of Swanton,

An act relating to a pilot project on interstate 89;

To the committee on Transportation.

H. 774

By Rep. Fisher of Lincoln,

An act relating to a reduction of the registration fee when payment is made with a state check;

To the committee on Transportation.

H. 775

By Reps. Kupersmith of S. Burlington, Bissonnette of Winooski, Botzow of Pownal, Clerkin of Hartford, Consejo of Sheldon, Davis of Washington, Kitzmiller of Montpelier, Livingston of Manchester, Marcotte of Coventry and Shand of Weathersfield,

An act relating to low-profit limited liability companies;

To the committee on Commerce.

H. 776

By Reps. Moran of Wardsboro and Howrigan of Fairfield,

An act relating to computation of the basic needs budget and the livable wage;

To the committee on General, Housing and Military Affairs.

H. 777

By Rep. Pugh of South Burlington,

An act relating to certificate of need program;

To the committee on Health Care.

H. 778

By Reps. French of Randolph, Donahue of Northfield, Haas of Rochester and Hutchinson of Randolph,

An act relating to delaying the requirement that budgets in excess of the maximum inflation amount be presented to the voters as a divided question;

To the committee on Education.

H. 779

By Reps. French of Randolph, Donahue of Northfield, Haas of Rochester and Hutchinson of Randolph,

An act relating to exclusion of approved school construction costs and of amounts deposited into a construction reserve fund from the calculations of the maximum inflation amount;

To the committee on Education.

H. 780

By Reps. French of Randolph, Donahue of Northfield, Haas of Rochester and Hutchinson of Randolph,

An act relating to requiring that warnings and ballots for school budgets are substantively the same as the "Divided vote" provisions required in No. 82 of the Acts of 2007;

To the committee on Education.

H. 781

By Rep. Pugh of South Burlington,

An act relating to the availability of state-funded innovations in developing countries;

To the committee on Institutions.

H. 782

By Reps. French of Randolph and Hutchinson of Randolph,

An act relating to school buses;

To the committee on Education.

H. 783

By Reps. Keenan of St. Albans City, Baker of West Rutland, Bissonnette of Winooski, Bostic of St. Johnsbury, Botzow of Pownal, Consejo of Sheldon, Godin of Milton, Howrigan of Fairfield, Hunt of Essex, Kitzmiller of

Montpelier, Larson of Burlington, McCormack of Rutland City, Morley of Barton, Shand of Weathersfield, Trombley of Grand Isle, Turner of Milton and Zenie of Colchester,

An act relating to home improvement fraud;

To the committee on Judiciary.

H. 784

By Reps. Peltz of Woodbury, Barnard of Richmond, Botzow of Pownal, Chen of Mendon, Clark of Vergennes, Clarkson of Woodstock, Donovan of Burlington, Dostis of Waterbury, Fitzgerald of St. Albans City, Gilbert of Fairfax, Godin of Milton, Jewett of Ripton, Kilmartin of Newport City, Klein of East Montpelier, Ancel of Calais, Leriche of Hardwick, Malcolm of Pawlet, Martin of Wolcott, McDonald of Berlin, Mook of Bennington, Oxholm of Vergennes, Potter of Clarendon, Trombley of Grand Isle and Westman of Cambridge,

An act relating to energy conservation in public schools;

To the committee on Natural Resources and Energy.

H. 785

By Rep. Ancel of Calais,

An act relating to encouraging secondary students to pursue postsecondary education or training;

To the committee on Education.

H. 786

By Reps. Scheuermann of Stowe, Brennan of Colchester, Komline of Dorset, Larrabee of Danville, Smith of Morristown and Westman of Cambridge,

An act relating to the liquor control board, the alcoholic content of malt beverages, and sharing inventory between certain licensees;

To the committee on General, Housing and Military Affairs.

H. 787

By Rep. Morley of Barton,

An act relating to uninsured motorist coverage;

To the committee on Commerce.

H. 788

By Reps. Cheney of Norwich, Krawczyk of Bennington, Ancel of Calais, Audette of S. Burlington, Baker of West Rutland, Brennan of Colchester, Canfield of Fair Haven, Clerkin of Hartford, Donaghy of Poultney, Dostis of Waterbury, Edwards of Brattleboro, Fitzgerald of St. Albans City, Flory of Pittsford, Godin of Milton, Head of S. Burlington, Keogh of Burlington, Kitzmiller of Montpelier, Klein of East Montpelier, Komline of Dorset, Larocque of Barnet, LaVoie of Swanton, Lawrence of Lyndon, Leriche of Hardwick, Livingston of Manchester, Malcolm of Pawlet, Manwaring of Wilmington, Marek of Newfane, Martin of Springfield, Masland of Thetford, Milkey of Brattleboro, Mitchell of Barnard, Monti of Barre City, Moran of Wardsboro, Morrissey of Bennington, Myers of Essex, Nuovo of Middlebury, O'Donnell of Vernon, Oxholm of Vergennes, Pellett of Chester, Rodgers of Glover, Shand of Weathersfield, Sharpe of Bristol, Smith of Morristown, Sweaney of Windsor, Valliere of Barre City, Weston of Burlington, Winters of Williamstown, Wright of Burlington and Zenie of Colchester,

An act relating to awarding moose permits to Vermont veterans of Afghanistan and Iraq;

To the committee on Fish, Wildlife and Water Resources.

H. 789

By Rep. Howard of Rutland City,

An act relating to voluntary intoxication;

To the committee on Judiciary.

Senate Bills Referred

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

S. 107

Senate bill, entitled

An act relating to mapping class four town highways and trails and mass discontinuances of unmapped town highways;

To the committee on Transportation.

S. 284

Senate bill, entitled

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

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

Joint Resolution Adopted in Concurrence

J.R.S. 48

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Shumlin,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 1, 2008, it be to meet again no later than Tuesday, February 5, 2008.

Was taken up read and adopted in concurrence.

Third Reading; Bills Passed

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

H. 575

House bill, entitled

An act relating to small eligible telecommunications carriers;

H. 665

House bill, entitled

An act relating to political party state committee membership;

H. 669

House bill, entitled

An act relating to the Vermont Historic Downtown;

Read Third Time and Passed

H. 691

House bill, entitled

An act relating to executive and judicial branch fees;

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

By inserting Sec. 16a to read:

Sec. 16a. 4 V.S.A. § 509 is added to read:

§ 509. TEMPORARY JUSTICE OF THE PEACE FOR PERFORMING A MARRIAGE

(a) Any individual, after signing and filing his or her official oath under section 491 of this chapter, may be registered as a justice of the peace for the limited purpose of performing a marriage pursuant to 18 V.S.A § 5144.

(b) A fee of \$100.00 shall be assessed for each marriage performed under this section.

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

Bill Amended, Read Third Time and Passed

H. 737

House bill, entitled

An act relating to fiscal year 2008 budget adjustment;

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

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

Sec. 5. Sec. 20 of No. 65 of the Acts of 2007 is amended to read:

Sec. 20. Buildings and general services-information centers

* * *

(a) Of the above appropriation, \$50,000 in special funds is appropriated to facilitate private fund raising for improvements to the state house in accordance with the conceptual plan dated January 13, 2006. No naming opportunities shall be offered in connection with fund raising efforts. These funds may not be used to supplant any existing personal service or operating expenses in state government.

Second: In Sec. 79(a)(1), at the end of the fund line "21993 VT Film Production Incentive 36,731" by adding the word: Approx.

Third: In Sec. 82, subsections (a) and (b) by striking out the words "for expenditure"

Fourth: In Sec. 83, in the last sentence, by striking out the words "deficit spending" and inserting in lieu thereof the words: spending in anticipation of receipts

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

Action on Bill Postponed

H. 267

House bill, entitled

An act relating to industrial hemp;

Was taken up and pending the reading of the report of the committee on Agriculture, on motion of **Rep. Stevens of Shoreham**, action on the bill was postponed until Thursday, February 7, 2008.

Adjournment

At ten o'clock and twenty minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, February 5, 2008, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 48.

Concurrent Resolutions Adopted

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

H.C.R. 199

House concurrent resolution in memory of former South Burlington Representative Theodore Riehle Jr.

H.C.R. 200

House concurrent resolution in memory of Rutland City Deputy Fire Chief Michael Walsh

H.C.R. 201

House concurrent resolution in memory of former Washington County side judge Paul H. Guare of Montpelier

H.C.R. 202

House concurrent resolution congratulating the Vergennes High School Commodores 2007 Division II championship baseball team

H.C.R. 203

House concurrent resolution congratulating the 2007 Poultney High School Blue Devils Division III championship football team

H.C.R. 204

House concurrent resolution wishing the New England Patriots good luck in Super Bowl XLII

H.C.R. 205

House concurrent resolution honoring Tom Frazier for his quarter-century-plus of outstanding local and regional public service on behalf of the town of Roxbury

S.C.R. 27.

Senate concurrent resolution congratulating the 2007 South Burlington High School Rebels girls' lacrosse Division I championship team.

S.C.R. 28.

Senate concurrent resolution congratulating the 2007 South Burlington High School Rebels Division I championship boys' tennis team.

S.C.R. 29.

Senate concurrent resolution congratulating the 2007 South Burlington High School Rebels Division I championship baseball team.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2008, sixty-ninth Adjourned session]

TUESDAY, FEBRUARY 5, 2008

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

Devotional Exercises

Devotional exercises were conducted by **Rep. William Aswad** of Burlington.

Pledge of Allegiance

Page Theresa Kehne of Calais led the House in the Pledge of Allegiance.

Message from the Senate No. 15

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

Madam Speaker:

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

S.C.R. 27. Senate concurrent resolution congratulating the 2007 South Burlington High School Rebels girls' lacrosse Division I championship team.

S.C.R. 28. Senate concurrent resolution congratulating the 2007 South Burlington High School Rebels Division I championship boys' tennis team.

S.C.R. 29. Senate concurrent resolution congratulating the 2007 South Burlington High School Rebels Division I championship baseball team.

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

H.C.R. 199. House concurrent resolution in memory of former South Burlington Representative Theodore Riehle Jr.

H.C.R. 200. House concurrent resolution in memory of Rutland City Deputy Fire Chief Michael Walsh.

H.C.R. 201. House concurrent resolution in memory of former Washington County side judge Paul H. Guare of Montpelier.

H.C.R. 202. House concurrent resolution congratulating the Vergennes High School Commodores 2007 Division II championship baseball team.

H.C.R. 203. House concurrent resolution congratulating the 2007 Poultney High School Blue Devils Division III championship football team.

H.C.R. 204. House concurrent resolution wishing the New England Patriots good luck in Super Bowl XLII.

H.C.R. 205. House concurrent resolution honoring Tom Frazier for his quarter-century-plus of outstanding local and regional public service on behalf of the town of Roxbury.

Communication From Rep. Loren T. Shaw

"January 28, 2008
Rep. Loren T. Shaw
320 Foxwood Lane
Derby, VT 05829

Governor James H. Douglas
109 State Street
Montpelier, Vermont 05609-0101

Dear Governor Douglas;

Let this letter serve as my resignation *effective* March 01, 2008. In January 2008, I accepted a full time driving position with Premier Coach, Colchester, Vermont, which includes extensive travel throughout the U.S. and Canada.

I write this letter after careful consideration and respect for my elected position of Vermont State Representative for Orleans, District one, representing Brownington, Charleston, Derby, Holland and Morgan. I am so grateful to my constituents, and the support that they have given me over the past eight years. I am also grateful for your open door policy, and all the help that I have received from you and your staff over the years of my serving. We might have not always agreed, but you have always listened to what I had to say, and with respect and dignity for my thoughts on issues, that were near and dear to my heart.

I thank former House Speaker Freed for giving me four years of General Housing and Military Affairs, and I'm also pleased that House Speaker Symington appointed me to serve on the Fish, Wildlife and Water Resources Committee, and for putting her trust in me to serve my last two years as Vice - Chair.

My prayers will always be with you, while making the hard decisions facing you this session, and probably many sessions to come. I am about to witness an enormous void in my heart, but there will always be a place there for you. I will miss you, my colleagues, and the friendship that you have extended to me over the past eight years.

Most Sincerely Yours,
Rep. Loren T. Shaw
Derby"

House Bills Introduced

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

H. 790

By Rep. Martin of Wolcott,
An act relating to void contracts;
To the committee on Commerce.

H. 791

By Rep. Jewett of Ripton,

An act relating to eliminating the statute of limitations for sexual offenses committed upon a child;

To the committee on Judiciary.

H. 792

By Rep. Nease of Johnson,

An act relating to the adoption of municipal bylaws;

To the committee on Government Operations.

H. 793

By Rep. Errecart of Shelburne,

An act relating to establishing the Vermont Carbon Offset Fund;

To the committee on Natural Resources and Energy.

H. 794

By Reps. Howard of Rutland City and Peterson of Williston,

An act relating to state-level collection of the education property tax;

To the committee on Ways and Means.

H. 795

By Reps. Adams of Hartland, Koch of Barre Town, Larocque of Barnet, McFaun of Barre Town, Valliere of Barre City and Winters of Williamstown,

An act relating to special registration plates for veterans for use on motorcycles;

To the committee on Transportation.

H. 796

By Rep. Helm of Castleton,

An act relating to increasing the number of customers at a wine tasting event;

To the committee on General, Housing and Military Affairs.

H. 797

By Reps. Marcotte of Coventry and Morley of Barton,

An act relating to legislative compensation;

To the committee on Government Operations.

H. 798

By Reps. Barnard of Richmond, McDonald of Berlin, Kitzmiller of Montpelier, Aswad of Burlington, Atkins of Winooski, Clarkson of Woodstock, Devereux of Mount Holly, Donovan of Burlington, Evans of Essex, Gilbert of Fairfax, Hosford of Waitsfield, Kilmartin of Newport City, Koch of Barre Town, LaVoie of Swanton, Lenex of Shelburne, Lippert of Hinesburg, Livingston of Manchester, Masland of Thetford, McCullough of Williston, McFaun of Barre Town, Minter of Waterbury, Mook of Bennington, Myers of Essex, Nuovo of Middlebury, Oxholm of Vergennes, Pearson of Burlington, Peltz of Woodbury, Pugh of S. Burlington, Sweaney of Windsor and Valliere of Barre City,

An act relating to mammography patient cost containment;

To the committee on Health Care.

H. 799

By Rep. Kitzmiller of Montpelier,

An act relating to independent contractors, misclassification, and fraud in workers' compensation;

To the committee on Commerce.

H. 800

By Reps. Helm of Castleton and Canfield of Fair Haven,

An act relating to state purchasing of American-made American flags;

To the committee on Government Operations.

H. 801

By Reps. Kupersmith of South Burlington, Audette of South Burlington, Head of South Burlington and Pugh of South Burlington,

An act relating to stormwater management;

To the committee on Fish, Wildlife and Water Resources.

H. 802

By Reps. Kitzmiller of Montpelier and Obuchowski of Rockingham,

An act relating to employee misclassification;

To the committee on Commerce.

H. 803

By Reps. Pugh of South Burlington, Chen of Mendon and Maier of Middlebury,

An act relating to the preexisting condition status of pregnancy;

To the committee on Health Care.

H. 804

By Reps. Zuckerman of Burlington, Bray of New Haven and Frank of Underhill,

An act relating to palliative care and pain management;

To the committee on Human Services.

H. 805

By Reps. Perry of Richford, Ainsworth of Royalton, Botzow of Pownal, Bray of New Haven, Courcelle of Rutland City, Gervais of Enosburg, Gilbert of Fairfax, Keenan of St. Albans City, Lawrence of Lyndon, Leriche of Hardwick, McAllister of Highgate, McNeil of Rutland Town, Milkey of Brattleboro, Mrowicki of Putney, Spengler of Colchester, Stevens of Shoreham and Zuckerman of Burlington,

An act relating to assuring that housing occupied by recipients of public assistance or paid for by state subsidy is habitable and in compliance with the rental health housing code;

To the committee on General, Housing and Military Affairs.

H. 806

By Reps. Audette of S. Burlington, Atkins of Winooski, Bostic of St. Johnsbury, Consejo of Sheldon, Fitzgerald of St. Albans City, Keogh of Burlington, Kupersmith of S. Burlington, Larocque of Barnet, McAllister of Highgate and Pillsbury of Brattleboro,

An act relating to public water systems;

To the committee on Fish, Wildlife and Water Resources.

H. 807

By Reps. Johnson of Canaan, Ainsworth of Royalton, Clark of St. Johnsbury, Lawrence of Lyndon, Malcolm of Pawlet, McAllister of Highgate, Perry of Richford, Valliere of Barre City and Winters of Williamstown,

An act relating to prohibited label representations;

To the committee on Agriculture.

H. 808

By Rep. Minter of Waterbury,

An act relating to special motor vehicle registration plates of professional sports teams;

To the committee on Transportation.

H. 809

By Reps. Barnard of Richmond, Frank of Underhill, Deen of Westminster, McCullough of Williston, Milkey of Brattleboro, Mrowicki of Putney and Peterson of Williston,

An act relating to requiring annual fire safety inspections for approved independent residential schools;

To the committee on Education.

H. 810

By Rep. Jewett of Ripton,

An act relating to town budget voting;

To the committee on Government Operations.

H. 811

By Reps. Komline of Dorset, Adams of Hartland, Ainsworth of Royalton, Baker of West Rutland, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Clark of St. Johnsbury, Clark of Vergennes, Devereux of Mount Holly, Donaghy of Poultney, Donahue of Northfield, Errecart of Shelburne, Flory of Pittsford, Hube of Londonderry, Johnson of Canaan, Kilmartin of Newport City, Koch of Barre Town, Krawczyk of Bennington, Larocque of Barnet, Larrabee of Danville, LaVoie of Swanton, Lawrence of Lyndon, Livingston of Manchester, Marcotte of Coventry, McAllister of Highgate, McDonald of Berlin, McFaun of Barre Town, McNeil of Rutland Town, Morrissey of Bennington, Myers of Essex, O'Donnell of Vernon, Oxholm of Vergennes, Peaslee of Guildhall, Scheuermann of Stowe, Shaw of Derby, Turner of Milton, Valliere of Barre City, Winters of Williamstown and Wright of Burlington,

An act relating to the duration of the legislative session;

To the committee on Government Operations.

H. 812

By Rep. Fisher of Lincoln,

An act relating to ensuring educational continuity for pregnant and parenting students;

To the committee on Education.

H. 813

By Reps. Pearson of Burlington, Edwards of Brattleboro, Aswad of Burlington, Deen of Westminster, Devereux of Mount Holly, Donovan of Burlington, Fisher of Lincoln, Gervais of Enosburg, Godin of Milton, Grad of Moretown, Hosford of Waitsfield, Jewett of Ripton, Kitzmiller of Montpelier, Larson of Burlington, Leriche of Hardwick, Manwaring of Wilmington, Martin of Springfield, McCullough of Williston, Milkey of Brattleboro, Mitchell of Barnard, Moran of Wardsboro, Mrowicki of Putney, Nuovo of Middlebury, Pellett of Chester, Perry of Richford, Pillsbury of Brattleboro, Sharpe of Bristol, Spengler of Colchester, Stevens of Shoreham, Sweaney of Windsor, Weston of Burlington and Zenie of Colchester,

An act relating to commercialism in public schools;

To the committee on Education.

H. 814

By Rep. Mrowicki of Putney (By Request),

An act relating to procedures involving medical malpractice actions;

To the committee on Judiciary.

H. 815

By Reps. Kupersmith of South Burlington, Botzow of Pownal and Kitzmiller of Montpelier,

An act relating to the performance accountability of workforce development and the state's investment in higher education and technical training;

To the committee on Education.

H. 816

By Rep. Trombley of Grand Isle,

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

To the committee on Judiciary.

H. 817

By Reps. Pugh of S. Burlington, Atkins of Winooski, Deen of Westminster, Donovan of Burlington, Emmons of Springfield, Fisher of Lincoln, Howard of Rutland City, Kitzmiller of Montpelier, Larson of Burlington, Lorber of Burlington, McFaun of Barre Town, Milkey of Brattleboro, Nuovo of Middlebury, Orr of Charlotte, Pearson of Burlington, Perry of Richford, Pillsbury of Brattleboro, Sharpe of Bristol and Zuckerman of Burlington,

An act relating to repeal of sunset on fuel gross receipts tax;

To the committee on Ways and Means.

H. 818

By Reps. Larocque of Barnet, Allard of St. Albans Town, Branagan of Georgia, Donaghy of Poultney, Fallar of Tinmouth, Fitzgerald of St. Albans City, Johnson of Canaan, Larrabee of Danville, Otterman of Topsham and Rodgers of Glover,

An act relating to plans for treatment of unmarked burial sites;

To the committee on General, Housing and Military Affairs.

H. 819

By Reps. Milkey of Brattleboro, Kitzmiller of Montpelier and Keenan of St. Albans City,

An act relating to the regulating of life settlement insurance transactions;

To the committee on Commerce.

H. 820

By Reps. Errecart of Shelburne,

An act relating to restitution and insurance;

To the committee on Commerce.

H. 821

By Reps. Masland of Thetford, Minter of Waterbury and Westman of Cambridge,

An act relating to tax incentive financing of public transportation;

To the committee on Ways and Means.

H. 822

By Rep. Masland of Thetford,

An act relating to Vermont Board of Architect continuing education requirements;

To the committee on Government Operations.

H. 823

By Reps. Donahue of Northfield, Andrews of Rutland City, Barnard of Richmond, Flory of Pittsford, Haas of Rochester, McAllister of Highgate, Milkey of Brattleboro, Mook of Bennington, Morrissey of Bennington, O'Donnell of Vernon and Wright of Burlington,

An act relating to an appropriation to provide grants for the support of hospices in the state;

To the committee on Appropriations.

H. 824

By Reps. LaVoie of Swanton, Acinapura of Brandon, Allard of St. Albans Town, Baker of West Rutland, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Cheney of Norwich, Clark of Vergennes, Consejo of Sheldon, Devereux of Mount Holly, Donaghy of Poultney, Evans of Essex, Fitzgerald of St. Albans City, Flory of Pittsford, French of Randolph, Gervais of Enosburg, Gilbert of Fairfax, Helm of Castleton, Howrigan of Fairfield, Kilmartin of Newport City, Koch of Barre Town, Krawczyk of Bennington, Larrabee of Danville, Livingston of Manchester, Marcotte of Coventry, Martin of Springfield, Martin of Wolcott, McAllister of Highgate, McDonald of Berlin, McNeil of Rutland Town, Minter of Waterbury, Mitchell of Barnard, Moran of Wardsboro, Morrissey of Bennington, Mrowicki of Putney, Myers of Essex, Oxholm of Vergennes, Perry of Richford, Shaw of Derby, Turner of Milton and Wright of Burlington,

An act relating to driving while intoxicated and to forfeiture and registration of motor vehicles;

To the committee on Judiciary.

H. 825

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

An act relating to common level of appraisal cap during reappraisal;

To the committee on Ways and Means.

H. 826

By Reps. Bray of New Haven, Ainsworth of Royalton, Consejo of Sheldon, Courcelle of Rutland City, Devereux of Mount Holly, Fallar of Tinmouth, Fisher of Lincoln, Gervais of Enosburg, Jewett of Ripton, Komline of Dorset, Larrabee of Danville, Lawrence of Lyndon, Mrowicki of Putney, Nuovo of Middlebury, Orr of Charlotte, Pellett of Chester, Pillsbury of Brattleboro, Scheuermann of Stowe, Sharpe of Bristol, Spengler of Colchester and Weston of Burlington,

An act relating to the study of personal information collection in Vermont;
To the committee on Government Operations.

H. 827

By Reps. Andrews of Rutland City, Courcelle of Rutland City, Howard of Rutland City and McCormack of Rutland City,

An act relating to reimbursement to towns for abatement of education property taxes;

To the committee on Ways and Means.

H. 828

By Reps. Pearson of Burlington, Aswad of Burlington, Botzow of Pownal, Devereux of Mount Holly, Donovan of Burlington, Edwards of Brattleboro, Fisher of Lincoln, Howrigan of Fairfield, Leriche of Hardwick, Lorber of Burlington, McCullough of Williston, McFaun of Barre Town, Nuovo of Middlebury, Spengler of Colchester and Wheeler of Derby,

An act relating to increasing the supply of housing that will be permanently affordable to low income Vermonters;

To the committee on General, Housing and Military Affairs.

H. 829

By Reps. Clarkson of Woodstock, Malcolm of Pawlet and Winters of Williamstown,

An act relating to use value task force amendments;

To the committee on Ways and Means.

H. 830

By Reps. Howard of Rutland City, Andrews of Rutland City, Courcelle of Rutland City, Keenan of St. Albans City and McCormack of Rutland City,

An act relating to Reach Up financial assistance;

To the committee on Human Services.

H. 831

By Reps. McDonald of Berlin, Baker of West Rutland, Barnard of Richmond, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Clark of St. Johnsbury, Clark of Vergennes, Consejo of Sheldon, Devereux of Mount Holly, Donaghy of Poultney, Errecart of Shelburne, Flory of Pittsford, Godin of Milton, Helm of Castleton, Hube of Londonderry, Johnson of Canaan, Koch of Barre Town, Komline of Dorset, Krawczyk of Bennington, Larocque of Barnet, Lawrence of Lyndon, Livingston of Manchester, Marcotte of Coventry, McAllister of Highgate, McFaun of Barre Town, McNeil of Rutland Town, Mook of Bennington, Morley of Barton, Morrissey of Bennington, O'Donnell of Vernon, Oxholm of Vergennes, Peaslee of Guildhall, Perry of Richford, Scheuermann of Stowe, Turner of Milton, Valliere of Barre City, Winters of Williamstown and Wright of Burlington,

An act relating to decreasing the cost of workers' compensation insurance;

To the committee on Commerce.

H. 832

By Reps. Morrissey of Bennington, Allard of St. Albans Town, Canfield of Fair Haven, Clark of Vergennes, Donaghy of Poultney, Johnson of Canaan, Keogh of Burlington, Krawczyk of Bennington, Livingston of Manchester, Marcotte of Coventry, McNeil of Rutland Town, O'Donnell of Vernon, Oxholm of Vergennes, Pillsbury of Brattleboro, Valliere of Barre City and Winters of Williamstown,

An act relating to an appropriation to the Veterans' Home in Bennington;

To the committee on Appropriations.

H. 833

By Reps. Bray of New Haven and Branagan of Georgia,

An act relating to revenue and spending information for taxpayers;

To the committee on Government Operations.

H. 834

By Rep. Komline of Dorset,

An act relating to November 15 filing deadline for property tax adjustment claims;

To the committee on Ways and Means.

H. 835

By Reps. Komline of Dorset, Clark of Vergennes, Donaghy of Poultney, Donahue of Northfield, Marcotte of Coventry, Morley of Barton, Morrissey of Bennington and Wright of Burlington,

An act relating to cash payment of property tax adjustments;

To the committee on Ways and Means.

H. 836

By Rep. Keenan of St. Albans City,

An act relating to nonresident dentist licensure;

To the committee on Government Operations.

H. 837

By Rep. Chen of Mendon,

An act relating to the creation of a medical practice board hearings commission;

To the committee on Government Operations.

H. 838

By Rep. Kupersmith of South Burlington,

An act relating to uniform child custody jurisdiction and enforcement;

To the committee on Judiciary.

H. 839

By Rep. McAllister of Highgate,

An act relating to interest paid at time of tax sale redemption;

To the committee on Ways and Means.

H. 840

By Rep. Barnard of Richmond,

An act relating to telephone directory misrepresentation of the geographical location of a floral business;

To the committee on Commerce.

H. 841

By Reps. Condon of Colchester and Clark of Vergennes,
An act relating to a concierge business assistance service;
To the committee on Government Operations.

H. 842

By Rep. Johnson of Canaan,
An act relating to diesel fuel for agricultural use;
To the committee on Ways and Means.

H. 843

By Reps. Head of S. Burlington, Consejo of Sheldon, Copeland-Hanzas of Bradford, Fitzgerald of St. Albans City, Kupersmith of S. Burlington, Lorber of Burlington, Minter of Waterbury and Shand of Weathersfield,

An act relating to work and family commission;
To the committee on General, Housing and Military Affairs.

H. 844

By Rep. Peaslee of Guildhall,
An act relating to the crime of child endangerment and penalties for the crime of cruelty by those having custody of another;
To the committee on Judiciary.

H. 845

By Reps. Mook of Bennington and Morrissey of Bennington,
An act relating to eligibility for a Green Mountain Passport;
To the committee on General, Housing and Military Affairs.

H. 846

By Reps. Moran of Wardsboro, Consejo of Sheldon, Fitzgerald of St. Albans City, Klein of East Montpelier, Martin of Springfield, Masland of Thetford, Mrowicki of Putney, Pearson of Burlington, Pillsbury of Brattleboro and Zenie of Colchester,

An act relating to petroleum gouging when a market emergency is not in effect;
To the committee on Commerce.

H. 847

By Rep. Weston of Burlington,

An act relating to the disposal of electronic waste;

To the committee on Natural Resources and Energy.

H. 848

By Reps. Edwards of Brattleboro and Klein of East Montpelier,

An act relating to requiring a fully funded decommissioning fund before a nuclear power plant may obtain approval for an extended period of operation;

To the committee on Natural Resources and Energy.

H. 849

By Rep. Edwards of Brattleboro,

An act relating to the redesignation of the position of nuclear engineer;

To the committee on Natural Resources and Energy.

H. 850

By Rep. Zuckerman of Burlington,

An act relating to providing that net-metered power that reverts to an electric company shall be entitled to receive wholesale power rates;

To the committee on Natural Resources and Energy.

H. 851

By Reps. Keenan of St. Albans City, Baker of West Rutland, Chen of Mendon, Deen of Westminster, Head of S. Burlington, Heath of Westford, Howrigan of Fairfield, Hunt of Essex, Hutchinson of Randolph, Johnson of South Hero, Keogh of Burlington, Larson of Burlington, Manwaring of Wilmington, Martin of Wolcott, McCormack of Rutland City, McCullough of Williston, Milkey of Brattleboro, Miller of Shaftsbury, Minter of Waterbury, Moran of Wardsboro, Morley of Barton, Mrowicki of Putney, Orr of Charlotte, Pugh of S. Burlington, Shand of Weathersfield and Trombley of Grand Isle,

An act relating to restrictive covenants on the practice of medicine;

To the committee on Government Operations.

H. 852

By Rep. Edwards of Brattleboro,

An act relating to requiring nuclear facilities to comply with fence line radiation levels established by the department of health;

To the committee on Natural Resources and Energy.

H. 853

By Rep. Edwards of Brattleboro,

An act relating to keeping the Vermont state nuclear advisory panel fully informed;

To the committee on Natural Resources and Energy

H. 854

By Reps. Minter of Waterbury, Ancel of Calais, Anderson of Montpelier, Aswad of Burlington, Atkins of Winooski, Audette of S. Burlington, Barnard of Richmond, Bostic of St. Johnsbury, Branagan of Georgia, Brennan of Colchester, Browning of Arlington, Clarkson of Woodstock, Condon of Colchester, Consejo of Sheldon, Copeland-Hanzas of Bradford, Corcoran of Bennington, Deen of Westminster, Donaghy of Poultney, Evans of Essex, Fallar of Tinmouth, Fitzgerald of St. Albans City, French of Randolph, Gervais of Enosburg, Haas of Rochester, Heath of Westford, Helm of Castleton, Hosford of Waitsfield, Howard of Rutland City, Hunt of Essex, Hutchinson of Randolph, Jerman of Essex, Jewett of Ripton, Johnson of South Hero, Keenan of St. Albans City, Keogh of Burlington, Kitzmiller of Montpelier, Koch of Barre Town, Larson of Burlington, LaVoie of Swanton, Lenes of Shelburne, Leriche of Hardwick, Manwaring of Wilmington, Marek of Newfane, Martin of Wolcott, Masland of Thetford, McCormack of Rutland City, McCullough of Williston, McDonald of Berlin, Milkey of Brattleboro, Miller of Shaftsbury, Monti of Barre City, Mook of Bennington, Moran of Wardsboro, Mrowicki of Putney, Myers of Essex, Ojibway of Hartford, Orr of Charlotte, Peaslee of Guildhall, Pellett of Chester, Peltz of Woodbury, Perry of Richford, Peterson of Williston, Pillsbury of Brattleboro, Potter of Clarendon, Pugh of S. Burlington, Rodgers of Glover, Scheuermann of Stowe, Shand of Weathersfield, Sharpe of Bristol, Smith of Morristown, Wheeler of Derby and Zenie of Colchester,

An act relating to the issuance of a GARVEE bond proposal to reduce structurally deficient bridges;

To the committee on Transportation.

H. 855

By Rep. Spengler of Colchester,

An act relating to advisory speed control signs on interstate highways;
To the committee on Transportation.

H. 856

By Reps. Helm of Castleton and Morley of Barton,
An act relating to the removal of a bridge on route 62 in the town of Berlin;
To the committee on Transportation.

H. 857

By Rep. Masland of Thetford,
An act relating to heavy cutting, enforcement of the heavy cutting law, and
the land gains tax for timber harvests;
To the committee on Fish, Wildlife and Water Resources.

H. 858

By Reps. Spengler of Colchester, Fitzgerald of St. Albans City and
Larocque of Barnet,
An act relating to banning the retail sale of products that contain the
chemical Bisphenol A;
To the committee on Fish, Wildlife and Water Resources.

Joint Resolution Referred to Committee

J.R.H. 49

Reps. Obuchowski of Rockingham and Head of South Burlington offered a
joint resolution, entitled

Joint resolution urging Congress to adopt an emergency bank and
homeowner protection act;

Whereas, the continuing financial crisis involving home mortgages, debt
instruments of all types, and the banking system of the United States threatens
to set off an economic collapse worse than the Great Depression of the 1930s,
and

Whereas, millions of Americans are faced with foreclosure and loss of their
homes over the coming months, and

Whereas, hedge funds dominating speculating in financial markets
worldwide precipitated this collapse, and those markets are now facing

bankruptcy and demanding government bailout of their securities and derivatives, and

Whereas, the nominal value of these mortgage-based derivatives alone equals the total gross domestic product of every nation, and

Whereas, this financial crisis threatens the integrity of both federal and state chartered banks and the run on deposits at Countrywide Financial Corporation in California on August 16, 2007 may only be the first, and

Whereas, similar bank runs at other financial institutions could wipe out the life savings of many Americans and drastically undermine the economic stability of our states and cities, and

Whereas, under similar circumstances in the 1930s, President Franklin D. Roosevelt successfully intervened to protect banks and homeowners, addressing Congress with a "declaration of national policy" on April 13, 1933, which stated "that the broad interests of the nation require special safeguards should be thrown around home ownership as a guarantee of social and economic stability and that to protect homeowners from inequitable enforced liquidation in a time of general distress is a proper concern of the government," now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to enact an emergency Homeowners and Bank Protection Act that:

1. Establishes a federal agency to: place federal and state chartered banks under federal protection, freeze existing home mortgages for a specified transitional period of time, adjust mortgage values to fair prices, restructure existing mortgages to appropriate interest rates, and write off speculative debt obligations of mortgage-backed securities, financial derivatives, and other forms of financial pyramid schemes that have nearly bankrupted the nation's financial institutions;

2. Declares a moratorium on all home foreclosures, allowing families to retain their homes during a specified transitional period;

3. Creates a system of monthly and affordable homeowner payments equivalent to rent that are payable to designated banks which can use these funds as collateral for traditional lending practices as a method to recapitalize the banking system;

4. Provides that these affordable monthly homeowner payments will be factored into new mortgages in order to: reflect the orderly deflating of the

housing bubble, establish appropriate property valuations, and establish reduced fixed mortgage interest rates;

5. Provides that during a specified transitional period (which may be of several years' duration), no homeowner shall be evicted from his or her property and that federal- and state-chartered banks shall be protected in order that they can resume their traditional functions, serving local communities and facilitating credit for investment in productive entities; and

6. Authorizes state governors to assume the administrative responsibilities for implementing the program, including the "rental" payments to designated banks, with the federal government providing the necessary credits and guarantees to assure the successful transition; and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the President and to the Vermont Congressional Delegation.

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

Message from the Senate No. 16

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

Madam Speaker:

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

S. 222. An act relating to the safe haven exception to the crime of abandonment.

S. 240. An act relating to repealing the sunset of the law enforcement exemption to the social security breach notice act.

S. 283. An act relating to the managed care organizations and the blueprint for health.

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

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Dennise Casey, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House that on the first day of February, 2008, he approved and signed a bill originating in the House of the following title:

H. 550 An act relating to approval of amendment to the charter of the city of South Burlington regarding voter approval of city and school district budgets

Recess

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

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

Rep. Jewett of Ripton in Chair.

Bill Read Second Time; Third Reading Ordered

H. 750

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

House bill entitled

An act relating to prescription drug pricing and information;

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. Koch of Barre Town** moved to amend the bill as follows:

First: By striking g Sec. 3 in its entirety and inserting in lieu thereof the following:

Sec. 3 REPEAL.

18 V.S.A. § 4631 is repealed.

Second: In Sec. 5., 9 V.S.A. § 2466a, by striking the proposed amendment to subsection (a), repealing subsection (a), and renumbering the remaining subsections to be numerically correct.

Pending the question, Shall the House amend the bill as recommended by **Rep. Koch of Barre Town**? **Rep. Adams of Hartland** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by **Rep. Koch of Barre Town**? was decided in the negative. Yeas, 43. Nays, 86.

Those who voted in the affirmative are:

Acinapura of Brandon
 Adams of Hartland
 Ainsworth of Royalton
 Baker of West Rutland
 Bostic of St. Johnsbury
 Branagan of Georgia
 Brennan of Colchester
 Canfield of Fair Haven
 Clerkin of Hartford
 Consejo of Sheldon
 Devereux of Mount Holly
 Donaghy of Poultney
 Donahue of Northfield
 Errecart of Shelburne
 Flory of Pittsford

Helm of Castleton
 Hube of Londonderry
 Koch of Barre Town
 Komline of Dorset
 Krawczyk of Bennington
 Larocque of Barnet
 Larrabee of Danville
 LaVoie of Swanton
 Lawrence of Lyndon
 Marcotte of Coventry
 McDonald of Berlin
 McFaun of Barre Town
 McNeil of Rutland Town
 Morley of Barton
 Morrissey of Bennington

O'Donnell of Vernon
 Otterman of Topsham
 Oxholm of Vergennes
 Peaslee of Guildhall
 Scheuermann of Stowe
 Shaw of Derby
 Turner of Milton
 Valliere of Barre City
 Westman of Cambridge
 Wheeler of Derby
 Winters of Williamstown
 Wright of Burlington
 Zenie of Colchester

Those who voted in the negative are:

Anderson of Montpelier
 Aswad of Burlington
 Atkins of Winooski
 Audette of S. Burlington
 Bissonnette of Winooski
 Botzow of Pownal
 Bray of New Haven
 Browning of Arlington
 Chen of Mendon
 Cheney of Norwich
 Clarkson of Woodstock
 Condon of Colchester
 Copeland-Hanzas of
 Bradford
 Corcoran of Bennington
 Courcelle of Rutland City
 Davis of Washington
 Deen of Westminster
 Donovan of Burlington
 Dostis of Waterbury
 Edwards of Brattleboro
 Emmons of Springfield
 Fitzgerald of St. Albans City
 Frank of Underhill
 French of Randolph
 Gervais of Enosburg
 Gilbert of Fairfax
 Godin of Milton
 Haas of Rochester

Head of S. Burlington
 Heath of Westford
 Hosford of Waitsfield
 Howard of Rutland City
 Howrigan of Fairfield
 Hunt of Essex
 Hutchinson of Randolph
 Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Keenan of St. Albans City
 Keogh of Burlington
 Kitzmiller of Montpelier
 Klein of East Montpelier
 Kupersmith of S. Burlington
 Larson of Burlington
 Lenes of Shelburne
 Leriche of Hardwick
 Lippert of Hinesburg
 Lorber of Burlington
 Maier of Middlebury
 Malcolm of Pawlet
 Manwaring of Wilmington
 Marek of Newfane
 Martin, C. of Springfield
 Martin of Wolcott
 Masland of Thetford
 McCormack of Rutland City
 McCullough of Williston

Milkey of Brattleboro
 Miller of Shaftsbury
 Minter of Waterbury
 Mitchell of Barnard
 Monti of Barre City
 Mook of Bennington
 Moran of Wardsboro
 Mrowicki of Putney
 Nease of Johnson
 Nuovo of Middlebury
 Obuchowski of Rockingham
 Ojibway of Hartford
 Orr of Charlotte
 Partridge of Windham
 Pearson of Burlington
 Peltz of Woodbury
 Perry of Richford
 Peterson of Williston
 Potter of Clarendon
 Pugh of S. Burlington
 Randall of Troy
 Rodgers of Glover
 Shand of Weathersfield
 Sharpe of Bristol
 Stevens of Shoreham
 Sweaney of Windsor
 Trombley of Grand Isle
 Weston of Burlington
 Zuckerman of Burlington

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

Allard of St. Albans Town
Ancel of Calais
Andrews of Rutland City
Barnard of Richmond
Clark of St. Johnsbury
Clark of Vergennes
Evans of Essex

Fallar of Tinmouth
Fisher of Lincoln
Grad of Moretown
Johnson of Canaan
Kilmartin of Newport City
Livingston of Manchester
McAllister of Highgate

Myers of Essex
Pellett of Chester
Pillsbury of Brattleboro
Smith of Morristown
Spengler of Colchester

Thereupon, third reading was ordered.

Adjournment

At twelve o'clock noon, on motion of **Rep. Adams of Hartland**, the House adjourned until tomorrow at one o'clock in the afternoon.

WEDNESDAY, FEBRUARY 6, 2008

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

Devotional Exercises

Devotional exercises were conducted by Speaker Gaye Symington of Jericho.

House Bill Introduced

H. 859

Reps. Emmons of Springfield, Lippert of Hinesburg and Lorber of Burlington introduced a bill, entitled

An act relating to increasing substance abuse treatment, vocational training, and transitional housing for offenders in order to reduce recidivism, increase public safety, and reduce corrections costs;

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

Senate Bills Referred

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

S. 222

Senate bill, entitled

An act relating to the safe haven exception to the crime of abandonment;
To the committee on Judiciary.

S. 240

Senate bill, entitled

An act relating to repealing the sunset of the law enforcement exemption to the social security breach notice act;

To the committee on Judiciary.

S. 283

Senate bill, entitled

An act relating to the managed care organizations and the blueprint for health;

To the committee on Health Care.

Joint Resolutions Placed on Calendar

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

J.R.H. 50

Joint resolution relating to hunger awareness

Offered by: Representatives Dostis of Waterbury, Anderson of Montpelier, Andrews of Rutland City, Aswad of Burlington, Atkins of Winooski, Bissonnette of Winooski, Botzow of Pownal, Branagan of Georgia, Bray of New Haven, Browning of Arlington, Canfield of Fair Haven, Chen of Mendon, Cheney of Norwich, Clarkson of Woodstock, Condon of Colchester, Consejo of Sheldon, Copeland-Hanzas of Bradford, Corcoran of Bennington, Deen of Westminster, Donahue of Northfield, Donovan of Burlington, Edwards of Brattleboro, Emmons of Springfield, Errecart of Shelburne, Fallar of Tinmouth, Fisher of Lincoln, Flory of Pittsford, Frank of Underhill, French of Randolph, Gervais of Enosburg, Gilbert of Fairfax, Godin of Milton, Head of S. Burlington, Heath of Westford, Helm of Castleton, Hosford of Waitsfield, Howard of Rutland City, Hube of Londonderry, Hutchinson of Randolph, Jerman of Essex, Jewett of Ripton, Johnson of South Hero, Johnson of Canaan, Keenan of St. Albans City, Keogh of Burlington, Kitzmiller of Montpelier, Klein of East Montpelier, Komline of Dorset, Krawczyk of Bennington, Kupersmith of S. Burlington, Larson of Burlington, Lawrence of Lyndon, Lenes of Shelburne, Leriche of Hardwick, Lorber of Burlington, Maier of Middlebury, Malcolm of Pawlet, Manwaring of Wilmington, Marek of Newfane, Martin of Springfield, Martin of Wolcott, Masland of Thetford, McAllister of Highgate, McCormack of Rutland City, McCullough of Williston, Milkey of Brattleboro, Miller of Shaftsbury, Minter of Waterbury, Mitchell of Barnard, Mook of Bennington, Moran of Wardsboro, Mrowicki of Putney, Nease of Johnson, Nuovo of Middlebury, Obuchowski of Rockingham, O'Donnell of Vernon, Orr of Charlotte, Oxholm of Vergennes,

Partridge of Windham, Pellett of Chester, Peltz of Woodbury, Perry of Richford, Peterson of Williston, Pillsbury of Brattleboro, Potter of Clarendon, Pugh of S. Burlington, Shand of Weathersfield, Sharpe of Bristol, Smith of Morristown, Spengler of Colchester, Sweaney of Windsor, Trombley of Grand Isle, Turner of Milton, Weston of Burlington and Zenie of Colchester

Whereas, 19,000 of Vermont's children lack consistent access to nutritionally adequate foods due to economic hardship and lack of resources, and

Whereas, the general assembly's joint fiscal office has determined that families earning up to 200 percent of the federal poverty level have trouble meeting their basic needs, representing approximately 42,000 Vermont children, and

Whereas, according to the U.S. Census, rates of poverty and food insecurity among both children and households in Vermont are on the rise, and

Whereas, children living with food insecurity are at a significantly greater risk for illness, nutrient deficiency, delayed development, obesity, behavioral problems, educational challenges, abuse, and neglect, and

Whereas, hunger and malnutrition in Vermont strain our state's financial and medical resources, act as barriers to the growth of healthy communities, and threaten our investments in education, and

Whereas, increasing participation in the federal nutrition programs provides an effective, consistent, and dignified means for reducing hunger and food insecurity in Vermont, and

Whereas, the federal nutrition programs bring over \$80 million into the state each year, stimulating Vermont's economy and supporting local business and farmers, and

Whereas, children participating in the federal nutrition programs, including school breakfast and child care meals, have lower rates of tardiness and absenteeism and higher academic performance, face fewer cognitive and behavioral challenges, and are in better health, and

Whereas, the federal nutrition programs are underutilized in Vermont, especially the school breakfast program and the child and adult care food programs, with Vermont being ranked 23rd and 49th in the nation, respectively, and

Whereas, families struggling to put food on the table need and deserve the support of their community, and the state of Vermont, now therefore be it

Resolved by the Senate and House of Representatives:

That the general assembly recognizes that hunger is a social, political, and public health issue that must be addressed through state supported improvements to federal nutrition program accessibility and the expansion of outreach efforts aimed at reducing common barriers to participation.

J.R.H. 51

Joint resolution supporting the Hanover High School Kids for a Cooler Planet reusable shopping bag campaign

Offered by: Representatives Cheney of Norwich, Barnard of Richmond, Chen of Mendon, Clarkson of Woodstock, Clerkin of Hartford, Evans of Essex, Martin of Springfield, Martin of Wolcott, Masland of Thetford, Mitchell of Barnard, Ojibway of Hartford, Pellett of Chester, Shand of Weathersfield and Sweaney of Windsor

Whereas, Kids for a Cooler Planet is a group of environmentally concerned and savvy students at Hanover High School (whose student body includes Vermonters from Norwich and other Windsor and Orange County communities) who have started an ingenious campaign to encourage and promote the use of reusable shopping bags, and

Whereas, the environmental cost of using nonreusable shopping bags, either plastic or paper, is staggering, and

Whereas, the average American family uses approximately 1,000 disposable bags per year, and in 2005, the U.S. Environmental Protection Agency (EPA) estimated that only five percent of plastic bags and 10 percent of paper bags are recycled in the United States, and

Whereas, on an annual basis, United States consumers use approximately 100 billion plastic bags whose contents contain the equivalent of 12 barrels of oil, and

Whereas, plastic bags are not biodegradable but are rather photodegradable because they break up into smaller pieces that can release harmful toxins into the soil and water, and they often end up as litter, causing havoc for humans and for wildlife, especially on Lake Champlain and on the state's many lakes, rivers, and other bodies of water in Vermont, and

Whereas, as detrimental as plastic bags are to our environment, paper bags, despite the widely held belief that they are far more ecologically friendly, are perhaps even worse environmental culprits, generating 70 percent more air and 50 times more water pollutants, and they consume 14 million trees annually, and

Whereas, the Kids for a Cooler Planet's reusable shopping bag campaign does not involve any government funding or regulation, and it is designed both

to educate consumers about the problems associated with nondisposable bags and to use market incentives to encourage the use of more environmentally compatible reusable shopping bags, and

Whereas, this reusable shopping bag campaign was first implemented in Hanover where the students raised money through corporate sponsors to pay for advertisements, posters, and flyers, and

Whereas, in return for a promotional fee, a sponsor's corporate logo was placed on the first production run of the new bags, and

Whereas, the Hanover Selectboard endorsed the project, including authorizing the stringing of a huge banner over Main Street that generated publicity for the endeavor and goodwill for the town, and

Whereas, the project's success in Hanover has been amazing as all 8,000 of the initially ordered bags were sold in one week, and thousands more have been reordered, but the local stores still have trouble keeping the bags in stock, and

Whereas, EPA estimates that reusing a bag only 11 times has a net positive effect on the environment, and

Whereas, the students hope to expand their reusable shopping bag campaign throughout Vermont and New Hampshire, and a similar project in Australia, where plastic bag use was reduced 60 percent in three years, without any government regulation, inspires them to proceed, and

Whereas, one of the students' goals is to introduce, in several Vermont and New Hampshire school districts, a pilot high school study unit that will educate students, and in turn, their parents about the importance of purchasing reusable bags, and a Dartmouth College professor is assisting in this effort, and

Whereas, with the support of the "Change the World Kids," a 501(c)(3) tax-exempt nonprofit organization, the Hanover High School students hope to air public service announcements on radio and television promoting their reusable shopping bag campaign, and

Whereas, the Kids for a Cooler Planet's reusable shopping bag campaign is an admirable endeavor worthy of a broader audience, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its support of the Hanover High School Kids for a Cooler Planet's reusable shopping bag campaign, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Kids for a Cooler Planet at Hanover High School.

Bill Referred to Committee on Ways and Means**S. 209**

Senate bill, entitled

An act relating to the Vermont energy efficiency and affordability act;

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Third Reading; Bill Passed**H. 750**

House bill, entitled

An act relating to prescription drug pricing and information;

Was taken up, read the third time and passed.

Joint Resolution Amended; Third Reading Ordered**J.R.H. 44****Rep. Zenie of Colchester**, for the committee on Health Care, to which had been referred Joint resolution, entitled

Joint resolution approving the Vermont information technology leaders' (VITL) health information technology plan as required by 22 V.S.A. §903(g);

Reported in favor of its passage when amended by striking the resolution in its entirety and inserting in lieu there of the following:

J.R.H. 44

Joint resolution approving the Vermont information technology leaders' (VITL) health information technology plan as required by 22 V.S.A. §903(g);

Offered by Representatives Maier of Middlebury and Zenie of Colchester

Whereas, the Vermont Information Technology Leaders, Inc. (VITL) is a nonprofit, public-private partnership incorporated in Vermont, andWhereas, VITL is an integral part of the development of health information technology in this state, andWhereas, VITL has developed the Vermont health information technology plan pursuant to 22 V.S.A. § 903(b) and (c), andWhereas, the Vermont health information technology plan outlines a vision for health information technology in Vermont that identifies key stakeholders, strategies, and objectives; provides standards for health information exchange that include the promotion of privacy and security; presents an overview of the

technology architecture; and details the funding and governance of health information technology in this state, and

Whereas, the “Standards for Privacy of Individually Identifiable Health Information” established under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and contained in 45 C.F.R., Parts 160 and 164, provide protections for the privacy of individually identifiable health information maintained or transmitted in connection with certain administrative and financial transactions, and

Whereas, the provisions of Vermont’s patients’ privilege statute in 12 V.S.A. § 1612, the mental health protections found in 18 V.S.A. § 7103, and the guidelines for privacy and security standards and protocols in 22 V.S.A. § 903(f) provide Vermonters with additional rights and protections regarding disclosure of their personal health information, and

Whereas, 22 V.S.A. § 903(g) allows the Vermont health information technology plan, upon recommendation of the commissioner of information and innovation and approval by the general assembly, to serve as the framework within which the commissioner reviews certificate of need applications for information technology, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly approves the Vermont health information technology plan, as submitted by VITL, to be implemented using HIPAA, 12 V.S.A. § 1612, 18 V.S.A. § 7103, and 22 V.S.A. § 903(f) as the minimum standards for the privacy and security of health information, and be it further

Resolved: That VITL be directed to continue to update the health information technology plan to include state and national privacy and security policies and procedures as they become available to reflect industry best practices, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the Vermont Information Technology Leaders, Inc.

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

Message from the Senate No. 17

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

Madam Speaker:

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

H. 590. An act relating to the spelling of the name of the town and village of Alburg.

And has passed the same in concurrence.

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

J.R.S. 49. Joint resolution relating to the collection of United States census data in Vermont.

J.R.S. 50. Joint resolution urging Congress to include transportation infrastructure projects in the federal economic stimulus package.

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

Adjournment

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

THURSDAY, FEBRUARY 7, 2008

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

Devotional Exercises

Devotional exercises were conducted by poet/farmer, Gordon Tallman of Hyde Park, Vermont.

Communication from Governor

"February 6, 2008

The Honorable Gaye R. Symington
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Speaker Symington,

I have the honor to inform you that I have appointed Howard Crawford to serve in House district Caledonia – 4 effective February 6, 2008.

Sincerely,
/s/ James H. Douglas
Governor

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

Oath Administered to Rep. Howard Crawford

The Speaker directed the Doorkeeper to conduct Rep. Howard Crawford, the appointed member from Caledonia-4, to the bar of the House where he took the subscribed oath, administered by the Clerk, as required by the Constitution and laws of the State.

New Member Seated

Rep. Crawford of Burke, the newly appointed member, having taken and subscribed the oath administered by the Clerk, as required by the Constitution and laws of the State, was conducted to his seat by the Doorkeeper.

House Bill Introduced

H. 860

Reps. Anderson of Montpelier and Kitzmiller of Montpelier introduced a bill, entitled

An act relating to the merger of Berlin Fire District No. 1 and the City of Montpelier;

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

Joint Resolutions Placed on Calendar

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

J.R.S. 49

By Senators Illuzzi, Miller, Racine, Condos and Carris,

Joint resolution relating to the collection of United States census data in Vermont.

Whereas, the many variables of demographic data the U.S. Bureau of the Census, an agency of the United States Department of Commerce, collects have a direct impact on the lives of thousands of Vermonters, and

Whereas, the census data, especially the data traditionally collected in the decennial long form, are essential for measuring critical issues for Vermonters such as the availability of affordable housing, the prevalence of child poverty, and employment trends, and they are the basis for funding numerous federal programs that assist Vermonters in important ways, and

Whereas, the professional staff at the Vermont State Data Center at the Center for Rural Studies at the University of Vermont, who serve as independent advocates on behalf of the integrity of the data that the census provides to the state and towns, has expressed a strong concern that recent major changes in the methods of collecting and reporting data may result in a loss of important federal funding for the state and municipalities and a disconnection of census data from its traditional and essential uses, and

Whereas, in recent decades, information relating to income, poverty, and other demographic data has been gathered through the long form questionnaires issued as part of the decennial United States census, and

Whereas, the long form version of the decennial census has been eliminated, and its replacement is a revised American Community Survey (ACS), which is an annual sample-based survey, and

Whereas, the new ACS data is now being released as a replacement for information previously drawn from answers to the decennial census long form with full implementation by 2010, and

Whereas, under the previous "most of the time residence rule," the decennial census long form included only a town's primary residents; however, under the new "more than two months" residence rule, the ACS data will now include seasonal residents, a change with potentially significant impact in Vermont where many towns have substantial seasonal populations, and

Whereas, because seasonal residents, even if their primary residence is also in Vermont, often earn higher incomes than a town's permanent residents, their inclusion in a sample could result in a town being denied funds for essential social services to which it would otherwise be entitled, and

Whereas, in a few towns, the inclusion of seasonal residents may have the reverse effect and artificially skew significant statistical thresholds downward, and

Whereas, the ACS data may be of lower integrity than the long form results because the percentage of the population sample will be smaller, and

Whereas, because the ACS data for localities is being released as five-year averages, the statistical value and conclusions that towns may draw from the data, may be of more limited use, and

Whereas, because the ACS data will include margins of error, it is effectively being presented as numerical ranges and not single numbers, and this new formatting will necessitate the state and towns making corresponding changes in their statistical analysis, and

Whereas, because of all these changes in data sampling and reporting, the long-standing ability to track historic trends could be greatly impaired, and

Whereas, Vermont could potentially lose significant federal revenues and informational resources as a result of these administrative decisions, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly urges the United States Bureau of the Census to work with state and local officials, including the professional staff at the state data centers nationwide, to address the inequalities that will result due to the alterations of the bureau's statistical gathering and reporting methodologies, *and be it further*

Resolved: That the General Assembly urges the United States Bureau of the Census, if it intends to maintain the new "more than two months" residence rule for the American Community Survey, to create, within the survey's reports, methods for disclosing the inclusion of seasonal residents and the means to isolate residents who meet the former "most of the time" criteria, and *be it further*

Resolved: That the General Assembly urges the United States Congress to commit the financial resources necessary for the United States Bureau of the Census to address and eliminate the data collection and reporting inequalities and concerns referred to in this resolution, and *be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Secretary of Commerce, Carlos Gutierrez, to the Director of the United States Bureau of the Census, Steven Murdock, Ph.D., to the Vermont State Data Center, and to the Vermont Congressional delegation.

J.R.S. 50

By the Committee on Transportation,

Joint resolution urging Congress to include transportation infrastructure projects in the federal economic stimulus package.

Whereas, the subprime mortgage crisis, and the staggering drop in activity in the housing industry, including a declining number of new starts in 2007, have spurred the President and the bipartisan leadership in the United States House of Representatives to develop an emergency economic stimulus package designed to pump money into the economy on a rapid basis, and

Whereas, despite calls from many quarters, including leading economists, for a more broadly-based program, the United States House-passed version (H.R. 5140) of the legislation consists of a system of one-time tax rebate

payments to individual taxpayers with additional payments based on the taxpayer's number of children, and provisions to include low income individuals in the rebate program, and

Whereas, although H.R. 5140 also includes business tax incentives and mortgage and housing loan provisions intended to stimulate the economy, these provisions in combination will not pump large sums of money into the economic stream on an immediate basis, and

Whereas, even if this legislation is signed into law in the coming days, the technical preparations that the United States Internal Revenue Service must implement in order to issue the rebate payment checks will probably delay any checks being mailed before May at the earliest, and

Whereas, based on the results of prior similar federal stimulus legislation, H.R. 5140 may not serve its intended purposes because many individuals will either use the extra money to pay debts or deposit it in the bank, and in either case, not spend the cash on consumer goods or services, and

Whereas, a desirable method for introducing cash into the economy on an accelerated basis and also benefitting the public generally would be for Congress to create transportation infrastructure economic stimulus legislation, and

Whereas, Peter Orszag, director of the Congressional Budget Office, has testified before the United States Senate Finance Committee that target transportation infrastructure investments would provide a rapid and effective economic boost, and

Whereas, on a national basis, each dollar invested in transportation infrastructure generates \$5.70 in economic activity, and

Whereas, for every billion dollars invested in transportation infrastructure, 47,000 jobs are created nationwide, and

Whereas, over 2,700 transportation infrastructure projects in 44 states could be ready to begin construction in 90 days, and

Whereas, many of these projects would greatly improve both motorists' safety and travel conditions and would also provide long-term benefits to all Americans by improving our nation's transportation infrastructure, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests that Congress create a transportation infrastructure economic stimulus package and that traditional state matching

requirement be lowered to five percent and be subject to the sliding scale provided for in 23 U.S.C. § 120, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional delegation.

Bill Referred to Committee on Appropriations

S. 209

Senate bill, entitled

An act relating to the Vermont energy efficiency and affordability act;

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

H. 278

Rules Suspended; Bill Committed

On motion of **Rep. Pugh of South Burlington**, the rules were suspended and House bill, entitled

An act relating to regulation of child care facilities;

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

Pending the reading of the report of the committee on Human Services, on motion of **Rep. Pugh of South Burlington**, the bill was committed to the committee on Judiciary

Bill Amended; Third Reading Ordered

H. 267

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

An act relating to industrial hemp;

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

Sec. 1. INTENT

The intent of this act is to establish policy and procedures for growing industrial hemp in Vermont so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity when federal regulations permit.

Sec. 2. LEGISLATIVE FINDINGS

The general assembly finds:

(1) Industrial hemp is a suitable crop for Vermont, and its production will contribute to the future viability of Vermont agriculture.

(2) Allowing industrial hemp production will provide farmers an opportunity to sell their products to a marketplace that pays them a reasonable rate of return for their labor and capital investments. Farmers in Canada report an \$800.00 per-acre return for the crop.

(3) The infrastructure needed to process industrial hemp will result in increased business opportunities and new jobs in our communities.

(4) As a food crop, industrial hemp seeds and oil produced from the seeds have high nutritional value, including healthy fats and protein.

(5) As a fiber crop, industrial hemp can be used in the manufacture of products such as clothing, building supplies, and animal bedding.

(6) As a fuel crop, industrial hemp seeds can be processed into biodiesel, and stalks can be pelletized or flaked for burning or processed for cellulosic ethanol. Industrial hemp also expands opportunities for on-farm renewable energy production.

(7) The production of industrial hemp can play a useful agronomic role in farm land management as part of a crop rotation system.

Sec. 3. 6 V.S.A. chapter 34 is added to read:

CHAPTER 34. INDUSTRIAL HEMP

§ 560. DEFINITIONS

As used in this chapter:

(1) "Grower" means any person or business entity licensed under this chapter by the secretary as an industrial hemp grower.

(2) "Hemp products" means all products made from industrial hemp, including but not limited to cloth, cordage, fiber, food, fuel, paint, paper, particle board, plastics, seed, seed meal, seed oil, and certified seed for cultivation if such seeds originate from industrial hemp varieties.

(3) "Industrial hemp" means varieties of the plant cannabis sativa having no more than 0.3 percent tetrahydrocannabinol, whether growing or not, that are cultivated or possessed by a licensed grower in compliance with this chapter.

(4) "Secretary" means the secretary of agriculture, food and markets. ,

§ 561. INDUSTRIAL HEMP: AN AGRICULTURAL PRODUCT

Industrial hemp is an agricultural product which may be grown, produced, possessed, and commercially traded in Vermont pursuant to the provisions of this chapter.

§ 562. LICENSING; APPLICATION

(a) Any person or business entity wishing to engage in the production of industrial hemp must be licensed as an industrial hemp grower by the secretary. A license from the secretary shall authorize industrial hemp production only at a site or sites specified by the license.

(b) A license from the secretary shall be valid for 24 months from the date of issuance and may be renewed but shall not be transferable.

(c) Any person with a prior felony conviction is not eligible for licensure.

(d) When applying for a license from the secretary, an applicant shall provide information sufficient to demonstrate to the secretary that the applicant intends to grow and is capable of growing industrial hemp in accordance with this chapter, which at a minimum shall include:

(1) Filing a set of the applicant's fingerprints, taken by a law enforcement officer, and any other information necessary to complete a statewide and nationwide criminal history check with the Vermont criminal information center for statewide processing and with the Federal Bureau of Investigation for federal processing. Criminal history records provided to the secretary under this section are confidential and shall only be used in determining an applicant's eligibility for licensure.

(2) Filing with the secretary documentation certifying that the seeds obtained for planting are of a type and variety compliant with the maximum concentration of tetrahydrocannabinol set forth in subdivision 560(3) of this chapter.

(3) Filing with the secretary the location and acreage of all parcels sown and other field reference information as may be required by the secretary.

(e) To qualify for a license from the secretary, an applicant shall demonstrate to the satisfaction of the secretary that the applicant has adopted methods to ensure the legal production of industrial hemp, which at a minimum shall include:

(1) Ensuring that all parts of the industrial hemp plant that do not enter the stream of commerce as hemp products are destroyed, incorporated into the soil, or otherwise properly disposed of.

(2) Maintaining records that reflect compliance with the provisions of this chapter and with all other state laws regulating the planting and cultivation of industrial hemp.

(f) Every grower shall maintain all production and sales records for at least three years.

(g) Every grower shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected by and at the discretion of the secretary or his or her designee.

§ 563. RULEMAKING AUTHORITY

The secretary shall, no later than December 31, 2008, adopt rules to provide for the implementation of this chapter, which shall include rules to allow for the industrial hemp to be tested during growth for tetrahydrocannabinol levels and to allow for supervision of the industrial hemp during sowing, growing season, harvest, storage, and processing.

§564. REVOCATION AND SUSPENSION OF LICENSE; ENFORCEMENT

(a) The secretary may deny, suspend, revoke, or refuse to renew the license of any grower who:

(1) Makes a false statement or misrepresentation on an application for a license or renewal of a license.

(2) Fails to comply with or violates any provision of this chapter or any rule adopted under it.

(b) Revocation or suspension of a license may be in addition to any criminal penalties or fines imposed on a grower under other state law.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

Pending the question, Shall the House amend the bill as recommended by the committee on Agriculture? **Rep. Lippert of Hinesburg** moved to substitute an amendment for the amendment offered by the committee on Agriculture, as follows:

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

Sec. 1. LEGISLATIVE FINDINGS

The general assembly finds:

(1) Industrial hemp is a suitable crop for Vermont, and its production will contribute to the future viability of Vermont agriculture.

(2) Allowing industrial hemp production will provide farmers an opportunity to sell their products to a marketplace that pays them a reasonable rate of return for their labor and capital investments. Farmers in Canada report an \$800.00 per-acre return for the crop.

(3) The infrastructure needed to process industrial hemp will result in increased business opportunities and new jobs in our communities.

(4) As a food crop, industrial hemp seeds and oil produced from the seeds have high nutritional value, including healthy fats and protein.

(5) As a fiber crop, industrial hemp can be used in the manufacture of products such as clothing, building supplies, and animal bedding.

(6) As a fuel crop, industrial hemp seeds can be processed into biodiesel, and stalks can be pelletized or flaked for burning or processed for cellulosic ethanol. Industrial hemp also expands opportunities for on-farm renewable energy production.

(7) The production of industrial hemp can play a useful agronomic role in farm land management as part of a crop rotation system.

Sec. 2. 6 V.S.A. chapter 34 is added to read:

CHAPTER 34. INDUSTRIAL HEMP

§ 561. INTENT

The intent of this act is to establish policy and procedures for growing industrial hemp in Vermont so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity when federal regulations permit.

§ 562. DEFINITIONS

As used in this chapter:

(1) "Grower" means any person or business entity licensed under this chapter by the secretary as an industrial hemp grower.

(2) "Hemp products" means all products made from industrial hemp, including but not limited to cloth, cordage, fiber, food, fuel, paint, paper, particle board, plastics, seed, seed meal, seed oil, and certified seed for cultivation if such seeds originate from industrial hemp varieties.

(3) "Industrial hemp" means varieties of the plant cannabis sativa having no more than 0.3 percent tetrahydrocannabinol, whether growing or not, that are cultivated or possessed by a licensed grower in compliance with this chapter.

(4) "Secretary" means the secretary of agriculture, food and markets.

§ 563. INDUSTRIAL HEMP: AN AGRICULTURAL PRODUCT

Industrial hemp is an agricultural product which may be grown, produced, possessed, and commercially traded in Vermont pursuant to the provisions of this chapter.

§ 564. LICENSING; APPLICATION

(a) Any person or business entity wishing to engage in the production of industrial hemp must be licensed as an industrial hemp grower by the secretary. A license from the secretary shall authorize industrial hemp production only at a site or sites specified by the license.

(b) A license from the secretary shall be valid for 24 months from the date of issuance and may be renewed but shall not be transferable.

(c)(1) The secretary shall obtain from the Vermont criminal information center a record of convictions in Vermont and other jurisdictions for any applicant for a license who has given written authorization on the application form. The secretary shall file a user's agreement with the center. The user's agreement shall require the secretary to comply with all statutes, rules, and policies regulating the release of criminal conviction records and the protection of individual privacy. Conviction records provided to the secretary under this section are confidential and shall be used only to determine the applicant's eligibility for licensure.

(2) A person who has been convicted in Vermont of a felony offense or a comparable offense in another jurisdiction shall not be eligible for a license under this chapter.

(d) When applying for a license from the secretary, an applicant shall provide information sufficient to demonstrate to the secretary that the applicant intends to grow and is capable of growing industrial hemp in accordance with this chapter, which at a minimum shall include:

(1) Filing with the secretary a set of classifiable fingerprints and written authorization permitting the Vermont criminal information center to generate a record of convictions as required by subdivision (c)(1) of this section.

(2) Filing with the secretary documentation certifying that the seeds obtained for planting are of a type and variety compliant with the maximum concentration of tetrahydrocannabinol set forth in subdivision 560(3) of this chapter.

(3) Filing with the secretary the location and acreage of all parcels sown and other field reference information as may be required by the secretary.

(e) To qualify for a license from the secretary, an applicant shall demonstrate to the satisfaction of the secretary that the applicant has adopted methods to ensure the legal production of industrial hemp, which at a minimum shall include:

(1) Ensuring that all parts of the industrial hemp plant that do not enter the stream of commerce as hemp products are destroyed, incorporated into the soil, or otherwise properly disposed of.

(2) Maintaining records that reflect compliance with the provisions of this chapter and with all other state laws regulating the planting and cultivation of industrial hemp.

(f) Every grower shall maintain all production and sales records for at least three years.

(g) Every grower shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected by and at the discretion of the secretary or his or her designee.

§565. REVOCATION AND SUSPENSION OF LICENSE; ENFORCEMENT

(a) The secretary may deny, suspend, revoke, or refuse to renew the license of any grower who:

(1) Makes a false statement or misrepresentation on an application for a license or renewal of a license.

(2) Fails to comply with or violates any provision of this chapter or any rule adopted under it.

(b) Revocation or suspension of a license may be in addition to any civil or criminal penalties imposed on a grower for a violation of any other state law.

§ 566. RULEMAKING AUTHORITY

The secretary shall, no later than December 31, 2008, adopt rules to provide for the implementation of this chapter, which shall include rules to allow for the industrial hemp to be tested during growth for tetrahydrocannabinol levels and to allow for supervision of the industrial hemp during sowing, growing season, harvest, storage, and processing.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

Pending the question, Shall the bill be read the third time? **Rep. Pellett of Chester** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read the third time? was decided in the affirmative. Yeas, 127. Nays, 9.

Those who voted in the affirmative are:

Acinapura of Brandon	Courcelle of Rutland City	Johnson of South Hero
Adams of Hartland	Davis of Washington	Keenan of St. Albans City
Ainsworth of Royalton	Deen of Westminster	Keogh of Burlington
Allard of St. Albans Town	Devereux of Mount Holly	Kilmartin of Newport City
Ancel of Calais	Donaghy of Poultney	Kitzmiller of Montpelier
Anderson of Montpelier	Donahue of Northfield	Klein of East Montpelier
Andrews of Rutland City	Dostis of Waterbury	Koch of Barre Town
Aswad of Burlington	Edwards of Brattleboro	Kupersmith of S. Burlington
Atkins of Winooski	Emmons of Springfield	Larabee of Danville
Audette of S. Burlington	Evans of Essex	Larson of Burlington
Baker of West Rutland	Fallar of Tinmouth	Lawrence of Lyndon
Barnard of Richmond	Fisher of Lincoln	Lenes of Shelburne
Bostic of St. Johnsbury	Fitzgerald of St. Albans City	Leriche of Hardwick
Botzow of Pownal	Flory of Pittsford	Lippert of Hinesburg
Branagan of Georgia	Frank of Underhill	Lorber of Burlington
Bray of New Haven	French of Randolph	Maier of Middlebury
Browning of Arlington	Gervais of Enosburg	Malcolm of Pawlet
Canfield of Fair Haven	Gilbert of Fairfax	Manwaring of Wilmington
Chen of Mendon	Godin of Milton	Marcotte of Coventry
Cheney of Norwich	Haas of Rochester	Marek of Newfane
Clark of Vergennes	Head of S. Burlington	Martin, C. of Springfield
Clarkson of Woodstock	Heath of Westford	Martin of Wolcott
Clerkin of Hartford	Helm of Castleton	Masland of Thetford
Condon of Colchester	Hosford of Waitsfield	McCormack of Rutland City
Consejo of Sheldon	Howard of Rutland City	McCullough of Williston
Copeland-Hanzas of	Hutchinson of Randolph	McDonald of Berlin
Bradford	Jerman of Essex	McFaun of Barre Town
Corcoran of Bennington	Jewett of Ripton	McNeil of Rutland Town

Milkey of Brattleboro	Otterman of Topsham	Shaw of Derby
Miller of Shaftsbury	Oxholm of Vergennes	Smith of Morristown
Minter of Waterbury	Partridge of Windham	Stevens of Shoreham
Mitchell of Barnard	Pearson of Burlington	Sweaney of Windsor
Mook of Bennington	Pellett of Chester	Trombley of Grand Isle
Moran of Wardsboro	Peltz of Woodbury	Turner of Milton
Morley of Barton	Perry of Richford	Valliere of Barre City
Morrissey of Bennington	Peterson of Williston	Westman of Cambridge
Mrowicki of Putney	Pillsbury of Brattleboro	Weston of Burlington
Nease of Johnson	Pugh of S. Burlington	Wheeler of Derby
Nuovo of Middlebury	Randall of Troy	Wright of Burlington
Obuchowski of Rockingham	Rodgers of Glover	Zenie of Colchester
O'Donnell of Vernon	Scheuermann of Stowe	Zuckerman of Burlington
Ojibway of Hartford	Shand of Weathersfield	
Orr of Charlotte	Sharpe of Bristol	

Those who voted in the negative are:

Brennan of Colchester	Larocque of Barnet	Monti of Barre City
Errecart of Shelburne	LaVoie of Swanton	Peaslee of Guildhall
Komline of Dorset	McAllister of Highgate	Winters of Williamstown

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

Bissonnette of Winöoski	Hube of Londonderry	Myers of Essex
Clark of St. Johnsbury	Hunt of Essex	Potter of Clarendon
Donovan of Burlington	Johnson of Canaan	Spengler of Colchester
Grad of Moretown	Krawczyk of Bennington	
Horigan of Fairfield	Livingston of Manchester	

Rep. Adams of Hartland explained his vote as follows:

“Madam Speaker:

While I have long supported the growing of industrial hemp as an agricultural crop because of its potential as a diversified product for our farmers and it’s ability to absorb phosphorus from the soil, I am dismayed that so much legislative time has been spent on making a statement when that time could have been used to provide immediate financial benefit to our farmers. Even so, I vote yes.”

Rep. Komline of Dorset explained her vote as follows:

“Madam Speaker:

I vote no, not because I am opposed to growing hemp in Vermont, but because this bill won’t enable that to happen. There are other issues pertaining to agriculture that could benefit Vermont farmers that we should be voting on.”

Rep. Marek of Newfane explained his vote as follows:

“Madam Speaker:

I voted yes so that Vermont's hard working farmers will be able to immediately begin producing one more profitable crop whenever a long overdue change in federal policy comes about. They need all the help we can give them."

Third Reading; Joint Resolution Adopted

J.R.H. 44

Joint resolution, entitled

Joint resolution approving the Vermont information technology leaders' (VITL) health information technology plan as required by 22 V.S.A. § 903(g);

Was taken up, read the third time and adopted on the part of the House.

Joint Resolutions Adopted

Joint resolutions of the following titles were severally taken up and adopted on the part of the House;

J. R. H. 50

Joint resolution, entitled

Joint resolution relating to hunger awareness.

J. R. H. 51

Joint resolution, entitled

Joint resolution supporting the Hanover High School kids for a cooler planet reusable shopping bag campaign.

Message from the Senate No. 18

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

Madam Speaker:

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

J.R.S. 51. Joint resolution relating to weekend adjournment.

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

Adjournment

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

FRIDAY, FEBRUARY 8, 2008

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

Devotional Exercises

Devotional exercises were conducted by Taysir Al-Khatib of the Islamic Society of Vermont.

**Colors Presented;
Pledge of Allegiance**

The Green Mountain Boy Scout Council, Eagle Scouts, Troop 627, Michael Chichton of Fairfax, Brian Kennedy of Cambridge and Derek Lautenschlager of Jericho presented colors and Nicholas Blair of Fairfax led the House in the Pledge of Allegiance.

Joint Resolution Adopted in Concurrence**J.R.S. 51**

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Shumlin,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 8, 2008, it be to meet again no later than Tuesday, February 12, 2008.

Was taken up read and adopted in concurrence.

House Resolution Adopted**H.R. 29**

The committee on Commerce offered a House resolution, entitled

House resolution relating to the future of telecommunications services in Vermont;

Whereas, there is broad agreement across the political spectrum that Vermont's work force is one of the state's most important economic assets, and

Whereas, equally essential economic assets for the 21st century are the universal availability, high quality, full-time reliability, and flexible versatility of Vermont's telecommunications infrastructure, and

Whereas, the telecommunications infrastructure begins with the basic telephone dial tone as its foundation, and its pinnacle is universally accessible, high speed, broadband capacity for the timely transmission and receipt of large swaths of data, digital audio, and high definition video, and

Whereas, the telecommunications infrastructure is a vital tool for elementary, secondary, and higher education; industrial development, including the expansion of existing commercial facilities and attracting new ones; and health care, and for an increasing number of Vermonters who work on a part- or full-time basis from home while remaining in continuous contact with their employers often located hundreds or thousands of miles away, and

Whereas, although an increasing number of providers are participants in the state's telecommunications network, the state's primary local telephone service provider remains a core member of this interconnected system, and

Whereas, the New England unit of the Bell Telephone System, and its direct line of corporate descendants, now operating as Verizon New England, have been the principal local telephone (land line) company in Vermont for over a century, and

Whereas, Verizon New England's parent corporation seeks to sell its traditional land line services in the three northern New England states of Maine, New Hampshire, and Vermont to FairPoint Communications of North Carolina, and

Whereas, this transaction requires the approval of the state telecommunications regulatory panels in Maine, New Hampshire, and Vermont before it can be legally consummated, and

Whereas, both Verizon New England and FairPoint Communications have jointly applied to the Vermont Public Service Board (PSB) to approve this corporate proposal, an application the board has been considering as Docket 7270, and

Whereas, the PSB, in its December 21, 2007 decision on Docket 7270 commented on the positive aspects of the proposed transaction, but rejected the proposal on the grounds that the anticipated \$2.5-billion debt FairPoint Communications would incur, in conjunction with the company's other financial obligations, would adversely affect Vermont consumers, and

Whereas, among the leading critics and opponents of the deal were the Communications Workers of America (CWA) and the International Brotherhood of Electrical Workers (IBEW) which argued that the financial arrangements necessary to implement the proposal would also adversely affect the company's employees, and

Whereas, Verizon New England and FairPoint renegotiated the financial terms of the proposal, and this new alternative arrangement has the support of the Vermont Department of Public Service (DPS) which had questioned the financial soundness of the original proposal, and

Whereas, at a recent hearing of the committee on commerce, a financial analyst representing the CWA and the IBEW testified that the revised financial arrangements, which lower the proposed debt that FairPoint Communications will incur, would still jeopardize the company's work force and their long-term economic livelihoods, now therefore be it

Resolved by the House of Representatives:

That this legislative body requests the Public Service Board to afford due consideration to the economic sustainability of the current Verizon New England land line work force and the basic land line telephone infrastructure in Vermont in reaching its decision on the revised applications of the parties in Public Service Board Docket 7270, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Public Service Board.

Which was read and adopted.

Committee Appointments

The Speaker announced **Rep. McDonald of Berlin** is appointed to the committee on Government Operations and **Rep. Crawford of Burke** is appointed to the committee on Education.

Third Reading; Bill Passed

H. 267

House bill, entitled

An act relating to industrial hemp;

Was taken up, read the third time and passed.

Action on Bill Postponed

H. 458

House bill, entitled

An act relating to digital corporate transactions;

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

Joint Resolution Referred**J.R.S. 49**

Joint resolution, entitled

Joint resolution relating to the collection of United States census data in Vermont;

Was taken up and in the Speaker's discretion referred to the committee on Government Operations.

Joint Resolution Adopted in Concurrence**J.R.S. 50**

Joint resolution, entitled

Joint resolution urging Congress to include transportation infrastructure projects in the federal economic stimulus package;

Was taken up and adopted in concurrence.

Adjournment

At ten o'clock and ten minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, Tuesday, February 12, 2008, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 51.

Concurrent Resolutions Adopted

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

H.C.R. 206

House concurrent resolution congratulating the Vermont high schools honored in the 2007 *U.S. News & World Report* rankings

H.C.R. 207

House concurrent resolution honoring Charlotte Morris for her diverse and much appreciated community service activities in the town of Fair Haven

H.C.R. 208

House concurrent resolution honoring Nancy Freeze for her career of outstanding leadership in the nursing profession

H.C.R. 209

House concurrent resolution congratulating Diane Bahrenburg of Colchester on being selected the 2008 Vermont Teacher of the Year

H.C.R. 210

House concurrent resolution congratulating the Green Mountain Council Boy Scout Eagle Class of 2007

S.C.R. 30.

Senate concurrent resolution congratulating the 2007 Spaulding Union High School Crimson Tide Division II championship football team.

S.C.R. 31.

Senate concurrent resolution congratulating the Montpelier High School Solons 2007 championship girls' soccer team.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2008, sixty-ninth Adjourned session]

TUESDAY, FEBRUARY 12, 2008

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

Devotional Exercises

Devotional exercises were conducted by Deacon, Mr. Regis Cummings of St. Augustine Church, Montpelier.

Pledge of Allegiance

Page Trisha Morley of Barton led the House in the Pledge of Allegiance.

Message from the Senate No. 19

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

Madam Speaker:

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

H. 93. An act relating to beer producers' interest in retail liquor licenses.

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

S.C.R. 30. Senate concurrent resolution congratulating the 2007 Spaulding Union High School Crimson Tide Division II championship football team.

S.C.R. 31. Senate concurrent resolution congratulating the Montpelier High School Solons 2007 championship girls' soccer team.

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

H.C.R. 206. House concurrent resolution congratulating the Vermont high schools honored in the 2007 *U.S. News & World Report* rankings.

H.C.R. 207. House concurrent resolution honoring Charlotte Morris for her diverse and much appreciated community service activities in the town of Fair Haven.

H.C.R. 208. House concurrent resolution honoring Nancy Freeze for her career of outstanding leadership in the nursing profession.

H.C.R. 209. House concurrent resolution congratulating Diane Bahrenburg of Colchester on being selected the 2008 Vermont Teacher of the Year.

H.C.R. 210. House concurrent resolution congratulating the Green Mountain Council Boy Scout Eagle Class of 2007.

House Bills Introduced

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

H. 861

By Rep. Ojibway of Hartford,

An act relating to extending disclosure protections in the cancer registry to researchers outside the health department;

To the committee on Health Care.

H. 862

By Reps. Dostis of Waterbury and Minter of Waterbury,

An act relating to approval of amendments to the charter of the village of Waterbury;

To the committee on Government Operations.

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

H. 708

Rep. Ancel of Calais moved that the committee on Education be relieved of House bill, entitled

An act relating to an exception to the suspension of state aid for school construction for certain energy performance contracts;

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

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

H. 781

Rep. Emmons of Springfield moved that the committee on Institutions be relieved of House bill, entitled

An act relating to the availability of state-funded innovations in developing countries;

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

Bill Amended; Third Reading Ordered

H. 458

Rep. Kitzmiller of Montpelier, for the committee on Commerce, to which had been referred House bill, entitled

An act relating to digital corporate transactions;

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

Sec. 1. 11 V.S.A. § 3001 is amended to read:

§ 3001. DEFINITIONS

As used in this chapter:

* * *

(15) "Operating agreement" means ~~the agreement in writing~~ any form of description of membership rights and obligations under section 3003 of this title, stored or depicted in any tangible or electronic medium, which is agreed to by the members, including amendments to the agreement.

* * *

(19) "Signed" includes any symbol or electronic schema that may be prescribed by the secretary of state that is executed or adopted by a person with the present intention to authenticate a record.

* * *

(23) "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(24) "Writing" means written communications, including letters, faxes, e-mails, or other electronic formats that may be prescribed by the secretary of state.

(25) "Delivery" means surface mail or methods of electronic transmission the secretary of state may prescribe.

(26) "Meeting" means any structured communications conducted by participants in person or through the use of electronic or telecommunications medium permitting simultaneous or sequentially structured communications for the purpose of reaching a collective agreement.

Sec. 2. 11 V.S.A. § 3026(f) is added to read:

(f) An original copy may consist of an electronic communication received by the secretary of state's office, endorsement may consist of an attached electronic record, and the delivery of a duplicate may be done electronically.

Sec. 3. 11 V.S.A. § 3058(c) is amended to read:

(c) A company may maintain its records in other than written form if such form is capable of conversion into written form within a reasonable time or into an electronic form that may be prescribed by the secretary of state.

Sec. 4. 11A V.S.A. § 1.20 is amended to read:

§ 1.20. FILING REQUIREMENTS

* * *

(d) The document must be typewritten or printed or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form or in an electronic format prescribed by the secretary of state.

* * *

(h) If the secretary of state has prescribed a mandatory form or electronic format for the document under section 1.21 of this title, the document must be in or on the prescribed form.

* * *

(j)(1) Any of the terms of a plan or filed documents may be made dependent on facts ascertainable outside the plan or filed documents as follows:

(A) The manner in which the facts operate on the terms of the plan or filed document must be clearly and expressly set forth in the plan or filed document.

(B) The facts may include without limitation actions or events within the control of, or determinations made by, a part to the plan or filing the filed document or a representative of a party to the plan or filing the filed document.

(2) As used in this section:

(A) "Filed document" means a document filed with the secretary of state under any provision of this title, except chapter 15 or section 16.22 of this title.

(B) "Plan" means a plan of merger or share exchange.

Sec. 5. 11A V.S.A. § 1.21(a) is amended to read:

(a) The secretary of state may prescribe the form or electronic format of and furnish on request forms or specifications for formats for:

(1) articles of incorporation. such form shall note the information required under subsection 2.02(a) of this title, together with a summary of such information or provisions as are permitted by this title;

(2) an application for a certificate of good standing;

(3) a foreign corporation's application for a certificate of authority to transact business in this state;

(4) a foreign corporation's application for a certificate of withdrawal;
and

(5) the annual report.

Sec. 6. 11A V.S.A. § 1.23(a) is amended to read:

§ 1.23. EFFECTIVE TIME AND DATE OF DOCUMENT

(a) Except as provided in subsection (b) of this section, ~~section subsection 1.24(c) of this title, and section 2.03 of this title, a document accepted for filing is effective at the time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document;~~

(1) at the date and time of filing, as evidenced by such means as the secretary of state may use for the purpose of recording the date and time of

filing; or

(2) at the time specified in the document as its effective time on the date it is filed.

Sec. 7. 11A V.S.A. § 1.24(a) is amended to read:

(a) A domestic or foreign corporation may correct a document filed by the secretary of state if the document:

(1) is incomplete;

(2) contains an incorrect statement; or

(3) was defectively executed, attested, sealed, verified, or acknowledged; or

(4) the electronic transmission of which was defective.

Sec. 8. 11A V.S.A. § 1.25(b) is amended to read:

(b) The secretary of state files a document by ~~stamping or otherwise endorsing recording it as~~ "Filed" together with his or her name and official title ~~and on~~ the date and time of receipt, on both the ~~original and the document copy document~~ and on the record of the receipt for the filing fee. After filing a document, except as provided in sections 5.03 and 15.10 of this title, the secretary of state shall deliver a copy of the document copy, with the and filing fee receipt (or acknowledgement of receipt if no fee is required) ~~attached~~, to the domestic or foreign corporation or its representative.

Sec. 9. 11A V.S.A. § 1.27 is amended to read:

§ 1.27. EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT

~~(a) A certificate attached to a copy of a document filed by the secretary of state, bearing his or her signature (which may be in facsimile) and the seal of this state, is conclusive evidence that the original document is on file with the secretary of state.~~

~~(b) A certificate by the secretary of state that a diligent search has failed to locate documents claimed to be filed with the secretary of state shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the absence of those documents in the files of the secretary of state.~~

~~(c) The secretary of state's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation~~

A certificate from the secretary of state delivered with a copy of a document filed by the secretary of state is conclusive evidence that the document is on file with the secretary of state.

Sec. 10. 11A V.S.A. § 1.40 is amended to read:

§ 1.40. DEFINITIONS

* * *

(5) “Deliver” includes mail or “delivery” means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission.

* * *

(25) “Electronic transmission” or “electronically transmitted” means a process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(26) “Meeting” means any structured communications conducted by participants in person or through the use of electronic or telecommunications medium permitting simultaneous or sequentially structured communications for the purpose of reaching a collective agreement.

(27) “Sign” or “signature” includes any manual, facsimile, conformed, or electronic signature.

Sec. 11. 11A V.S.A. § 141(b) and (c) are amended to read:

(b) Notice may be communicated in person; by telephone, voice mail, telegraph, teletype, facsimile, or other form of wire or, wireless, or electronic communication; or by mail or private carrier or other method of delivery. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(c) Notice to shareholders. Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, is effective when:

(1) mailed first class postpaid and correctly addressed to the shareholder’s address as shown in the corporation’s current record of shareholders; or

(2) electronically transmitted to the shareholder in a manner authorized by the shareholder.

Sec. 12. 11A V.S.A. § 6.01 is amended to read:

§ 6.01. AUTHORIZED SHARES

* * *

(d) The description of the designations, preferences, limitations, and relative rights of share classes in subsection (c) of this section is not exhaustive. Terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with subsection 1.20(k) of this title.

(e) Any of the terms of shares may vary among holders of the same class or series so long as such variations are expressly set forth in the articles of incorporation.

(f) The description of the designations, preferences, limitations, and relative rights of share classes in subsection (c) of this section is not exhaustive.

Sec. 13. 11A V.S.A. § 6.21 is amended to read:

§ 6.21. ISSUANCE OF SHARES

* * *

(b) The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed, contracts for services performed, or other securities of the corporation. Future services shall not constitute payment or part payment for shares of a corporation.

* * *

(e) The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the note is paid, or the benefits are received. If the services are not performed, the note is not paid, or the benefits are not received, the shares escrowed or restricted and the distributions credited may be cancelled in whole or part.

Sec. 14. 11A V.S.A. § 6.24 is amended to read:

§ 6.24. SHARE OPTIONS

A corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board of directors shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the consideration for which the shares are to be issued. The provisions of sections 8.60 through 8.63 of this title apply in accordance with their terms in the case of transactions involving the issuance of rights, options, or warrants for the purchase of shares to directors. Any transactions involving the issuance

~~of options for the purchase of shares to directors, as such, shall be subject to the approval of the shareholders.~~

(a) A corporation may issue rights, options, or warrants for the purchase of shares or other securities of the corporation. The board of directors shall determine:

(1) the terms upon which the rights, options, or warrants are issued; and

(2) the terms, including the consideration for which the shares or other securities are to be issued.

(b) The authorization by the board of directors for the corporation to issue such rights, options, or warrants constitutes authorization of the issuance of the shares or other securities for which the rights, options, or warrants are exercisable.

(c) The terms and conditions of such rights, options, or warrants, including those outstanding on the effective date of this section, may include, without limitation, restrictions or conditions that:

(1) preclude or limit the exercise, transfer, or receipt of such rights, options, or warrants by any person or persons owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation or by any transferee or transferees of any such person or persons; or

(2) invalidate or void such rights, options, or warrants held by any such person or persons or any such transferee or transferees.

Sec. 15. 11A V.S.A. § 7.01 is amended to read:

§ 7.01. ANNUAL MEETING

~~(a) A corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws.~~

~~(b) Annual shareholders' meetings shall be held in this state, unless permitted in the bylaws of the corporation to be held out of this state. Annual meetings shall be held at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office. An annual meeting may be conducted by means of any telecommunications mechanism, including video conference telecommunication.~~

~~(c) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action, and shall result not in a forfeiture or dissolution of the corporation~~

Annual shareholders' meetings shall be held in this state, unless permitted in the bylaws of the corporation to be held outside this state. Annual meetings shall be held at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office. An annual meeting may be conducted by means of any electronic or telecommunications mechanism, including video-conference telecommunication. The failure to hold an annual meeting at the time stated or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

Sec. 16. 11A V.S.A. § 7.02(c) is amended to read:

(c) Special shareholders' meetings shall be held in this state, unless permitted in the bylaws of the corporation to be held out of this state. Meetings shall be held at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office. A special meeting may be conducted by means of any electronic or telecommunications mechanism, including video-conference telecommunication.

Sec. 17. 11A V.S.A. § 7.04(a) is amended to read:

(a) Unless the articles of incorporation preclude the taking of action required or permitted by this title without a shareholders' meeting, action required or permitted by this title to be taken at a shareholders' meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. Each action must be evidenced by one or more written consents describing the action taken, signed by all the shareholders entitled to vote on the action, and delivered to the corporation for inclusion in the minutes or filed with the corporate records. For purposes of this section, consent evidenced by electronic communications or an electronic record is written consent.

Sec. 18. 11A V.S.A. § 7.32 is added to read:

§ 7.32. SHAREHOLDER AGREEMENTS

(a) An agreement among the shareholders of a corporation that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this title in that it:

(1) eliminates the board of directors or restricts the discretion or powers of the board of directors;

(2) governs the authorization or making of distributions whether or not in proportion to ownership of shares, subject to the limitations in section 6.40 of this title;

(3) establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal;

(4) governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including the use of weighted voting rights or director proxies;

(5) establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation or among any of them;

(6) transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders;

(7) requires dissolution of the corporation at the request of one or more of the shareholders or upon the occurrence of a specified event; or

(8) otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them, and is not contrary to public policy.

(b) An agreement authorized by this section shall be:

(1) set forth:

(A) in the articles of incorporation or bylaws and approved by all persons who are shareholders at the time of the agreement; or

(B) in a written agreement that is signed by all persons who are shareholders at the time of the agreement and is made known to the corporation;

(2) subject to amendment only by the holders of a majority of each class of the corporation's issued and outstanding capital stock, with each class voting as a separate group, unless the agreement provides otherwise; and

(3) valid for 10 years, unless the agreement provides otherwise.

(c) The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or

on the information statement required by subsection 6.26(b) of this title. If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares who, at the time of purchase, did not have knowledge of the existence of the agreement shall be entitled to rescission of the purchase. A purchaser shall be deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or prior to the time of the purchase of the shares. An action to enforce the right of rescission authorized by this subsection must be commenced within the earlier of 90 days after discovery of the existence of the agreement or two years after the time of the purchase of the shares.

(d) An agreement authorized by this section shall cease to be effective when the corporation becomes a public corporation. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation's articles of incorporation or bylaws, adopt an amendment to the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.

(e) An agreement authorized by this section that limits the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

(f) The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation, even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(g) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.

Sec. 19. 11A V.S.A. § 8.03(a) amended to read:

(a) A board of directors of a corporation which is not a close corporation dispensing with a board of directors pursuant to section 20.08 of this title must consist of ~~three~~ one or more individuals, with the number specified in or fixed

in accordance with the articles of incorporation or bylaws. ~~If the number of shareholders in any corporation is less than three, the~~ The number of directors may be as few as the number of shareholders increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or the bylaws.

Sec. 20. 11A V.S.A. § 8.20 is amended to read:

§ 8.20. MEETINGS

(a) The board of directors may hold regular or special meetings, as defined in subdivision 1.40(26) of this title, in or ~~out of~~ outside this state.

(b) The board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously hear communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 21. 11A V.S.A. § 8.40 is amended to read:

§ 8.40. ~~REQUIRED~~ OFFICERS

(a) A corporation has the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws, ~~provided that a corporation shall have a president and a secretary. Any two or more offices may be held by the same person, except the offices of president and secretary, unless the corporation is a professional corporation organized under chapter 3 or 4 of Title 11.~~

(b) ~~A duly appointed~~ The board of directors may elect individuals to fill one or more offices of the corporations. An officer may appoint one or more officers or assistant officers if authorized by the bylaws or the board of directors.

(c) The bylaws or the board of directors shall ~~delegate~~ assign to one of the officers responsibility for preparing the minutes of the directors' and shareholders' meetings and for authenticating and maintaining the records of the corporation required to be kept under subsections 16.01(a) and 16.10(e) of this title.

* * *

(e) ~~An individual who holds more than one office may execute, acknowledge or verify in more than one capacity any document required to be executed, acknowledged or verified by the holders of two or more officers.~~

Sec. 22. 11A V.S.A. § 8.60 is amended to read:

§ 8.60. DEFINITIONS

For purposes of this subchapter:

(1) ~~“Conflicting interest” with respect to a corporation means the interest a director of the corporation has respecting a transaction effected or proposed to be effected by the corporation (or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest) if~~

~~(A) whether or not the transaction is brought before the board of directors of the corporation for action, the director knows at the time of commitment that he or she or a related person is a party to the transaction or has a beneficial financial interest in or so closely linked to the transaction and of such financial significance to the director or a related person that the interest would reasonably be expected to exert an influence on the director’s judgment if he or she were called upon to vote on the transaction; or~~

~~(B) the transaction is brought (or is of such character and significance to the corporation that it would in the normal course be brought) before the board of directors of the corporation for action, and the director knows at the time of commitment that any of the following persons is either a party to the transaction or has a beneficial financial interest in or so closely linked to the transaction and of such financial significance to the person that the interest would reasonably be expected to exert an influence on the director’s judgment if he or she were called upon to vote on the transaction:~~

~~(i) an entity (other than the corporation) of which the director is a director, general partner, agent, or employee;~~

~~(ii) a person that controls one or more of the entities specified in subdivision (i) of this subdivision or an entity that is controlled by, or is under common control with, one or more of the entities specified in subdivision (i); or~~

~~(iii) an individual who is a general partner, principal, or employer of the director.~~

(2) ~~“Director’s conflicting interest transaction” with respect to a corporation means a transaction effected or proposed to be effected by the corporation (or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest) respecting which a director of the corporation has a conflicting interest.~~

(3) ~~“Related person” of a director means (A) the spouse (or a parent or sibling thereof) of the director, or a child, grandchild, sibling, parent (or spouse~~

~~of any thereof) of the director, or an individual having the same home as the director, or a trust or estate of which an individual specified in this subdivision (A) is a substantial beneficiary; or (B) a trust, estate, incompetent, conservatee, or minor of which the director is a fiduciary.~~

~~(4) "Required disclosure" means disclosure by the director who has a conflicting interest of (A) the existence and nature of his or her conflicting interest, and (B) all facts known to him or her respecting the subject matter of the transaction that an ordinarily prudent person would reasonably believe to be material to a judgment about whether or not to proceed with the transaction.~~

~~(5) "Time of commitment" respecting a transaction means the time when the transaction is consummated or, if made pursuant to contract, the time when the corporation (or its subsidiary or the entity in which it has a controlling interest) becomes contractually obligated so that its unilateral withdrawal from the transaction would entail significant loss, liability, or other damage.~~

(1) "Control" including the term "controlled by" means:

(A) having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity whether through the ownership of voting shares or interests, by contract, or otherwise; or

(B) being subject to a majority of the risk of loss from the entity's activities or entitled to receive a majority of the entity's residual returns.

(2) "Director's conflicting interest transaction" means a transaction effected or proposed to be effected by the corporation or by an entity controlled by the corporation that at the relevant time the director:

(A) was a party to; or

(B) had knowledge of and a material financial interest known to the director; or

(C) knew that a related person was a party or had a material financial interest.

(3) "Fair to the corporation" means, for purposes of subdivision 8.61(b)(3) of this title, that the transaction as a whole was beneficial to the corporation, taking into appropriate account whether it was:

(A) fair in terms of the director's dealings with the corporation; and

(B) comparable to what might have been obtainable in an arm's length transaction, given the consideration paid or received by the corporation.

(4) "Material financial interest" means a financial interest in a transaction that would reasonably be expected to impair the objectivity of the director's judgment when participating in action on the authorization of the transaction.

(5) "Related person" means:

(A) the director's spouse;

(B) a child, stepchild, grandchild, parent, stepparent, grandparent, sibling, step sibling, half sibling, aunt, uncle, niece, or nephew (or spouse of any thereof) of the director or of the director's spouse;

(C) an individual living in the same home as the director;

(D) an entity, other than the corporation or an entity controlled by the corporation, controlled by the director or any person specified in this subdivision;

(E) a domestic or foreign:

(i) business or nonprofit corporation (other than the corporation or an entity controlled by the corporation) of which the director is a director;

(ii) unincorporated entity of which the director is a general partner or a member of the governing body; or

(iii) individual, trust, or estate for whom or of which the director is a trustee, guardian, personal representative, or like fiduciary; or

(F) a person that is, or an entity that is controlled by, an employer of the director.

(6) "Relevant time" means:

(A) the time at which the directors' action respecting the transaction is taken in compliance with section 8.62 of this title; or

(B) if the transaction is not brought before the board of directors of the corporation or its committee for action under section 8.62 of this title, at the time the corporation, or an entity controlled by the corporation, becomes legally obligated to consummate the transaction.

(7) "Required disclosure" means disclosure of:

(A) the existence and nature of the director's conflicting interest; and

(B) all facts known to the director respecting the subject matter of the transaction that a director free of such conflicting interest would reasonably believe to be material in deciding whether to proceed with the transaction.

Sec. 23. 11A V.S.A. § 8.61 is amended to read:

§ 8.61. JUDICIAL ACTION

~~(a) A transaction effected or proposed to be effected by a corporation (or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest) that is not a director's conflicting interest transaction may not be enjoined, set aside, or give rise to an award of damages or other sanctions, in a proceeding by a shareholder or by or in the right of the corporation, because a director of the corporation, or any person with whom or which he or she has a personal, economic, or other association, has an interest in the transaction.~~

~~(b) A director's conflicting interest transaction may not be enjoined, set aside, or give rise to an award of damages or other sanctions, in a proceeding by a shareholder or by or in the right of the corporation, because the director, or any person with whom or which he or she has a personal, economic, or other association, has an interest in the transaction, if:~~

~~(1) directors' action respecting the transaction was at any time taken in compliance with section 8.62 of this subchapter;~~

~~(2) shareholders' action respecting the transaction was at any time taken in compliance with section 8.63 of this subchapter; or~~

~~(3) the transaction, judged according to the circumstances at the time of commitment, is established to have been fair to the corporation.~~

(a) A transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, on the ground that the director has an interest respecting the transaction, if it is not a director's conflicting interest transaction.

(b) A director's conflicting interest transaction may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder, or by or in the right of the corporation, on the ground that the director has an interest respecting the transaction, if:

(1) the directors' action respecting the transaction was taken in compliance with section 8.62 of this title at any time; or

(2) the shareholders' action respecting the transaction was taken in compliance with section 8.63 of this title at any time; or

(3) the transaction, judged according to the circumstances at the relevant time, is established to have been fair to the corporation.

Sec. 24. 11A V.S.A. § 8.62 is amended to read:

§ 8.62. DIRECTORS' ACTION

~~(a) Directors' action respecting a transaction is effective for purposes of section 8.61(b)(1) of this subchapter if the transaction received the affirmative vote of a majority (but no fewer than two) of those qualified directors on the board of directors or on a duly empowered committee of the board who voted on the transaction after either required disclosure to them (to the extent the information was not known by them) or compliance with subsection (b) of this section; provided that action by a committee is so effective only if:~~

~~(1) all its members are qualified directors; and~~

~~(2) its members are either all the qualified directors on the board or are appointed by the affirmative vote of a majority of the qualified directors on the board.~~

~~(b) If a director has a conflicting interest respecting a transaction, but neither he nor she nor a related person of the director specified in section 8.60(3) of this subchapter is a party to the transaction, and if the director has a duty under law or professional canon, or a duty of confidentiality to another person, respecting information relating to the transaction such that the director may not make the disclosure described in section 8.60(4), then disclosure is sufficient for purposes of subsection (a) of this section if the director (1) discloses to the directors voting on the transaction the existence and nature of his or her conflicting interest and informs them of the character and limitations imposed by that duty before their vote on the transaction, and (2) plays no part, directly or indirectly, in their deliberations or vote.~~

~~(c) A majority (but no fewer than two) of all the qualified directors on the board of directors, or on the committee, constitutes a quorum for purposes of action that complies with this section. Directors' action that otherwise complies with this section is not affected by the presence or vote of a director who is not a qualified director.~~

~~(d) For purposes of this section, "qualified director" means, with respect to a director's conflicting interest transaction, any director who does not have either (1) a conflicting interest respecting the transaction, or (2) a familial, financial, professional, or employment relationship with a second director who does have a conflicting interest respecting the transaction, which relationship would, in the circumstances, reasonably be expected to exert an influence on the first director's judgment when voting on the transaction.~~

(a) Directors' action respecting a director's conflicting interest transaction is effective for purposes of subdivision 8.61(b)(1) of this title if the transaction has been authorized by the affirmative vote of a majority, but no fewer than

two of the qualified directors who voted on the transaction after required disclosure by the conflicted director of information not already known by such qualified directors, or after modified disclosure in compliance with subsection (b) of this section, provided that:

(1) the qualified directors have deliberated and voted outside the presence of and without the participation by any other director; and

(2) where the action has been taken by a committee, all members of the committee were qualified directors, and either:

(A) the committee was composed of all the qualified directors on the board of directors; or

(B) the members of the committee were appointed by the affirmative vote of a majority of the qualified directors on the board.

(b) Notwithstanding subsection (a) of this section, when a transaction is a director's conflicting interest transaction only because a related person described in subdivisions 8.60(5)(E) and (F) of this title is a party to or has a material financial interest in the transaction, the conflicted director is not obligated to make required disclosure to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule, provided that the conflicted director discloses to the qualified directors voting on the transaction:

(1) all information required to be disclosed that is not so violative;

(2) the existence and nature of the director's conflicting interest; and

(3) the nature of the conflicted director's duty not to disclose the confidential information.

(c) A majority, but no fewer than two, of all the qualified directors on the board of directors or on the committee constitutes a quorum for purposes of action that complies with this section.

(d) Where directors' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation, the bylaws, or a provision of law, independent action to satisfy those authorization requirements must be taken by the board of directors or a committee, in which action directors who are not qualified directors may participate.

Sec. 25. 11A V.S.A. § 8.63 is amended to read:

§ 8.63. SHAREHOLDERS' ACTION

~~(a) Shareholders' action respecting a transaction is effective for purposes of section 8.61(b)(2) of this subchapter if a majority of the votes entitled to be cast by the holders of all qualified shares was cast in favor of the transaction after (1) notice to shareholders describing the director's conflicting interest transaction, (2) provision of the information referred to in subsection (d) of this section, and (3) required disclosure to the shareholders who voted on the transaction (to the extent the information was not known by them).~~

~~(b) For purposes of this section, "qualified shares" mean any shares entitled to vote with respect to the director's conflicting interest transaction except shares that, to the knowledge, before the vote, of the secretary (or other officer or agent of the corporation authorized to tabulate votes), are beneficially owned (or the voting of which is controlled) by a director who has a conflicting interest respecting the transaction or by a related person of the director, or both.~~

~~(c) A majority of the votes entitled to be cast by the holders of all qualified shares constitutes a quorum for purposes of action that complies with this section. Subject to the provisions of subsections (d) and (e) of this section, shareholders' action that otherwise complies with this section is not affected by the presence of holders, or the voting, of shares that are not qualified shares.~~

~~(d) For purposes of compliance with subsection (a) of this section, a director who has a conflicting interest respecting the transaction shall, before the shareholders' vote, inform the secretary (or other officer or agent of the corporation authorized to tabulate votes) of the number, and the identity of persons holding or controlling the vote, of all shares that the director knows are beneficially owned (or the voting of which is controlled) by the director or by a related person of the director, or both.~~

~~(e) If a shareholders' vote does not comply with subsection (a) of this section solely because of a failure of a director to comply with subsection (d), and if the director establishes that his or her failure did not determine and was not intended by him or her to influence the outcome of the vote, the court may, with or without further proceedings respecting section 8.61(b)(3) of this subchapter, take such action respecting the transaction and the director, and give such effect, if any, to the shareholders' vote, as it considers appropriate in the circumstances.~~

(a) Shareholders' action respecting a director's conflicting interest transaction is effective for purposes of subdivision 8.61(b)(2) of this title if a majority of the votes cast by the holders of all qualified shares is in favor of the transaction after:

(1) notice to shareholders describing the action to be taken respecting the transaction;

(2) provision to the corporation of the information referred to in subsection (b) of this section; and

(3) communication of the information that is the subject of required disclosure to the shareholders entitled to vote on the transaction, to the extent the information is not known by them.

(b) A director who has a conflicting interest respecting the transaction shall, before the shareholders' vote, inform the secretary or other officer or agent of the corporation authorized to tabulate votes, in writing, of the number of shares that the director knows are not qualified shares under subsection (c) of this section and the identity of the holders of those shares.

(c) For purposes of this section:

(1) "Holder" means and "held by" refers to shares held by both a record shareholder, as defined in subdivision 13.01(7) of this title, and a beneficial shareholder, as defined in subdivision 13.01(2) of this title;

(2) "Qualified shares" means all shares entitled to be voted with respect to the transaction except for shares that the secretary or other officer or agent of the corporation authorized to tabulate votes either knows, or under subsection (b) of this section is notified, are held by:

(A) a director who has a conflicting interest respecting the transaction; or

(B) a related person of the director, excluding a person described in subdivision 8.60(5)(F) of this title.

(d) A majority of the votes entitled to be cast by the holders of all qualified shares constitutes a quorum for purposes of compliance with this section. Subject to the provisions of subsection (e) of this section, shareholders' action that otherwise complies with this section is not affected by the presence of holders, or by the voting, of shares that are not qualified shares.

(e) If a shareholders' vote does not comply with subsection (a) of this section solely because of a director's failure to comply with subsection (b) of this section, and if the director establishes that the failure was not intended to influence and did not in fact determine the outcome of the vote, the court may take such action respecting the transaction and the director, and may give such effect, if any, to the shareholders' vote, as the court considers appropriate in the circumstances.

(f) Where shareholders' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation, the bylaws, or a provision of law, independent action to satisfy those authorization requirements must be taken by the shareholders, in which action shares that are not qualified shares may participate.

Sec. 26. 11A V.S.A. § 12.02(a) is amended to read:

~~(a) A corporation may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property (with or without the good will), otherwise than in the usual and regular course of business, on the terms and conditions and for the consideration determined by the corporation's board of directors, if the board of directors proposes and its shareholders approve the proposed transaction~~ A sale, lease, exchange, or other disposition of assets, other than a disposition described in subdivision 12.01 of this title, requires approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. If a corporation retains a business activity that represented at least 25 percent of the total assets at the end of the most recently completed fiscal year, and 25 percent of either income from continuing operations before taxes or revenues from continuing operations for that fiscal year, in each case of the corporation and its subsidiaries on a consolidated basis, the corporation will conclusively be deemed to have retained a significant continuing business activity.

Sec. 27. 11A V.S.A. § 16.01(d) and (e) are amended to read:

(d) A corporation shall maintain its records in written form or in another form, including electronic form, capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at its principal office (or, if none in this state, then the registered office):

* * *

(5) all written or electronic communications to shareholders generally within the past three years, including the financial statements furnished for the past three years under section 16.20 of this title;

* * *

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

Adjournment

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

WEDNESDAY, FEBRUARY 13, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend Wendy Manley of Christ Episcopal Church, Montpelier.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Dennise Casey, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House that on the eleventh day of February, 2008, he approved and signed a bill originating in the House of the following title:

H. 590 An act relating to the spelling of the name of the town and village of Alburg

Message from the Senate No. 20

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

Madam Speaker:

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

J.R.H. 50. Joint resolution relating to hunger awareness.

And has adopted the same in concurrence.

House Resolution Placed on Calendar**H.R. 30**

Reps. Sweaney of Windsor, Barnard of Richmond, Evans of Essex, Martin of Wolcott, Adams of Hartland, Ancel of Calais, Andrews of Rutland City, Atkins of Winooski, Baker of West Rutland, Brennan of Colchester, Clark of Vergennes, Clarkson of Woodstock, Devereux of Mount Holly, Flory of

Pittsford, Gilbert of Fairfax, Jerman of Essex, Komline of Dorset, Krawczyk of Bennington, Manwaring of Wilmington, McDonald of Berlin, McNeil of Rutland Town, Mook of Bennington, Morrissey of Bennington, Oxholm of Vergennes, Peltz of Woodbury, Scheuermann of Stowe, Smith of Morristown and Wright of Burlington offered a House resolution, entitled

House resolution designating February 14, 2008 as Wear Red Day;

Whereas, diseases of the heart are the nation's leading cause of death, and stroke is the third leading cause of death, and

Whereas, cardiovascular diseases (CVD) claim the lives of hundreds of thousands of Americans each year, and

Whereas, each year, 53 percent of all cardiovascular disease deaths occur in females, as compared to 47 percent in men, and about 32,500 more females than males die from strokes, and

Whereas, in 2008, the direct and indirect cost of cardiovascular diseases in the U.S., including stroke, is estimated to be \$448.5 billion, and

Whereas, more women die of heart disease, stroke, and all other cardiovascular diseases than of the next five leading causes of death combined, including all cancers, and

Whereas, only 21 percent of women consider cardiovascular disease their greatest health risk, and

Whereas, Go Red For Women is the American Heart Association's national call to increase awareness about heart disease and to inspire women to take charge of their heart health, and

Whereas, the members of the General Assembly have learned from the recent illnesses of several legislative colleagues that all women and men should learn their own personal risks for heart disease, using tools such as the American Heart Association's Go Red For Women Heart Check Up and by talking to their health care providers, now therefore be it

Resolved by the House of Representatives:

That the General Assembly designates February 14, 2008 as Wear Red Day and urges all legislators to show their support for the fight against heart disease by commemorating this day by wearing the color red and by increasing public awareness and empowering women and men to reduce their risk for cardiovascular disease in order to save thousands of lives each year, and be it further

Resolved: That the clerk of the house be directed to send a copy of this resolution to Nicole Lukas at the Vermont Founders Affiliate of the American Heart Association-American Stroke Association.

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

Joint Resolution Referred to Committee

J.R.H. 52

Reps. Keenan of St. Albans City, Andrews of Rutland City, Browning of Arlington, Fisher of Lincoln, Frank of Underhill, French of Randolph, Gervais of Enosburg, Haas of Rochester, Head of S. Burlington, Keogh of Burlington, Leriche of Hardwick, Maier of Middlebury, McCormack of Rutland City, Milkey of Brattleboro, Morrissey of Bennington, Mrowicki of Putney, Nuovo of Middlebury, O'Donnell of Vernon, Ojibway of Hartford, Orr of Charlotte, Pearson of Burlington, Perry of Richford, Pugh of S. Burlington, Spengler of Colchester, Symington of Jericho, Wheeler of Derby and Zenie of Colchester offered a joint resolution, entitled

Joint resolution urging Congress to enact legislation establishing an Office of the National Nurse;

Whereas, everyday, nurses provide critical health care services to individuals in hospitals, clinics, nursing facilities, and doctors' offices, and as nurse practitioners, and

Whereas, there is a severe shortage of nurses throughout the United States, including Vermont, and

Whereas, during the 109th Congress, Representative Lois Capps of California introduced HR 4903, also known as the "National Nurse Act of 2006," that would have established an Office of the National Nurse within the U.S. Office of Public Health and Science, and

Whereas, the legislation required the U.S. Secretary of Health and Human Services to appoint a registered nurse to head the Office of the National Nurse, and

Whereas, under this bill, the National Nurse was directed to:

"(1) carry out activities to encourage individuals to enter the nursing profession, including providing education on the distinct role of nurses in the health professions and examining nursing issues that would increase public safety, such as issues relating to staff levels, working conditions, and patient input;

“(2) carry out activities to encourage nurses to become educators in schools of nursing;

“(3) carry out activities to promote the public health, including encouraging nurses to be volunteers to projects that educate the public on achieving better health; and

“(4) conduct media campaigns and make personal appearances for purposes of paragraphs (1) through (3)”, and

Whereas, in accordance with the proposed HR 4903, on an annual basis, the National Nurse was instructed to designate four methods of achieving better health, and

Whereas, the National Nurse was also assigned the responsibility of making grants to nonprofit organizations for the purpose of developing and implementing community-based public health information programs in conjunction with designated state coordinators who would establish volunteer teams of nurses to serve as the onsite community educators, and

Whereas, this legislation would also have authorized appropriations, for a period of five years, to implement its provisions, and

Whereas, HR 4903 as introduced in the 109th Congress merits further congressional examination, and its provisions should be reintroduced in new legislation during the 110th Congress, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to enact legislation establishing an Office of the National Nurse, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Peggy Sharpe, president of the Vermont State Nurses Association in South Burlington, to U.S. Representative Lois Capps, and to the members of the Vermont Congressional Delegation.

Which was read and, in the Speaker’s discretion, treated as a bill and referred to the committee on Health Care.

Third Reading; Bill Passed

H. 458

House bill, entitled

An act relating to digital corporate transactions;

Was taken up, read the third time and passed.

Proposal of Amendment Agreed to; Third Reading Ordered**S. 209**

Rep. Dostis of Waterbury, for the committee on Natural Resources and Energy, to which had been referred Senate bill, entitled

An act relating to the Vermont energy efficiency and affordability act;

Recommended that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. DESIGNATION OF ACT

This act shall be referred to as “the Vermont energy efficiency and affordability act.”

Sec. 2. LEGISLATIVE FINDINGS

The general assembly finds that:

(1) Global climate change, which is threatening our environment and perhaps ultimately our existence, has been caused in part by an energy policy that is largely dependent on the burning of fossil fuels.

(2) In order to reduce greenhouse gas emissions and environmental degradation, it is essential that we reduce or eliminate our dependency on fossil fuels by significantly improving energy efficiency and shifting to nonpolluting benign forms of energy such as wind, sun, and water power.

(3) In order for Vermont to meet the greenhouse gas reduction goals set by the conference of the New England governors and Eastern Canadian premiers’ climate change action plan, Vermont needs to provide effective weatherization services, new funding strategies, green building practices, and installation of renewable energy systems.

(4) The “Vermont energy efficiency potential study for non-regulated fuels” recently completed by the department of public service indicates that Vermont has cost-effective potential energy savings of \$486 million over the next ten years with 63 percent of those savings from building shell improvements.

(5) Although workforce development in the field of green building, renewable energy, and energy efficiency is an essential component of the battle to combat global climate change, there are few trained applicants to fill the new well-paying jobs being created in this field.

*** Agriculture Development Funds ***

Sec. 3. 6 V.S.A. § 4710(g)(3) is amended to read:

(3) Assistance from the agricultural economic development special account shall be available ~~for in order to produce agricultural energy, harvest biomass, convert biomass into energy, or enable installation and usage of wind, solar, or other technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A. § 8002(2), including:~~

(A) Business and technical assistance for research and planning to aid a farmer or a group of farmers in developing business enterprises ~~that harvest biomass, convert biomass to energy, or produce biofuel;~~

(B) ~~Implementation~~ Cost-effective implementation assistance to leverage other sources of capital to assist a farmer or group of farmers in purchasing equipment, technology, or other assistance ~~to produce agricultural energy, harvest biomass, or convert biomass into energy;~~ and

* * *

* * * Act 250 Definition of Farming * * *

Sec. 4. 10 V.S.A. § 6001(22) is amended to read:

(22) "Farming" means:

(A) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or

(B) the raising, feeding, or management of livestock, poultry, fish, or bees; or

(C) the operation of greenhouses; or

(D) the production of maple syrup; or

(E) the on-site storage, preparation and sale of agricultural products principally produced on the farm; or

(F) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

* * * Renewable Energy Goal * * *

Sec. 5. 10 V.S.A. § 579 is added to read:

§ 579. 25 BY 25 STATE GOAL

(a) It is a goal of the state, by the year 2025, to produce 25 percent of the energy consumed within the state through the use of renewable energy sources, particularly from Vermont's farms and forests.

(b) By no later than January 15, 2009, the secretary of agriculture, food and markets, in consultation with the commissioner of public service and the commissioner of forests, parks and recreation, shall present to the committees on agriculture and natural resources and energy of the general assembly a plan for attaining this goal. Plan updates shall be presented no less frequently than every three years thereafter, and a progress report shall be due annually on January 15.

(c) By no later than January 15, 2009, the department of public service shall present to the legislative committees on natural resources and energy an updated comprehensive energy plan which shall give due consideration to the public engagement process required under 30 V.S.A. § 254 and under Sec. 2 of No. 208 of the Acts of the 2005 Adj. Sess. (2006). By that time, the department of public service shall incorporate plans adopted under this section into the state comprehensive energy plan adopted under 30 V.S.A. § 202b.

* * * Building Efficiency Goals * * *

Sec. 6. 10 V.S.A. § 581 is added to read:

§ 581. BUILDING EFFICIENCY GOALS

It shall be goals of the state:

(1) To improve substantially the energy fitness of at least 20 percent of the state's housing stock by 2017 (more than 60,000 housing units), and 25 percent of the state's housing stock by 2020 (approximately 80,000 housing units).

(2) To reduce annual fuel needs and fuel bills by an average of 25 percent in the housing units served.

(3) To reduce total fossil fuel consumption across all buildings by an additional one-half percent each year, leading to a total reduction of six percent annually by 2017 and 10 percent annually by 2025.

(4) To save Vermont families and businesses a total of \$1.5 billion on their fuel bills over the lifetimes of the improvements and measures installed between 2008 and 2017.

* * * Clean Energy Development Fund * * *

Sec. 7. 10 V.S.A. § 6523(d)(6) is added to read:

(6) The sum of \$20,000.00 shall be transferred annually from the clean energy development fund to the general fund to support the cost of the solar energy income tax credits.

* * * Residential Building Energy Standards (RBES) * * *

Sec. 8. 21 V.S.A. § 266(c) is amended to read:

(c) Revision and interpretation of energy standards. ~~On or about January 1, 1999, and at least every three years thereafter, the~~ The commissioner of public service shall amend and update the RBES, by means of administrative rules adopted in accordance with 3 V.S.A. chapter 25. The commissioner shall ensure that appropriate revisions are made promptly after the issuance of updated standards for residential construction under the international energy conservation code (IECC). The department of public service shall provide technical assistance and expert advice to the commissioner in the interpretation of the RBES and in the formulation of specific proposals for amending the RBES. At least a year prior to final adoption of each required revision of the RBES, the department of public service shall convene an advisory committee to include one or more mortgage lenders, builders, building designers, utility representatives, and other persons with experience and expertise, such as consumer advocates and energy conservation experts. The advisory committee may provide the commissioner with additional recommendations for revision of the RBES.

* * * Commercial Building Energy Standards * * *

Sec. 9. 21 V.S.A. § 268 is amended to read:

§ 268. COMMERCIAL BUILDING ENERGY STANDARDS

(a) Definitions. For purposes of this subchapter, “commercial buildings” means all buildings that are not residential buildings as defined in subdivision 266(a)(2) of this title or farm structures as defined in 24 V.S.A. § 4413.

(1) The following commercial buildings, or portions of those buildings, separated from the remainder of the building by thermal envelope assemblies complying with this section shall be exempt from the building thermal envelope provisions of the standards:

(A) Those that do not contain conditioned space.

(B) Those with a peak design rate of energy usage less than an amount specified in the commercial building energy standards (CBES) adopted under subsection (b) of this section.

(2) These standards shall not apply to equipment or portions of building energy systems that use energy primarily to provide for industrial, or manufacturing, or commercial processes.

(b) Adoption of commercial building energy standards. Commercial building construction with respect to which ~~no state or~~ any local building permit application or application for construction plan approval by the commissioner of public safety pursuant to 20 V.S.A. chapter 173 has been submitted on or after January 1, 2007 shall be designed and constructed in substantial compliance with the standards contained in the 2005 Vermont Guidelines for Energy Efficient Commercial Construction, as those standards may be amended by administrative rule adopted by the commissioner of public service.

(c) Revision and interpretation of energy standards. On or about January 1, 2009, and at least every three years thereafter, the commissioner of public service shall amend and update the CBES by means of administrative rules adopted in accordance with 3 V.S.A. chapter 25. The commissioner shall ensure that appropriate revisions are made promptly after the issuance of updated standards for commercial construction under the international energy conservation code (IECC). At least a year prior to final adoption of each required revision of the CBES, the department of public service shall convene an advisory committee to include one or more mortgage lenders; builders; building designers; architects; civil, mechanical, and electrical engineers; utility representatives; and other persons with experience and expertise, such as consumer advocates and energy conservation experts. The advisory committee may provide the commissioner of public service with additional recommendations for revision of the CBES.

(1) Any amendments to the CBES shall be:

(A) Consistent with duly adopted state energy policy, as specified in 30 V.S.A. § 202a.

(B) Evaluated relative to their technical applicability and reliability.

(2) Each time the CBES are amended by the commissioner of public service, the amended CBES shall become effective upon a date specified in the adopted rule, a date that shall not be less than three months after the date of adoption. Persons submitting an application for any ~~state or~~ local permit authorizing commercial construction, or an application for construction plan approval by the commissioner of public safety pursuant to 20 V.S.A. chapter 173, before the effective date of the amended CBES shall have the option of complying with the applicable provisions of the earlier or the amended CBES. After the effective date of the original or the amended CBES, any person

submitting such an application for ~~any state or local permit authorizing~~ commercial construction in an area subject to the CBES shall comply with the most recent version of the CBES.

(3) The advisory committee convened under this subsection, in preparing for the CBES updates, shall advise the department of public service with respect to the coordination of the CBES amendments with existing and proposed demand-side management programs offered in the state.

(4) The commissioner of public service is authorized to adopt rules interpreting and implementing the CBES.

(5) The commissioner of public service may grant written variances or exemptions from the CBES or rules adopted under this section where strict compliance would entail practical difficulty or unnecessary hardship, or is otherwise found unwarranted, provided that:

(A) Any such variance or exemption shall be consistent with state energy policy, as specified in 30 V.S.A. § 202a.

(B) Any petitioner for such a variance or exemption can demonstrate that the methods, means, or practices proposed to be taken in lieu of compliance with the rule or rules provide, in the opinion of the commissioner, equal energy efficiency to that attained by compliance with the rule or rules.

(C) A copy of any such variance or exemption shall be recorded by the petitioner in the land records of the city or town in which the building is located.

(D) A record of each variance or exemption shall be maintained by the commissioner, together with the certifications received by the commissioner.

(d) Certification requirement. ~~Commercial~~

(1) The design of commercial buildings shall be certified by the primary designer as compliant with CBES in accordance with this subsection, except as compliance is excused by a variance or exemption issued under subdivision (c)(5) of this section. A certification may be issued by a builder, a licensed professional engineer, or a licensed architect. If applicable law requires that the primary designer be a licensed professional engineer, licensed architect, or other licensed professional, a member of a pertinent licensed profession shall issue this certification. If one or more licensed professional engineers or licensed architects is involved in the design of the project, one of these licensees shall issue this certificate. If certification is not issued by a licensed professional engineer or a licensed architect is not involved in designing the

project, its certification shall be issued by the builder. Any certification shall be accompanied by an affidavit and shall certify that the designer acted in accordance with the designer's professional duty of care in designing the building, and that the commercial construction meets building was designed in substantial compliance with the requirements of the CBES. The department of public service will develop and make available to the public a certificate that lists key features requirements of the CBES, sets forth certifying language in accordance with this subdivision, and requires disclosure of persons relied upon by the primary designer who have contracted to indemnify the primary designer for damages arising out of that reliance. Any person certifying under this subdivision shall use this certificate or one substantially like it to certify compliance with CBES satisfy these certification obligations. Certification shall be issued by completing and signing a certificate and permanently affixing it to the outside of the heating or cooling equipment, to the electrical service panel located inside the building, or in a visible location in the vicinity of one of these three areas. The certificate shall certify that the building has been constructed in compliance with the requirements of the CBES. The person certifying under this subsection shall provide a copy of each certificate to the department of public service and shall assure that a certificate is recorded and indexed in the town land records. A builder may contract with a licensed professional engineer or a licensed architect to issue certification and to indemnify the builder from any liability to the owner of the commercial construction caused by noncompliance with the CBES. In certifying under this subsection, the certifying person may reasonably rely on one or more supporting affidavits received from other persons that contributed to the design affirming that the portions of the design produced by them were properly certifiable under this subsection. The certifying person may contract for indemnification from those on which the person relies pursuant to this subdivision (1) against damages arising out of that reliance. This indemnification shall not limit any rights of action of an aggrieved party.

(2) The construction of a commercial building shall be certified as compliant with CBES in accordance with this subsection, except as compliance is excused by a variance or exemption issued under subdivision (c)(5) of this section. This certification shall be issued by the general contractor, construction manager, or other party having primary responsibility for coordinating the construction of the subject building, or in the absence of such a person, by the owner of the building. Any certification shall be accompanied by an affidavit and shall certify that the subject commercial building was constructed in accordance with the ordinary standard of care applicable to the participating construction trades, and that the subject commercial building was constructed substantially in accordance with the construction documents

including the plans and specifications certified under subdivision (1) of this subsection for that building. The department of public service will develop and make available to the public a certificate that sets forth certifying language in accordance with this subdivision, and that requires disclosure of persons who have been relied upon by the person with primary responsibility for coordinating the construction of the building and who have contracted to indemnify that person for damages arising out of that reliance. The person certifying under this subdivision shall use that certificate or one substantially like it to satisfy these certification obligations. Certification shall be issued by completing and signing a certificate and permanently affixing it to the outside of the heating or cooling equipment, to the electrical service panel located inside the building, or in a visible location in the vicinity of one of these three areas. In certifying under this subdivision, the certifying person may reasonably rely on one or more supporting affidavits received from subcontractors or others engaged in the construction of the subject commercial building affirming that the portions of the building constructed by them were properly certifiable under this subdivision. The certifying person may contract for indemnification from those on which the person relies pursuant to this subdivision (2) against damages arising out of that reliance. This indemnification shall not limit any rights of action of an aggrieved party.

(3) Any person certifying under this subsection shall provide a copy of the person's certificate and any accompanying affidavit to the department of public service.

(4) A certificate issued pursuant to subdivision (1) of this subsection and a certificate issued pursuant to subdivision (2) of this subsection shall be conditions precedent to issuance by the commissioner of public safety (or a municipal official acting under 20 V.S.A. § 2736) of any final occupancy permit required by the rules of the commissioner of public safety for use or occupancy of a commercial building that is also a public building as defined in 20 V.S.A. § 2730(a).

(e) Action Private right of action for damages against a certifier.

(1) Except as otherwise provided in this subsection, a person aggrieved by ~~noncompliance with this section~~ another person's breach of that other person's representations contained in a certification or supporting affidavit issued or received as provided under subsection (d) of this section, within ten years after the earlier of completion of construction or occupancy of the affected commercial building or portion of that building, may bring a civil action in superior court against a person who has the an obligation of certifying compliance under subsection (d) of this section alleging breach of the

representations contained in that person's certification. This action may seek injunctive relief, damages arising from the aggrieved party's reliance on the accuracy of those representations, court costs, and reasonable attorneys' fees in an amount to be determined by the court. As used in this subdivision, "damages" means:

(A) includes costs incidental to increased energy consumption; and

~~(B) labor, materials, and other expenses associated with bringing the structure into compliance with CBES in effect on the date construction was commenced.~~

(2) A person's failure to affix the certification as required by this section shall not be an affirmative defense in such an action against the person.

(3) The rights and remedies created by this section shall not be construed to limit any rights and remedies otherwise provided by law.

(4) The right of action established in this subsection may not be waived by contract or other agreement.

(5) It shall be a defense to an action under this subsection that either at the time of completion or at any time thereafter, the commercial building or portion of building covered by a certificate under subsection (d) of this section, as actually constructed, met or exceeded the overall performance standards established in the CBES in effect on the date construction was commenced.

~~(f) Violation of section State or local enforcement. Any person who falsely certifies knowingly makes a false certification under subsection (d) of this section, or any builder party who fails to certify under subsection (d) of this section when required to do so, shall be subject to a civil penalty of not more than \$250.00 per day, up to \$10,000.00 for each year the violation continues. Each violation shall constitute a separate offense, and each day that the violation continues shall constitute a separate offense.~~

(g) Title validity not affected. A defect in marketable title shall not be created by a failure to record a variance or exemption pursuant to subdivision (c)(5) of this section, by a failure to issue certification or a certificate, as required under subsection (d) of this section, or by a failure under that subsection to: affix a certificate; or provide a copy of a certificate to the department of public service; or record and index a certificate in the town records.

* * * Smart Metering * * *

Sec. 10. SMART METERING INVESTIGATION

(a) The public service board shall continue its investigations of opportunities for Vermont electric utilities cost-effectively to install advanced "smart" metering equipment capable of sending two-way signals and sufficient to support advanced time-of-use pricing during periods of critical peaks or hourly differentiated time-of-use pricing.

(b) The scope of the investigation shall include the following:

(1) The current status of implementing either advanced time-of-use rate designs or advanced metering by Vermont utilities.

(2) Analysis of experience from other state jurisdictions and individual utility experience in planning and implementing programs that promote advanced time-of-use rate designs or advanced metering.

(3) Opportunities for exploring ways to design pilot programs and share experience among Vermont utilities with the deployment of advanced meters and rate designs.

(4) Analysis of all costs and benefits of installing advanced metering equipment, giving due consideration to the circumstances that differentiate Vermont utilities.

(5) Analysis of opportunities for reducing rates in the short and long term or mitigating rate impacts of investments in advanced metering and ancillary equipment through advanced time-of-use rate designs enabled by these investments.

(6) Analysis of constraints or barriers to implementing this subsection, or opportunities presented by further deferring plans or commitments toward advanced metering equipment or rates.

(7) Analysis of all supporting and ancillary equipment, equipment standards, and efficiency programs necessary to ensure that customers are adequately and effectively empowered to use and respond cost-effectively to price signals made possible through advanced metering equipment.

(c) After investigation, in utility territories where the board concludes it appropriate and cost-effective, the board shall require each Vermont utility to file plans for investment and deployment of appropriate technologies and plans and strategies for implementing advanced pricing with a goal of ensuring that all ratepayer classes have an opportunity to receive and participate effectively in advanced time-of-use pricing plans.

(d) By December 31, 2008, the board shall issue a final report and plan for implementation.

* * * Fuel Efficiency Fund * * *

Sec. 11. 30 V.S.A. § 203a is added to read:

§ 203a. FUEL EFFICIENCY FUND

(a) Fuel efficiency fund. There is established the fuel efficiency fund to be administered by a fund administrator appointed by the board. Balances in the fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the state. Interest earned shall remain in the fund. The fund shall contain such sums as appropriated by the general assembly or as otherwise provided by law, in addition to:

(1) net revenues above costs associated with payments from the New England Independent System Operator (ISO-NE) for capacity savings resulting from the activities of an energy efficiency utility designated under subdivision 209(d)(2) of this title;

(2) revenues from the sale of credits under the RGGI cap and trade program established under section 255 of this title;

(b) Use of the fund. The fuel efficiency fund shall be used to support the delivery of energy efficiency services to Vermont heating and process fuel consumers and to carry out cost-effective efficiency measures and reductions in greenhouse gas emissions from those sectors. These energy efficiency services shall be delivered by the service provider or providers selected by the public service department under section 235 of this title to perform these functions.

(c) Report. On or before January 15, 2010, and annually thereafter, the public service department shall report to the legislature on the expenditure of funds from the fuel efficiency fund to meet the public's needs for energy efficiency services.

(d) Department costs. Up to five percent of amounts allocated to the public service department from the fund may be used for administrative costs directly related to the fuel efficiency fund.

* * * Efficiency Entity * * *

Sec. 12. 30 V.S.A. § 209(d) and (e) are amended to read:

(d)(1) The public service department, any entity appointed by the board under subdivision (2) of this subsection, all gas and electric utility companies, and the board upon its own motion, are encouraged to propose, develop, solicit, and monitor energy efficiency and conservation programs and

measures, including appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable agency of natural resources' air quality standards. Such programs and measures, and their implementation, may be approved by the board if it determines they will be beneficial to the ratepayers of the companies after such notice and hearings as the board may require by order or by rule. The public service department shall investigate the feasibility of enhancing and expanding the efficiency programs of gas utilities and shall make any appropriate proposals to the board.

(2) In place of utility-specific programs developed pursuant to section 218c of this title, the board ~~may~~ shall, after notice and opportunity for hearing, provide for the development, implementation, and monitoring of gas and electric energy efficiency and conservation programs and measures including programs and measures delivered in multiple service territories, by one or more entities appointed by the board for these purposes. The board may include appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable agency of natural resources' air quality standards. The Except with regard to a transmission company, the board may specify that the implementation of these programs and measures appointment of an energy efficiency utility to deliver services within an electric utility's service territory satisfies a that electric utility's corresponding obligations, in whole or in part, under section 218c of this title and under any prior orders of the board.

(3) In addition to its existing authority, the board may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the board and deposited into an electric efficiency fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the board. This notice shall include, at a minimum, a toll free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge. Balances in the electric efficiency fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the state. Interest earned shall remain in the fund. The board will annually provide the legislature with a report detailing the revenues collected and the expenditures made for energy efficiency programs under this section.

(4) The charge established by the board pursuant to subdivision (3) of this subsection shall be in an amount determined by the board by rule or order that is consistent with the principles of least cost integrated planning as defined in section 218c of this title. As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings. In setting the amount of the charge and its allocation, the board shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the state's transmission and distribution infrastructure; minimizing the costs of electricity; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and the value of targeting efficiency and conservation efforts to locations, markets or customers where they may provide the greatest value. The board, by rule or order, shall establish a process by which a customer may apply to the board for an exemption from some or all of the charges assessed under this subdivision. ~~The board shall establish criteria by which these applications shall be measured. Any such exemption shall extend for a period of time not to exceed one year. In addition, the board may authorize exemptions only if, at a minimum, a customer demonstrates that, during the preceding year, it implemented an extraordinary amount of cost effective energy efficiency at the customer's own expense or incurred extraordinary costs on those measures and the customer did not and will not receive reimbursement for those measures from the entity designated by the board under this section who pays an average annual energy efficiency charge of at least \$5,000.00 may apply to the board to self-administer energy efficiency through the use of an energy savings account which shall contain a percentage of the customer's energy efficiency charge payments as determined by the board. The remaining portion of the charge shall be used for systemwide energy benefits. The board shall establish criteria for approval of these applications.~~

(5) Appointment of an entity under subdivision (2) of this subsection may be by contract or by an order of appointment. An appointment, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the board deems appropriate to promote the public good. For

good cause, after notice and opportunity for hearing, the board may amend or revoke an order of appointment.

(6) Any entity appointed by order of appointment under subdivisions (2) and (5) of this subsection that is not an electric or gas utility already regulated under this title shall not be considered to be a company as defined under section 201 of this title, but shall be subject to the provisions of sections 18, 19, 20, 21, 30, 31, 32, 205, 206, 207, 208, 209(a), 219, 221, and 231(b) of this title, to the same extent as a company as defined under section 201 of this title. The board and the department of public service shall have jurisdiction under those sections over the entity, its directors, receivers, trustees, lessees or other persons or companies owning or operating the entity and of all plants, equipment, and property of that entity used in or about the business carried on by it in this state as covered and included in this section. This jurisdiction shall be exercised by the board and the department so far as may be necessary to enable them to perform the duties and exercise the powers conferred upon them by law. The board and the department each may, when they deem the public good requires, examine the plants, equipment, and property of any entity appointed by order of appointment under subdivisions (2) and (5) of this subsection.

(e) The board shall:

(1) Ensure that all retail consumers, regardless of retail electricity or, gas, or heating or process fuel provider, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation.

(2) Require that continued or improved efficiencies be made in the production, delivery, and use of energy efficiency services, including the use of compensation mechanisms for any energy efficiency entity appointed under subdivision (d)(2) of this section that are based upon verified savings in energy usage and demand, and other performance targets specified by the board. The linkage between compensation and verified savings in energy usage and demand (and other performance targets) shall be reviewed and adjusted not less than triennially by the board.

(3) Build on the energy efficiency expertise and capabilities that have developed or may develop in the state.

(4) Promote program initiatives and market strategies that address the needs of persons or businesses facing the most significant barriers to participation.

(5) Promote coordinated program delivery, including coordination with low income weatherization programs, other efficiency programs, and utility programs.

(6) Consider innovative approaches to delivering energy efficiency, including strategies to encourage third party financing and customer contributions to the cost of efficiency measures.

(7) Provide a reasonably stable multiyear budget and planning cycle and in order to promote program improvement, program stability, enhanced access to capital and personnel, improved integration of program designs with the budgets of regulated companies providing energy services, and maturation of programs and delivery resources.

(8) Approve programs, measures, and delivery mechanisms that reasonably reflect current and projected market conditions, technological options, and environmental benefits.

(9) Provide for delivery of these programs as rapidly as possible, taking into consideration the need for these services, and cost-effective delivery mechanisms.

(10) Provide for the independent evaluation of programs delivered under subsection (d) of this section.

(11) Require that any entity ~~approved~~ appointed by the board under subsection (d) of this section deliver board-approved programs in an effective, efficient, timely, and competent manner and meet standards that are consistent with those in section 218c of this title, the board's orders in public service board docket 5270, and any relevant board orders in subsequent energy efficiency proceedings.

(12) Require verification, on or before January 1, 2003, and every three years thereafter, by an independent auditor of the reported energy and capacity savings and cost-effectiveness of programs delivered by any entity appointed by the board to deliver energy efficiency programs under subdivision (d)(2) of this section.

(13) Ensure that any energy efficiency program approved by the board shall be reasonable and cost-effective.

(14) Consider the impact on retail electric rates and bills of programs delivered under subsection (d) of this section and the impact on fuel prices and bills.

(15) Ensure that the energy efficiency programs implemented under this section are designed to make continuous and proportional progress toward

attaining the overall state building efficiency goals established by 10 V.S.A. § 581, by promoting all forms of energy end-use efficiency and comprehensive sustainable building design.

* * * Conservation Rates * * *

Sec. 13. 30 V.S.A. § 218(b) is amended to read:

(b) The department of public service shall propose, and the board through the establishment of rates of return, rates, tolls, charges, or schedules shall encourage the implementation by electric and gas utilities of energy-efficiency and load management measures which will be cost-effective for the utilities and their customers on a life cycle cost basis. The board shall approve rate designs to encourage the efficient use of natural gas and electricity, including consideration of the creation of an inclining block rate structure for residential rate customers with an initial block of low-cost power available to all residences.

(1) To implement the requirements of this subsection, the public service board shall continue its investigation of the following:

(A) the parameters for residential inclining block rate designs;

(B) alternative rate designs, such as critical peak pricing programs or more widespread use of time-of-day rates, that would encourage more efficient use of electricity;

(C) the possible inclusion of exemptions from otherwise applicable inclining block rates or rate designs to encourage efficiency for situations in which special health needs or another extraordinary situation presents such a significant demand for electricity that the board determines use of those rates would cause undue financial hardship for the customer;

(2) By December 31, 2008, the board shall issue a report and plan for implementation based upon the results of its investigation. The plan shall require each retail company to upgrade its rates as necessary to implement new rate designs appropriate to encourage efficient energy use, which shall include residential inclining block rates, if the board determines that those rates would be appropriate, by a specified date, or as part of its next rate-related appearance before the board, or according to a timetable otherwise specified by the board. In implementing these rate designs, the board shall consider the appropriateness of phasing in the rate design changes to allow large users of energy a reasonable opportunity to employ methods of conservation and energy efficiency in advance of the full effect of the changes.

* * * Net Metering * * *

Sec. 14. 30 V.S.A. § 219a is amended to read:

§ 219a. SELF-GENERATION AND NET METERING

(a) As used in this section:

(1) "Customer" means a retail electric consumer who uses a net metering system.

(2) "Net metering" means measuring the difference between the electricity supplied to a customer and the electricity fed back by a net metering system during the customer's billing period:

(A) using a single, nondemand meter or such other meter that would otherwise be applicable to the customer's usage but for the use of net metering; or

(B) on farm or group systems, using multiple meters as specified in this chapter. The calculation will be made by converting all meters to a nondemand, nontime-of-day meter, and equalizing them to the tariffed kilowatt-hour rate.

(3) "Net metering system" means a facility for generation of electricity that:

(A) is of no more than ~~15~~ 250 kilowatts (AC) capacity, ~~or is a farm system;~~

* * *

(E)(i) employs a renewable energy source as defined in subdivision 8002(2) of this title; or

(ii) is a qualified micro-combined heat and power system of 20 kilowatts or fewer that meets the definition of combined heat and power in 10 V.S.A. § 6523(b) and may use any fuel source that meets air quality standards.

(4) "Farm system" means a facility of no more than ~~150~~ 250 kilowatts (AC) output capacity, except as provided in subdivision (k)(5) of this section, that generates electric energy on a farm operated by a person principally engaged in the business of farming, as that term is defined in Regulation 1.175-3 of the Internal Revenue Code of 1986, from the anaerobic digestion of agricultural products, byproducts, or wastes, or other renewable sources as defined in subdivision (3)(E) of this subsection, intended to offset the meters designated under subdivision (g)(1)(A) of this section on the farm or has entered into a contract as specified in subsection (k) of this section.

(b) A customer shall pay the same rates, fees, or other payments and be subject to the same conditions and requirements as all other purchasers from the electric company in the same rate-class, except as provided for in this section, and except for appropriate and necessary conditions approved by the board for the safety and reliability of the electric distribution system.

* * *

(f) Consistent with the other provisions of this title, electric energy measurement for net metering farm or group net metering systems shall be calculated in the following manner:

(1) Net metering customers that are farm or group net metering systems may credit on-site generation against all meters designated to the farm system or group net metering system under subdivision (g)(1)(A) of this section.

(2) Electric energy measurement for farm or group net metering systems shall be calculated by subtracting total usage of all meters included in the farm or group net metering system from total generation by the farm or group net metering system. If the electricity generated by the farm or group net metering system is less than the total usage of all meters included in the farm or group net metering system during the billing period, the farm or group net metering system shall be credited for any accumulated kilowatt-hour credit and then billed for the net electricity supplied by the electric company, in accordance with the procedures in subsection (g) of this section.

(3) If electricity generated by the farm or group net metering system exceeds the electricity supplied by the electric company:

(A) The farm or group net metering system shall be billed for the appropriate charges for each meter for that month, in accordance with subsection (b) of this section.

(B) Excess kilowatt-hours generated during the billing period shall be added to the accumulated balance with this kilowatt-hour credit appearing on the bill for the following billing period.

(C) Any accumulated kilowatt-hour credits shall be used within 12 months or shall revert to the electric company without any compensation to the farm or group net metering system. Power reverting to the electric company under this subdivision (3) shall be considered SPEED resources under section 8005 of this title.

(g)(1) In addition to any other requirements of section 248 of this title and this section and board rules thereunder, before a ~~net metering~~ farm or group net metering system including more than one meter may be formed and served by

an electric company, the proposed ~~net metering~~ farm or group net metering system shall file with the board, with copies to the department and the serving electric company, the following information:

(A) the meters to be included in the farm or group net metering system, which shall be associated with the ~~farm~~ buildings and residences owned or occupied by the person operating the farm or group net metering system, or the person's family or farm employees, or other members of the group, identified by account number and location;

(B) a ~~method~~ procedure for adding and removing meters included in the farm or group net metering system;

(C) a designated person responsible for all communications from the farm or group net metering system to the serving electric company, for receiving and paying bills for any service provided by the serving electric company for the farm or group net metering system, and for receiving any other communications regarding the farm or group net metering system ~~net metering~~; and

(D) a binding process for the resolution of any disputes within the farm or group net metering system relating to net metering that does not rely on the serving electric company, the board, or the department.

(2) The farm or group net metering system shall, at all times, maintain a written designation to the serving electric company of a person who shall be the sole person authorized to receive and pay bills for any service provided by the serving electric company, and ~~for receiving to receive~~ any other communications regarding the farm system, the group net metering system, or net metering.

(3) The serving utility shall implement appropriate changes to the farm ~~system~~ or group net metering system within 30 days after receiving written notification from the designated person. However, written notification of a change in the person designated under subdivision (2) of this subsection shall be effective upon receipt by the serving utility. The serving utility shall not be liable for action based on such notification, but shall make any necessary corrections and bill adjustments to implement revised notifications.

(4) Pursuant to subsection 231(a) of this title, after such notice and opportunity for hearing as the board may require, the board may revoke a certificate of public good issued to a farm or group net metering system.

(5) A group net metering system may consist only of customers that are located within the service area of the same electric company. Various buildings owned by a municipality may constitute a group net metering

system. If it determines that it would promote the general good, the board shall permit a noncontiguous group of net metering customers to comprise a group net metering system.

(h)(1) An electric company:

(A) Shall make net metering available to any customer using a net metering system, group net metering system, or farm system on a first-come, first-served basis until the cumulative output capacity of net metering systems equals ~~1.0~~ 2.0 percent of the distribution company's peak demand during 1996; or the peak demand during the most recent full calendar year, whichever is greater. The board may raise the ~~1.0~~ 2.0 percent cap. In determining whether to raise the cap, the board shall consider the following:

(i) the costs and benefits of net metering systems already connected to the system; and

(ii) the potential costs and benefits of exceeding the cap, including potential short and long-term impacts on rates, distribution system costs and benefits, reliability and diversification costs and benefits;

(B) Shall allow net metering systems to be interconnected using a kilowatt-hour meter capable of registering the flow of electricity in two directions or such other comparably equipped meter that would otherwise be applicable to the customer's usage but for the use of net metering;

(C) May, at its own expense, and with the written consent of the customer, install one or more additional meters to monitor the flow of electricity in each direction;

(D) ~~Shall~~ Except as otherwise provided in this section, shall charge the customer a minimum monthly fee that is the same as for other customers of the electric distribution company in the same rate class, but shall not charge the customer any additional standby, capacity, interconnection, or other fee or charge;

(E) May require a customer to comply with generation interconnection, safety, and reliability requirements, as determined by the public service board by rule or order, and may charge reasonable fees for interconnection, establishment, special metering, meter reading, accounting, account correcting, and account maintenance of net metering arrangements of greater than 15 kilowatt (AC) capacity;

(F) May charge, if the capacity of the distribution system is insufficient for the designed generation, subject to determination by the board,

a reasonable fee to cover the cost of electric company improvements necessary to distribute power;

(G) May require that all meters included within a farm or group net metering system be read on the same billing cycle;

(H) May book and defer, with carrying costs, additional incremental costs, to the extent that such costs are not recovered through charges, authorized in subdivisions (D), (E), and (F) of this subdivision (1), directly related to implementing net metering of greater than 15 kilowatt (AC) capacity;

~~(I) Shall receive from a farm system, which is designed to produce less energy than the total annual load of the meters identified in subdivision (g)(1)(A) of this section, any tradeable renewable credits for which the farm system is eligible. All other farm systems shall retain any tradeable renewable credits for which the farm is eligible;~~

(2) All such requirements shall be pursuant to and governed by a tariff approved by the board and any applicable board rule, which tariffs and rules shall be designed in a manner reasonably likely to facilitate net metering.

* * *

~~(j) Notwithstanding the provisions of this section that define a net metering system as being of no more than 15 kilowatts (AC) capacity, the board may allow net metering for up to ten systems per year for customers that produce more than 15 kilowatts (AC) capacity, but do not produce more than 150 kilowatts of power and are not farm systems.~~

(k) Notwithstanding the provisions of subsections (f) and (g) of this section, an electric company may contract to purchase all or a portion of the output products from a farm or group net metering system, provided:

(1) the farm or group net metering system obtains a certificate of public good under the terms of subsections (c) and (d) of this section;

(2) any contracted power shall be subject to the limitations set forth in subdivision (h)(1) of this section;

(3) any contract shall be subject to interconnection and metering requirements in subdivisions (h)(1)(C) and (i)(2) and (3) of this section;

(4) any contract may permit all or a portion of the tradeable renewable energy credits for which the farm system is eligible to be transferred to the electric company;

(5) the output capacity of a system may exceed ~~150~~ 250 kilowatts, provided:

(A) the contract assigns the amount of power to be net metered;

(B) the net metered amount does not exceed ~~150~~ 250 kilowatts; and

(C) only the amount assigned to net metering is assessed to the cap provided in subdivision (h)(1)(A) of this section.

(1) With regard to an application under section 248 of this title for construction of a single net metered wind turbine that is less than 150 feet in height, there shall be a rebuttable presumption that there is no undue adverse effect on aesthetics if:

(1)(A) the turbine would not occupy a significant portion of or appear in the approximate center of distant vistas or scenic focal points when viewed from one or more identified public use areas that have direct views to the project and in which natural scenery is an important part of the experience; and

(B) the turbine would not occupy a significant portion of or appear in the approximate center of distant views or scenic focal points when viewed from indoor primary use areas with direct views to the project and from which natural scenery is an important part of the experience or when viewed from existing outdoor primary use areas of neighboring residences, from which areas, natural scenery is an important part of the experience; or

(2) with respect to all such identified public use areas and neighboring residential primary use areas for which the turbine would occupy a significant portion of or appear in the approximate center of distant views or scenic focal points, the turbine would be located at least 1000 feet from each area.

* * * Heating Efficiency Program * * *

Sec. 15. 30 V.S.A. § 235 is added to read:

§ 235. HEATING AND PROCESS FUEL EFFICIENCY PROGRAM

(a) After consultation with fuel dealers, any appointed efficiency entity, financial institutions, the board, representatives of the weatherization program, and other stakeholders, the department of public service shall propose, develop, solicit and monitor any combination of energy efficiency and conservation programs, measures, and compensation mechanisms to provide fuel efficiency services on a statewide basis for Vermont heating or process fuel consumers. The department shall select one or more service providers as needed and pursuant to a competitive bidding process to implement those programs, measures, or compensation mechanisms by means of performance

based contracts that are based upon verified savings in energy usage and demand, and other performance targets. Those programs, measures, and compensation mechanisms shall include fuel efficiency services that:

(1) produce whole building and process heat efficiency, regardless of the fuel type used;

(2) facilitate appropriate fuel switching; and

(3) promote coordination, to the fullest practical extent, with the electric efficiency programs established and administered pursuant to this chapter, as well as with low income weatherization programs and any utility energy efficiency programs.

(b) Prior to the department of public service entering a contract with service providers under this section and after such notice and hearings as it may require, the public service board shall review the programs, measures, and compensation mechanisms selected by the department to determine whether these programs, measures, and compensation mechanisms promote the public good. The board may alter or impose conditions on any combination of these programs, measures, or compensation mechanisms as it deems necessary to promote the public good. If the department thereafter changes the programs, measures, or compensation mechanisms, it shall request review under this section by the board prior to implementing those changes.

(c) Funding for the program established under this section shall be provided from the fuel efficiency fund established under section 203a of this title.

(d) The department, subject to the oversight of the board, shall:

(1) Ensure that all retail consumers, regardless of retail electricity, gas, or heating or process fuel provider, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation.

(2) Require that continued or improved efficiencies be made in the production, delivery, and use of energy efficiency services, including the use of compensation mechanisms that are based upon verified savings in energy usage and demand, and other performance targets specified by the board. The linkage between compensation and verified savings in energy usage and demand (and other performance targets) shall be reviewed and adjusted not less than triennially by the board.

(3) Build on the energy efficiency expertise and capabilities that have developed or may develop in the state.

(4) Promote program initiatives and market strategies that address the needs of persons or businesses facing the most significant barriers to participation.

(5) Promote coordinated program delivery, including coordination with low income weatherization programs, other efficiency programs, and utility programs.

(6) Consider innovative approaches to delivering energy efficiency, including strategies to encourage third party financing and customer contributions to the cost of efficiency measures.

(7) Provide a reasonably stable multiyear budget and planning cycle in order to promote program improvement, program stability, enhanced access to capital and personnel, improved integration of program designs with the budgets of regulated companies providing energy services, and maturation of programs and delivery resources.

(8) Develop and approve programs, measures, and delivery mechanisms that reasonably reflect current and projected market conditions, technological options, and environmental benefits.

(9) Provide for delivery of these programs as rapidly as possible, taking into consideration the need for these services, and cost-effective delivery mechanisms.

(10) Provide for the independent evaluation of programs delivered under this section.

(11) Require that any service provider under this section deliver programs in an effective, efficient, timely, and competent manner and meet standards that are consistent with those in section 218c of this title, the board's orders in public service board docket 5270, and any relevant board orders in subsequent energy efficiency proceedings.

(12) Require verification, on or before January 1, 2011, and every three years thereafter, by an independent auditor of the reported energy and capacity savings and cost-effectiveness of programs delivered by any entity selected to be a service provider under this section.

(13) Ensure that any energy efficiency program implemented under this section shall be reasonable and cost-effective.

(14) Consider the impact of programs delivered under this section on the amount of fuel used, fuel prices, and fuel bills.

(15) Ensure that the energy efficiency programs implemented under this section are designed to make continuous and proportional progress toward attaining the overall state building efficiency goals established by 10 V.S.A. § 581, by promoting all forms of energy end-use efficiency and comprehensive sustainable building design.

(e) Any disputes under this section shall be resolved by the board.

Sec. 16. SELECTION OF SERVICE PROVIDERS

The department of public service shall proceed with all deliberate speed to implement the provisions of 30 V.S.A. § 235. It shall be a goal to issue RFP's by no later than the end of October, 2008. Initial service providers shall be selected no later than April 1, 2009.

* * * Temporary Meteorological Stations * * *

Sec. 17. 30 V.S.A. § 246 is added to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) For purposes of this section, a "meteorological station" consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The public service board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the state if it is in compliance with the criteria of this section and the board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title.

(c) In developing rules or orders, the board:

(1) Shall develop a simple application form and shall require that completed applications be filed with the board, the department of public service, the agency of natural resources, and the municipality in which the meteorological station is proposed to be located.

(2) Shall require that if no objections are filed within 30 days of the board's receipt of a complete application and the board determines that the applicant has met all of the requirements of section 248 of this title, the certificate of public good shall be issued for a period that the board finds reasonable, but in no event for more than five years. Upon request of an applicant, the board may renew a certificate of public good. Upon expiration of the certificate, the meteorological station and all associated structures and

material shall be removed, and the site shall be restored substantially to its preconstruction condition.

(3) May waive the requirements of section 248 of this title that are not applicable to meteorological stations, including criteria that are generally applicable to public service companies as defined in this title. The board shall not waive review regarding whether construction will have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, and the public health and safety.

(4) Shall seek to simplify the application and review process, as appropriate, in conformance with this section.

(d) A proposal for decision shall be issued within five months of when the board receives a completed application for a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title.

* * * Regional Greenhouse Gas Initiative (RGGI) * * *

Sec. 18. 30 V.S.A. § 255 is amended to read:

§ 255. REGIONAL COORDINATION TO REDUCE GREENHOUSE GASES

(a) Legislative findings. The general assembly finds:

(1) There is a growing scientific consensus that the increased anthropogenic emissions of greenhouse gases are enhancing the natural greenhouse effect, resulting in changes in the earth's climate.

(2) Climate change poses serious potential risks to human health and terrestrial and aquatic ecosystems globally, regionally, and in Vermont.

(3) A carbon constraint on fossil fuel-fired electricity generation and the development of a CO₂ allowance trading mechanism will create a strong incentive for the creation and deployment of more efficient fuel-burning technologies, renewable resources, and end-use efficiency resources and will lead to lower dependence on imported fossil fuels.

(4) Absent federal action, a number of states are taking actions to work regionally to reduce power sector carbon emissions.

(5) Vermont has joined with at least six other states to design the Regional Greenhouse Gas Initiative (RGGI), and, in 2005, Vermont's governor signed a memorandum of understanding (MOU) signaling Vermont's intention to develop rules and programs to participate in RGGI.

(6) It is crucial to manage Vermont's implementation of RGGI and its consumption of fossil fuels for residential and commercial heating, and industrial processes, so as to maximize the state's contribution to lowering carbon emissions while;

(A) minimizing impacts on electric system reliability and unnecessary costs to Vermont ~~power~~ energy consumers;

(B) minimizing the costs and the emissions resulting from the use of petroleum-based fuels for space heating and process heating for residential, commercial, and industrial purposes.

(7) The accelerated deployment of low-cost process, thermal and electrical energy efficiency ~~and~~, the strategic use of low- and zero-carbon generation, and the selective use of switching fuel sources are the best means to achieve these goals.

(8) It is crucial that funds made available from operation of a regional carbon credits cap and trade system be devoted to the benefit of Vermont ~~power~~ energy consumers through investments in a strategic portfolio of energy efficiency, weatherization, and low-carbon generation resources.

(b) Cap and trade program creation.

(1) The agency of natural resources and the public service board shall, through appropriate rules and orders, establish a carbon cap and trade program that will limit and then reduce the total carbon emissions released by major electric generating stations that provide electric power to Vermont utilities and end-use customers.

(2) Vermont rules and orders establishing a carbon cap and trade program shall be designed so as to permit the holders of carbon credits to trade them in a regional market proposed to be established through the RGGI.

(c) Allocation of tradable carbon credits.

(1) The secretary of natural resources, by rule, shall establish a set of annual carbon budgets for emissions associated with the electric power sector in Vermont consistent with the 2005 RGGI MOU, including any amendments to that MOU, and on a reciprocal basis with the other states participating in the RGGI process.

(2) In order to provide the maximum long-term benefit to Vermont ~~electric~~ consumers, particularly benefits that will result from accelerated and sustained investments in energy efficiency and other low-cost,

low-carbon power system, building envelope, and other investments, the public service board, by rule or order, shall establish a process to allocate 100 percent

of the Vermont statewide budget of tradable power sector carbon credits ~~and the proceeds from the sale of those credits through allocation~~ to one or more trustees acting on behalf of consumers in accordance with the following principles. To the extent feasible, the allocation plan shall accomplish the following goals:

(A) minimize windfall financial gains to power generators as a result of the operation of the cap and trade program, considering both the costs that generators may incur to participate in the program and any power revenue increases they are likely to receive as a result of changes in regional power markets;

(B) employ an administrative structure that will enable program managers to perform any combination of holding, banking, and selling carbon credits in regional, national, and international carbon credit markets in a financially responsible and market-sensitive fashion, and provide funds to defray the reasonable costs of the program trustee or trustees and Vermont's pro-rata share of the costs of the RGGI regional organization;

(C) optimize the revenues received from the management and sale of carbon credits for the benefit of Vermont ~~electric customers~~ energy consumers and the Vermont economy;

(D) minimize any incentives from operation of the cap and trade program for Vermont utilities to increase the overall carbon emissions associated with serving their customers;

(E) build upon existing regulatory and administrative structures and programs that lower power and heating costs, improve efficiency, and lower the state's carbon profile of the state's power supply while minimizing adverse impacts on electric system reliability and unnecessary costs to Vermont ~~power~~ energy consumers, and minimizing the costs and the emissions resulting from the use of petroleum-based fuels for space heating and process heating for residential, commercial, and industrial purposes;

(F) ensure that carbon credits allocated under this program and revenues associated with their sale remain ~~power-system~~ public assets managed for the benefit of ~~electric~~ the state's consumers, particularly benefits that will result from accelerated and sustained investments in energy efficiency and other low-cost, low-carbon power, or heating system or building envelope investments;

(G) where practicable, support efforts recommended by the agency of natural resources or the department of public service to stimulate or support

investment in the development of innovative ~~power-sector~~ carbon emissions abatement technologies that have significant carbon reduction potential.

(d) Appointment of consumer trustees. The public service board, by rule, order, or competitive solicitation, may appoint one or more consumer trustees to receive, hold, bank, and sell tradable carbon credits created under this program. Trustees may include Vermont electric distribution utilities, the fiscal agent collecting and disbursing funds to support the statewide efficiency utility, or a financial institution or other entity with the expertise and financial resources to manage a portfolio of carbon credits for the long-term benefit of Vermont energy consumers. Proceeds from the sale of carbon credits shall be deposited into the fuel efficiency fund established under section 203a of this title.

(e) Reports. By January 15 of each year, commencing in 2007, the department of public service in consultation with the agency of natural resources and the public service board shall provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce a report detailing the implementation and operation of RGGI and the revenues collected and the expenditures made under this section, together with recommended principles to be followed in the allocation of funds.

* * * Renewable Energy Pricing and Portfolio Standards * * *

Sec. 19. 30 V.S.A. § 8002(4) is amended to read:

(4) “New renewable energy” means renewable energy produced by a generating resource coming into service after December 31, 2004. This may include the additional energy from an existing renewable facility retrofitted with advanced technologies or otherwise operated, modified, or expanded to increase the kwh output of the facility in excess of an historical baseline established by calculating the average output of that facility for the 10-year period that ended December 31, 2004. If the production of new renewable energy through retrofitting changes in operations, modification or expansion involves combustion of the resource, the system also must result in an incrementally higher level of energy conversion efficiency or significantly reduced emissions. For the purposes of this chapter, renewable energy refers to either “existing renewable energy” or “new renewable energy.”

Sec. 20. 30 V.S.A. § 8003 is amended to read:

§ 8003. RENEWABLE ENERGY PRICING

~~(a) Upon petition of an electric company subject to this title, upon request of the department of public service, or on its own initiative, the public service~~

~~board may approve one or more renewable pricing programs for one or more electric utilities; provided, however, in the case of a municipal plant or department formed under local charter or chapter 79 of this title, or an electric cooperative formed under chapter 81 of this title, any renewable pricing program approved by the board shall also be approved by a majority of the voters of a municipality or cooperative voting upon the question at a duly warned annual or special meeting held for that purpose. Unless the board finds good cause to exempt a utility, by no later than July 1, 2009, each electric utility, municipal department formed under local charter or chapter 79 of this title, and each electric cooperative formed under chapter 81 of this title shall implement a renewable energy pricing program under this section for its customers, or shall offer customers the option of making a voluntary contribution to the Vermont clean energy development fund established under 10 V.S.A. § 6523. Such renewable energy pricing programs may include, but are not limited to, tariffs, standard special contracts, or other arrangements whose purpose is to increase the company's reliance on, or the customer's support of, renewable sources of energy or the type and quantity of renewable energy resources available.~~

* * *

~~(f) Renewable pricing programs offered by a company shall be available to such customer classes as the board may determine.~~

(g) The board shall consider the following factors in deciding whether and upon what conditions to approve a proposed renewable energy pricing program:

- (1) minimization of marketing and administrative expenses;
- (2) auditing or certification of sources of energy or tradeable renewable energy credits;
- (3) marketing and promotion plans;
- (4) effectiveness of the program in meeting the goals of promoting renewable energy generation and public understanding of renewable energy sources in Vermont;
- (5) retention by the program of renewable energy production incentives, tax incentives and other incentives earned or otherwise obtained by energy resources acquired pursuant to or as part of a renewable energy pricing program approved under this section to reduce the cost of any premiums paid under this section; and

(6) costs imposed on nonparticipating customers arising on account of the implementation of the voluntary renewable energy pricing program.

Sec. 21. 30 V.S.A. § 8004(e) is amended to read:

(e) In lieu of, or in addition to purchasing tradeable renewable energy credits to satisfy the portfolio requirements of this section, a retail electricity provider in this state may pay to ~~a renewable energy fund established by the public service board~~ the Vermont clean energy development fund established under 10 V.S.A. § 6523 an amount per kilowatt hour as established by the board. As an alternative, the board may require any proportion of this amount to be paid to the energy conservation fund established under subsection 209(d) of this title.

* * * SPEED Program * * *

Sec. 22. 30 V.S.A. § 8005 is amended to read:

§ 8005. SUSTAINABLY PRICED ENERGY ENTERPRISE
DEVELOPMENT (SPEED) PROGRAM

* * *

(b) The SPEED program shall be established, by rule, order, or contract, by the public service board by January 1, 2007. As part of the SPEED program, the public service board may, and in the case of subdivisions (2) and (3) of this subsection shall:

* * *

(2) allow the developer of a facility that is one megawatt or less, and is a qualifying SPEED resource or a nonqualifying SPEED resource, to sell that power under a long term contract that is established at a specified ~~margin below the hourly spot market price~~ determined by the board to be adequate to promote SPEED resource development while remaining consistent with the principles of least-cost energy services under section 218c of this title. For purposes of this section, a long-term contract should be 15 years or greater unless the board finds good cause for a shorter term;

(3) encourage Vermont's retail electricity providers to secure long-term contracts, ~~at stable prices, for renewable energy that are anticipated to be below the long-term market price, over the lives of the projects~~ qualifying SPEED resources. The board shall create a standard contract price, or a set of maximum and minimum provisions, or both, for qualifying SPEED resources over 1 MW of capacity. In setting a standard contract price for a qualifying SPEED resource, the board shall consider the goal of developing qualified SPEED resources, least cost provision of energy service under section 218c of

this title, and the impact on electric rates. The board may create a competitive bid process through which to select a portion of those contracts;

* * *

(d)(1) The public service board shall meet on or before January 1, 2012, and open a proceeding, and issue findings determining to determine the total amount of qualifying SPEED resources that have come into service or are projected to come into service during the period of time between January 1, 2005 and January 1, 2013 been supplied to Vermont retail electricity providers or have been issued a certificate of public good. If the board finds that the amount of qualifying SPEED resources coming into service during that time or having been issued a certificate of public good after January 1, 2005 and before July 1, 2012 equals or exceeds total statewide growth in electric energy usage retail sales during the period of time between January 1, 2005 and January 1, 2012 that time, and in addition, at least five percent of the 2005 total statewide electric retail sales is provided by qualified SPEED resources or would be provided by qualified SPEED resources that have been issued a certificate of public good, or if it finds that the amount of qualifying SPEED resources equals or exceeds 10 percent of total statewide electric energy usage retail sales for calendar year 2005, the portfolio standards established under this chapter shall not be in force. The board shall make its determination by July 1, 2012 January 1, 2013. If the board finds that the goal established has not been met, one year after the board's determination the portfolio standards established under subsection 8004(b) of this title shall take effect.

(2) A state goal is to assure that 20 percent of total statewide electric retail sales before July 1, 2017 shall be generated by SPEED resources. The public service board shall report to the house and senate committees on natural resources and energy and to the joint energy committee by December 31, 2011 with regard to the state's progress in meeting this goal. In addition, the board shall report to the house and senate committees on natural resources and energy and to the joint energy committee by December 31, 2013 with regard to the state's progress in meeting this goal and, if necessary, shall include any appropriate recommendations for measures that will make attaining the goal more likely.

(3) For the purposes of the determination to be made under this subsection, electricity produced at all facilities owned by or under long-term contract to Vermont retail electricity providers, whether it is generated inside or outside Vermont, that is new renewable energy shall be counted in the calculations under subdivision subdivisions (d)(1) and (2) of this section.

* * *

* * * Municipal Tax Exemptions * * *

Sec. 23. 32 V.S.A. § 3845 is amended to read:

§ 3845. ALTERNATE ENERGY SOURCES

* * *

(b) For the purposes of this section alternate energy sources includes any plant, structure or facility used for the generation of electricity or production of energy used on the premises for private, domestic or agricultural purposes, no part of which may be for sale or exchange to the public. The term shall include, but not be limited to grist mills, windmills, facilities for the collection of solar energy or the conversion of organic matter to methane, net metering systems regulated by the public service board under 30 V.S.A. § 219a, and all component parts thereof including land upon which the facility is located, not to exceed one-half acre.

* * * Wind-Powered Electric Generating Facilities * * *

Sec. 24. 32 V.S.A. § 5401(10)(J) is added to read:

(10) "Nonresidential property" means all property except:

* * *

(J) Buildings and fixtures subject to the tax on wind-powered electric generating facilities under section 5402c of this title.

Sec. 25. 32 V.S.A. § 5402c is added to read:

§ 5402c. WIND-POWERED ELECTRIC GENERATING FACILITIES TAX

(a) A facility certified by the commissioner of public service as a facility which produces electrical energy for resale, generated solely from wind power, which has an installed capacity of at least five megawatts, which was placed in service after January 1, 2007, and which holds a valid certificate of public good issued under 30 V.S.A. § 248, shall be assessed an alternative education property tax on its buildings and fixtures used directly and exclusively in the generation of electrical energy from wind power.

(b) The tax shall be imposed at a rate per kWh of electrical energy produced by the certified facility, as determined by the public service department for the six months ending April 30 and the six months ending October 31 each year. The rate of the tax shall be \$0.003.

(c) In no case shall the tax imposed for any six-month period be less than an amount equal to the rate per kWh imposed by this subsection multiplied by the number of kWh that would be generated if the facility operated at a 15 percent capacity factor.

(d) The tax imposed by this section shall be paid to the commissioner of taxes by the person or entity then owning or operating the certified facility, by December 1 for the period ending October 31 and by June 1 for the period ending April 30, for deposit into the education fund. A person or entity failing to make returns or pay the tax imposed by this section within the time required shall be subject to and governed by the provisions of sections 3202 and 3203 and subchapters 8 and 9 of chapter 151 of this title.

(e) Unless buildings and fixtures are subject to tax under this section, they shall remain subject to taxation under section 5402 of this title. Buildings and fixtures subject to the education property tax under this section shall not be taken into account in determining the common level of appraisal for the municipality.

Sec. 26. MUNICIPAL PROPERTY TAXES UNAFFECTED

Application of alternative education property tax to a wind-powered electric generating facility under 32 V.S.A. § 5402c shall have no effect upon the assessment of municipal taxes upon that facility by any municipality in this state.

* * * Business Energy Credit * * *

Sec. 27. 32 V.S.A. § 5822(c)(1)(B) and (d) are amended to read:

(c) The amount of tax determined under subsection (a) of this section shall be:

(1) increased by 24 percent of the taxpayer's federal tax liability for the taxable year for the following:

* * *

(B) recapture of federal investment tax credit and increased by 76 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit recapture for the taxable year;

(d) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: elderly and permanently totally disabled credit, investment tax credit, and child care and dependent care credits. A taxpayer shall also be entitled to a credit against the tax imposed under this section of 76 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code.

Sec. 28. 32 V.S.A. § 5930z is added to read:

§ 5930z. PASS-THROUGH OF FEDERAL ENERGY CREDIT FOR CORPORATIONS

(a) A taxpayer of this state shall be eligible for a credit against the tax imposed under section 5832 of this title in an amount equal to 100 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code.

(b) Any taxpayer who has received a credit under subsection (a) of this section in any prior year shall increase its corporate income tax under this chapter by the amount of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit recapture for the taxable year.

Sec. 29. EFFECTIVE DATE OF BUSINESS ENERGY TAX CREDITS

Secs. 27 and 28 of this act (business energy tax credits) shall apply to taxable year 2009 and after.

* * * Weatherization * * *

Sec. 30. 33 V.S.A. § 2501(c) is amended to read:

(c) All balances in the fund at the end of any fiscal year shall be carried forward and remain part of the fund. Interest earned by the fund shall be deposited into the fund. Disbursements from the fund shall be made by the state treasurer on warrants drawn by the commissioner of finance and management. Disbursements may be made from the fund only to support the programs established by this chapter or otherwise as authorized by this chapter.

Sec. 31. 33 V.S.A. § 2502 is amended to read:

§ 2502. HOME WEATHERIZATION ASSISTANCE PROGRAM

(a) The director of the state office of economic opportunity shall administer a home weatherization assistance program under such rules, regulations, funding and funding requirements as may be imposed by federal law.

(b) In addition, the director shall supplement, or supplant, any federal program with a state home weatherization assistance program ~~providing:~~

(1) The state program shall provide an enhanced weatherization assistance amount exceeding the federal per unit limit allowing amounts up to an average of ~~\$3,000.00~~ \$6,000.00 per unit ~~pursuant to rules adopted by the director allocating additional per unit amounts allocated~~ on a cost-effective

basis. In units where costs exceed the allowable average by more than 25 percent, prior approval of the director of the state economic opportunity office shall be required before work commences. This amount shall be adjusted annually by increasing the last year's amount by ~~the lesser of~~

(A) the percentage increase in the Consumer Price Index for the previous year; or

~~(B) three percent;~~

(2) The state program shall provide amounts for low income customers utilizing any high operating cost fuel, to convert to another fuel source under rules adopted by the director based on the cost effectiveness of the converted facility over the life cycle of the equipment.

(3) The director, in collaboration with the weatherization service providers and other stakeholders, shall develop the state program so that it will include:

(A) Facilitating the development and implementation of a statewide common energy-audit tool or tools that work well on all Vermont housing, including multi-family buildings.

(B) With regard to multifamily buildings, requiring either of the following requirements to be met:

(i) at least 25 percent or more of the tenants in the building are eligible for the weatherization program; or

(ii) at least 50 percent of the units are weatherization affordable, and at least one tenant of the building has applied for the weatherization program and has been determined to be eligible. For purposes of this subdivision, "weatherization affordable" means a unit having a rent that is established at less than 30 percent of the income level established by computing 60 percent of the area median income level or 60 percent of the state median income level, whichever is higher, for the relevant household size. Relevant household size means the number of bedrooms in the unit, plus one.

(C) Establishing program eligibility levels at 60 percent of the area median income, or 60 percent of the state median income, whichever is higher.

(D) Eliminating the lien requirements on weatherized rental properties, so long as the landlord executes an appropriate contract which may have a term that exceeds one year.

(E) Generally, allowing flexibility to accommodate special circumstances in which greater energy savings can be realized or health and safety problems may be alleviated.

* * *

Sec. 32. 33 V.S.A. § 2503(h) is amended to read:

(h) No tax under this section shall be imposed for any quarter ending after June 30, ~~2008~~ 2011. Monies from the escrow account shall be issued for rebates pursuant to subsection (g) of this section until March 1, ~~2009~~ 2012.

Sec. 33. REPORT ON HEATING FUEL GROSS RECEIPTS TAX

By January 15, 2011, the joint energy committee shall make recommendations to the committees on appropriations, ways and means, finance, and natural resources and energy regarding continuing or increasing the amount of the tax established under 33 V.S.A. § 2503, as determined by the degree of success of the state by that time in meeting the building efficiency goals of the state, as established in 10 V.S.A. § 581.

* * * Biodiesel * * *

Sec. 34. USE OF BIODIESEL IN STATE OFFICE BUILDINGS, STATE GARAGES, AND THE STATE VEHICLE FLEET

(a) Definitions. As used in this section:

(1) "Biodiesel blend" means a blend of biodiesel fuel and petroleum diesel fuel or petroleum heating fuel that contains at least two percent biodiesel fuel by volume.

(2) "Biodiesel fuel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from vegetable oil or animal fat which meets the American Society for Testing and Materials (ASTM) specification D6751-02 for Biodiesel Fuel (B100) Blend Stock for Distillate Fuel.

(b) On or before January 15, 2009, the department of buildings and general services, department of public service, and agency of transportation jointly shall submit a report to the house and senate committees on institutions, the house and senate committees on natural resources and energy, the house and senate committees on transportation, the house and senate committees on agriculture, the house committee on commerce, the house committee on ways and means, and the senate committee on finance with recommendations on increasing the use of biodiesel blends in state office buildings, state garages, and in the state transportation fleet.

(1) The portion of the report prepared by the department of buildings and general services shall contain:

(A) A summary of the current use of biodiesel blends in state office buildings.

(B) Recommendations on how to increase the use of biodiesel blends in all state office buildings, wherever feasible, to at least five percent biodiesel (B5) by December 31, 2009, and to at least 10 percent biodiesel (B10) by 2012.

(C) A summary of any obstacles to increasing biodiesel use in state buildings.

(D) A proposed work plan to increase biodiesel use.

(2) The portion of the report prepared by the department of public service shall contain:

(A) A summary of the biodiesel fuel production capacity, storage facilities, and distribution facilities currently available in Vermont.

(B) Recommendations for increasing biodiesel fuel production, storage facilities, and distribution facilities.

(C) A summary of current information on the performance of biodiesel blends for use as heating fuel and as a motor vehicle fuel.

(D) A summary of the national and regional quality assurance and quality control measures in use for blending biodiesel fuel.

(E) A proposed work plan to increase biodiesel use.

(3) The portion of the report prepared by the agency of transportation shall contain:

(A) A summary of the current use of biodiesel blends in state garages and the state transportation fleet.

(B) Recommendations on how to increase the use of biodiesel blends in state garages and in the state transportation fleet, wherever feasible, to at least five percent biodiesel (B5) by December 31, 2009, and to at least 10 percent biodiesel (B10) by 2012.

(C) A summary of any obstacles to increasing biodiesel use in state garages and the state transportation fleet.

(D) A proposed work plan to increase biodiesel use.

(c) The department of public service, with representatives of the department of buildings and general services and the agency of transportation present, shall conduct at least one public hearing to review the draft report and to solicit comments prior to finalizing the report.

Sec. 35. STUDY ON PUBLIC POWER AUTHORITY

By no later than January 15, 2009, the department of public service shall report to the committees on commerce, finance, and natural resources and energy, with the results of a study detailing the benefits and disadvantages of creating a public power authority with tools necessary to enable it to establish a substantial public power presence in the state, when to do so would be in the public interest.

Sec. 36. REPORT ON VALUATION OF NET METERED SYSTEMS

By December 1, 2008, the department of taxes shall develop and publish guidelines in the form of a technical bulletin for the property valuation of net metered systems.

Sec. 37. NATURAL RESOURCES BOARD RULEMAKING ON CONSERVATION FLOW STANDARDS

(a) The natural resources board shall, in a process separate from the planned revision to the Vermont water quality standards, evaluate the need to amend by rule the conservation flow standards for the water quality review of proposed hydroelectric facilities. In conducting its evaluation, the natural resources board, by no later than June 1, 2008, shall convene a public stakeholder process of interested parties to review existing and proposed conservation flow standards and to issue recommendations regarding the need to amend the conservation flow standards. As part of its evaluation of the conservation flow standards, the natural resources board shall consider whether the following flow standards may be used for reviewing the water quality impact of new hydroelectric generation projects in the state, including water withdrawals, diversions, existing impoundments, and the construction of appurtenant facilities related to a project:

- (1) A 7Q10 conservation flow;
- (2) The statewide median flow for August as the aquatic base flow;
- (3) The statewide February median flow;
- (4) Site specific flow standards; and
- (5) Any other flows deemed appropriate by the board.

(b) After the stakeholder group issues its recommendations as required under subsection (a) of this section, the natural resources board may adopt rules amending the conservation flow standards used by the agency of natural resources to conduct water quality review of proposed hydroelectric facilities. Any amendment to the conservation flow standards shall assure the protection of water quality, including water quantity, necessary to sustain aquatic communities, aquatic habitat, and stream functions. This section shall not be construed to prohibit the natural resources board from addressing or amending conservation flow standards for hydroelectric facilities during the triennial review of the Vermont water quality standards.

Sec. 38. AGENCY OF NATURAL RESOURCES REPORT ON FISH STUDY METHODOLOGY

On or before January 15, 2009, the agency of natural resources shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy with an estimate of the cost of producing a fish study methodology for the state of Vermont, other than the U.S. Geological Survey's instream flow incremental methodology protocols, provided that such a methodology is feasible and adequately addresses flow needs and the protection of aquatic habitat while also providing applicants for agency permits and certification with a reliable and agency accepted method for conducting fish studies.

Rep. Smith of Morristown, for the committee on Ways and Means, recommended the bill ought to pass in concurrence when amended as recommended by the committee on Natural Resources and Energy and when further amend as follows:

First: In Sec. 24, in 32 V.S.A. § 5401(10)(J), by striking subdivision (J) and inserting a new subdivision (J) to read:

(J) Buildings and fixtures of wind-powered electric generating facilities taxed under section 5402c of this title.

and in Sec. 25, in 32 V.S.A. § 5402c(e), by striking "Unless buildings and fixtures are subject to tax" and inserting in lieu thereof "Unless buildings and fixtures are taxed"

Second: In Sec. 25, in 32 V.S.A. § 5402c(c), by striking "15 percent capacity factor" and inserting in lieu thereof "15 percent nameplate capacity"

Third: By striking Sec. 29 and inserting a new Sec. 29 to read:

Sec. 29. EFFECTIVE DATE OF BUSINESS ENERGY TAX CREDITS AND
TRANSITION RULE

Secs. 27 and 28 of this act (business energy tax credits) shall apply to carry-through and recapture of federal credits related to taxable years 2009 and after.

Fourth: In Sec. 6, in 10 V.S.A. § 581, by adding subdivision (5) to read:

(5) To increase weatherization services to low income Vermonters by expanding the number of units weatherized, or the scope of services provided, or both, as revenue becomes available in the home weatherization assistance trust fund.

Fifth: In Sec. 31, in 33 V.S.A. § 2502(b)(3), by striking subdivision (D) and inserting in lieu thereof the following:

(D) Eliminating the lien requirement on weatherized rental properties, so long as the landlord executes a rent stabilization agreement which has a term of at least one year.

Sixth: In Sec. 31, in 33 V.S.A. § 2502(b)(3), by adding subdivision (F) to read:

(F) Increasing the number of low income homes weatherized each year, or the scope of services provided, or both, to reflect increased revenues in the home weatherization assistance trust fund.

Seventh: By striking Sec. 33 and inserting a new Sec. 33 to read:

Sec. 33. REPORT ON HEATING FUEL GROSS RECEIPTS TAX

By January 15, 2011, the joint energy committee shall:

(1) With the assistance of the department of taxes, the department of motor vehicles, and the joint fiscal office, review the efficiency of the gross receipts tax and other taxes on fuels, including payment and reporting requirements.

(2) Study the advisability of continuing or increasing the amount of the tax established under 33 V.S.A. § 2503, as appropriate, given the degree of success of the state by that time in meeting the building efficiency goals of the state established in 10 V.S.A. § 581.

(3) Report its findings and recommendations with regard to subdivisions (1) and (2) of this section to the house and senate committees on appropriations and on natural resources and energy, the house committee on ways and means, and the senate committee on finance.

Rep. Keenan of St. Albans City, for the committee on Appropriations, recommended the bill ought to pass in concurrence with proposal of

amendment as recommended by the committee on Natural Resources and Energy and by the committee on Ways and Means.

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

Thereupon, the recommendation of proposal of amendment offered by the committees on Ways and Means and Appropriations were agreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Natural Resources and Energy, as amended? **Rep. Komline of Dorset** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Natural Resources and Energy, as amended? was decided in the affirmative. Yeas, 136. Nays 2.

Those who voted in the affirmative are:

Acinapura of Brandon	Crawford of Burke	Johnson of South Hero
Adams of Hartland	Davis of Washington	Keenan of St. Albans City
Ainsworth of Royalton	Deen of Westminster	Keogh of Burlington
Allard of St. Albans Town	Devereux of Mount Holly	Kilmartin of Newport City
Ancel of Calais	Donaghy of Poultney	Kitzmiller of Montpelier
Anderson of Montpelier	Donahue of Northfield	Klein of East Montpelier
Andrews of Rutland City	Donovan of Burlington	Koch of Barre Town
Atkins of Winooski	Dostis of Waterbury	Komline of Dorset
Audette of S. Burlington	Edwards of Brattleboro	Krawczyk of Bennington
Baker of West Rutland	Emmons of Springfield	Kupersmith of S. Burlington
Barnard of Richmond	Errecart of Shelburne	Larocque of Barnet
Bissonnette of Winooski	Evans of Essex	Larrabee of Danville
Bostic of St. Johnsbury	Fallar of Tinmouth	Larson of Burlington
Botzow of Pownal	Fisher of Lincoln	LaVoie of Swanton
Branagan of Georgia	Fitzgerald of St. Albans City	Lawrence of Lyndon
Bray of New Haven	Flory of Pittsford	Lenes of Shelburne
Brennan of Colchester	Frank of Underhill	Leriche of Hardwick
Browning of Arlington	French of Randolph	Lippert of Hinesburg
Canfield of Fair Haven	Gervais of Enosburg	Livingston of Manchester
Chen of Mendon	Gilbert of Fairfax	Lorber of Burlington
Cheney of Norwich	Godin of Milton	Maier of Middlebury
Clark of Vergennes	Grad of Moretown	Malcolm of Pawlet
Clarkson of Woodstock	Haas of Rochester	Manwaring of Wilmington
Clerkin of Hartford	Head of S. Burlington	Marcotte of Coventry
Condon of Colchester	Heath of Westford	Marek of Newfane
Consejo of Sheldon	Helm of Castleton	Martin, C. of Springfield
Copeland-Hanzas of Bradford	Hosford of Waitsfield	Martin of Wolcott
Corcoran of Bennington	Howard of Rutland City	Masland of Thetford
Courcelle of Rutland City	Hunt of Essex	McAllister of Highgate
	Jerman of Essex	McCormack of Rutland City

McCullough of Williston	Nuovo of Middlebury	Shand of Weathersfield
McDonald of Berlin	Obuchowski of Rockingham	Sharpe of Bristol
McFaun of Barre Town	O'Donnell of Vernon	Smith of Morristown
McNeil of Rutland Town	Ojibway of Hartford	Spengler of Colchester
Milkey of Brattleboro	Orr of Charlotte	Stevens of Shoreham
Miller of Shaftsbury	Oxholm of Vergennes	Sweaney of Windsor
Minter of Waterbury	Partridge of Windham	Trombley of Grand Isle
Mitchell of Barnard	Pearson of Burlington	Turner of Milton
Monti of Barre City	Pellett of Chester	Valliere of Barre City
Mook of Bennington	Peltz of Woodbury	Weston of Burlington
Moran of Wardsboro	Peterson of Williston	Wheeler of Derby
Morley of Barton	Pillsbury of Brattleboro	Winters of Williamstown
Morrissey of Bennington	Pugh of S. Burlington	Wright of Burlington
Mrowicki of Putney	Randall of Troy	Zenie of Colchester
Myers of Essex	Rodgers of Glover	Zuckerman of Burlington
Nease of Johnson	Scheuermann of Stowe	

Those who voted in the negative are:

Hube of Londonderry	Otterman of Topsham
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Those members absent with leave of the House and not voting are:

Aswad of Burlington	Johnson of Canaan	Shaw of Derby
Clark of St. Johnsbury	Peaslee of Guildhall	Symington of Jericho
Howrigan of Fairfield	Perry of Richford	Westman of Cambridge
Hutchinson of Randolph	Potter of Clarendon	

Rep. Zuckerman of Burlington explained his vote as follows:

"Madam Speaker:

I greatly appreciate the work of our House Natural Resources and Energy committee. While I support this bill, it is unfortunate that these investments could not have been made starting last year. It would have cost Vermonters no more, but we would have seen the results that much faster."

Thereupon, third reading was ordered.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 278

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

An act relating to financing campaigns;

Recommended that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds that:

(1) Large campaign contributions reduce public confidence in the electoral process and increase the risk and the appearance that candidates and elected officials will not act in the best interests of all Vermont citizens.

(2) Some candidates and elected officials, particularly when time is limited, respond and give access to contributors who make large contributions in preference to those who make small or no contributions.

(3) In Vermont, contributions greater than the amounts specified in this act are considered by the general assembly, candidates, and elected officials to be large contributions.

(4) In Vermont, contributions in the amounts permitted in this act adequately allow contributors to express their opinions, levels of support, and affiliations with respect to candidates, political committees, and political parties.

(5) In Vermont, candidates can raise sufficient monies to fund effective campaigns from contributions no larger than the amounts specified in this act.

(6) In Vermont, lower contribution limits have not prevented challengers from maintaining robust and competitive campaigns.

(7) Limiting large contributions will encourage direct and small group contact between candidates and the electorate and will encourage the personal involvement of a larger number of citizens in campaigns, both of which are crucial to public confidence and the robust debate of issues.

(8) In Vermont, campaign expenditures by persons who are not candidates have been increasing and public confidence is eroded when unidentified expenditures are made, particularly during the final days of a campaign.

(9) Identification of persons who publish political advertisements and electioneering communications assists in enforcement of the campaign finance limitations established by this act.

(10) Aggregate contributions limitations are necessary to limit the influence of a single source, political committee, or political party in an election.

(11) There is an extensive record supporting the need for the regulation of campaign finance in Vermont that was compiled during the consideration of No. 64 of the Acts of 1997, and that was considered by the courts during the

litigation of Landell v. Sorrell, 118 F.Supp. 459 (D.Vt. 2000), aff'd in part and vacated in part, 382 F.3d 91 (2d Cir. 2004), rev'd and remanded sub nom. Randall v. Sorrell, 126 S. Ct. 2479 (2006)), and during the General Assembly's consideration of S.164 during the 2007 legislative session.

(12) This act is necessary in order to implement more fully the provisions of Article 8 of Chapter I of the Constitution of the State of Vermont, which declares "That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution."

Sec. 2. 17 V.S.A. § 2801 is amended to read:

§ 2801. DEFINITIONS

As used in this chapter:

(1) "Candidate" means an individual who has taken affirmative action to become a candidate for state, county, local, or legislative office in a primary, special, general, or local election. An affirmative action shall include one or more of the following:

(A) accepting contributions or making expenditures totaling \$500.00 or more; or

(B) filing the requisite petition for nomination under this title or being nominated by primary or caucus; or

(C) announcing that he or she seeks an elected position as a state, county, or local officer or a position as representative or senator in the general assembly.

(2) "Clearly identified," with respect to a candidate, means that:

(A) The name of the candidate appears;

(B) A photograph or drawing of the candidate appears; or

(C) The identity of the candidate is apparent by unambiguous reference.

(3) "Contribution" means a payment, distribution, advance, deposit, loan, or gift of money or anything of value, paid or promised to be paid ~~to a person~~ for the purpose of influencing an election, advocating a position on a public question, or supporting or opposing one or more candidates in any election, ~~but shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate, political~~

~~committee or political party.~~ For purposes of this chapter, "contribution" shall not include ~~a personal loan from a lending institution~~ any of the following:

(A) a personal loan of money to a candidate from a lending institution made in the ordinary course of business;

(B) services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political party;

(C) unreimbursed travel expenses paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$1,000.00 per election;

(D) unreimbursed campaign-related travel expenses paid for by the candidate or the candidate's spouse or civil union partner;

(E) the payment by a political party of the costs of preparation, display, or mailing or other distribution of a party candidate listing;

(F) documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this title, lists of registered voters and voter identification information, created, obtained, or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party or to another political party;

(G) compensation paid by a political party to its employees whose job responsibilities are not for the specific and exclusive benefit of a single candidate in any election;

(H) campaign training sessions provided to three or more candidates;

(I) costs paid for by a political party in connection with a campaign event at which three or more candidates are present;

(J) the use of offices, telephones, computers, and similar equipment;

(K) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention or depict a clearly identified candidate;

(L) compensation paid by a political party to its employees or consultants for the purpose of providing assistance to another political party.

~~(3)~~(4) "Expenditure" means a payment, disbursement, distribution, advance, deposit, loan, or gift of money or anything of value, paid or promised to be paid, for the purpose of influencing an election, advocating a position on

a public question, or supporting or opposing one or more candidates. For the purposes of this chapter, "expenditure" shall not include any of the following:

(A) a personal loan of money to a candidate from a lending institution made in the ordinary course of business;

(B) services provided without compensation by individuals volunteering their time on behalf of a candidate, political committee, or political party;

(C) unreimbursed travel expenses paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$1,000.00 per election;

(D) unreimbursed campaign-related travel expenses paid for by the candidate or the candidate's spouse or civil union partner.

(5) "Party candidate listing" means any communication by a political party that:

(A) lists the names of at least three candidates for election to public office;

(B) is distributed through public advertising such as broadcast stations, cable television, newspapers and similar media, or through direct mail, telephone, electronic mail, publicly accessible sites on the internet or personal delivery;

(C) treats all candidates in the communication in a substantially similar manner; and

(D) is limited to:

(i) the identification of each candidate, with which pictures may be used;

(ii) the offices sought;

(iii) the offices currently held by the candidates;

(iv) the party affiliation of the candidates and a brief statement about the party or the candidates' positions, philosophy, goals, accomplishments, or biographies;

(v) encouragement to vote for the candidates identified; and

(vi) information about voting, such as voting hours and locations.

(4)(6) "Political committee" or "political action committee" means any formal or informal committee of two or more individuals, or a corporation, labor organization, public interest group, or other entity, not including a

political party, which receives contributions of more than \$500.00 and makes expenditures of more than \$500.00 in any one calendar year for the purpose of supporting or opposing one or more candidates, influencing an election, or advocating a position on a public question in any election or affecting the outcome of an election.

(5)(7) "Political party" means a political party organized under chapter 45 of this title ~~or~~ and any committee established, financed, maintained, or controlled by the party, including any subsidiary, branch, or local unit thereof ~~and including national or regional affiliates of the party and shall be considered a single, unified political party. The national affiliate of the political party shall be considered a separate political party.~~

(6)(8) "Single source" means an individual, partnership, corporation, association, labor organization, or any other organization or group of persons which is not a political committee or political party.

(7)(9) "Election" means the procedure whereby the voters of this state or any of its political subdivisions select or caucus selects a person to be a candidate for public office or fill a public office, or to act on public questions including voting on constitutional amendments. Each primary, general, special, run-off, or local election shall constitute a separate election.

(8)(10) "Public question" means an issue that is before the voters for a binding decision.

(9)(11) "Two-year general election cycle" means the 24-month period that begins 38 days after a general election. ~~Expenditures related to a previous campaign and contributions to retire a debt of a previous campaign shall be attributed to the earlier campaign cycle.~~

(10)(12) "Full name" means an individual's full first name, middle name or initial, if any, and full legal last name, making the identity of the person who made the contribution apparent by unambiguous reference.

(11)(13) "Telephone bank" means more than 500 telephone calls of an identical or substantially similar nature that are made to the general public within any 30-day period.

Sec. 3. 17 V.S.A. § 2801a is amended to read:

§ 2801a. EXCEPTIONS

The definitions of "contribution," "expenditure," and "electioneering communication" shall not apply to:

(1) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication which has not been paid for, or such facilities are not owned or controlled, by any political party, committee, or candidate; and

(2) any communication distributed through a public access television station if the communication complies with the laws and rules governing the station, and all candidates in the race have an equal opportunity to promote their candidacies through the station.

Sec. 4. 17 V.S.A. § 2805 is amended to read:

§ 2805. LIMITATIONS OF CONTRIBUTIONS

(a) A candidate for state representative or local office shall not accept contributions totaling more than ~~\$200.00~~ \$250.00 from a single source, or political committee ~~or political party in for~~ any ~~two-year general~~ election cycle.

(b) A candidate for state senator or county office shall not accept contributions totaling more than ~~\$300.00~~ \$500.00 from a single source, or political committee ~~or political party in for~~ any ~~two-year general~~ election cycle.

(c) A candidate for the office of governor, lieutenant governor, secretary of state, state treasurer, auditor of accounts, or attorney general shall not accept contributions totaling more than ~~\$400.00~~ \$1,000.00 from a single source, or political committee ~~or political party in for~~ any ~~two-year general~~ election cycle. ~~A political committee, other than a political committee of a candidate, or a political party shall not accept contributions totaling more than \$2,000.00 from a single source, political committee or political party in any two-year general election cycle.~~

~~(b)(d)~~ A single source, ~~political committee or political party~~ shall not contribute more to a candidate, ~~political committee or political party than the candidate, political committee or political party is permitted to accept under subsection (a) of this section~~ than \$20,000.00 to all candidates in any two-year general election cycle. A single source shall not contribute more than \$20,000.00 to all political committees and political parties in any two-year general election cycle.

~~(e)(e)~~ A candidate, ~~political party or political committee~~ shall not accept, from a political party contributions totaling more than the following amounts in any two-year general election cycle, ~~more than 25 percent of total contributions from contributors who are not residents of the state of Vermont or from political committees or parties not organized in the state of Vermont;~~

(1) For the office of governor, \$30,000.00;

(2) For the office of lieutenant governor, \$10,000.00;

(3) For the office of secretary of state, state treasurer, auditor of accounts, or attorney general, \$5,000.00;

(4) For the office of state senator or county office, \$2,000.00;

(5) For the office of state representative or local office, \$1,000.00.

(f) A single source, political committee, or political party shall not contribute more to a candidate, political committee, or political party than the candidate, political committee, or political party is permitted to accept under subsections (a) through (d) and (f) of this section.

~~(d)~~(g) A candidate shall not accept a monetary contribution in excess of \$50.00 unless made by check, credit or debit card, or other electronic transfer.

~~(e)~~(h) A candidate, political party, or political committee shall not knowingly accept a contribution which is not directly from the contributor, but was transferred to the contributor by another person for the purpose of transferring the same to the candidate, or otherwise circumventing the provisions of this chapter. It shall be a violation of this chapter for a person to make a contribution with the explicit or implicit understanding that the contribution will be transferred in violation of this subsection.

~~(f)~~(i) This section shall not be interpreted to limit the amount a candidate or his or her immediate family may contribute to his or her own campaign. For purposes of this subsection, "immediate family" means ~~individuals related to the candidate in the first, second or third degree of consanguinity~~ a candidate's spouse or civil union partner, parent, grandparent, child, grandchild, sister, brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, legal guardian, or former legal guardian.

~~(g)~~(j) The limitations on contributions established by this section shall not apply to contributions made for the purpose of advocating a position on a public question, including a constitutional amendment.

~~(h)~~(k) For purposes of this section, the term "candidate" includes the candidate's political committee.

(l) The contribution limitations contained in this section shall be adjusted for inflation by increasing them based on the Consumer Price Index. Increases shall be rounded up to the nearest \$10.00. Increases shall be effective for the first two-year general election cycle beginning after the general election held in

2008. On or before July 1, 2009, the secretary of state shall calculate and publish the amount of each limitation that will apply to the election cycle in which July 1, 2009 falls. On July 1 of each subsequent odd-numbered year, the secretary shall publish the amount of each limitation for the election cycle in which that publication falls.

(m) Contributions accepted by candidates shall be treated as follows:

(1) A candidate who accepts a contribution prior to the date of the primary election may designate the contribution, or portion of the contribution, as either a primary or general election contribution. Once designated, a general election contribution accepted prior to the primary election shall be accounted for separately.

(2) A contribution accepted by a candidate after the date of the primary election shall be a general election contribution. A candidate may designate a contribution, or portion of the contribution, accepted after the date of the primary election as a primary election contribution only for the purpose of retiring debt incurred for the primary election.

(3) Contributions that were accepted prior to the primary election may be used for the general election if all debt incurred for the primary election has been retired.

(4) Expenditures related to a previous two-year general election cycle and contributions to retire a debt of a previous two-year general election cycle shall be attributed to the earlier two-year general election cycle.

(n) The limitations on contributions set forth in subsection (a), (b), (c), or (d) of this section shall be doubled for independent candidates prior to the date of a primary election.

(o) A candidate accepts a contribution when the contribution is deposited in the candidate's campaign account.

Sec. 5. 17 V.S.A. § 2805b is added to read:

§ 2805b. LIMITATIONS ON CONTRIBUTIONS; POLITICAL COMMITTEES; POLITICAL PARTIES

(a) In any two-year general election cycle:

(1) A political committee, other than a political committee of a candidate, shall not accept contributions totaling more than \$2,000.00 from a single source, political committee, or political party.

(2) A political party shall not accept contributions totaling more than \$2,000.00 from a single source or political committee.

(3) A political party shall not accept contributions totaling more than \$30,000.00 from another political party.

(b) The contribution limitations contained in this section shall be adjusted for inflation by increasing them based on the Consumer Price Index. Increases shall be rounded up to the nearest \$10.00. Increases shall be effective for the first two-year general election cycle beginning after the general election held in 2008. On or before July 1, 2009, the secretary of state shall calculate and publish the amount of each limitation that will apply to the election cycle in which July 1, 2009 falls. On July 1 of each subsequent odd-numbered year, the secretary shall publish the amount of each limitation for the election cycle in which that publication falls.

(c) In any two-year general election cycle:

(1) A single source, political committee, or political party shall not contribute more than \$2,000.00 to a political committee, other than a political committee of a candidate.

(2) A single source or political committee shall not contribute more than \$2,000.00 to a political party.

(3) A political party shall not contribute more than \$30,000.00 to another political party.

(d) The limitations on contributions established by this section shall not apply to contributions made for the purpose of advocating a position on a public question, including a constitutional amendment.

Sec. 6. 17 V.S.A. § 2809 is amended to read:

§ 2809. ACCOUNTABILITY FOR ~~RELATED~~ COORDINATED EXPENDITURES

(a) A ~~related~~ coordinated campaign expenditure made on a candidate's behalf shall be considered a contribution to the candidate on whose behalf it was made.

(b) A ~~related~~ coordinated campaign expenditure made on a candidate's behalf shall be considered an expenditure by the candidate on whose behalf it was made. However, if the expenditure did not exceed \$50.00, the expenditure shall not be considered an expenditure by the candidate on whose behalf it was made.

(c) For the purposes of this section, a "~~related~~ coordinated campaign expenditure made on the candidate's behalf" means any expenditure ~~intended to promote the election of a specific candidate or group of candidates, or the~~

~~defeat of an opposing candidate or group of candidates, if intentionally facilitated by, solicited by or approved by the candidate or the candidate's political committee made by a single source, political committee, or political party in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or an agent, unless otherwise exempt under subdivision 2801(3) or (4) or section 2801a of this title.~~

~~(d) An expenditure made by a political party or by a political committee that recruits or endorses candidates, that primarily benefits six or fewer candidates who are associated with the political party or political committee making the expenditure, is presumed to be a related expenditure made on behalf of those candidates. An expenditure made by a political party or by a political committee that recruits or endorses candidates, that substantially benefits more than six candidates and facilitates party or political committee functions, voter turnout, platform promotion or organizational capacity shall not be presumed to be a related expenditure made on a candidate's behalf. In addition, an expenditure shall not be considered a "related campaign expenditure made on the candidate's behalf" if all of the following apply:~~

~~(1) The expenditures were made in connection with a campaign event whose purpose was to provide a group of voters with the opportunity to meet the candidate personally.~~

~~(2) The expenditures were made only for refreshments and related supplies that were consumed at that event.~~

~~(3) The amount of the expenditures for the event was less than \$100.00.~~

For the purposes of this section, a "coordinated campaign expenditure made on the candidate's behalf" does not mean:

(1) the cost of invitations and postage and of food and beverages voluntarily provided by an individual to provide an opportunity for a group of voters to meet a candidate, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$500.00 per election;

(2) the sale of any food or beverage by a vendor at a charge less than the normal comparable charge, for use at a campaign event providing an opportunity for a group of voters to meet a candidate, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed \$500.00 per election; or

(3) amounts expended by a membership organization in compiling and disseminating a nonpartisan voter guide that includes reports of votes on

legislation by, or answers to written questions directed to, all or substantially all of the candidates seeking election to the general assembly or to statewide office, about the candidate's position on issues of concern to the organization, if all of the following apply:

(A) the organization was not created for the major purpose of influencing elections;

(B) the organization identifies itself as the sponsor of the communication, and accepts no funding from a candidate, political committee, or political party to defray the costs of the voter guide;

(C) the voter guide does not contain a phrase such as "vote for," "re-elect," "support," "cast your ballot for," "(name of candidate) for Senate," "(name of candidate) in (year)," "vote against," "defeat," or "reject," or otherwise is susceptible of no reasonable interpretation other than as an appeal to vote for or against a candidate or candidates;

(D) the voter guide does not contain photographs or messages provided by a candidate or his or her political committee or agents other than responses to a general questionnaire submitted to all candidates.

* * *

Sec. 7. 17 V.S.A. § 2891 is amended to read:

§ 2891. DEFINITIONS

As used in this chapter, "electioneering communication":

(1) means any communication, including communications published in any newspaper or periodical or broadcast on radio or television or over any public address system, placed on any billboards, outdoor facilities, buttons or printed material attached to motor vehicles, window displays, posters, cards, pamphlets, leaflets, flyers, or other circulars, or in any direct mailing, robotic phone calls, or mass e-mails that refers to a clearly identified candidate for office and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office, regardless of whether the communication expressly advocates a vote for or against a candidate.

(2) does not mean disseminating a nonpartisan voter guide that qualifies as an exemption from the definition of "coordinated campaign expenditure made on the candidate's behalf" under subdivision 2809(d)(3) of this title.

Sec. 8. 17 V.S.A. § 2893(b) is amended to read:

(b) In addition to any other reports required to be filed under this chapter, a person who makes expenditures for any one mass media activity totaling

\$500.00 or more within 30 days of a primary or general election shall, for each activity, file a mass media report with the secretary of state and send ~~a copy~~ copies, by a verifiable method of sending, of the mass media report and the complete mass media activity in the same format as distributed to the public to each candidate whose name or likeness is included in the activity ~~within 24 hours of the expenditure or activity, whichever occurs first at the same time as the release of the information contained in the mass media activity to the public.~~ For the purposes of this section, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure. The report shall identify the person who made the expenditure with the name of the candidate involved in the activity and any other information relating to the expenditure that is required to be disclosed under the provisions of subsections 2803(a) and (b) of this title.

Sec. 9. EVALUATION OF 2008 PRIMARY AND GENERAL ELECTIONS

The house and senate committees on government operations shall evaluate the 2008 primary and general elections to determine whether the major provisions of this act are accomplishing their intended purposes.

Sec. 10. SECRETARY OF STATE;

(a) The secretary of state shall recommend a plan for improving and upgrading:

(1) the ability of candidates to file and report electronically information required by chapter 55 of Title 17; and

(2) internet access by the public of information required to be reported under chapter 55 of Title 17.

(b) The secretary of state shall submit a report of the recommendations required by subsection (a) of this section to the general assembly by February 16, 2009 that shall include cost estimates of the recommendations.

Sec. 11. REPEAL

17 V.S.A. § 2805a (campaign expenditure limitations) is repealed.

Sec. 12. EFFECTIVE DATE

This act shall take effect upon passage.

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

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Government Operations? **Rep. Flory of Pittsford** moved to substitute a proposal of amendment for the

proposal of amendment offered by the committee on Government Operations as follows:

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

Sec. 1. 17 V.S.A. § 2805 is amended to read:

§ 2805. LIMITATIONS OF CONTRIBUTIONS

(a) ~~A candidate for state representative or local office shall not accept contributions totaling more than \$200.00 \$1,000.00 from a single source, political committee or political party in any two year general election cycle. A candidate for state senator or county office shall not accept contributions totaling more than \$300.00 from a single source, political committee or political party in any two year general election cycle. A candidate for the office of governor, lieutenant governor, secretary of state, state treasurer, auditor of accounts, or attorney general shall not accept contributions totaling more than \$400.00 from a single source, political committee or political party in any two year general election cycle. A political committee, other than a political committee of a candidate, or a political party shall not accept contributions totaling more than \$2,000.00 from a single source, political committee or political party in any two year general election cycle.~~

(b) ~~A single source, political committee or political party shall not contribute more to a candidate, political committee or political party than the candidate, political committee or political party is permitted to accept under subsection (a) of this section. A candidate or political committee shall not accept contributions totaling more than \$3,000.00 from a political committee in any election.~~

(c) ~~A candidate, political party or political committee shall not accept, in any two year general election cycle, more than 25 percent of total contributions from contributors who are not residents of the state of Vermont or from political committees or parties not organized in the state of Vermont.~~

(d) A candidate shall not accept a monetary contribution in excess of \$50.00 unless made by check, credit or debit card, or other electronic transfer.

(e) ~~A candidate, political party, or political committee shall not knowingly accept a contribution which is not directly from the contributor, but was transferred to the contributor by another person for the purpose of transferring the same to the candidate, or otherwise circumventing the provisions of this chapter. It shall be a violation of this chapter for a person to make a contribution with the explicit or implicit understanding that the contribution will be transferred in violation of this subsection.~~

~~(f)(d)~~ This section shall not be interpreted to limit the amount a candidate or his or her immediate family may contribute to his or her own campaign. For purposes of this subsection, "immediate family" means individuals related to the candidate in the first, second, or third degree of consanguinity.

~~(g)(e)~~ The limitations on contributions established by this section shall not apply to contributions made for the purpose of advocating a position on a public question, including a constitutional amendment.

~~(h)~~ For purposes of this section, the term "candidate" includes the candidate's political committee.

(f) The contribution limitations contained in this section shall be adjusted for inflation by increasing them based on the Consumer Price Index. Increases shall be rounded up to the nearest \$10.00. Increases shall be effective for the first two-year general election cycle beginning after the general election held in 2008. On or before July 1, 2009, the secretary of state shall calculate and publish the amount of each limitation that will apply to the election cycle in which July 1, 2009 falls. On July 1 of each subsequent odd-numbered year, the secretary shall publish the amount of each limitation for the election cycle in which that publication falls.

Sec. 2. 17 V.S.A. § 2810(a) is amended to read:

(a) For each two-year general election cycle, the secretary of state shall develop and continuously update a publicly accessible campaign database. The database shall contain at least the following information for all candidates for statewide and county office and for the general assembly: for candidates receiving public financing grants, the amount of each grant awarded; the information contained in campaign finance reports filed under this chapter; and all reports of mass media activity expenditures filed under section 2883 of this title. The database shall also include campaign finance reports filed by candidates for federal office. The information in the database, together with any biographical sketches and position statements submitted to the secretary of state by such candidates, shall be made available to the public through the Vermont state home page on-line service, or through printed reports from the secretary in response to a public request within 14 days of the date of the request. The database shall be searchable according to donor, recipient, zip code, city, and state and shall allow the user to group the results of a search by donor or recipient.

Sec. 3. 17 V.S.A. § 2811(h) and (i) are added to read:

(h) In addition to any other reports required to be filed under this chapter, each candidate for state office or for the general assembly who makes an

expenditure of \$1,000.00 or greater shall report that expenditure within 48 hours to the secretary of state.

(i) The secretary of state shall allow candidates and political committees to file reports under this section electronically.

Sec. 4. 2 V.S.A. § 264(k) is added to read:

(k) In addition to any other reports required to be filed under this chapter, any person who makes an expenditure of \$1,000.00 or greater for the purpose of influencing legislative action shall report that expenditure within 48 hours to the secretary of state.

Sec. 5. EFFECTIVE DATE

This act shall take effect upon passage.

Thereupon, **Rep. Komline of Dorset** asked that the question be divided and that the vote be taken on Secs. 2, 3, 4, and 5, first.

Pending the question, Shall the House substitute Secs. 2, 3, 4, and 5 to the recommendation of proposal of amendment offered by the committee on Government Operations? **Rep. Komline of Dorset** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House substitute Secs. 2, 3, 4, and 5 to the recommendation of proposal of amendment offered by the committee on Government Operations? was decided in the negative. Yeas, 44. Nays, 95.

Those who voted in the affirmative are:

Acinapura of Brandon
Adams of Hartland
Ainsworth of Royalton
Allard of St. Albans Town
Baker of West Rutland
Bostic of St. Johnsbury
Branagan of Georgia
Brennan of Colchester
Canfield of Fair Haven
Clark of Vergennes
Clerkin of Hartford
Crawford of Burke
Donaghy of Poultney
Donahue of Northfield
Errecart of Shelburne

Flory of Pittsford
Helm of Castleton
Howard of Rutland City
Hube of Londonderry
Kilmartin of Newport City
Koch of Barre Town
Komline of Dorset
Krawczyk of Bennington
Larocque of Barnet
Larrabee of Danville
LaVoie of Swanton
Lawrence of Lyndon
Livingston of Manchester
Marcotte of Coventry
McAllister of Highgate

McDonald of Berlin
McFaun of Barre Town
McNeil of Rutland Town
Morley of Barton
Morrissey of Bennington
Myers of Essex
O'Donnell of Vernon
Oxholm of Vergennes
Scheuermann of Stowe
Turner of Milton
Valliere of Barre City
Wheeler of Derby
Winters of Williamstown
Wright of Burlington

Those who voted in the negative are:

Ancel of Calais	Gervais of Enosburg	Miller of Shaftsbury
Anderson of Montpelier	Gilbert of Fairfax	Minter of Waterbury
Andrews of Rutland City	Godin of Milton	Mitchell of Barnard
Atkins of Winooski	Grad of Moretown	Monti of Barre City
Audette of S. Burlington	Haas of Rochester	Mook of Bennington
Barnard of Richmond	Head of S. Burlington	Moran of Wardsboro
Bissonnette of Winooski	Heath of Westford	Mrowicki of Putney
Botzow of Pownal	Hosford of Waitsfield	Nease of Johnson
Bray of New Haven	Hunt of Essex	Nuovo of Middlebury
Browning of Arlington	Jerman of Essex	Obuchowski of Rockingham
Chen of Mendon	Jewett of Ripton	Ojibway of Hartford
Cheney of Norwich	Johnson of South Hero	Orr of Charlotte
Clarkson of Woodstock	Keenan of St. Albans City	Otterman of Topsham
Condon of Colchester	Keogh of Burlington	Partridge of Windham
Consejo of Sheldon	Kitzmiller of Montpelier	Pearson of Burlington
Copeland-Hanzas of	Klein of East Montpelier	Pellett of Chester
Bradford	Kupersmith of S. Burlington	Peltz of Woodbury
Corcoran of Bennington	Larson of Burlington	Peterson of Williston
Courcelle of Rutland City	Lenes of Shelburne	Pillsbury of Brattleboro
Davis of Washington	Leriche of Hardwick	Pugh of S. Burlington
Deen of Westminster	Lippert of Hinesburg	Randall of Troy
Devereux of Mount Holly	Lorber of Burlington	Rodgers of Glover
Donovan of Burlington	Maier of Middlebury	Shand of Weathersfield
Dostis of Waterbury	Malcolm of Pawlet	Sharpe of Bristol
Edwards of Brattleboro	Manwaring of Wilmington	Smith of Morristown
Emmons of Springfield	Marek of Newfane	Spengler of Colchester
Evans of Essex	Martin, C. of Springfield	Stevens of Shoreham
Fallar of Tinmouth	Martin of Wolcott	Sweaney of Windsor
Fisher of Lincoln	Masland of Thetford	Trombley of Grand Isle
Fitzgerald of St. Albans City	McCormack of Rutland City	Weston of Burlington
Frank of Underhill	McCullough of Williston	Zenie of Colchester
French of Randolph	Milkey of Brattleboro	Zuckerman of Burlington

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

Aswad of Burlington	Johnson of Canaan	Shaw of Derby
Clark of St. Johnsbury	Peaslee of Guildhall	Westman of Cambridge
Howrigan of Fairfield	Perry of Richford	
Hutchinson of Randolph	Potter of Clarendon	

Thereupon, Sec. 1 of the recommendation of proposal of amendment was disagreed to.

Pending the recurring question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Government Operations? **Rep. Wright of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill as

recommended by the committee on Government Operations? was decided in the affirmative. Yeas, 89. Nays, 41.

Those who voted in the affirmative are:

Ancel of Calais	French of Randolph	McCullough of Williston
Anderson of Montpelier	Gervais of Enosburg	Milkey of Brattleboro
Andrews of Rutland City	Gilbert of Fairfax	Miller of Shaftsbury
Atkins of Winooski	Godin of Milton	Minter of Waterbury
Barnard of Richmond	Haas of Rochester	Mitchell of Barnard
Bissonnette of Winooski	Head of S. Burlington	Mook of Bennington
Botzow of Pownal	Heath of Westford	Moran of Wardsboro
Bray of New Haven	Hosford of Waitsfield	Mrowicki of Putney
Browning of Arlington	Howard of Rutland City	Nease of Johnson
Chen of Mendon	Hunt of Essex	Nuovo of Middlebury
Cheney of Norwich	Jerman of Essex	Obuchowski of Rockingham
Clarkson of Woodstock	Jewett of Ripton	Ojibway of Hartford
Condon of Colchester	Johnson of South Hero	Orr of Charlotte
Consejo of Sheldon	Keogh of Burlington	Partridge of Windham
Copeland-Hanzas of Bradford	Kitzmiller of Montpelier	Pearson of Burlington
Corcoran of Bennington	Klein of East Montpelier	Pellett of Chester
Courcelle of Rutland City	Kupersmith of S. Burlington	Peltz of Woodbury
Davis of Washington	Larson of Burlington	Peterson of Williston
Deen of Westminster	Lenes of Shelburne	Pugh of S. Burlington
Devereux of Mount Holly	Leriche of Hardwick	Randall of Troy
Donovan of Burlington	Lippert of Hinesburg	Shand of Weathersfield
Dostis of Waterbury	Lorber of Burlington	Sharpe of Bristol
Edwards of Brattleboro	Maier of Middlebury	Smith of Morristown
Emmons of Springfield	Malcolm of Pawlet	Spengler of Colchester
Evans of Essex	Manwaring of Wilmington	Stevens of Shoreham
Fallar of Tinmouth	Marek of Newfane	Sweeney of Windsor
Fisher of Lincoln	Martin, C. of Springfield	Trombley of Grand Isle
Fitzgerald of St. Albans City	Martin of Wolcott	Weston of Burlington
Frank of Underhill	Masland of Thetford	Zenie of Colchester
	McCormack of Rutland City	Zuckerman of Burlington

Those who voted in the negative are:

Acinapura of Brandon	Donahue of Northfield	Livingston of Manchester
Adams of Hartland	Errecart of Shelburne	Marcotte of Coventry
Ainsworth of Royalton	Flory of Pittsford	McAllister of Highgate
Allard of St. Albans Town	Helm of Castleton	McDonald of Berlin
Baker of West Rutland	Hube of Londonderry	McNeil of Rutland Town
Bostic of St. Johnsbury	Kilmartin of Newport City	Morrissey of Bennington
Branagan of Georgia	Koch of Barre Town	Myers of Essex
Brennan of Colchester	Komline of Dorset	O'Donnell of Vernon
Canfield of Fair Haven	Krawczyk of Bennington	Oxholm of Vergennes
Clark of Vergennes	Larocque of Barnet	Scheuermann of Stowe
Clerkin of Hartford	Larabee of Danville	Turner of Milton
Crawford of Burke	LaVoie of Swanton	Valliere of Barre City
Donaghy of Poultney	Lawrence of Lyndon	Wheeler of Derby

Winters of Williamstown

Wright of Burlington

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

Aswad of Burlington

Keenan of St. Albans City

Pillsbury of Brattleboro

Audette of S. Burlington

McFaun of Barre Town

Potter of Clarendon

Clark of St. Johnsbury

Monti of Barre City

Rodgers of Glover

Grad of Moretown

Morley of Barton

Shaw of Derby

Howrigan of Fairfield

Otterman of Topsham

Westman of Cambridge

Hutchinson of Randolph

Peaslee of Guildhall

Johnson of Canaan

Perry of Richford

Rep. Acinapura of Brandon explained his vote as follows:

"Madam Speaker:

I state unequivocally that there is no corruption or buying of influence in this General Assembly nor among our elected constitutional officers. Nor have there been allegations to that effect. Rather there is the perception among some that we are prone to corruption or the buying of influence. Perception is not reality. To write a law to correct this perception lends credence to the perception that we are corrupt. Good law must be based in reality. To write a law based on a perception is wrong. It is bad law. It does harm to this body. We should be proud of our ethical standards. For these reasons I voted no."

Rep. Clarkson of Woodstock explained her vote as follows:

"Madam Speaker:

I vote yes to limit the influence of money in our democracy. Potential litigation is a small price to pay to maintain the health of our democratic institutions."

Rep. Deen of Westminster explained his vote as follows:

"Madam Speaker:

I voted yes on this campaign finance reform bill to help prevent the appearance of corruption from coloring our Vermont elections. We shouldn't wait until our elections become corrupt before we act."

Rep. Donaghy of Poultney explained his vote as follows:

"Madam Speaker:

There is no public outcry on Vermonter's campaign finance. It's a non-issue in the public's eye. S. 278 is a solution to a problem that doesn't exist; pre '97 campaign contribution limits are neither corrupting nor do they convey the appearance of corruption. There is no evidence of either."

Rep. Jerman of Essex explained his vote as follows:

“Madam Speaker:

I vote yes to striking a reasonable balance between limiting the amount of money in political campaigns and retaining robust individual and political party ability to compete in statewide and local races. S. 278 meets Supreme Court concerns, sets contribution limits higher than several other states, and is right for Vermont.”

Rep. Koch of Barre Town explained his vote as follows:

“Madam Speaker:

I believe it is ethically wrong for me to sit here in Montpelier and decide how much someone who wants me out of office can raise, and therefore spend, on that effort.

All that is needed is full disclosure. Then the voters can decide whether they approve of what a candidate is doing.”

Rep. Minter of Waterbury explained her vote as follows:

“Madam Speaker:

I voted for this bill because we need to limit the influence of money in Vermont’s strong and healthy democratic system. This clean election bill helps ensure that every candidate has as fair a chance as possible to run for public office.”

Rep. Nease of Johnson explained his vote as follows:

“Madame Speaker:

I voted yes for the same reason that I support laws that keep the river clean that runs through my town. It isn’t polluted because we made an effort to keep it that way.”

Rep. Wright of Burlington explained his vote as follows:

“Madame Speaker:

By passing this bill today, we have risked the taxpayers money again. We do this to restrict contributions to Vermont House candidates that typically raise two to four thousand dollars! Apparently, we have found the enemy, and it is us! A person that is corruptible is just as corruptible at \$250.00 or \$500.00, as \$1000.00.”

Thereupon, third reading was ordered.

Proposal of Amendment Agreed to; Third Reading Ordered**S. 355**

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

An act relating to debt financing for the Vermont housing finance agency;

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

By adding a new section, to be Sec. 2, to read:

Sec. 2. 10 V.S.A. § 639(a) is amended to read:

(a) On or before the last day of January in each year the agency shall submit a report of its activities for the preceding fiscal year to the governor and to the general assembly, specifically the committees in the house and senate with jurisdiction over housing. Each report shall set forth a complete operating and financial statement covering its operations during the year, including the agency's present and projected economic health, amount of indebtedness, a statement of the amounts received from funds generated by interest from real estate escrow and trust accounts established pursuant to 26 V.S.A. § 2214(c), a list and description of the programs to which IORTA funds were provided and the amounts distributed to each county. The agency shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants; the cost shall be considered an expense of the agency and a copy shall be filed with the state treasurer.

and by renumbering the existing Sec. 2 (Effective date) to be Sec. 3

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**J.R.S. 49**

Rep. Evans of Essex, for the committee on Government Operations, to which had been referred Joint resolution, entitled

Joint resolution relating to the collection of United States data in Vermont;

Reported in favor of its passage. The resolution, 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. 93**

House bill, entitled

An act relating to beer producers' interest in retail liquor licenses;

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Turner of Milton**, action on the bill was postponed until Thursday, February 21, 2008.

Remarks Journalized

On motion of **Rep. Ainsworth of South Royalton**, the following remarks by **Rep. Malcolm of Pawlet** were ordered printed in the Journal:

"Madam Speaker:

**"Green Mountain Dairy Farmers
Cooperative Federation, Inc. Resolution**

Whereas, the Vermont dairy industry is an integral part of the Vermont economy, and

Whereas, over 7 million pounds of milk is produced on Vermont dairy farms daily, and

Whereas, the dairy cooperatives supply milk to Vermont dairy processing plants that produce over \$ 3 million worth of product daily, and

Whereas, over 9200 people are employed on Vermont dairy farms and in Vermont dairy processing plants, and

Whereas, the dairy cooperatives working in conjunction with the Vermont Agency of Agriculture promote and buy local products and services, and

Whereas, in July of 2006 Vermont was the first in the Northeast to commit state funds, of \$8.6 million to provide a buffer during historic low milk prices, bad weather and rising input costs for Vermont dairy farmers, and

Whereas, the Vermont Legislature listened and responded to the concerns of dairy cooperative leaders by voting to invest in the future of our dairy industry, and

Whereas, the Governor upon passage of Act 2 confirmed his support for our industry by signing into law the distribution of \$3 million for a total of \$11.6 to over 1100 dairy farms, and

Now Therefore Be It Resolved:

That the dairy cooperatives extend their heartfelt thanks to the Governor and Vermont Legislature for their vision and support, and be it further resolved,

That the dairy cooperatives' continue their work with the Vermont Legislature and the Vermont Agency of Agriculture to develop market driven solutions and innovative ways to continue to meet the challenges of Vermont's dairy industry.

That copies of this resolution are forwarded to the Governor, Secretary of Agriculture, Speaker of the House, House and Senate Appropriations committees, House and Senate Agriculture committees, Senate President Pro Tempore and Lieutenant Governor.

Green Mountain Federation, President /s/ Leon C. Graves Date: 2/12/08"

Adjournment

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

THURSDAY, FEBRUARY 14, 2008

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

Devotional Exercises

Devotional exercises were conducted by Rabbi Toby Weisman of the Jewish Learning Center, Montpelier.

Message from the Senate No. 21

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

Madam Speaker:

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

S. 241. An act relating to the special veteran and gold star registration plates.

S. 313. An act relating to a license to store and ship wine.

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. 665. An act relating to political party state committee membership.

And has passed the same in concurrence.

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

H. 737. An act relating to fiscal year 2008 budget adjustments.

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

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

J.R.S. 52. Joint resolution relating to weekend adjournment.

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

Committee Bill Introduced

H. 863

Rep. Head of South Burlington, for the committee on General, Housing and Military Affairs, introduced a bill, entitled

An act relating to creation and preservation of affordable housing and smart growth development;

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

Joint Resolution Referred to Committee

J.R.H. 53

Reps. Kitzmiller of Montpelier and Obuchowski of Rockingham offered a joint resolution, entitled

Joint resolution urging Congress to address the dramatic rise of electronic payment interchange rates that merchants and consumers are assessed;

Whereas, consumers are increasingly using credit and debit card electronic payment systems to purchase goods and services, and annually these purchases now exceed the number of check transactions, and

Whereas, in order for merchants to accept these payment systems, merchants are required to pay interchange fees to banks and credit card providers, and

Whereas, these interchange fees are usually hidden and not disclosed to the consumer, and

Whereas, in recent years, improved technology combined with consumer preference has triggered increases in the use of electronic payment systems, and

Whereas, the interchange fees are ultimately passed on to the consumers, including those who pay with cash or a check and who, in effect, subsidize rewards given to credit card customers, and

Whereas, the number of rewards cards in circulation is rapidly increasing, and the new rewards cards are more costly for both merchants and consumers, and

Whereas, the interchange fees, including those paid on food and gasoline, are typically almost double the profit margin of the merchant, and

Whereas, the resulting impact on consumer prices is significant, and on each transaction, the bank or credit card provider earns a higher amount than the amount of the merchant's net profit, and

Whereas, traditional economic models are not applicable because only a few businesses process these electronic payment transactions, and merchants are forced to accept terms dictated often without notice or recourse, and

Whereas, small businesses struggle to absorb the constant increases in the cost of accepting electronic payments, and

Whereas, it is advantageous that economic models facilitate a highly competitive marketplace, and

Whereas, the increased consumer use of electronic payments requires Congress to assure the existence of a highly competitive and vibrant market that promotes an economic playing field that is fair to consumers, merchants, and card providers, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to address the current anticompetitive nature of credit and debit interchange fees charged to merchants and consumers, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the Vermont Congressional Delegation.

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

Rules Suspended; Bill Committed**H. 863**

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

An act relating to creation and preservation of affordable housing and smart growth development;

Was taken up for immediate consideration.

On motion of **Rep. Dostis of Waterbury**, the bill was committed to the committee on Natural Resources and Energy.

Proposal of Amended Agreed to; Bill Read Third Time and Passed in Concurrence with Proposal of Amendment**S. 209**

Senate bill, entitled

An act relating to Vermont energy efficiency and affordability act;

Was taken up and pending third reading of the bill, **Rep. Dostis of Waterbury** moved that the House proposal of amendment be amended in Sec. 29 by striking the number "2009" and inserting the number "2008"

Which was agreed to.

Pending third reading of the bill, **Rep. Heath of Westford** moved that the House proposal of amendment be amended by adding a new Sec. 10a to read as follows:

Sec. 10a. 26 V.S.A. § 2173 is amended to read:

§ 2173. RULES ADOPTED BY THE BOARD

(a) The plumber's examining board may, pursuant to the provisions of 3 V.S.A. chapter 25 (Administrative Procedure Act), make and revise such plumbing rules as necessary for protection of the public health, except that no rule of the board may require the installation or maintenance of a water heater at a minimum temperature. To the extent that a rule of the board conflicts with this subsection, that rule shall be invalid and unenforceable. The rules shall be in effect in every city, village, and town having a public water system or public sewerage system and apply to all premises connected to the systems and all public buildings containing plumbing or water treatment and heating

specialties whether they are connected to a public water or sewerage system. The local board of health and the commissioner of public safety shall each have authority to enforce these rules. The rules shall be limited to minimum performance standards reasonably necessary for the protection of the public against accepted health hazards. The board may, if it finds it practicable to do so, adopt the provisions of a nationally recognized plumbing code.

* * *

Which was agreed to.

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Hube of Londonderry** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 130. Nays, 1.

Those who voted in the affirmative are:

Acinapura of Brandon
Adams of Hartland
Ainsworth of Royalton
Allard of St. Albans Town
Ancel of Calais
Anderson of Montpelier
Andrews of Rutland City
Aswad of Burlington
Atkins of Winooski
Baker of West Rutland
Barnard of Richmond
Bissonnette of Winooski
Bostic of St. Johnsbury
Botzow of Pownal
Branagan of Georgia
Bray of New Haven
Browning of Arlington
Canfield of Fair Haven
Chen of Mendon
Cheney of Norwich
Clark of Vergennes
Clarkson of Woodstock
Clerkin of Hartford
Condon of Colchester
Consejo of Sheldon
Copeland-Hanzas of
Bradford
Courcelle of Rutland City
Crawford of Burke
Davis of Washington

Deen of Westminster
Devereux of Mount Holly
Donaghy of Poultny
Donahue of Northfield
Donovan of Burlington
Dostis of Waterbury
Edwards of Brattleboro
Emmons of Springfield
Errecart of Shelburne
Evans of Essex
Fisher of Lincoln
Flory of Pittsford
Frank of Underhill
French of Randolph
Gervais of Enosburg
Gilbert of Fairfax
Godin of Milton
Grad of Moretown
Haas of Rochester
Head of S. Burlington
Heath of Westford
Helm of Castleton
Hosford of Waitsfield
Howard of Rutland City
Hube of Londonderry
Hunt of Essex
Hutchinson of Randolph
Jerman of Essex
Johnson of South Hero
Keenan of St. Albans City

Keogh of Burlington
Kilmartin of Newport City
Kitzmiller of Montpelier
Klein of East Montpelier
Koch of Barre Town
Komline of Dorset
Krawczyk of Bennington
Kupersmith of S. Burlington
Larocque of Barnet
Larrabee of Danville
Larson of Burlington
LaVoie of Swanton
Lenes of Shelburne
Leriche of Hardwick
Lippert of Hinesburg
Livingston of Manchester
Lorber of Burlington
Maier of Middlebury
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin, C. of Springfield
Martin of Wolcott
McAllister of Highgate
McCormack of Rutland City
McCullough of Williston
McDonald of Berlin
McFaun of Barre Town
McNeil of Rutland Town
Milkey of Brattleboro

Miller of Shaftsbury	Oxholm of Vergennes	Smith of Morristown
Mitchell of Barnard	Partridge of Windham	Spengler of Colchester
Mook of Bennington	Pearson of Burlington	Stevens of Shoreham
Moran of Wardsboro	Pellett of Chester	Sweaney of Windsor
Morley of Barton	Peltz of Woodbury	Trombley of Grand Isle
Morrissey of Bennington	Perry of Richford	Turner of Milton
Mrowicki of Putney	Peterson of Williston	Valliere of Barre City
Myers of Essex	Pillsbury of Brattleboro	Weston of Burlington
Nease of Johnson	Pugh of S. Burlington	Wheeler of Derby
Nuovo of Middlebury	Randall of Troy	Winters of Williamstown
Obuchowski of Rockingham	Rodgers of Glover	Wright of Burlington
O'Donnell of Vernon	Shand of Weathersfield	Zenie of Colchester
Ojibway of Hartford	Sharpe of Bristol	Zuckerman of Burlington
Orr of Charlotte	Shaw of Derby	

Those who voted in the negative are:

Otterman of Topsham

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

Audette of S. Burlington	Howrigan of Fairfield	Monti of Barre City
Brennan of Colchester	Johnson of Canaan	Peaslee of Guildhall
Clark of St. Johnsbury	Lawrence of Lyndon	Potter of Clarendon
Corcoran of Bennington	Marcotte of Coventry	Scheuermann of Stowe
Fallar of Tinmouth	Masland of Thetford	Symington of Jericho
Fitzgerald of St. Albans City	Minter of Waterbury	Westman of Cambridge

Rep. Hube of Londonderry explained his vote as follows:

"Mister Speaker:

I support the vast majority of this bill and the work of the committee on Natural Resources and Energy. I continue to be troubled by one section. I think it is poor public policy to subsidize companies that realize a 30, 40, and sometimes a greater than 50 percent annual return on their investment. Mr. Speaker, from my perspective that is corporate welfare."

Rep. Otterman of Topsham explained his vote as follows:

"Mister Speaker:

I voted against this bill yesterday because I believe it to be a significant expansion of the powers and cost of state government.

I have not changed my mind overnight."

Proposal of Amendment agreed to; Bill Read the Third Time and Passed in Concurrence with Proposal of Amendment

House bill, entitled

An act relating to financing campaigns;

Was taken up and pending third reading of the bill, **Rep. Pillsbury of Brattleboro** moved to amend the House proposal of amendment as follows:

First: In Sec. 2, 17 V.S.A. § 2801(3), by striking subdivision (E) in its entirety and renumbering the remaining subdivisions to be numerically correct, and in Sec. 2, 17 V.S.A. § 2801, by striking subdivision (5) in its entirety and renumbering the remaining subdivisions to be numerically correct

Second: In Sec. 4, 17 V.S.A. § 2805 by striking subsection (n) in its entirety and inserting a new subsection (n) as follows:

(n) The following shall apply to independent candidates:

(1) The limitations on contributions set forth in subsection (a), (b), or (c) of this section shall be doubled for independent candidates prior to the date of a primary election.

(2) The following shall apply to an independent candidate who certifies to the secretary of state that he or she will not accept contributions from any political party:

(A) The candidate may accept contributions from one political committee, designated by the candidate, up to the limitations set forth in subsection (e) of this section for political party contributions; and

(B) For the purposes of this chapter, "contribution" shall not include:

(i) Compensation paid by one political committee, designated by the candidate, to its employees;

(ii) Costs paid for by one political committee, designated by the candidate, in connection with a campaign event.

Third: By striking Sec. 12 in its entirety and inserting in lieu thereof a new Sec. 12 as follows:

Sec. 12. EFFECTIVE DATE

This act shall take effect upon passage, except for Sec. 4 which shall take effect on January 1, 2009.

Thereupon, **Rep. Sweaney of Windsor** asked that the question be divided and that the vote be taken on the second instance first.

Thereupon, the second instance of proposal of amendment was agreed to.

Pending the question, Shall the House amend the bill as recommended by Rep. Pillsbury in the first and third instances? **Rep. Pillsbury of Brattleboro** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by Rep. Pillsbury in the first and third instances? was decided in the negative. Yeas, 44. Nays, 85.

Those who voted in the affirmative are:

Acinapura of Brandon	Helm of Castleton	Morrissey of Bennington
Adams of Hartland	Hube of Londonderry	Myers of Essex
Ainsworth of Royalton	Kilmartin of Newport City	O'Donnell of Vernon
Allard of St. Albans Town	Koch of Barre Town	Ojibway of Hartford
Baker of West Rutland	Komline of Dorset	Otterman of Topsham
Bostic of St. Johnsbury	Krawczyk of Bennington	Oxholm of Vergennes
Branagan of Georgia	Larocque of Barnet	Pillsbury of Brattleboro
Canfield of Fair Haven	Larrabee of Danville	Rodgers of Glover
Clark of Vergennes	LaVoie of Swanton	Shaw of Derby
Clerkin of Hartford	Livingston of Manchester	Turner of Milton
Crawford of Burke	McAllister of Highgate	Valliere of Barre City
Donaghy of Poultney	McDonald of Berlin	Wheeler of Derby
Donahue of Northfield	McFaun of Barre Town	Winters of Williamstown
Errecart of Shelburne	McNeil of Rutland Town	Wright of Burlington
Flory of Pittsford	Morley of Barton	

Those who voted in the negative are:

Ancel of Calais	Edwards of Brattleboro	Kupersmith of S. Burlington
Anderson of Montpelier	Emmons of Springfield	Larson of Burlington
Andrews of Rutland City	Evans of Essex	Lenes of Shelburne
Aswad of Burlington	Fisher of Lincoln	Lerich of Hardwick
Atkins of Winooski	Frank of Underhill	Lippert of Hinesburg
Barnard of Richmond	French of Randolph	Lorber of Burlington
Bissonnette of Winooski	Gervais of Enosburg	Malcolm of Pawlet
Botzow of Pownal	Gilbert of Fairfax	Manwaring of Wilmington
Bray of New Haven	Godin of Milton	Marek of Newfane
Browning of Arlington	Grad of Moretown	Martin, C. of Springfield
Chen of Mendon	Haas of Rochester	Martin of Wolcott
Cheney of Norwich	Head of S. Burlington	McCormack of Rutland City
Clarkson of Woodstock	Heath of Westford	McCullough of Williston
Condon of Colchester	Hosford of Waitsfield	Milkey of Brattleboro
Consejo of Sheldon	Howard of Rutland City	Miller of Shaftsbury
Copeland-Hanzas of	Hunt of Essex	Mitchell of Barnard
Bradford	Hutchinson of Randolph	Mook of Bennington
Courcelle of Rutland City	Jerman of Essex	Moran of Wardsboro
Davis of Washington	Johnson of South Hero	Mrowicki of Putney
Deen of Westminster	Keenan of St. Albans City	Nease of Johnson
Devereux of Mount Holly	Keogh of Burlington	Nuovo of Middlebury
Donovan of Burlington	Kitzmiller of Montpelier	Obuchowski of Rockingham
Dostis of Waterbury	Klein of East Montpelier	Orr of Charlotte

Partridge of Windham
 Pearson of Burlington
 Pellett of Chester
 Peltz of Woodbury
 Perry of Richford
 Peterson of Williston

Pugh of S. Burlington
 Randall of Troy
 Shand of Weathersfield
 Sharpe of Bristol
 Smith of Morristown
 Spengler of Colchester

Sweaney of Windsor
 Trombley of Grand Isle
 Weston of Burlington
 Zenie of Colchester
 Zuckerman of Burlington

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

Audette of S. Burlington
 Brennan of Colchester
 Clark of St. Johnsbury
 Corcoran of Bennington
 Fallzer of Tinmouth
 Fitzgerald of St. Albans City
 Howrigan of Fairfield

Johnson of Canaan
 Lawrence of Lyndon
 Maier of Middlebury
 Marcotte of Coventry
 Masland of Thetford
 Minter of Waterbury
 Monti of Barre City

Peaslee of Guildhall
 Potter of Clarendon
 Scheuermann of Stowe
 Stevens of Shoreham
 Symington of Jericho
 Westman of Cambridge

Pending third reading of the bill, **Rep. Ainsworth of Royalton** moved to amend the House proposal of amendment as follows:

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

Thereupon, **Rep. Sweaney of Windsor** moved to substitute an amendment for that offered by Rep. Ainsworth of Royalton, as follows:

In Sec. 1, subdivision (2), after "limited," and before "respond" by adding "may"

Pending the question, Shall the House substitute an amendment offered by Rep. Sweaney of Windsor for that of Rep. Ainsworth of Royalton? **Rep. Morrissey of Bennington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House substitute an amendment offered by Rep. Sweaney of Windsor for that of Rep. Ainsworth of Royalton? was decided in the affirmative. Yeas, 87. Nays, 44.

Those who voted in the affirmative are:

Ancel of Calais
 Anderson of Montpelier
 Andrews of Rutland City
 Aswad of Burlington
 Atkins of Winooski
 Barnard of Richmond
 Bissonnette of Winooski
 Botzow of Pownal
 Browning of Arlington
 Chen of Mendon
 Cheney of Norwich
 Clarkson of Woodstock

Condon of Colchester
 Consejo of Sheldon
 Copeland-Hanzas of
 Bradford
 Courcelle of Rutland City
 Davis of Washington
 Deen of Westminster
 Devereux of Mount Holly
 Donovan of Burlington
 Dostis of Waterbury
 Edwards of Brattleboro
 Emmons of Springfield

Evans of Essex
 Fisher of Lincoln
 Frank of Underhill
 French of Randolph
 Gervais of Enosburg
 Gilbert of Fairfax
 Godin of Milton
 Grad of Moretown
 Haas of Rochester
 Head of S. Burlington
 Heath of Westford
 Hosford of Waitsfield

Howard of Rutland City
 Hunt of Essex
 Hutchinson of Randolph
 Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Keenan of St. Albans City
 Kitzmiller of Montpelier
 Klein of East Montpelier
 Kupersmith of S. Burlington
 Larson of Burlington
 Lenes of Shelburne
 Leriche of Hardwick
 Lippert of Hinesburg
 Lorber of Burlington
 Maier of Middlebury
 Malcolm of Pawlet
 Manwaring of Wilmington

Marek of Newfane
 Martin, C. of Springfield
 Martin of Wolcott
 McCormack of Rutland City
 McCullough of Williston
 McDonald of Berlin
 Milkey of Brattleboro
 Miller of Shaftsbury
 Mitchell of Barnard
 Mook of Bennington
 Moran of Wardsboro
 Mrowicki of Putney
 Nease of Johnson
 Nuovo of Middlebury
 Obuchowski of Rockingham
 Orr of Charlotte
 Otterman of Topsham
 Partridge of Windham

Pearson of Burlington
 Pellett of Chester
 Peltz of Woodbury
 Peterson of Williston
 Pillsbury of Brattleboro
 Pugh of S. Burlington
 Randall of Troy
 Rodgers of Glover
 Shand of Weathersfield
 Sharpe of Bristol
 Smith of Morristown
 Spengler of Colchester
 Sweaney of Windsor
 Trombley of Grand Isle
 Weston of Burlington
 Zenie of Colchester

Those who voted in the negative are:

Acinapura of Brandon
 Adams of Hartland
 Ainsworth of Royalton
 Allard of St. Albans Town
 Baker of West Rutland
 Bostic of St. Johnsbury
 Branagan of Georgia
 Bray of New Haven
 Canfield of Fair Haven
 Clark of Vergennes
 Clerkin of Hartford
 Crawford of Burke
 Donaghy of Poultney
 Donahue of Northfield
 Errecart of Shelburne

Flory of Pittsford
 Helm of Castleton
 Hube of Londonderry
 Kilmartin of Newport City
 Koch of Barre Town
 Komline of Dorset
 Krawczyk of Bennington
 Larocque of Barnet
 Larrabee of Danville
 LaVoie of Swanton
 Livingston of Manchester
 McAllister of Highgate
 McFaun of Barre Town
 McNeil of Rutland Town
 Morley of Barton

Morrissey of Bennington
 Myers of Essex
 O'Donnell of Vernon
 Ojibway of Hartford
 Oxholm of Vergennes
 Perry of Richford
 Shaw of Derby
 Stevens of Shoreham
 Turner of Milton
 Valliere of Barre City
 Wheeler of Derby
 Winters of Williamstown
 Wright of Burlington
 Zuckerman of Burlington

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

Audette of S. Burlington
 Brennan of Colchester
 Clark of St. Johnsbury
 Corcoran of Bennington
 Fallar of Tinmouth
 Fitzgerald of St. Albans City

Howrigan of Fairfield
 Johnson of Canaan
 Keogh of Burlington
 Lawrence of Lyndon
 Marcotte of Coventry
 Masland of Thetford

Minter of Waterbury
 Monti of Barre City
 Peaslee of Guildhall
 Potter of Clarendon
 Scheuermann of Stowe
 Westman of Cambridge

Rep. Donahue of Northfield explained her vote as follows:

"Madam Speaker:

My understanding is that findings in a bill are supposed to reflect the testimony and evidence heard by a committee. Instead, we hear that this finding is intended to satisfy the United State's Supreme Court's ruling that this law should be based on responding to at least an appearance of corruption. Where was the evidence heard in committee to justify it?"

Thereupon, the recommendation of proposal of amendment offered by Rep. Sweaney was agreed to.

Pending third reading of the bill, **Rep. Baker of West Rutland** moved to amend the House proposal of amendment as follows:

By striking Sec. 11 in its entirety and inserting in lieu thereof a new Sec. 11 as follows:

Sec. 11. REPEAL

17 V.S.A. §§ 2805a (campaign expenditure limitations) and 2811(e) (requirement that campaign finance reports be filed with the candidate's district clerk) are repealed.

Thereupon, **Rep. Baker of West Rutland** asked and was given leave to withdraw his amendment.

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

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

S. 355

Senate bill, entitled

An act relating to debt financing for the Vermont housing finance agency;

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Joint Resolution Adopted in Concurrence

J.R.S. 49

Joint resolution, entitled

Joint resolution relating to the collection of United States data in Vermont;

Was taken up read the third time and adopted in concurrence.

Favorable Report; Third Reading Ordered

J.R.H. 46

Rep. Kitzmiller of Montpelier, for the committee on Commerce, to which had been referred joint resolution, entitled

Joint resolution advocating withdrawal of proposed U.S. Treasury regulation that the U. S. Internal Revenue Service issued on September 28, 2007 eliminating the deductibility of reserves of a captive insurance company participating in a consolidated federal income tax return;

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

House Resolution Adopted

H.R. 30

House resolution, entitled

House resolution designating February 14, 2008 as Wear Red Day;

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

Adjournment

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

FRIDAY, FEBRUARY 15, 2008

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

Devotional Exercises

Devotional exercises were conducted by **Reverend Gill Ott** of Trinity United Methodist Church, Montpelier.

Pages Honored

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

Page Kelsey Bean of Essex

Page James T. Donahue of Northfield

Page Evan Hollar of Montpelier

Page Alyssa Johnson-Kurts of Worcester/Middlesex

Page Theresa Kehne of Calais

Page Will Kunin of South Burlington

Page Sarah Levine of Westminster

Page Trisha Morley of Barton
Page George Parke of Stowe
Page Mikayla Peront of Bethel

Senate Bills Referred

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

S. 241

Senate bill, entitled

An act relating to the special veteran and gold star registration plates;
To the committee on Transportation.

S. 313

Senate bill, entitled

An act relating to a license to store and ship wine;
To the committee on General, Housing and Military Affairs.

Joint Resolution Adopted in Concurrence

J.R.S. 52

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Shumlin,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 15, 2008, it be to meet again no later than Tuesday, February 19, 2008.

Was taken up read and adopted in concurrence.

Joint Resolution Read Third Time and Adopted

J.R.H. 46

Joint resolution, entitled

Joint resolution advocating withdrawal of proposed U.S. Treasury regulation that the U.S. Internal Revenue Service issued on September 28, 2007 eliminating the deductibility of reserves of a captive insurance company participating in a consolidated federal income tax return;

Was taken up read the third time and adopted on the part of the House.

Adjournment

At nine o'clock and fifty minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, February 19, 2008, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 52.

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. 211

House concurrent resolution honoring Donna Hogan of Rutland for her leadership roles at the Vermont Grocers' Association and in her community

H.C.R. 212

House concurrent resolution in memory of Benjamin T. Carr

S.C.R. 32.

Senate concurrent resolution in memory of Daniel G. Bonfigli of Essex.

[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 2008, sixty-ninth Adjourned session]

TUESDAY, FEBRUARY 19, 2008

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

Devotional Exercises

Devotional exercises were conducted by Representative Carolyn Partridge of Windham.

Pledge of Allegiance

Page Kate Stevens of Waterbury led the House in the Pledge of Allegiance.

Message from the Senate No. 22

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

Madam Speaker:

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

S. 232. An act relating to mobile polling stations.

S. 238. An act relating to penalties for possession of marijuana.

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

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

S.C.R. 32. Senate concurrent resolution in memory of Daniel G. Bonfigli of Essex.

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

H.C.R. 211. House concurrent resolution honoring Donna Hogan of Rutland for her leadership roles at the Vermont Grocers' Association and in her community.

H.C.R. 212. House concurrent resolution in memory of Benjamin T. Carr.

Committee Bill Introduced

H. 864

Rep. Ancel of Calais, for the committee on Education, introduced a bill, entitled

An act relating to making miscellaneous amendments to education law;

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

Senate Bills Referred

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

S. 232

Senate bill, entitled

An act relating to mobile polling stations;

To the committee on Government Operations.

S. 238

Senate bill, entitled

An act relating to penalties for possession of marijuana;

To the committee on Judiciary.

Message from the Senate No. 23

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

Madam Speaker:

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

S. 340. An act relating to mammography patient cost containment.

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

Bill Referred to Committee on Ways and Means

H. 656

House bill, entitled

An act relating to the management of waste tires;

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Remarks Journalized

On motion of **Rep. Mrowicki of Putney**, the following remarks by **Rep. Partridge of Windsor** were ordered printed in the Journal:

“Madam Speaker:

“As we near the end of February, which is Black History Month, I thought it would be appropriate to talk about Sojourner Truth. Sojourner Truth was born in 1797 in Ulster County, NY. Her given name was Isabella Baumfree. She was one of 13 children. She was first sold at the age of 9 when her master died in 1808. She was sold to John Neely, along with a herd of sheep, for \$100.

Sometime around 1815, she fell in love with a fellow slave named Robert, who was owned by a man named Catlin. Robert’s owner forbade the relationship because he did not want his slave having children with a slave he did not own and therefore would not own the new “property”. One night, Robert visited Isabella but he was followed by his owner and the owner’s son. Robert was savagely beaten and never came back. Isabella had a daughter shortly thereafter, named Diana. In 1817, forced to submit to the will of her owner Dumont, Isabella married an older slave named Thomas. They had four children: Peter, James, Elizabeth, and Sophia.

In 1799, the state of New York began to legislate the gradual abolition of slaves. As soon as she could, Isabella worked to retrieve her young son, Peter, who had been sold illegally to Alabama.

She decided to become an itinerant preacher and made her way to New York City and later Northampton, Massachusetts. In 1854, at the Ohio woman's Rights Convention in Akron, Ohio, she gave her most famous speech which included what I will say for you today.

"That man over there says that women need to be helped into carriages, and lifted over ditches, and to have the best place everywhere. Nobody ever helps me into carriages, or over mud puddles, or gives me any best place, and ain't I a woman?"

Ain't I a woman?

Look at me

Look at my arm!

I have plowed, and planted,
and gathered into barns

and no man could head me

And ain't I a woman?

I could work as much

And eat as much as a man -

When I could get it -

And bear the lash as well

and ain't I a woman?

I have borne thirteen children

and seen most all sold into slavery

and when I cried out with a mother's grief

none but Jesus heard me ...

and ain't I woman?...

If the first woman God ever made

was strong enough to turn the world

upside down, all alone

together women ought to be able to turn it

rightside up again.

--- Sojourner Truth"

Senate Proposal of Amendment Concurred in

H. 737

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

An act relating to fiscal year 2008 budget adjustments;

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

Sec. 1. SHORT TITLE

(a) This bill shall be known and shall be cited as the "Budget Adjustment Act-Fiscal Year 2008."

Sec. 2. Sec. 5 of No. 65 of the Acts of 2007 is amended to read:

Sec. 5. Secretary of administration - secretary's office

Personal services	792,281	942,281
Operating expenses	46,494	46,494
Grants	<u>150,000</u>	<u>150,000</u>
Total	988,775	1,138,775
Source of funds		
General fund	769,743	919,743
Interdepartmental transfer	<u>219,032</u>	<u>219,032</u>
Total	988,775	1,138,775

* * *

(e) Of the above appropriation, \$150,000 is a one-time appropriation to be used to by the secretary of administration to contract for an independent evaluation of law enforcement service provision statewide. The secretary shall seek approval from the chairs of the committees on appropriations and government operations in both the house and the senate prior to issuing a request for proposal for this evaluation and prior to selecting a contractor.

Sec. 3. Sec. 7(a) of No. 65 of the Acts of 2007 is amended to read:

(a) The secretary of administration shall reduce general fund appropriations by ~~\$250,000~~ \$235,982 and special fund appropriations by \$158,671 in the executive branch of state government in fiscal year 2008 through the elimination of exempt positions, or leaving exempt positions vacant.

Sec. 4. Sec. 12 of No. 65 of the Acts of 2007 is amended to read:

Sec. 12. Human resources-operations

Personal services	1,812,341	1,774,825
Operating expenses	<u>234,848</u>	<u>234,848</u>
Total	2,047,189	2,009,673
Source of funds		
General fund	1,619,098	1,581,582
Interdepartmental transfer	<u>428,091</u>	<u>428,091</u>
Total	2,047,189	2,009,673

Sec. 5. Sec. 20 of No. 65 of the Acts of 2007 is amended to read:

Sec. 20. Buildings and general services-information centers

* * *

(a) Of the above appropriation, \$50,000 in special funds is appropriated to ~~the friends of the state house~~ to facilitate private fund raising for improvements to the state house in accordance with the conceptual plan dated January 13, 2006. No naming opportunities shall be offered in connection with fund raising efforts. These funds may not be used to supplant any existing personal service or operating expenses in state government.

Sec. 6. Sec. 32 of No. 65 of the Acts of 2007 is amended to read:

Sec. 32. Buildings and general services – fee for space

Personal services	<u>11,047,932</u>	11,464,922
Operating expenses	<u>10,976,702</u>	<u>12,429,611</u>
Total	<u>22,024,634</u>	23,894,533

Source of funds

Internal service funds	<u>22,024,634</u>	23,894,533
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(a) Pursuant to 29 V.S.A. § 160a(b)(3), facilities operations fund charges not to exceed ~~\$22,024,634~~ \$23,894,533, plus the costs of fiscal year 2008 salary increases bargained as part of the state/VSEA agreement, are hereby approved.

* * *

Sec. 7. Sec. 36 of No. 65 of the Acts of 2007 is amended to read:

Sec. 36. Legislative council

Personal services	<u>1,924,939</u>	1,966,939
Operating expenses	<u>153,500</u>	<u>153,500</u>
Total	<u>2,078,439</u>	2,120,439

Source of funds

General fund	<u>2,078,439</u>	2,120,439
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Sec. 8. Sec. 37 of No. 65 of the Acts of 2007 is amended to read:

Sec. 37. Legislature

Personal services	<u>3,904,123</u>	3,940,323
Operating expenses	<u>2,899,885</u>	<u>2,920,885</u>
Total	<u>6,804,008</u>	6,861,208

Source of funds

General fund	<u>6,804,008</u>	6,861,208
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* * *

Sec. 9. Sec. 38 of No. 65 of the Acts of 2007 is amended to read:

Sec. 38. Legislative information technology

Personal services	404,005	407,005
Operating expenses	<u>217,253</u>	<u>217,253</u>
Total	621,258	624,258
Source of funds		
General fund	621,258	624,258

Sec. 10. Sec. 40 of No. 65 of the Acts of 2007 is amended to read:

Sec. 40. Sergeant at arms

Personal services	530,079	550,579
Operating expenses	<u>68,292</u>	<u>68,292</u>
Total	598,371	618,871
Source of funds		
General fund	598,371	618,871

Sec. 11. Sec. 43 of No. 65 of the Acts of 2007 is amended to read:

Sec. 43. State treasurer

Personal services	2,316,050	2,316,050
Operating expenses	354,787	354,787
Grants	<u>100,000</u>	<u>100,000</u>
Total	2,770,837	2,770,837
Source of funds		
General fund	1,130,214	1,130,214
Special funds	1,542,265	1,542,265
Private purpose trust funds	98,358	
<u>Interdepartmental transfer</u>		<u>98,358</u>
Total	2,770,837	2,770,837

* * *

Sec. 12. Sec. 49 of No. 65 of the Acts of 2007 is amended to read:

Sec. 49. VOSHA review board

Personal services	32,052	38,052
Operating expenses	<u>8,330</u>	<u>8,330</u>
Total	40,382	46,382
Source of funds		
General fund	20,192	23,192
Federal funds	20,190	20,190
<u>Interdepartmental transfer</u>		<u>3,000</u>
Total	40,382	46,382

Sec. 13. Sec. 50a of No. 65 of the Acts of 2007 is amended to read:

Sec. 50a. Tax department-municipal tax - homeowner rebate

Grants	6,506,140	11,206,140
Source of funds		
General Fund	6,506,140	11,206,140

* * *

(b) This appropriation includes the \$4,700,000 transfer to the general fund in Sec. 79(a)(4) of this act.

Sec. 14. Sec. 55 of No. 65 of the Acts of 2007 is amended to read:

Sec. 55. Total general government ~~150,453,836~~ 157,120,266

Source of funds

General fund	60,834,990	65,787,192
Special funds	7,313,681	7,155,010
Tobacco Fund	58,000	58,000
Global Commitment fund	105,000	105,000
Federal funds	2,496,325	2,496,325
Enterprise funds	2,674,518	2,674,518
Internal service funds	46,386,483	48,256,382
Pension trust funds	25,912,834	25,912,834
Private purpose trust funds	997,598	899,240
Interdepartmental transfer	<u>3,674,407</u>	<u>3,775,765</u>
Total	150,453,836	157,120,266

Sec. 15. Sec. 56 of No. 65 of the Acts of 2007 is amended to read:**Sec. 56. Protection to persons and property - attorney general**

Personal services	7,094,267	7,431,970
Operating expenses	<u>1,069,612</u>	<u>1,069,612</u>
Total	8,163,879	8,501,582

Source of funds

General fund	4,530,747	4,868,450
Special funds	1,100,000	1,100,000
Tobacco fund	290,000	290,000
Federal funds	763,000	763,000
Interdepartmental transfer	<u>1,480,132</u>	<u>1,480,132</u>
Total	8,163,879	8,501,582

* * *

Sec. 16. Sec. 58 of No. 65 of the Acts of 2007 is amended to read:**Sec. 58. Defender general – public defense**

Personal services	6,270,658	6,362,158
Operating expenses	<u>768,028</u>	<u>768,028</u>
Total	7,038,686	7,130,186
Source of funds		
General fund	6,531,219	6,622,719
Special funds	502,467	502,467
Interdepartmental transfer	<u>5,000</u>	<u>5,000</u>
Total	7,038,686	7,130,186

Sec. 17. Sec. 60 of No. 65 of the Acts of 2007 is amended to read:

Sec. 60. Judiciary

Personal services	26,882,091	27,532,091
Operating expenses	8,048,252	8,048,252
Grants	<u>70,000</u>	<u>70,000</u>
Total	35,000,343	35,650,343
Source of funds		
General fund	30,267,034	30,917,034
Special funds	2,335,772	2,335,772
Tobacco fund	40,000	40,000
Federal funds	414,327	414,327
Interdepartmental transfer	<u>1,943,210</u>	<u>1,943,210</u>
Total	35,000,343	35,650,343

* * *

(c) The Vermont judiciary shall continue to deploy at additional locations interactive video technology to enable an increase in the number of status conferences, calendar calls, and other events to be conducted using this technology.

Sec. 18. Sec. 65 of No. 65 of the Acts of 2007 is amended to read:

Sec. 65. Sheriffs

Personal services	2,848,849	2,948,849
Operating expenses	<u>413,608</u>	<u>439,082</u>
Total	3,262,457	3,387,931
Source of funds		
General fund	3,262,457	3,387,931

* * *

Sec. 19. Sec. 68 of No. 65 of the Acts of 2007 is amended to read:

Sec. 68. Public safety - state police

Personal services	38,085,058	39,011,180
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Operating expenses	6,590,315	6,590,315
Grants	<u>975,634</u>	<u>975,634</u>
Total	<u>45,651,007</u>	<u>46,577,129</u>
Source of funds		
General fund	8,320,468	9,246,590
Transportation fund	30,385,796	30,385,796
Special funds	2,825,423	2,825,423
Federal funds	3,558,334	3,558,334
Interdepartmental transfer	<u>560,986</u>	<u>560,986</u>
Total	<u>45,651,007</u>	<u>46,577,129</u>

* * *

Sec. 20. Sec. 75 of No. 65 of the Acts of 2007 is amended to read:

Sec. 75. Military - army service contract

Personal services	3,300,460	3,360,460
Operating expense	<u>5,780,134</u>	<u>5,780,134</u>
Total	<u>9,080,594</u>	<u>9,140,594</u>
Source of funds		
General fund	<u>107,064</u>	<u>167,064</u>
Federal funds	<u>8,973,530</u>	<u>8,973,530</u>
Total	<u>9,080,594</u>	<u>9,140,594</u>

Sec. 21. Sec. 76 of No. 65 of the Acts of 2007 is amended to read:

Sec. 76. Military - building maintenance

Personal services	<u>975,531</u>	915,531
Operating expenses	<u>441,925</u>	<u>441,925</u>
Total	<u>1,417,456</u>	<u>1,357,456</u>
Source of funds		
General fund	<u>1,417,456</u>	<u>1,357,456</u>

Sec. 22. Sec. 81 of No. 65 of the Acts of 2007 is amended to read:

Sec. 81. Agriculture, food and markets – food safety and consumer protection

Personal services	2,620,156	2,620,156
Operating expenses	495,573	495,573
Grants	<u>2,600,000</u>	<u>2,630,000</u>
Total	<u>5,715,729</u>	<u>5,745,729</u>
Source of funds		
General funds	1,732,864	1,732,864
Special funds	<u>3,411,959</u>	<u>3,441,959</u>
Federal funds	563,906	563,906
Interdepartmental transfer	<u>7,000</u>	<u>7,000</u>

Total	5,715,729	5,745,729
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(a) Of the above special fund appropriation, \$180,000 shall be used to support the Vermont spay and neuter incentive program.

Sec. 23. Sec. 103 of No. 65 of the Acts of 2007 is amended to read:

Sec. 103. Total protection to persons and property

	239,896,137	242,056,936
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Source of funds

General fund	82,338,006	84,468,805
Transportation fund	34,879,736	34,879,736
Special funds	62,437,620	62,467,620
Tobacco fund	619,645	619,645
Global Commitment fund	1,404,997	1,404,997
Federal funds	45,710,780	45,710,780
Enterprise funds	4,687,352	4,687,352
Interdepartmental transfer	7,818,001	7,818,001
Total	239,896,137	242,056,936

Sec. 24. Sec. 104 of No. 65 of the Acts of 2007 is amended to read:

Sec. 104. Human services-agency of human services - secretary's office

Personal services	6,890,677	6,956,435
Operating expenses	2,676,686	2,676,686
Grants	4,487,973	4,487,973
Total	14,055,336	14,121,094

Source of funds

General fund	3,940,516	4,006,274
Special funds	7,517	7,517
Tobacco funds	612,021	612,021
Federal funds	4,954,088	4,954,088
Interdepartmental transfer	4,541,194	4,541,194
Total	14,055,336	14,121,094

* * *

Sec. 25. Sec. 105 of No. 65 of the Acts of 2007 is amended to read:

Sec. 105. Secretary's office - Global Commitment

Grants	871,278,097	810,542,092
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Source of funds

General fund	119,412,816	114,928,643
Special fund	15,270,557	15,270,557
Tobacco Fund	29,609,240	29,609,240

State health care resources fund	157,186,147	148,325,411
Catamount fund	7,168,430	3,726,530
Federal funds	540,351,704	498,202,508
Interdepartmental transfer	<u>2,279,203</u>	<u>479,203</u>
Total	871,278,097	810,542,092

* * *

(b) In addition to the state funds appropriated in this section, a total estimated sum of ~~\$34,539,006~~ \$34,695,908 is anticipated to be certified as state matching funds under the Global Commitment as follows:

(1) \$17,283,434 certified state match available from local education agencies. This amount combined with \$24,881,566 of federal funds appropriated in this section equals a total estimated expenditure of \$42,165,000 for eligible special education school-based Medicaid services under the Global Commitment. An amount equal to the amount of the federal matching funds for eligible special education school-based Medicaid services under Global Commitment shall be transferred from the Global Commitment fund to the Medicaid reimbursement special fund created in 16 V.S.A. § 2959a.

(2) \$8,956,247 certified state match available from local education agencies for eligible services under the Global Commitment provided to students through school-based health services, including school nurses.

(3) ~~\$4,215,210~~ 4,419,798 certified state match available from local education and social service agencies for eligible services provided to eligible persons through children's collaborative services programs.

* * *

Sec. 26. GLOBAL COMMITMENT APPROPRIATIONS; TRANSFER; REPORT

(a) In order to facilitate the end-of-year closeout for fiscal year 2008, the secretary of the agency of human services, with approval from the secretary of administration, may make transfers among the appropriations authorized for Medicaid and Medicaid-waiver program expenses, including Global Commitment appropriations outside of the agency of human services. At least three business days prior to any transfer, the agency shall submit a proposal of transfers to be made pursuant to this section to the joint fiscal office. A final report on all transfers made under this section shall be made to the joint fiscal committee for review at the September 2008 meeting. The purpose of this section is to provide the agency with limited authority to modify the appropriations to comply with the terms and conditions of the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

Sec. 27. Sec. 107 of No. 65 of the Acts of 2007 is amended to read:

Sec. 107. Rate setting

Personal services	739,407	739,407
Operating expenses	<u>69,762</u>	<u>69,762</u>
Total	809,169	809,169
Source of funds		
Interdepartmental transfer	809,169	
<u>Global Commitment fund</u>		809,169

Sec. 28. Sec. 110 of No. 65 of the Acts of 2007 is amended to read:

Sec. 110. Office of Vermont health access - administration

Personal services	28,851,926	28,605,683
Operating expenses	1,561,980	1,816,980
Grants	<u>980,000</u>	<u>1,000,000</u>
Total	31,393,906	31,422,663
Source of funds		
General fund	50,000	50,000
Global Commitment fund	30,281,112	30,672,663
Federal funds	700,000	700,000
Interdepartmental transfer	362,794	
Total	31,393,906	31,422,663

* * *

Sec. 29. Sec. 111 of No. 65 of the Acts of 2007 is amended to read:

Sec. 111. Office of Vermont health access-Medicaid program-Global Commitment

Grants	442,025,956	399,946,836
Source of funds		
Global Commitment fund	442,025,956	399,946,836

* * *

Sec. 30. Sec. 112 of No. 65 of the Acts of 2007 is amended to read:

Sec. 112. Office of Vermont health access - Medicaid program-long-term care waiver

Grants	187,675,107	189,793,638
Source of funds		
General fund	76,928,027	77,796,413
Federal funds	<u>110,747,080</u>	<u>111,997,225</u>
Total	187,675,107	189,793,638

Sec. 31. Sec. 113 of No. 65 of the Acts of 2007 is amended to read:

Sec. 113. Office of Vermont health access – Medicaid nonwaiver matched

Grants	58,390,811	57,243,502
Source of funds		
General funds	21,845,389	21,516,111
Federal funds	<u>36,545,422</u>	<u>35,727,391</u>
Total	58,390,811	57,243,502

Sec. 32. Sec. 114 of No. 65 of the Acts of 2007 is amended to read:

Sec. 114. Office of Vermont health access – Medicaid program – state only

Grants	29,124,517	34,015,211
Source of funds		
General funds	28,869,330	32,771,132
Global Commitment fund	<u>255,187</u>	<u>1,244,079</u>
Total	29,124,517	34,015,211

Sec. 33. Sec. 115 of No. 65 of the Acts of 2007 is amended to read:

Sec. 115. Health - administration and support

Personal services	5,623,417	6,134,359
Operating expenses	2,268,996	2,268,996
Grants	<u>50,000</u>	<u>50,000</u>
Total	7,942,413	8,453,355
Source of funds		
<u>General fund</u>		59,976
Special funds	24,525	24,525
Global Commitment fund	1,812,709	2,195,675
Federal funds	6,101,179	6,101,179
Interdepartmental transfer	<u>4,000</u>	<u>72,000</u>
Total	7,942,413	8,453,355

Sec. 34. Sec. 117 of No. 65 of the Acts of 2007 is amended to read:

Sec. 117. Health - Blueprint for Health

Personal services	2,851,522	2,464,127
Operating expenses	385,783	385,783
Grants	<u>1,570,403</u>	<u>1,570,403</u>
Total	4,807,708	4,420,313
Source of funds		
Global Commitment fund	2,933,398	2,546,003
Catamount fund	1,846,713	1,846,713
Federal funds	<u>27,597</u>	<u>27,597</u>

Total	4,807,708	4,420,313
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Sec. 35. Sec. 119 of No. 65 of the Acts of 2007 is amended to read:

Sec. 119. Health - health surveillance

Personal services	9,710,579	9,710,579
Operating expenses	2,471,432	2,471,432
Grants	<u>2,524,499</u>	<u>2,524,499</u>
Total	14,706,510	14,706,510
Source of funds		
General fund	1,901,636	2,251,636
Special funds	1,307,500	1,307,500
Global Commitment fund	2,498,893	2,148,893
Federal funds	8,923,937	8,923,937
Permanent trust funds	10,000	10,000
Interdepartmental transfer	<u>64,544</u>	<u>64,544</u>
Total	14,706,510	14,706,510

* * *

Sec. 36. Sec. 120 of No. 65 of the Acts of 2007 is amended to read:

Sec. 120. Health - health improvement

Personal services	8,051,727	8,051,727
Operating expenses	1,038,409	1,038,409
Grants	<u>12,101,405</u>	<u>12,234,405</u>
Total	21,191,541	21,324,541
Source of funds		
General fund	1,432,640	1,358,640
Special funds	729,800	729,800
Tobacco funds	2,780,225	2,780,225
Global Commitment fund	7,990,718	8,197,718
Federal funds	8,251,158	8,251,158
Interdepartmental transfer	<u>7,000</u>	<u>7,000</u>
Total	21,191,541	21,324,541

* * *

Sec. 37. Sec. 121 of No. 65 of the Acts of 2007 is amended to read:

Sec. 121. Health - community public health

Personal services	14,449,064	14,449,064
Operating expenses	2,127,292	2,127,292
Grants	<u>21,581,824</u>	<u>16,536,143</u>

Total	38,158,180	33,112,499
Source of funds		
General fund	900,638	900,638
Special funds	<u>3,231,400</u>	231,400
Global Commitment fund	<u>15,830,919</u>	11,910,238
Catamount fund	4,000,000	4,000,000
Federal funds	<u>14,080,223</u>	15,955,223
Interdepartmental transfer	<u>115,000</u>	<u>115,000</u>
Total	38,158,180	33,112,499

Sec. 38. Sec. 122 of No. 65 of the Acts of 2007 is amended to read:

Sec. 122. Health - alcohol and drug abuse programs

Personal services	9,360,208	9,360,208
Operating expenses	1,097,983	1,097,983
Grants	<u>20,712,146</u>	<u>20,793,530</u>
Total	31,170,337	31,251,721
Source of funds		
General fund	3,229,571	3,229,571
Special funds	235,499	235,499
Tobacco funds	2,382,834	2,382,834
Global Commitment fund	<u>16,461,136</u>	16,542,520
Federal funds	8,711,297	8,711,297
Interdepartmental transfer	<u>150,000</u>	<u>150,000</u>
Total	31,170,337	31,251,721

* * *

Sec. 39. Sec. 123 of No. 65 of the Acts of 2007 is amended to read:

Sec. 123. Health - mental health

Personal services	4,653,064	4,885,308
Operating expenses	640,626	640,626
Grants	<u>126,737,194</u>	<u>126,361,789</u>
Total	132,030,884	131,887,723
Source of funds		
General fund	698,116	768,752
Global Commitment fund	<u>127,296,709</u>	127,040,132
Federal funds	<u>4,036,059</u>	<u>4,078,839</u>
Total	132,030,884	131,887,723

* * *

Sec. 40. Sec. 124 of No. 65 of the Acts of 2007 is amended to read:

Sec. 124. Health - Vermont state hospital

Personal services	<u>19,039,338</u>	19,233,580
Operating expenses	1,819,499	1,819,499
Grants	<u>3,000</u>	<u>3,000</u>
Total	<u>20,861,837</u>	21,056,079
Source of funds		
General fund	<u>20,341,837</u>	20,446,079
Special funds	<u>170,000</u>	220,000
Federal funds	<u>50,000</u>	90,000
Interdepartmental transfer	<u>300,000</u>	<u>300,000</u>
Total	<u>20,861,837</u>	21,056,079

Sec. 41. Sec. 126 of No. 65 of the Acts of 2007 is amended to read:

Sec. 126. Department for children and families - administration & support services

Personal services	<u>33,748,978</u>	33,315,719
Operating expenses	<u>6,094,778</u>	6,619,778
Grants	<u>1,150,215</u>	<u>1,150,215</u>
Total	<u>40,993,971</u>	41,085,712
Source of funds		
General fund	<u>12,377,866</u>	11,799,897
Global Commitment fund	<u>12,890,508</u>	15,474,478
Federal funds	<u>14,815,041</u>	13,811,337
Interdepartmental transfer	<u>910,556</u>	
Total	<u>40,993,971</u>	41,085,712

* * *

Sec. 42. Sec. 127 of No. 65 of the Acts of 2007 is amended to read:

Sec. 127. Department for children and families - family services

Personal services	<u>20,267,158</u>	20,312,853
Operating expenses	<u>3,118,322</u>	3,293,322
Grants	<u>63,287,929</u>	<u>61,583,451</u>
Total	<u>86,673,409</u>	85,189,626
Source of funds		
General fund	<u>16,270,209</u>	16,820,778
Special funds	<u>1,756,152</u>	1,756,152
Tobacco funds	<u>75,000</u>	75,000
Global Commitment fund	<u>41,832,990</u>	39,694,460
Federal funds	<u>26,059,058</u>	26,163,236
Interdepartmental transfer	<u>680,000</u>	<u>680,000</u>
Total	<u>86,673,409</u>	85,189,626

* * *

Sec. 43. Sec. 128 of No. 65 of the Acts of 2007 is amended to read:

Sec. 128. Department for children and families - child development

Personal services	<u>2,943,906</u>	3,145,206
Operating expenses	<u>762,228</u>	767,228
Grants	<u>48,629,569</u>	<u>49,946,240</u>
Total	<u>52,335,703</u>	53,858,674
Source of funds		
General fund	<u>21,585,001</u>	21,504,371
Special funds	865,000	865,000
Global Commitment fund	<u>3,040,746</u>	4,644,347
Federal funds	26,619,204	26,619,204
Interdepartmental transfer	<u>225,752</u>	<u>225,752</u>
Total	<u>52,335,703</u>	53,858,674

Sec. 44. Sec. 129 of No. 65 of the Acts of 2007 is amended to read:

Sec. 129. Department for children and families - office of child support

Personal services	<u>9,027,353</u>	8,546,984
Operating expenses	<u>3,797,607</u>	<u>3,852,607</u>
Total	<u>12,824,960</u>	12,399,591
Source of funds		
General fund	<u>2,535,052</u>	2,405,894
Special funds	455,718	455,718
Federal funds	<u>9,446,590</u>	9,150,379
Interdepartmental transfer	<u>387,600</u>	<u>387,600</u>
Total	<u>12,824,960</u>	12,399,591

Sec. 45. Sec. 133 of No. 65 of the Acts of 2007 is amended to read:

Sec. 133. Department for children and families - Woodside rehabilitation center

Personal services	<u>2,632,506</u>	2,870,216
Operating expenses	<u>624,317</u>	<u>624,317</u>
Total	<u>3,256,823</u>	3,494,533
Source of funds		
General fund	<u>3,201,931</u>	3,439,641
Interdepartmental transfer	<u>54,892</u>	<u>54,892</u>
Total	<u>3,256,823</u>	3,494,533

Sec. 46. Sec. 134 of No. 65 of the Acts of 2007 is amended to read:

Sec. 134. Department for children and families - disability determination services

Personal services	3,221,300	3,221,300
Operating expenses	<u>574,946</u>	<u>574,946</u>
Total	3,796,246	3,796,246
Source of funds		
<u>Global Commitment fund</u>		246,517
Federal funds	3,549,729	3,549,729
Interdepartmental transfer	<u>246,517</u>	
Total	3,796,246	3,796,246

Sec. 47. Sec. 135 of No. 65 of the Acts of 2007 is amended to read:

Sec. 135. Department for children and families - aid to aged, blind and disabled

Personal services	1,570,699	1,570,699
Grants	<u>9,791,580</u>	<u>9,966,910</u>
Total	<u>11,362,279</u>	11,537,609
Source of funds		
General fund	<u>7,612,279</u>	7,787,609
Global Commitment fund	<u>3,750,000</u>	<u>3,750,000</u>
Total	<u>11,362,279</u>	11,537,609

* * *

Sec. 48. Sec. 136 of No. 65 of the Acts of 2007 is amended to read:

Sec. 136. Department for children and families - general assistance

Grants	<u>4,376,259</u>	4,676,259
Source of funds		
General fund	<u>2,854,939</u>	3,224,939
Global Commitment fund	<u>410,000</u>	340,000
Federal funds	<u>1,111,320</u>	<u>1,111,320</u>
Total	<u>4,376,259</u>	4,676,259

* * *

(b) ~~Of the The above appropriation, an amount not to exceed \$150,000 (\$75,000 in federal TANF and \$75,000 in general funds) may be expended for temporary housing assistance to individuals and families that have reached the 28-day maximum allowed under department regulations and have a continued need for this type of emergency assistance. Assistance shall be limited to an additional 56 cumulative days beyond the current 28-day maximum.~~

* * *

Sec. 49. Sec. 137 of No. 65 of the Acts of 2007 is amended to read:

Sec. 137. GENERAL ASSISTANCE BENEFITS; FLEXIBILITY PILOT PROGRAM

* * *

(c) The pilot program may operate in up to ~~three~~ five districts designated by the secretary of human services, to include Chittenden and Rutland Counties. This program will be budget neutral. For each district in which the agency operates the program, it shall establish procedures for evaluating the pilot and its effects. The agency shall report annually to the general assembly on its findings from the programs, its recommendations for changes in the general assistance program, and a plan for further implementation of the program.

* * *

Sec. 50. Sec. 138 of No. 65 of the Acts of 2007 is amended to read:

Sec. 138. Department for children and families - reach up

Grants	<u>39,205,606</u>	42,303,606
Source of funds		
General fund	<u>12,677,114</u>	14,770,799
Special funds	<u>19,403,000</u>	18,200,000
Global Commitment fund	<u>45,685</u>	
Federal funds	<u>7,079,807</u>	<u>9,332,807</u>
Total	<u>39,205,606</u>	42,303,606

Sec. 51. Sec. 146 of No. 65 of the Acts of 2007 is amended to read:

Sec. 146. Disabilities, aging and independent living - administration & support

Personal services	<u>23,442,892</u>	23,315,862
Operating expenses	<u>3,702,406</u>	<u>3,702,406</u>
Total	<u>27,145,298</u>	27,018,268
Source of funds		
General fund	<u>6,467,588</u>	6,640,558
Special Funds	952,910	952,910
Global Commitment fund	<u>5,940,176</u>	5,540,176
Federal funds	11,352,141	11,352,141
Interdepartmental transfer	<u>2,432,483</u>	<u>2,532,483</u>
Total	<u>27,145,298</u>	27,018,268

* * *

Sec. 52. Sec. 148 of No. 65 of the Acts of 2007 is amended to read:

Sec. 148. Disabilities, aging and independent living - advocacy and independent living grants

Grants	<u>21,295,486</u>	21,097,705
Source of funds		
General fund	<u>10,059,299</u>	9,861,518
Global Commitment fund	3,142,896	3,142,896
Federal funds	7,655,791	7,655,791
Interdepartmental transfer	<u>437,500</u>	<u>437,500</u>
Total	<u>21,295,486</u>	21,097,705

* * *

Sec. 53. Sec. 151 of No. 65 of the Acts of 2007 is amended to read:

Sec. 151. Disabilities, aging and independent living - TBI home and community-based waiver

Grants	<u>3,415,448</u>	3,695,448
Source of funds		
Global Commitment fund	<u>3,415,448</u>	3,695,448

Sec. 54. Sec. 152 of No. 65 of the Acts of 2007 is amended to read:

Sec. 152. Disabilities, aging and independent living - developmental services

Grants	<u>127,545,146</u>	128,862,125
Source of funds		
General fund	<u>162,964</u>	181,619
Special funds	185,463	185,463
Global Commitment fund	<u>126,872,324</u>	128,124,303
Federal funds	<u>324,395</u>	<u>370,740</u>
Total	<u>127,545,146</u>	128,862,125

Sec. 55. Sec. 156 of No. 65 of the Acts of 2007 is amended to read:

Sec. 156. Corrections - correctional services

Personal services	<u>69,445,693</u>	69,576,739
Operating expenses	<u>31,361,582</u>	31,490,582
Grants	<u>1,660,500</u>	<u>1,765,630</u>
Total	<u>102,467,775</u>	102,832,951
Source of funds		
General fund	<u>98,170,305</u>	98,284,481
Special funds	547,919	547,919
Tobacco fund	87,500	87,500
Global Commitment fund	<u>2,894,144</u>	3,145,144
Federal funds	686,861	686,861
Interdepartmental transfer	<u>81,046</u>	<u>81,046</u>
Total	<u>102,467,775</u>	102,832,951

* * *

Sec. 56. Sec. 157 of No. 65 of the Acts of 2007 is amended to read:

Sec. 157. Corrections - correctional services - out-of-state beds

Operating expenses	9,621,342	11,857,868
Source of funds		
General fund	9,621,342	11,857,868

(a) In fiscal year 2008, upon approval of the commissioner of finance and management, the commissioner of corrections may transfer unexpended funds for out-of-state bed expenses to the appropriation for correctional services. Any transfer made under this authority shall be reported to the house and senate committees on appropriations.

Sec. 57. Sec. 163 of No. 65 of the Acts of 2007 is amended to read:

Sec. 163. Total human services ~~2,531,416,112~~ 2,437,291,219

Source of funds		
General fund	493,209,047	498,726,479
Special funds	76,187,668	72,034,668
Tobacco fund	35,546,820	35,546,820
Global Commitment fund	853,052,203	812,482,244
State health care resources fund	157,186,147	148,325,411
Catamount fund	13,015,143	9,573,243
Federal funds	883,671,653	845,015,959
Permanent trust funds	10,000	10,000
Internal service funds	3,322,612	3,322,612
Interdepartmental transfer	16,214,819	12,253,783
Total	2,531,416,112	2,437,291,219

Sec. 58. Sec. 175 of No. 65 of the Acts of 2007 is amended to read:

Sec. 175. Education - adult education and literacy

Grants	4,593,059	5,343,059
Source of funds		
General fund	2,717,398	2,717,398
Education fund	1,000,000	1,750,000
Federal funds	875,661	875,661
Total	4,593,059	5,343,059

* * *

Sec. 59. Sec. 176 of No. 65 of the Acts of 2007 is amended to read:

Sec. 176. Education - adjusted education payment

Grants	1,063,700,000	1,058,295,808
Source of funds		
Education fund	1,063,700,000	1,058,295,808

* * *

Sec. 60. Sec. 180 of No. 65 of the Acts of 2007 is amended to read:

Sec. 180. Education - capital debt service aid

Grants	280,000	224,407
Source of funds		
Education fund	280,000	224,407

Sec. 61. Sec. 189 of No. 65 of the Acts of 2007 is amended to read:

Sec. 189. Total general education and property tax assistance
1,754,540,454 1,749,830,669

Source of funds		
General fund	335,912,914	335,912,914
Transportation fund	127,483	127,483
Education fund	1,259,249,933	1,254,540,148
Special funds	18,237,521	18,237,521
Tobacco fund	995,668	995,668
Global Commitment fund	1,052,999	1,052,999
Federal funds	116,935,063	116,935,063
Pension trust funds	21,772,624	21,772,624
Interdepartmental transfer	<u>256,249</u>	<u>256,249</u>
Total	1,754,540,454	1,749,830,669

Sec. 62. Sec. 196 of No. 65 of the Acts of 2007 is amended to read:

Sec. 196. Vermont student assistance corporation

Grants	19,153,758	19,128,758
Source of funds		
General fund	19,153,758	19,128,758

* * *

Sec. 63. Sec. 198 of No. 65 of the Acts of 2007 is amended to read:

Sec. 198. Total higher education
and other 88,195,184 88,170,184

Source of funds		
General fund	83,783,621	83,758,621
Global Commitment fund	<u>4,411,563</u>	<u>4,411,563</u>
Total	88,195,184	88,170,184

Sec. 64. Sec. 219 of No. 65 of the Acts of 2007 is amended to read:

Sec. 219. Housing and community affairs

Personal service	2,307,833	2,307,833
Operating expenses	361,339	361,339
Grants	<u>4,415,137</u>	<u>4,470,137</u>
Total	<u>7,084,309</u>	<u>7,139,309</u>
Source of funds		
General fund	<u>1,390,297</u>	<u>1,445,297</u>
Special funds	3,991,815	3,991,815
Federal funds	1,646,697	1,646,697
Interdepartmental transfer	<u>55,500</u>	<u>55,500</u>
Total	<u>7,084,309</u>	<u>7,139,309</u>

* * *

(c) Of the above general fund appropriation, \$55,000 shall be for grants, on a one-time basis, to communities related to ancient roads and unidentified corridors requirements.

Sec. 65. Sec. 234 of No. 65 of the Acts of 2007 is amended to read:

Sec. 234. Total commerce and community development	<u>59,113,306</u>	59,168,306
Source of funds		
General fund	<u>15,865,504</u>	15,920,504
Special funds	21,153,075	21,153,075
Federal funds	20,268,872	20,268,872
Enterprise funds	789,893	789,893
Interdepartmental transfer	<u>1,035,962</u>	<u>1,035,962</u>
Total	<u>59,113,306</u>	<u>59,168,306</u>

Sec. 66. Sec. 237 of No. 65 of the Acts of 2007 is amended to read:

Sec. 237. Transportation - aviation

Personal services	1,761,751	1,761,751
Operating expenses	<u>5,295,449</u>	5,095,449
Grants	<u>160,000</u>	<u>160,000</u>
Total	<u>7,217,200</u>	<u>7,017,200</u>
Source of funds		
Transportation fund	<u>2,123,200</u>	<u>1,923,200</u>
Federal funds	<u>5,094,000</u>	<u>5,094,000</u>
Total	<u>7,217,200</u>	<u>7,017,200</u>

Sec. 67. Sec. 239 of No. 65 of the Acts of 2007 is amended to read:

Sec. 239. Transportation - program development

Personal services	35,867,267	35,867,267
Operating expenses	112,896,085	106,396,085
Grants	<u>26,116,926</u>	<u>26,116,926</u>
Total	174,880,278	168,380,278
Source of funds		
Transportation fund	34,355,234	33,390,234
Local match	1,788,677	1,788,677
Federal funds	133,566,367	128,031,367
Interdepartmental transfer	<u>5,170,000</u>	<u>5,170,000</u>
Total	174,880,278	168,380,278

Sec. 68. Sec. 240 of No. 65 of the Acts of 2007 is amended to read:

Sec. 240. Transportation - rest areas

Personal services	100,000	100,000
Operating expenses	<u>3,550,000</u>	<u>550,000</u>
Total	3,650,000	650,000
Source of funds		
Transportation fund	391,760	91,760
Federal funds	<u>3,258,240</u>	<u>558,240</u>
Total	3,650,000	650,000

Sec. 69. Sec. 243 of No. 65 of the Acts of 2007 is amended to read:

Sec. 243. Transportation - rail

Personal services	5,102,227	5,102,227
Operating expenses	14,243,260	12,143,260
Grants	<u>3,320,000</u>	<u>3,320,000</u>
Total	22,665,487	20,565,487
Source of funds		
Transportation fund	10,053,487	9,553,487
Federal funds	<u>12,612,000</u>	<u>11,012,000</u>
Total	22,665,487	20,565,487

Sec. 70. Sec. 246 of No. 65 of the Acts of 2007 is amended to read:

Sec. 246. Transportation - central garage

* * *

(a) \$5,252,668 of the above appropriation is appropriated from the transportation equipment replacement account within the central garage fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

(b) The agency of transportation, central garage, is authorized to initiate the solicitation of bids for an additional under-bridge inspection vehicle to support the agency's bridge inspection program. The vehicle will not be ordered or other obligation or commitment incurred with respect to the vehicle until specific authority is granted by the general assembly.

Sec. 71. Sec. 247 of No. 65 of the Acts of 2007 is amended to read:

Sec. 247. Department of motor vehicles

Personal services	17,147,046	18,647,046
Operating expenses	7,629,667	7,629,667
Grants	339,000	339,000
Total	25,115,713	26,615,713
Source of funds		
Transportation fund	23,341,574	24,841,574
Federal funds	1,774,139	1,774,139
Total	25,115,713	26,615,713

Sec. 72. Sec. 258 of No. 65 of the Acts of 2007 is amended to read:

Sec. 258. Total transportation 420,875,874 410,575,874

Source of funds

Transportation fund	192,667,968	192,202,968
Special funds	610,500	610,500
Local match	2,951,403	2,951,403
Federal funds	204,264,381	194,429,381
Internal service funds	14,611,622	14,611,622
Interdepartmental transfer	5,770,000	5,770,000
Total	420,875,874	410,575,874

Sec. 73. Sec. 259 of No. 65 of the Acts of 2007 is amended to read:

Sec. 259. Debt service

Debt service	69,420,026	68,698,029
Source of funds		
General fund	64,929,281	64,205,317
Transportation fund	1,994,895	1,996,862
Special funds	2,495,850	2,495,850
Total	69,420,026	68,698,029

Sec. 74. Sec. 260 of No. 65 of the Acts of 2007 is amended to read:

Sec. 260. Total debt service 69,420,026 68,698,029

Source of funds

General fund	64,929,281	64,205,317
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Transportation fund	1,994,895	1,996,862
Special funds	<u>2,495,850</u>	<u>2,495,850</u>
Total	69,420,026	68,698,029

Sec. 75. APPROPRIATION ADJUSTMENTS

(a) To reflect adjustments to budgets due to dental plan premium savings, personal services appropriations are reduced by \$396,430 general fund and \$97,181 transportation fund in accordance with the schedule, entitled "FY2008 Appropriation Reductions Due to Dental Plan Premium Savings" filed with the joint fiscal committee.

(b) To reflect adjustments to budgets due to general liability and auto liability insurance premium savings, operating expense appropriations are reduced by \$1,541,856 general fund and \$660,404 transportation fund in accordance with the schedule, entitled "FY2008 Appropriation Reductions Due to Liability Insurance Premium Savings" filed with the joint fiscal committee. The secretary of administration shall allocate these amounts to appropriations within departments. The secretary of administration may substitute appropriation reductions in other funds, and in fund transfers to the general fund of a like amount if the general fund appropriation reduction is not consistent with the liability premium savings.

(c) To reflect adjustments to budgets due to increases in Facilities Operations (Fee-For-Space) charges, operating expense appropriations are increased by \$1,718,787 general fund in accordance with the schedule entitled "FY2008 Appropriation Increases Due to Increased Facilities Operations(Fee-For-Space) Costs" filed with the joint fiscal committee. The secretary of administration shall allocate these amounts to appropriations within departments.

Sec. 76. REESTABLISH APPROPRIATION DUE TO AUGUST 23, 2007 EMERGENCY BOARD TRANSFER

(a) There is hereby appropriated \$6,477,655 general fund in fiscal year 2008 to corrections-correctional services, to reestablish spending authority transferred for home heating fuel assistance/LIHEAP-grants, authorized by the emergency board on August 23, 2007.

Sec. 77. Sec. 56(d) of No. 65 of the Acts of 2007 is amended to read:

(d) In fiscal year 2007, \$1,000,000 \$900,000 in general funds shall be reserved and to the extent needed is hereby appropriated to the attorney general as necessary for payment of legal costs and charges arising from settlements of completed legal actions.

Sec. 78. Sec. 9(a)(3)(A) of No. 47 of the Acts of 2007 is amended to read:

(A) From the transportation fund for the fiscal year beginning July 1, 2007, ~~\$1,210,258.00~~ \$1,192,197.00;

Sec. 78a. Sec. 279(b) of No. 65 of the Acts of 2007 is amended to read:

(b) ~~In accordance with~~ Notwithstanding 19 V.S.A. § 13(c), the amount of \$900,000 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

Sec. 79. FUND TRANSFERS

(a) Notwithstanding any other provisions of law, in fiscal year 2008:

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

	<u>Fidelity/interest earnings</u>	<u>1,000,000</u>	<u>Approx.</u>
	<u>Bond premium</u>	<u>318,939</u>	
<u>62100</u>	<u>Abandoned property</u>	<u>2,479,018</u>	<u>Approx.</u>
	<u>Amortization of W.R. Grace</u>	<u>5,911</u>	
	<u>Caledonia Fair</u>	<u>5,000</u>	
	<u>North Country Hospital Loan</u>	<u>24,250</u>	
<u>50300</u>	<u>Liquor Control</u>	<u>836,519</u>	<u>Approx.</u>
<u>22005</u>	<u>Dept. Environmental Conservation Federal Indirect Cost Reimbursements</u>		
	<u>(Dept ID 6140040000)</u>	<u>1,234,385</u>	
<u>21110</u>	<u>Employee Leasing Companies</u>	<u>100,000</u>	
<u>21140</u>	<u>DUI Enforcement Special Fund (Corrections; Business Unit 03480)</u>	<u>5,722</u>	
<u>21340</u>	<u>Out-Of-State Power Sales Fund</u>	<u>108</u>	<u>Approx.</u>
<u>21380</u>	<u>Rockefeller State Zoning Fund</u>	<u>80,707</u>	<u>Approx.</u>
<u>21500</u>	<u>Inter-Unit Transfers Fund (Office of Vt Health Access; Business Unit 03410)</u>	<u>747,889</u>	
<u>21500</u>	<u>Inter-Unit Transfers Fund (Health Dept.; Business Unit 03420)</u>	<u>82,324</u>	
<u>21500</u>	<u>Inter-Unit Transfers Fund (Finance & Management; Business Unit 01110)</u>	<u>31,612</u>	
<u>21500</u>	<u>Inter-Unit Transfers Fund (Buildings & Gen. Services-Governmental; Business Unit 01150)</u>	<u>52,181</u>	

<u>21500</u>	<u>Inter-Unit Transfers Fund (Education Dept.; Business Unit 05100)</u>	<u>108,212</u>	
<u>21500</u>	<u>Inter-Unit Transfers Fund (Secretary of State; Business Unit 02230)</u>	<u>4,940</u>	
<u>21584</u>	<u>Surplus Property (Dept. Labor; Business Unit 04100)</u>	<u>900</u>	
<u>21594</u>	<u>Tax-PVR Use Value Admin.</u>	<u>8,799</u>	
<u>21595</u>	<u>BGS-Public Records</u>	<u>106,115</u>	
<u>21602</u>	<u>BGS-Vital Records</u>	<u>343,885</u>	
<u>21603</u>	<u>Motorist Aid Refreshment Prog.</u>	<u>150,000</u>	
<u>21636</u>	<u>AG-Auto Repair Investigative Fund</u>	<u>7,000</u>	
<u>21698</u>	<u>Public Service Dept. Regulation/Energy Effic</u>	<u>85,488</u>	
<u>21699</u>	<u>Public Service Dept. – Regulation - Admin-Rec (Business Unit 02240)</u>	<u>500</u>	
<u>21701</u>	<u>Public Service Dept. – Ed – Energy Education</u>	<u>975</u>	
<u>21709</u>	<u>Public Service Board Special Fund</u>	<u>73,183</u>	
<u>21860</u>	<u>PATH - Other Administration</u>	<u>22,687</u>	
<u>21884</u>	<u>Emergency Personnel Survivors' Benefit Fund</u>	<u>50,000</u>	
<u>21890</u>	<u>Homeland Security-CPC (Dept Agriculture)</u>	<u>30,000</u>	
<u>21975</u>	<u>Armed Services Scholarship Fund</u>	<u>20,000</u>	
<u>21993</u>	<u>VT Film Production Incentive</u>	<u>36,731</u>	<u>Approx</u>

(2) All or a portion of the unencumbered balances in the insurance regulatory and supervision fund (Fund Number 21075), the captive insurance regulatory and supervision fund (Fund Number 21085), and the securities regulatory and supervision fund (Fund Number 21080), expected to be approximately \$7,767,353, shall be transferred to the general fund, provided that on or before July 1, 2008, the commissioner of banking, insurance, securities, and health care administration certifies to the joint fiscal committee that the transfer of such balances or of any smaller portion deemed proper by the commissioner will not impair the ability of the department in fiscal year

2009 to provide thorough, competent, fair, and effective regulatory services or to maintain accreditation by the National Association of Insurance Commissioners; and that the joint fiscal committee does not reject such certification.

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

<u>21196</u>	<u>Catamount Fund</u>	<u>3,500,000</u>
<u>21555</u>	<u>Emergency Relief and Assistance Fund</u>	<u>562,409</u>

(4) Of the \$6,600,000 transferred from the general fund to the education fund in accordance with Section 277(b)(1) of No. 65 of the Acts of 2007, \$4,700,000 is hereby returned to the general fund for use by the homeowner rebate program.

Sec. 80. TRANSFER BETWEEN ACCOUNTS

(a) The sum of \$500,000 is transferred from the motor fuel account to the heating fuel account in the petroleum cleanup fund created in 10 V.S.A.

§ 1941.

Sec. 81. REVERSIONS

(a) Notwithstanding any other provisions of law, in fiscal year 2008 the following amounts shall revert to the general fund from the accounts indicated:

<u>1110003000</u>	<u>Budget & Management</u>	<u>25,275</u>
<u>1140890701</u>	<u>Act 185 Implementation</u>	<u>61,600</u>
<u>1220890601</u>	<u>Vt Tax Study</u>	<u>7,182</u>
<u>1260080000</u>	<u>Interest-Temp Borrowing</u>	<u>1,760</u>
<u>1260090000</u>	<u>Interest-Bonded Debt</u>	<u>4,389</u>
<u>1260980000</u>	<u>Debt Service</u>	<u>21,853</u>
<u>2130100000</u>	<u>State's Attorneys</u>	<u>528,986</u>
<u>2200040000</u>	<u>Plant Industry, Labs & CA Div</u>	<u>1,657</u>
<u>2200880207</u>	<u>Cattle Hlth & Qual Assur Prog</u>	<u>881</u>
<u>2230890501</u>	<u>Licensed Land Surveyors</u>	<u>5,735</u>
<u>2270001000</u>	<u>Vermont Racing Commission</u>	<u>375</u>
<u>3420890603</u>	<u>ADAP-Benn Mobile Meth</u>	

	<u>Clinic</u>	<u>55,000</u>
<u>4100500000</u>	<u>VDOL Program</u>	<u>100,000</u>
<u>6100010000</u>	<u>ANR Admin Management</u> <u>& Planning</u>	<u>14,010</u>

(b) Notwithstanding any other provisions of law, in fiscal year 2008 the following amounts shall revert to the transportation fund from the accounts indicated:

<u>1100010000</u>	<u>Secretary of Administration</u>	<u>197</u>
<u>2130100000</u>	<u>State's Attorneys</u>	<u>3,480</u>
<u>8100000100</u>	<u>Transportation - Finance and</u> <u>Administration</u>	<u>72,128</u>
<u>8100000200</u>	<u>Transportation - Aviation</u>	<u>200,000</u>
<u>8100001700</u>	<u>Transportation - Interstate Rest</u> <u>Areas</u>	<u>47,045</u>
<u>8100002000</u>	<u>Transportation - Maintenance</u>	<u>250,000</u>
<u>8100002200</u>	<u>Transportation - Policy and</u> <u>Planning</u>	<u>546,461</u>
<u>8100002300</u>	<u>Transportation - Rail</u>	<u>500,000</u>

(c) Notwithstanding any other provisions of law, in fiscal year 2008 the following amounts shall revert to the education fund from the accounts indicated:

<u>1140060000</u>	<u>Grand List Assistance</u>	<u>70,987</u>
<u>5100090000</u>	<u>Education Grant</u>	<u>1,781,009</u>
<u>5100100000</u>	<u>Transportation Aid</u>	<u>13,959</u>
<u>5100120000</u>	<u>Debt Service Aid</u>	<u>62,175</u>
<u>5100190000</u>	<u>Essential Early Education</u> <u>Grant</u>	<u>108,516</u>
<u>5100200000</u>	<u>Education - Technical</u> <u>Education</u>	<u>22,097</u>

Sec. 82. SECRETARY OF ADMINISTRATION; CARRY FORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the secretary of administration, general, transportation and education fund appropriations remaining unexpended on June 30, 2008 in the executive branch

of state government shall be carried forward and shall be designated for expenditure.

(b) Notwithstanding any other provisions of law, general and transportation fund appropriations remaining unexpended on June 30, 2008 in the legislative and judicial branch of state government shall be carried forward and shall be designated for expenditure.

Sec. 83. 4 V.S.A. § 28(c) is amended to read:

(c) The maximum loan balance at any time shall be \$100,000.00 \$250,000.00 for one municipality and \$400,000.00 for all municipalities. The court administrator shall administer the municipal ticket repayment revolving fund and shall establish procedures to allocate the available funds fairly and equitably. Upon the recommendation of the court administrator, the secretary of administration shall approve spending in anticipation of receipts from the fund up to a maximum of \$220,000.

Sec. 83a. MUNICIPAL TICKET REPAYMENT; NOTWITHSTANDING

(a) Notwithstanding the provisions of 4 V.S.A. § 28(a)(2), the town of Newport may receive such additional loans from the fund between June 30, 2001 and June 30, 2004 in an amount not to exceed \$55,000.

Sec. 84. SALARY ASSISTANCE; NOTWITHSTANDING

(a) Notwithstanding 16 V.S.A. § 1565(b)(1)(C), adult service coordinators' salary assistance shall not exceed 50 percent of actual salaries and benefits for fiscal year 2008.

Sec. 85. Sec. 6d(a)(5) and (b) of No. 46 of the Acts of 2007 are amended to read:

(5) In September 2006, the board approved Community Capital's proposal based on the merits of Community Capital's proposal for administering Job Start and the fact that Community Capital met the following six key qualifications:

(A) Registered as a nonprofit with the secretary of state.

(B) Certified by the secretary of state as being in good standing.

(C) Certified by the U.S. Department of the Treasury as a Community Development Financial Institution (CDFI).

(D) Experience managing municipal loan funds.

(E) Has both the resources and a business plan sufficient to implement the job start revolving loan fund program statewide.

(F) Has the support of the community action agency network as demonstrated by the Vermont community action directors' association.

(b) In response to the findings, the purpose of this section and ~~sections 6e, section 6f, and 6g~~ is to ratify the recommendations of the Job Start Board to restructure the Job Start Program by moving the program from VEDA to OEO. OEO shall contract with a nonprofit as the program administrator provided the nonprofit meets the criteria of 3 V.S.A. § 3721(b) and has the recommendation of the Job Start Advisory Board and VEDA granting the assets and liabilities of the program to Community Capital of Vermont after the payments of the obligation in Sec. 6g of No. 46 of the Acts of 2007, to remove all the vestiges of the program from VEDA, to place the responsibility for the grants for regional microbusiness development programs in OEO, and acknowledging that OEO, the regional microbusiness development programs, and Community Capital of Vermont have common goals and will collaborate in their efforts.

Sec. 86. GRANT AUTHORIZED

(a) The Vermont Economic Development Authority shall grant to Community Capital of Vermont all the rights, assets, and liabilities relating to the Job Start Program. The grant shall require:

(1) that the funds be used for the same purposes as the Job Start Program, which are to operate a revolving loan fund to serve low-income Vermonters who own their own businesses;

(2) that there be a loan maximum of \$25,000 to any applicant;

(3) that the Community Capital of Vermont board of directors shall include two members who are owners of microbusinesses;

(4) that a report be provided annually to the office of economic opportunity, the house committee on commerce, and the senate committee on economic development, housing, and general affairs on the status and use of the funds. This report shall include Community Capital of Vermont's audited financial statements to include a statement of activities and a statement of financial position. The report shall provide details on the Job Start loan portfolio including number and value of loans outstanding, number and value of loans defaulted and charged off, number and value of loans disbursed during the course of the year, number and value of loans fully paid, and remaining capital available to lend. The report shall also list the expected and actual number of jobs created or retained by recipient businesses as a result of accessing Job Start financing, the quality of the jobs created or retained as defined by salary and wage levels and benefits provided.

Sec. 87. ADMINISTRATIVE COSTS

(a) The \$57,000 originally appropriated to the agency of commerce and community development in fiscal year 2008 shall be granted to Community Capital of Vermont for administration of the Job Start Program.

(b) It is the intent of the legislature that, in fiscal years 2009 and 2010, a similar amount shall be granted from the department for children and families, office of economic opportunity to Community Capital of Vermont for administration of the Job Start Program.

Sec. 88. REPEALS

(a) The following are repealed:

(1) Sec. 6f of No. 46 of the Acts of 2007.

(2) 3 V.S.A. §§ 3721 and 3723.

Sec. 89. AUTHORIZATION FOR EXPENDITURES AT THE 9 DEPOT SQUARE SITE

(a) Pursuant to 10 V.S.A. § 1283(b), environmental contingency fund expenditures of \$30,000 in excess of \$100,000 under subdivision (b)(3) of that section are authorized for removal of contamination at the 9 Depot Square site in Barre, Vermont.

Sec. 90. Sec. 3(7) of No. 75 of the Acts of 2007 is amended to read:

(7) Authorized spending on statewide ledge/slope projects is amended to read:

PE	207,375	207,375
ROW	207,375	207,375
Construction	1,244,250	1,244,250
Other		
Total	1,659,000	1,659,000
<u>Sources of funds</u>		
State	313,551	310,200
Town fund		
Federal	1,345,449	1,348,800
Local		0
Total	1,659,000	1,659,000

Sec. 91. Sec. 6(1) of No. 75 of the Acts of 2007 is amended to read:

(1) Authorized spending for development and evaluation of candidates is amended to read:

PE	137,500	137,500
ROW	0	
Construction	0	

Other	<u>9</u>	
Total	137,500	137,500
<u>Sources of funds</u>		
State	3,750	13,750
Town Fund		
Federal	<u>133,750</u>	<u>123,750</u>
Local		
Total	137,500	137,500

Sec. 92. REPEAL

(a) Sec. 44 of No. 65 of the Acts of 2007 (fiscal year 2008 reversion - state treasurer) is repealed.

(b) Sec. 73(b) of No. 65 of the Acts of 2007 (limitation on disbursements by VSAC) is repealed.

Sec. 93 TOBACCO PROGRAMS; NOTWITHSTANDING

(a) Notwithstanding Sec. 120(i) of No. 65 of the Acts of 2007, no funding shall be distributed under this provision until fiscal year 2009.

Sec. 94. EFFECTIVE DATES

(a) This act shall take effect from passage.

(b) Secs. 85 through 88 shall take effect upon passage, except for Sec. 88(a)(1), which shall take effect June 29, 2007.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

Which proposal of amendment was considered and concurred in.

Adjournment

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

WEDNESDAY, FEBRUARY 20, 2008

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

Devotional Exercises

Devotional exercises were conducted by Vermont storyteller, **John Schraven of Fairfax, VT.**

Senate Bill Referred

Senate bill, entitled

An act relating to mammography patient cost containment;

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

Bill Amended; Third Reading Ordered

H. 788

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

An act relating to awarding moose permits to Vermont veterans of Afghanistan and Iraq;

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

Sec. 1. 10 V.S.A. § 4254(i) is amended to read:

(i)(1) If the board establishes a moose hunting season, up to five moose permits shall be set aside to be auctioned. The board shall adopt rules necessary for the department to establish, implement, and run the auction process. Proceeds from the auction shall be deposited in the fish and wildlife fund and used for conservation education programs run by the department. Successful bidders must have a Vermont hunting or combination license in order to purchase a moose permit. Beginning with the 2006 hunting season, the five moose permits set aside for auction shall be in addition to the number of annual moose permits authorized by the board.

(2) If the board establishes a moose hunting season, there shall be established a program to set aside five moose permits for Vermont residents who have served on active duty in any branch of the armed forces of the United States and who have been awarded or are eligible to receive a campaign ribbon for Operation Iraqi Freedom or Operation Enduring Freedom. The department of fish and wildlife shall adopt a procedure to implement the set-aside program for veterans who have been awarded or are eligible to receive a campaign ribbon for Operation Iraqi Freedom or Operation Enduring Freedom, including a method to award applicants preference points and a method by which veterans who applied for but failed to receive a permit in one hunting season are awarded priority in the subsequent moose hunting season. The procedure adopted under this subdivision shall be consistent with the preference system for the permit auction authorized under subdivision (i)(1) of this section. Veterans awarded a moose permit under this subsection must possess a valid Vermont hunting or combination license in order to purchase a moose permit. The department of fish and wildlife shall coordinate with the

department of veterans affairs to provide notice to eligible veterans of the moose permits set-aside under this subsection.

Sec. 2. EFFECTIVE DATE

This act shall take effect upon passage.

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

Favorable Report; Third Reading Ordered

H. 560

Rep. Browning of Arlington, for the committee on Institutions, to which had been referred House bill, entitled

An act relating to the offender work programs board;

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

Message from the Senate No. 24

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

Madam Speaker:

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

S. 200. An act relating to establishing a construction trust fund.

S. 227. An act relating to angel investors.

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

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

H. 580. An act relating to terms of members of the Vermont tobacco evaluation and review board.

H. 750. An act relating to prescription drug pricing and information.

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

Adjournment

At one o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at one o'clock in the afternoon.

THURSDAY, FEBRUARY 21, 2008

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

Devotional Exercises

Devotional exercises were conducted by **Reverend Mr. Pete Gummere, Deacon of St. Norbert's Church, Hardwick, VT.**

Committee Bill Introduced

H. 865

Rep. Zuckerman of Burlington, for the committee on Agriculture, introduced a bill, entitled

An act relating to Vermont Milk Commission;

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

Committee Bill Introduced

H. 866

Rep. Obuchowski of Rockingham, for the committee on Ways and Means, introduced a bill, entitled

An act relating to replacement of homestead education property tax with education adjusted gross income tax;

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

Senate Bills Referred

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

S. 200

Senate bill, entitled

An act relating to establishing a construction trust fund;

S. 227

Senate bill, entitled

An act relating to angel investors;

To the committee on Commerce.

Message from the Senate No. 25

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

Madam Speaker:

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

J.R.S. 53. Joint resolution relating to weekend adjournment.

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

Bill Recommitted**H. 866**

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

An act relating to replacement of homestead education property tax with education adjusted gross income tax;

Was taken up for immediate consideration.

Pending second reading of the bill **Rep. Otterman of Topsham**, moved to recommit the bill to the committee on Ways and Means. Which was agreed to.

**Senate Proposal of Amendment Not Concurred in;
and Senate Requested to Recede from its Proposal of Amendment**

H. 93

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

An act relating to beer producers' interest in retail liquor licenses;

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

Sec. 1. 7 V.S.A. § 230(a) is amended to read:

(a) Except as provided in subdivision 2(15) of this title a bottler, manufacturer, or rectifier, ~~bottler~~ licensed in Vermont or in another state, a certificate of approval holder, or wholesale dealer shall not have any financial interest in the business of a first, second, or third class license, and a first,

second, or third class licensee may not have any financial interest in the business of a bottler, manufacturer, or rectifier, ~~bottler~~ licensed in Vermont or in another state, a certificate of approval holder, or wholesale dealer. However, a manufacturer of malt beverages may have a financial interest in the business of a first or second class license, and a first or second class licensee may have a financial interest in the business of a manufacturer of malt beverages, provided a first or second class licensee does not purchase, possess, or sell the malt beverages produced by a manufacturer with which there is any financial interest. However, a certificate of approval holder for malt beverages or a certificate of approval holder for vinous beverages who is a manufacturer or rectifier may own a licensed retail business so long as the ownership is total and unconditional and has the prior approval of the Liquor Control Board. All licenses or permits granted under this title shall be conspicuously displayed on the premises for which the license or permit is granted. Any manufacturer of malt beverages that has a financial interest in a first or second class licensee and any first or second class licensee that has a financial interest in a manufacturer of malt beverages, as permitted under this section, shall provide to the department of liquor control and the applicable wholesale dealer written notification of that financial interest and the licensees involved. A wholesale dealer shall not be in violation of this section for delivering malt beverages to a first or second class licensee that is prohibited from purchasing, possessing, or selling those malt beverages under this section.

Sec. 2. EFFECTIVE DATE

This bill shall take effect on passage.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Turner of Milton** moved that the House not concur in the Senate proposal of amendment and that the Senate be requested to recede from its proposal of amendment. Which was agreed to.

Third Reading; Bills Passed

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

H. 560

House bill, entitled

An act relating to the offender work programs board.

H. 788

House bill, entitled

An act relating to awarding moose permits to Vermont veterans of Afghanistan and Iraq;

Action on Bill Postponed
H. 864

House bill entitled

An act relating to making miscellaneous amendments to education law;

Having appeared on the Calendar one day for notice, was taken up and pending second reading of the bill, on motion of **Rep. Donovan of Burlington** action on the bill was postponed until Thursday, February 28, 2008.

Action on Bill Postponed
H. 135

House bill, entitled

An act relating to increasing the age for mandatory participation in the corrections systems education program;

Was taken up and pending the reading of the report of the committee on Institutions, on motion of **Rep. Lenes of Shelburne**, action on the bill was postponed until Tuesday, February 26, 2008.

Bill Committed
S. 351

Senate bill, entitled

An act relating to consolidating management of public records;

Appearing on the Calendar for action, was taken up and pending the reading of the report of the committee on Government Operations, on motion of **Rep. Martin of Wolcott**, the bill was committed to the committee on Appropriations.

Adjournment

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

FRIDAY, FEBRUARY 22, 2008

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

Devotional Exercises

Devotional exercises were conducted by **Reverend Paul Essoff of Light House Christian Church, Montpelier, VT.**

Memorial Service

The Speaker placed before the House the following name of a member of past sessions of the Vermont General Assembly who had passed away recently:

David T. Clark of St. Johnsbury

Sessions of 1997-2008

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

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Dennise Casey, Secretary of Civil and Military Affairs, as follows:

Madam Speaker:

I am directed by the Governor to inform the House that on the twenty-first day of February, 2008, he approved and signed a bill originating in the House of the following title:

H. 665 An act relating to political party state committee membership

Committee Bill Introduced

H. 867

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

An act relating to health insurance plan coverage for athletic trainer services;

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

House Bill Introduced

H. 868

Reps. Adams of Hartland and Morrissey of Bennington introduced a bill, entitled

An act relating to granting reciprocity from licensing requirements to emergency volunteers;

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

Joint Resolution Adopted in Concurrence**J.R.S. 53**

Joint resolution, entitled

Joint resolution relating to weekend adjournment;

By Senator Shumlin,

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 22, 2008, it be to meet again no later than Tuesday, February 26, 2008.

Was taken up read and adopted 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. 776

House bill, entitled

An act relating to computation of the basic needs budget and the livable wage;

H. 812

House bill, entitled

An act relating to ensuring educational continuity for pregnant and parenting students.

Remarks Journalized

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

“Madam Speaker:

Representative David Clark was an antitank gunner in northern Europe. He crossed the English Channel on Christmas Eve 1944 and spent most of January in France.

He participated in the Battle of the Bulge. Though he was reluctant to speak of it, he told a member of the legislature that he was often afraid, cold and hungry. He couldn't remember ever being warm during the winter of 1945.

Representative Clark was a true American hero and a very brave man.”

Remarks Journalized

On motion of **Rep. Pearson of Burlington**, the following remarks by **Rep. Jerman of Essex** were ordered printed in the Journal:

"Madam Speaker:

Your Government Operations committee is a sad place today. We have lost another of our gentle giants, David Clark. Our Chair could not be present today, but she is with us in spirit, and she loved both David and Cola Hudson deeply. It was apparent in January that David was not feeling well, but every day in committee he would look over at me and wink to let me know he was okay. David and Cola worried about each other's health much more than they did about their own.

David was as unassuming and modest a Vermonter as you could hope to meet. He never called attention to himself, even to the point of eating lunch in a quieter spot outside the building. David was the last Government Operations link to the old local government committee, and we have again lost invaluable institutional memory.

David Clark was loved by everyone on our committee. The news of his passing negated all the hope and prayers from the past few weeks that he was progressing well and fighting to return to the State House. We will miss him every day as we know will all his friends in both bodies of the Legislature."

Remarks Journalized

On motion of **Rep. Komline of Dorset**, the following remarks by **Reps. Valliere of Barre City and Consejo of Sheldon** were ordered printed in the Journal:

Remarks by Rep. Consejo of Sheldon:

"Madam Speaker:

I did not have a chance to get to know Dave very well, but he and others came to France to fight for my country. As the only French born in this assembly, I want to tell Dave that wherever he is he will not be forgotten."

Remarks by Rep. Valliere of Barre City:

"Madam Speaker:

Thank you Madam Speaker. I never wanted to stand here or be here to eulogize my good friend and seatmate of six years, Rep. David Clark.

He lived his life as he was, humble, hard working, sincere and with a great concern and love for his community. He was loyal and in love with his wife and family. His service in World War II was spoken of with humility and not

bravado, as well. He was a solid man, as solid as the granite hills of this state, a better compliment cannot be given to a man such as this.

At his age he was still chopping wood, tending his orchard and looking after his wife to whom he was so devoted.

I never wanted to be here to do this, to eulogize my good friend and seatmate, David Clark."

Bill Amended; Third Reading Ordered

H. 664

Rep. Davis of Washington, for the committee on Commerce, to which had been referred House bill, entitled

An act relating to unemployment insurance;

Reported in favor of its passage when amended as follows:

On page 3, Sec. 3., 21 V.S.A. § 1458 in subsection (e) in the final sentence on line 9 by striking "benefits" and inserting in lieu thereof "benefits"

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

Senate Proposal of Amendment Concurred in with a Further Amendment Thereto

H. 580

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

An act relating to terms of members of the Vermont tobacco evaluation and review board;

By striking Sec. 2 in its entirety and by renumbering Sec. 3 to be Sec. 2.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Frank of Underhill** moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

By adding a Sec. 1a as follows:

Sec. 1a. TRANSITIONAL PROVISIONS; APPLICATION

This act shall apply to current members of the Vermont tobacco evaluation and review board so that the term of a member who was appointed prior to the effective date of this act shall be deemed to have begun on July 1 of the year in which the appointment was made.

Which was agreed to.

Senate Proposal of Amendment Concurred in**H. 750**

The Senate proposed to the House to amend House bill, entitled
An act relating to prescription drug pricing and information;

In Sec. 7 by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Notwithstanding the effective dates of this section and of No. 80 of the Acts of 2007, the provisions of Sec. 17 of No. 80 of the Acts of 2007 (adding 18 V.S.A. chapter 91, subchapter 3; prescription drug data confidentiality) and Sec. 21 of No. 80 of the Acts of 2007 (adding 9 V.S.A. § 2466a; consumer protection; prescription drugs) shall not be effective until July 1, 2009; except that the department of health and the office of professional regulation may, immediately upon passage, begin any necessary rulemaking, revision of forms, or other administrative actions necessary to implement the program established in 18 V.S.A. chapter 91, subchapter 3 on July 1, 2009.

Which proposal of amendment was considered and concurred in.

Adjournment

At ten o'clock and fifteen minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, February 26, 2008, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 53.

Concurrent Resolutions Adopted

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

H.C.R. 213

House concurrent resolution commemorating the 4706 Asian American Lunar Year celebration in Rochester

H.C.R. 214

House concurrent resolution congratulating the Chester Innkeepers Association for requiring Green Hotel in the Green Mountain State designation

H.C.R. 215

House concurrent resolution congratulating Isabelle Briggs, Etta Dean, and Mabel Ward on their half-century of civic service as members of the Cavendish Firemen's Auxiliary

H.C.R. 216

House concurrent resolution honoring Paul Normandeau on his civic contributions to the town of Dummerston

S.C.R. 33.

Senate concurrent resolution congratulating Dente's Market in Barre City on its centennial anniversary.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the volume of the Public Acts and Resolves of the 2008, sixty-ninth Adjourned session]

TUESDAY, FEBRUARY 26, 2008

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

Devotional Exercises

Devotional exercises were conducted by Speaker Gaye Symington of Jericho, VT.

Pledge of Allegiance

Page Eliza Dorney of Richmond led the House in the Pledge of Allegiance.

Message from the Senate No. 26

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

Madam Speaker:

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

S. 290. An act relating to agricultural water quality financing.

S. 291. An act relating to the farm agronomic practices program at the agency of agriculture, food and markets.

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. 575. An act relating to small eligible telecommunications carriers.

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 House a proposal of amendment to Senate bill of the following title:

S. 355. An act relating to debt financing for the Vermont housing finance agency.

And has concurred therein.

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

S.C.R. 33. Senate concurrent resolution congratulating Dente's Market in Barre City on its centennial anniversary.

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

H.C.R. 213. House concurrent resolution commemorating the 4706 Asian American Lunar Year celebration in Rochester.

H.C.R. 214. House concurrent resolution congratulating the Chester innkeepers Association for requiring Green Hotel in the Green Mountain State designation.

H.C.R. 215. House concurrent resolution congratulating Isabelle Briggs, Etta Dean, and Mabel Ward on their half-century of civic service as members of the Cavendish Firemen's Auxiliary.

H.C.R. 216. House concurrent resolution honoring Paul Normandeau on his civic contributions to the town of Dummerston.

House Bills Introduced

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

H. 869

By Reps. Hube of Londonderry, Branagan of Georgia, McDonald of Berlin, Adams of Hartland, Brennan of Colchester, Crawford of Burke, Devereux of Mount Holly, Donaghy of Poultney, Donahue of Northfield, Errecart of Shelburne, Flory of Pittsford, Komline of Dorset, Livingston of Manchester, Marcotte of Coventry, Myers of Essex, O'Donnell of Vernon, Scheuermann of Stowe, Valliere of Barre City, Wheeler of Derby, Winters of Williamstown and Wright of Burlington,

An act relating to education finance reform;

To the committee on Ways and Means.

H. 870

By the committee on Government Operations,
An act relating to the regulation of professions and occupations;
Under the rule, placed on the Calendar for notice tomorrow.

H. 871

By the committee on Judiciary,
An act relating to professional requirements for the deputy attorney general, assistant attorneys general, probate judges, deputy state's attorneys, constables, and sheriffs;
Under the rule, placed on the Calendar for notice tomorrow.

H. 872

By Reps. Perry of Richford, Branagan of Georgia, Consejo of Sheldon, Fitzgerald of St. Albans City, Gervais of Enosburg, Gilbert of Fairfax, Howrigan of Fairfield, LaVoie of Swanton and McAllister of Highgate,
An act relating to the Missisquoi Rail Trail;
To the committee on Natural Resources and Energy.

H. 873

By the committee on Fish, Wildlife and Water Resources,
An act relating to the cleanup of Lake Champlain and other state waters;
Under the rule, placed on the Calendar for notice tomorrow..

Senate Bills Referred

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

S. 290

Senate bill, entitled
An act relating to agricultural water quality financing;
To the committee on Agriculture.

S. 291

Senate bill, entitled
An act relating to the farm agronomic practices program at the agency of agriculture, food and markets;
To the committee on Agriculture.

Bill Amended; Third Reading Ordered**H. 135**

Rep. Lenes of Shelburne, for the committee on Institutions, to which had been referred House bill, entitled

An act relating to increasing the age for mandatory participation in the corrections systems education program;

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

Sec. 1. 28 V.S.A. § 120 is amended to read:

**§ 120. ~~CORRECTIONS DEPARTMENT EDUCATION PROGRAM~~
COMMUNITY HIGH SCHOOL OF VERMONT; INDEPENDENT SCHOOL**

(a) ~~Authority. An education program is established~~ There is created within the department of corrections an independent school to be known as the community high school of Vermont for the education of persons who have not completed secondary education and who are committed to the custody of the commissioner of corrections.

~~(b) Applicability of education provisions. The education program community high school shall be approved subject to approval by the state board of education as an independent school under 16 V.S.A. § 166. In addition, the school shall comply with the :~~

(1) meet school quality standards provided by 16 V.S.A. § 165;

(2) offer a minimum course of study as defined in 16 V.S.A. § 906 at each correctional facility and department service center, except that it shall not be required to offer physical education; and shall

(3) be coordinated with adult education, special education, and technical education services provided by other agencies or school districts funded by the state or federal government.

~~(c) Program supervision.~~

(b) The commissioner of corrections shall appoint an education supervisor, who shall be licensed as an administrator under 16 V.S.A. chapter 51, to coordinate and supervise the education program community high school of Vermont and coordinate use of other education programs by persons under the supervision of the commissioner.

~~(d) Curriculum. The education program shall offer a minimum course of study, as defined in 16 V.S.A. § 906, at each correctional facility and~~

~~department service center, but is not required to offer a driver training course or a physical educational course.~~

~~(e) Commissioner of education's designation of special education program. Notwithstanding any law to the contrary, the~~

~~(c) The commissioner of education, in accordance with the provisions of 16 V.S.A. chapter 101 shall designate a program to provide for the special education of eligible persons who are under the custody of the commissioner of corrections. Within the limits of funds made available for this specific purpose, the commissioner of education shall pay the costs of this program in excess of costs defined in subsection (g) of this section.~~

~~(f) Reimbursement payments. The provision of 16 V.S.A. § 4012, relating to payment for state placed students, shall not apply to the corrections education program.~~

~~(g) Annual budget.~~

~~(d) Annually there shall be appropriated to the department the commissioner of corrections shall request that the general assembly appropriate an amount equal to the number of full-time equivalent students enrolled in the corrections department education program community high school of Vermont, multiplied by the average statewide per-pupil cost of public school education in the preceding year. That average cost shall be calculated to exclude debt service and transportation costs. The annual appropriation shall be used to provide educational services to students enrolled in the community high school of Vermont. The commissioner of education shall pay for allowable special education costs, as defined by the state board of education under 16 V.S.A. § 2963, in excess of the per-pupil cost calculated under this subsection.~~

~~(h) Required participation.~~

~~(e) All persons under the custody of the commissioner of corrections who are under the age of 23 26 and have not received a high school diploma shall participate in the an education program, unless exempted by the commissioner, as follows:~~

~~(1) those who are younger than 22 years of age shall attend the community high school of Vermont;~~

~~(2) those who are 22 years of age or older and who are incarcerated in a Vermont facility shall attend the community high school of Vermont;~~

~~(3) those who are 22 years of age or older and who are not incarcerated shall either attend the community high school of Vermont or participate in another education program, such as a general education development program~~

or a program operated by a public high school, approved by the commissioner; and

(4) those who are 22 years of age or older and who are incarcerated in a facility outside Vermont shall participate in an education program, approved by the commissioner, which is available at the facility.

Sec. 2. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

This act shall take effect on July 1, 2008. However, for school year 2008–2009, only persons who are under the age of 23 shall be required to participate in an education program pursuant to 28 V.S.A. § 120.

The bill was taken up, read the second time, report of the committee on Institutions agreed to and third reading ordered.

Third Reading; Bill Passed

H. 664

House bill, entitled

An act relating to unemployment insurance;

Was taken up, read the third time and passed.

Bill Read Second Time; Third Reading Ordered

H. 865

Rep. Malcolm of Pawlet spoke for the committee on Agriculture.

House bill entitled

An act relating to Vermont Milk Commission;

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. 351

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

An act relating to consolidating management of public records;

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. § 317a is added to read:

§ 317a. DISPOSITION OF PUBLIC RECORDS

A custodian of public records shall not destroy, give away, sell, discard, or damage any record or records in his or her charge, unless specifically authorized by law or under a record schedule approved by the state archivist pursuant to subdivision 117(a)(5) of Title 3.

Sec. 2. 1 V.S.A. § 320 is amended to read:

§ 320. PENALTIES

(a) Whenever the court orders the production of any public agency records, improperly withheld from the complainant and assesses against the agency reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether the agency personnel acted arbitrarily or capriciously with respect to the withholding, the department of human resources if applicable to that employee, shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The department, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his or her representative. The administrative authority shall take the corrective action that the department recommends.

(b) In the event of noncompliance with the order of the court, the superior court may punish for contempt the responsible employee or official, and in the case of a uniformed service, the responsible member.

(c) A person who willfully destroys, gives away, sells, discards, or damages a public record without having authority so to do, shall be fined at least \$50.00 but not more than \$1,000.00 for each offense.

Sec. 3. 3 V.S.A. § 117 is amended to read:

§ 117. ~~PUBLICATION AND PRESERVATION OF STATE PAPERS~~
VERMONT STATE ARCHIVES AND RECORDS
ADMINISTRATION

(a) As used in this chapter:

(1) “~~Archival~~ Records management” means the systematic identification and management of ~~archival~~ public records to assure their authenticity and accessibility from the creation to ultimate disposition.

(2) "Archives" or "archival records" means ~~public records, as defined in 1 V.S.A. § 317(b),~~ which have continuing legal, administrative, or historic value.

(3) ~~"Identification"~~ "Appraisal" means the identification, classification, and analysis and appraisal of all public records, regardless of physical form or characteristics, to determine their value and ultimate disposition, based upon their:

- (A) current administrative, legal, and fiscal use;
- (B) evidential and informational content;
- (C) arrangement and condition;
- (D) intrinsic value; and
- (E) relationship to other records.

(4) "Public record" or "public document" means all papers, documents, machine readable materials, or any other written or recorded matters, regardless of their physical form or characteristics, that are produced or acquired in the course of agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying.

(5) "Record schedule" means a manual, directive, or policy containing descriptions of and disposition instructions for retention, access, and management of all public records or public documents.

(b) There is created within the office of the secretary of state the ~~division of Vermont state archives and records administration~~ which is charged with administering and implementing an archival a records management program for state government in accordance with professional archival practice records and information management practices and principles which shall be styled "the state archives and records administration program." ~~The secretary shall have legal custody of the state's archival records.~~

(c) The secretary shall adopt policies and procedures necessary to carry out the provisions of this section and shall report annually to the governor and the general assembly on the state archives and records administration program.

(d) The secretary may appoint an ~~archives~~ advisory committee to provide assistance and support for the state archives and records administration program.

(e) The secretary may adopt rules consistent with this ~~chapter~~ section.

(f) There shall be a director of the ~~division of Vermont state archives and records administration~~ who shall have the title of "state archivist," and who

shall be qualified by education and professional experience to perform the duties of the office. The state archivist shall be a classified position within the office of secretary of state.

(g) In fulfilling the duties of the state archives and records administration program, the state archivist shall:

~~(1) coordinate with the commissioner of buildings and general services for compliance with section 218 of this title and sections 453 and 454 of Title 22 to identify, schedule, and manage all public records with archival value;~~

(2) establish and administer an archival a records management program for the application of effective and efficient methods to the creation, utilization, maintenance, reformatting, retention, destruction, and preservation of ~~state archival~~ public records;

~~(3)(2)~~ cooperate with the heads of state agencies or public bodies to establish and maintain a program for the identification appraisal and scheduling, and preservation of archival of public records;

~~(4)(3)~~ analyze, develop, establish, and coordinate standards, procedures, and techniques for the creation of, preservation of, and access to ~~archival~~ public records;

~~(5) analyze and identify archival records in state agencies;~~

~~(6) cooperate with the commissioner of buildings and general services in the development of comprehensive records retention and disposition schedules that identify archival records;~~

~~(7)(4)~~ take custody of archival records with the approval of their originating agency in accordance with record schedules approved by the state archivist;

(5) maintain a record center to hold inactive records in accordance with approved records schedules approved by the state archivist;

(6) administer a central reformatting program for public records, including land records in the possession of municipal or county officers. Public records that are microfilmed, electronically captured, or otherwise reformatted shall be taken and received in all courts, public offices, and official bodies as prima facie evidence;

~~(8)(7)~~ arrange, describe, and preserve archival records, and promote their use by government officials, ~~educators, historians, and the public through the secretary of state's website or other publication, or both;~~

~~(9)(8)~~ permit the public to inspect, examine, and study the archives, provided that any record placed in the keeping of the office of the secretary of

state under special terms or conditions of law restricting their use shall be made accessible only in accord with those terms and conditions;

~~(10)(9)~~ cooperate with and assist to the extent practicable state institutions, departments, agencies, municipalities, and other political subdivisions and individuals engaged in the activities in the field of public records, archives, manuscripts, and history;

(10) accept for filing copies of land records submitted in microfilm, electronic media, or similar compressed form by municipal or county clerks;

~~(11) provide advice, assistance, and consultation to state agencies, political subdivisions, historical agencies, libraries, and other Vermont organizations on the effective management of archival records; receive grants, gifts, aid, or assistance, of any kind, from any source, public or private, for the purpose of managing or publishing public records; and~~

(12) serve on the Vermont historical records advisory board, as described in 44 U.S.C. § 2104, to encourage systematic documentation in Vermont and the collecting of archival records;~~and~~

~~(13) publish or otherwise exhibit and promote those archival records are judged to be of publishable value.~~

(h) Each volume published under the provisions of this section shall be called state papers of Vermont and numbered consecutively after the last volume of that title printed and published under the authority of No. 259 of the Acts of 1912 and shall be evidence in court and shall have the same force as the original documents.

(i) All volumes printed under authority of this section shall be delivered to the state librarian who shall deliver one copy to such elective and appointive state officers and such town and county clerks and such local historical societies and to each public high school and college library in the state, and to the library of each private school acting as a public high school as shall request it in writing for the permanent files of their offices. The state librarian shall also furnish four copies to the Vermont historical society. The remaining volumes shall be disposed of by the state librarian through liberal exchanges with other libraries and institutions or through sale at such prices as the state librarian shall establish.

~~(j) All volumes of the state papers of Vermont, published under authority of this or any other previous law, shall be evidence in court and shall have the same force as the original documents.~~

Sec. 4. 3 V.S.A. § 218 is amended to read:

§ 218. AGENCY/DEPARTMENT RECORDS MANAGEMENT PROGRAM

(a) The general assembly finds that public records are essential to the administration of state and local government. Public records contain information which allows government programs to function, provides officials with a basis for making decisions, and ensures continuity with past operations. Public records document the legal responsibilities of government, help protect the rights of citizens, and provide citizens a means of monitoring government programs and measuring the performance of public officials. Public records provide documentation for the functioning of government and for the retrospective analysis of the development of Vermont government and the impact of programs on citizens. Public records in general and archival records in particular need to be systematically managed to preserve their legal, historic, and informational value, to provide ready access to vital information, and to promote the efficient and economical operation of government.

(b) The head of each state agency or department shall establish, maintain, and implement an active and continuing program approved by the ~~commissioner of buildings and general services with respect to public records, and the secretary of state with respect to archival records,~~ Vermont state archives and records administration for the effective management, preservation, and disposition of records, regardless of their physical form or characteristics, for which that head is responsible.

(c) For an agency or department records program to be approved by the ~~commissioner of buildings and general services with respect to public records, and the secretary of state with respect to archival records~~ Vermont state archives and records administration, the head of each state agency or department shall:

* * *

(5) establish and maintain other records related to management of the agency's or department's records as required by the ~~director of public records or the state archivist~~ Vermont state archives and records administration;

(6) provide for furnishing to the ~~division of public records and state archives, such special reports regarding the records of the agency or department as the department of buildings and general services or the secretary of state~~ Vermont state archives and records administration may deem necessary;

(7) process, store, and preserve records kept by the agency or department in an efficient and economical manner;

(8) where practicable, consolidate or eliminate existing records of the agency or department and control the creation of new records; and

(9) maintain the records of the agency or department in a manner that permits the prompt and orderly removal of records authorized for destruction; and

(10) implement and sustain a record schedule in accordance with requirements established by the Vermont state archives and records administration under section 117 of this title and the department of information and innovation under subdivision 2222(a)(10) of this title.

(d) The head of each state agency or department shall designate a member of his or her staff as the records officer for his or her agency or department and shall notify the ~~department of buildings and general services~~ Vermont state archives and records administration in writing of the name and title of the person designated.

(e) The Vermont state archives and records administration shall approve all agency record schedules, as defined by section 117 of this title, unless set forth in a general record schedule issued by the Vermont state archives and records administration. Authorizations by the public records advisory board regarding the disposition of public records shall remain in effect until superseded by a record schedule issued or approved by the Vermont state archives and records administration.

Sec. 5. REPEAL

22 V.S.A. chapter 11 (commissioner of buildings and general services authority to manage public records) is repealed.

Sec. 6. 2 V.S.A. § 752(b) is amended to read:

(b) The committee shall prepare, adopt, and maintain a long-range plan of at least five years for information technology operations and services in the legislative branch. The plan shall analyze the costs and benefits and risk management aspects of maintaining authentic and accessible legislative records as required by Vermont law. In the preparation of the plan, the committee shall consult with members of the general assembly, the legislative staff information systems team established by section 753 of this title, and other legislative staff, the state archivist, ~~the commissioner of buildings and general services~~, other representatives of the executive and judicial branches of state government, and members of the public. The committee shall provide the house and senate committees on government operations with copies of the plan and any amendment to the plan.

Sec. 7. 18 V.S.A. § 5002 is amended to read:

§ 5002. RETURNS; TABLES

The health commissioner shall prepare from the returns of births, marriages, civil unions, deaths, fetal deaths, and divorces required by law to be transmitted to the commissioner such tables and append thereto such recommendations as he or she deems proper, and during the month of July in each even year, shall cause the same to be published as directed by the board. The commissioner shall file and preserve all such returns. The commissioner shall periodically transmit the original returns or photostatic or photographic copies to the ~~director of public records~~ state archivist who shall keep the returns, or photostatic or photographic copies of the returns, on file for use by the public. The commissioner and the ~~director of public records~~ state archivist shall each, independently of the other, have power to issue certified copies of such records.

Sec. 8. 18 V.S.A. § 5008 is amended to read:

§ 5008. TOWN CLERK; RECORDING AND INDEXING PROCEDURES

A town clerk shall file for record and index in volumes all certificates and permits received in a manner prescribed by the ~~public records director~~ state archivist. Each volume or series shall contain an alphabetical index. Marriage certificates shall be filed for record in one volume or series, civil unions in another, birth certificates in another, and death certificates and burial-transit and removal permits in another. However, in a town having less than 500 inhabitants, the town clerk may cause marriage, civil union, birth and death certificates, and burial-transit and removal permits to be filed for record in one volume, provided that none of such volumes shall contain more than 250 certificates and permits. All volumes shall be maintained in the town clerk's office as permanent records.

Sec. 9. 18 V.S.A. § 5148 is amended to read:

§ 5148. EVIDENCE OF MARRIAGE

A copy of the record of the marriage made by a person required by law at the time the marriage was solemnized, to make and keep the record certified by such person, or by the town or county clerk or the commissioner of health or the ~~director of public records~~ state archivist, if the record is in his or her office, shall be in all courts presumptive evidence of the fact of such marriage.

Sec. 10. 18 V.S.A. § 5167 is amended to read:

§ 5167. EVIDENCE OF CIVIL UNION

A copy of the record of the civil union received from the town or county clerk, the commissioner of health or the ~~director of public records~~ state archivist shall be presumptive evidence of the civil union in all courts.

Sec. 11. 24 V.S.A. § 1161 is amended to read:

§ 1161. GENERAL INDEX

(a)(1) A town clerk shall keep a general index of transactions affecting the title to real estate wherein he or she shall enter in one column, in alphabetical order, the name of the grantor to the grantee and, in a parallel column, the name of the grantee from the grantor, of every deed, conveyance, mortgage, lease or other instrument affecting the title to real estate, and each writ of attachment, notice of lien or other instrument evidencing or giving notice of an encumbrance on real estate which is filed or recorded in the town clerk's office, with the name of the book, volume, or other manner of recording and the page of record in the following form:

* * *

(2) If the instrument is executed on behalf of, or to convey the interest of another party, the same shall be indexed in the name of the other party as grantor. In case the instrument is executed by more than one grantor and to more than one grantee, the name of each grantor and each grantee shall be indexed. When the party is a natural person the name shall be indexed under the first letter of such person's surname, and when the party is a corporation the name shall be indexed under the first letter of the first word of its name disregarding articles and initials. For purposes of this section, a defendant against whose property a writ of attachment is filed or a person against whose property a lien is asserted, shall be considered a grantor, and a plaintiff filing a writ, or a person asserting a lien shall be considered a grantee. Land plats filed in the office shall be indexed in such manner as the ~~public records director~~ state archivist shall by rule prescribe. The general index may be kept electronically.

* * *

Sec. 12. TRANSFER AND FUNDS AND POSITIONS

All employees, positions, and equipment and the remaining balances of the appropriation for public records are transferred from the department of buildings and general services to the office of the secretary of state. The department of buildings and general services' vital records special fund and the department of buildings and general services' public records special fund along with monies in them shall be transferred to the office of the secretary of state and renamed the vital records special fund and public records special fund.

Rep. Hutchinson of Randolph, for the committee on Appropriations, recommended the bill ought to pass in concurrence with proposals of amendment as recommended by the committee on Government Operations.

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

Resolution Amended; Third Reading Ordered**J.R.H. 53**

Rep. Marcotte of Coventry, for the committee on Commerce, to which had been referred Joint resolution, entitled

Joint resolution urging Congress to address the dramatic rise of electronic payment interchange rates that merchants and consumer are assessed;

Reported in favor of its passage when amended by striking the resolution in its entirety and inserting in lieu thereof the following:

Joint resolution urging Congress to address the detrimental rise of credit and debit-card-related fees and interest rates

Whereas, consumers are increasingly using credit and debit cards to purchase goods and services, and nationally, these purchases now exceed the annual number of check transactions, and

Whereas, merchants accepting credit and debit card payments are required to pay interchange fees to banks and credit card providers, and

Whereas, the rules governing interchange fees may only be released to merchants on a restricted basis, and any disclosure to consumers is prohibited, and

Whereas, the billing statements that both third party providers and credit card companies produce are excessively complex, and

Whereas, the interchange fees are ultimately passed to the consumers, including those who pay with cash or a check and who, in effect, subsidize rewards given to credit card customers, and

Whereas, it is not unusual for the interchange fees to exceed the profit margins of the merchant, and

Whereas, traditional economic models are not applicable because Visa and MasterCard are responsible for approximately 80 percent of all credit card transactions, and

Whereas, small businesses struggle to absorb the constant increases in the cost of accepting electronic payments, and

Whereas, the number of rewards cards encouraging credit card purchases is rapidly increasing, and the new rewards cards are more costly for both merchants and consumers, and

Whereas, parallel with the increase in interchange fees, and costs related to reward cards, is the dramatic rise in the interest fees that consumers pay to maintain their credit cards, and

Whereas, the interest rates charged to an increasing number of consumers have reached the 25-percent level, a rate that is extremely burdensome, and

Whereas, these extremely high interest rates are having a significant economic impact on Vermont consumers and merchants, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to address this acute situation, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the Vermont Congressional Delegation.

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

Favorable Reports; Third Reading Ordered

House and Senate bills of the following titles were severally reported favorably from the Committees to which they had been referred, and the bills, having appeared on the Calendar one day for notice, were taken up, read the second time and third reading ordered:

H. 432

Rep. Pearson of Burlington, reported for the committee on Government Operations on House bill, entitled

An act relating to establishing Juneteenth National Freedom Day;

H. 775

By Rep. Consejo of Shelton, reported for the committee on Commerce on House bill, entitled,

An act relating to low-profit limited liability companies;

S. 257

By Rep. Milkey of Brattleboro, reported for the committee on Health Care on Senate bill, entitled,

An act relating to Medicaid coverage of Naturopathic physicians.

Message from the Senate No. 27

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

Madam Speaker:

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

S. 146. An act relating to advertising and producing musical performances.

S. 220. An act relating to the confidentiality of library patron records.

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

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

J.R.S. 54. Joint resolution urging Congress to reauthorize the Debbie Smith DNA backlog grant program at current or increased funding levels.

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

Adjournment

At eleven o'clock in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at ten o'clock in the forenoon.

WEDNESDAY, FEBRUARY 27, 2008

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

Devotional Exercises

Devotional exercises were conducted by Reverend Mary Mansfield of St. John's Episcopal Church, Stowe, VT.

Committee Bill Introduced

H. 874

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

An act relating to decomposed municipal budgets;

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

Message from the Senate No. 28

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

Madam Speaker:

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

S. 209. An act relating to the Vermont energy efficiency and affordability act.

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

Senate Bills Referred

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

S. 146

Senate bill, entitled

An act relating to advertising and producing musical performances;

To the committee on Commerce.

S. 220

Senate bill, entitled

An act relating to the confidentiality of library patron records;

To the committee on Judiciary.

Joint Resolution Referred to Committee

J.R.S. 54

The Speaker placed before the House a joint resolution, entitled

Joint resolution urging Congress to reauthorize the Debbie Smith DNA backlog grant program at current or increased funding levels;

By Senators Sears and Bartlett;

Whereas, DNA technology is increasingly vital to ensuring accuracy and fairness in the criminal justice system, but it is not yet considered a routine tool for law enforcement to use for criminal identification, and

Whereas, nationwide, over 50,000 law enforcement investigations have benefited from DNA matches made through the Federal Bureau of Investigations Combined DNA Index System (CODIS) bringing justice to victims and removing criminals from the streets, and

Whereas, the "Innocence Project" has used DNA in over 200 cases to exonerate persons who were wrongly convicted of crimes, and

Whereas, in 2008, Vermont and other states now have access to the DNA identity materials of many more convicted felons and arrested individuals, and

this increased information assists the states' efforts to solve unsolved crimes, and

Whereas, the demand for DNA testing in criminal investigations of both violent and nonviolent crimes increases as the DNA testing technology improves, and

Whereas, many laboratories still maintain DNA backlogs of six months or longer and are unable to meet the growing demand for DNA testing despite funding commitments from state and local governments, and

Whereas, the federal Debbie Smith DNA backlog grant program has permitted state and local governments an opportunity to begin to maximize the full potential of forensic DNA through backlog reduction, but much work remains to be done, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly strongly urges Congress to reauthorize the Debbie Smith DNA backlog grant program at current or increased funding levels, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Speaker of the House Nancy Pelosi, to United States Senator Harry Reid, to United States Senator Mitch McConnell, and to the Vermont Congressional delegation.

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

Joint Resolution Referred to Committee

J.R.H. 54

Reps. Obuchowski of Rockingham, Dostis of Waterbury and Kitzmiller of Montpelier offered a joint resolution, entitled

Joint resolution urging Congress to eliminate the Enron Loophole regulatory exemption for energy and metal commodities traded on electronic commodities markets;

Whereas, thousands of Vermonters rely on heating oil to heat their homes and businesses and on gasoline to operate their cars and farm machinery, and

Whereas, the retail price of these refined petroleum products is premised, in large measure, on the wellhead price of crude oil that has in recent weeks hovered in the historically high \$100.00-per-barrel range, and

Whereas, on February 19, some March futures' contracts for gasoline and heating oil, as sold on the New York Mercantile Exchange, rose to levels that were predicated on crude oil barrel prices exceeding \$100.00 per barrel, and

Whereas, a major contributing factor to the escalating cost of crude oil is the so-called "Enron Loophole" (7 U.S.C. § 2(h)(3)), a statutory amendment to the Commodity Exchange Act, which Congress enacted as part of the Commodity Futures Modernization Act in December 2000, at the behest of the large commercial energy traders, which exempts from the regulatory jurisdiction of the federal Commodities Futures Trading Corporation (CFTC) "all agreements, contracts and transactions in energy and metals that are traded on electronic facilities between eligible commercial entities," and

Whereas, the statute refers to these electronic facilities (or markets) as exempt commercial markets (ECM), and the CFTC's jurisdiction is limited to matters pertaining to fraud and price manipulation and a requirement that incidents of an ECM performing a significant price discovery function "be reported publicly," and

Whereas, the principal ECM is the Intercontinental Exchange (ICE), formed in 2000, and according to a June 2006 report of the U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, entitled "The Role of Market Speculation in Rising Gas and Oil Prices: The Need to Put the Cop Back on the Beat," as of December 2005 is the largest over-the-counter (OTC) trader for energy commodities "with over 9,300 active screens at over 1,000 participating firms and over 440 futures participant firms," and

Whereas, as the June 2006 report explained, unlike other OTC exchanges, "neither the CFTC nor the OTC trading facility itself monitors trading activity" of an ECM "to detect and deter fraud and price manipulation," and "key trading information is not disclosed to the CFTC or the public," and

Whereas, "although ICE discloses to the CFTC and subscribers of its data services certain information about posted bids, offers, and completed trades, other critical data routinely reported by the regulated exchanges do not have to be filed with the CFTC," and

Whereas, the report cited the Enron scandal "as clear evidence of how a few sophisticated, unscrupulous traders can harm not only other market participants, but also the public at large by artificially increasing oil prices," and further estimated that \$20.00 of the price of a barrel of oil can be attributed to crude oil futures, and

Whereas, in June 2007, the same congressional subcommittee issued another report entitled "Excessive Speculation in the Natural Gas Market," reflecting similar problems in this energy market, and

Whereas, one of the 2007 report's recommendations stated "Congress should eliminate the 'Enron Loophole'" and said that "experience since passage of the Commodity Futures Modernization Act of 2000, demonstrates there is no sound rationale for exempting electronic energy exchanges from regulatory oversight," and

Whereas, both reports make clear the substantial role of market speculation on price increases in the international energy market, and the New England Fuel Institute has estimated that \$1.00 of the retail purchase price of a gallon of gasoline is due to energy speculation, and

Whereas, legislative initiatives in Congress, including a bill that U.S. Representative Peter Welch introduced, H.R. 4066, "To Amend the Commodity Exchange Act to Close the Enron Loophole, Prevent Price Manipulation and Excessive Speculation in the Trading of Energy Commodities," and a parallel U.S. Senate bill that U.S. Senator Carl Levin sponsored, S. 2058, both seek to end the Enron Loophole, and

Whereas, although neither of these measures has moved forward in the legislative process, the 2007 farm bill conferees have before them language to reverse the Enron Loophole, but this provision is not considered essential to the farm bill's final language, and

Whereas, should the Enron Loophole language not be included in the 2007 farm bill then Congress should adopt either H.R. 4066 or S. 2058, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to eliminate the Enron Loophole regulatory exemption for energy and metal commodities traded on electronic commodities markets, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the Vermont Congressional Delegation.

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

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. 549

House bill, entitled

An act relating to establishing buffer zones along waterways of the state;

H. 859

House bill, entitled

An act relating to increasing substance abuse treatment, vocational training, and transitional housing for offenders in order to reduce recidivism, increase public safety and reduce corrections costs.

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

H. 782

Rep. Crawford of Burk moved that the committee on Education be relieved of House bill, entitled

An act relating to school buses;

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

Rules Suspended; Bill read Second Time; Third Reading Ordered;

Rules Suspended; Bill Read Third Time and Passed;

Rules Suspended; Bill Ordered Messaged to Senate Forthwith

H. 874

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

An act relating to decomposed municipal budgets;

Was taken up for immediate consideration.

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

On motion of **Rep. McDonald of Berlin**, 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. McDonald of Berlin** the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Bill Amended, Read Third Time and Passed

H. 135

House bill, entitled

An act relating to increasing the age for mandatory participation in the corrections systems education program;

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

First: in Sec. 1, subsection (c), after the struck sentence, by adding a new sentence to read: “Within the limits of funds made available for this specific purpose, the commissioner of education shall pay the costs of this program in excess of costs defined in subsection (d) of this section.”

Second: in Sec. 1, subsection (d), by striking the final new sentence in its entirety

Third: in Sec. 1, subdivision (e)(3), by striking the following: “, such as a general education development program or a program operated by a public high school, approved by” and inserting in lieu thereof the words “upon approval by”

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

Sec. 2. COMMUNITY HIGH SCHOOL OF VERMONT; SPECIAL EDUCATION; STUDY

On or before January 15, 2009, the commissioner of education and the commissioner of corrections shall report to the house and senate committees on education, the senate committee on judiciary, and the house committee on institutions and corrections regarding information gathered from the community high school of Vermont, and recommendations for future legislation. The report shall include a description of the pupils served, current funding mechanisms, and a proposed funding mechanism to meet the general and special education needs of the pupils.

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

Third Reading; Bills Passed

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

H. 432

House bill, entitled

An act relating to establishing Juneteenth National Freedom Day;

H. 775

House bill, entitled

An act relating to low-profit limited liability companies;

H. 865

House bill, entitled

An act relating to Vermont Milk Commission.

Third Reading; Bill Passed in Concurrence**S. 257**

Senate bill, entitled

An act relating to Medicaid coverage of naturopathic physicians;

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

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment****S. 351**

Senate bill, entitled

An act relating to consolidating management of public records;

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Third Reading; Joint Resolution Adopted**J.R.H. 53**

Joint resolution, entitled

Joint resolution urging Congress to address the dramatic rise of electronic payment interchange rates that merchants and consumer are assessed;

Was taken up, read the third time and adopted on the part of the House.

Bill Read Second Time; Bill Amended; Third Reading Ordered**H. 867**

Rep. Atkins of Winooski spoke for the committee on Government Operations.

House bill entitled

An act relating to health insurance plan coverage for athletic trainer services;

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

In Sec. 1, 8 V.S.A. § 4088f(a), by striking the first and second sentences in their entirety and inserting in lieu thereof new first and second sentences as follows: “To the extent a health insurance plan provides coverage for a particular type of health service or for any particular medical condition that is within the scope of practice of athletic trainers, a licensed athletic trainer who acts within the scope of practice authorized by law may bill the health insurer directly for those services. A health insurer may require that the athletic trainer services be provided by a licensed athletic trainer under contract with the insurer.”

Which was agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 352

Rep. Trombley of Grand Isle, for the committee on General, Housing and Military Affairs, to which had been referred House bill, entitled

An act relating to reducing lead hazards in housing;

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

Sec. 1. FINDINGS AND INTENT

The general assembly finds that:

(1) Lead is highly toxic to humans, particularly to young children, and can cause irreversible damage resulting in long-lasting, permanent neurological damage, such as decreases in I.Q. and conditions associated with school failure, delinquency, and criminal behavior.

(2) Medical research shows that there is no safe level of lead, and that decreases in I.Q. are greatest for the first ten micrograms of lead per deciliter of blood in young children.

(3) In February 2007, the Vermont department of health announced that it would lower the blood lead level that triggers governmental action from ten to five micrograms of lead per deciliter of blood.

(4) In 2004, four percent of all Vermont children aged one and two years who received lead screening—or approximately 300 children—had blood lead levels at or above ten micrograms per deciliter. Approximately one-third or nearly 3,000 of all children tested had blood lead levels at or above five micrograms per deciliter.

(5) The primary exposure to lead for Vermont children is lead-based paint in housing built prior to 1978 when lead was banned in residential paint.

Vermont has over 112,000 owner-occupied housing units and over 56,000 rental housing units built prior to 1978.

(6) Vermont's lead law, which has been in place since 1996, attempts to prevent exposing children to lead in rental housing by requiring that essential maintenance practices be performed in nearly all rental housing units built prior to 1978. The only provisions that attempt to prevent lead poisoning in children in owner-occupied housing are related to education.

Sec. 2. 18 V.S.A. § 1751 is amended to read:

§ 1751. DEFINITIONS

(a) Words and phrases used in this chapter ~~or in rules adopted pursuant to this chapter and not defined herein shall have the meanings given to them~~ have the same definitions as provided in the Federal Residential Lead-Based Paint Hazard Reduction Act of 1992. In the event of unless there is an inconsistency between meanings given in such federal act and meanings given in this chapter, the federal act shall apply except where meanings given in this chapter serve to narrow, limit or restrict the applicability of a word or phrase, in which cases the narrower meaning shall apply in which case, any definition provided in this section that narrows, limits, or restricts shall control.

(b) For the purposes of this chapter:

(1) "Abatement" means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by appropriate state and federal agencies. The term includes:

(A) ~~the removal~~ Removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and ~~the removal or covering of lead-contaminated soil; and~~ .

(B) ~~all~~ All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(2) ~~"Certified inspector" or "licensed inspector" means an individual who has been trained by an accredited training program and certified by the department to perform the duties of an inspector or risk assessor. "Child" or "children" means an individual or individuals under the age of 18 years.~~

(3) "Child care facility" means a day care facility or family day care home as defined in 33 V.S.A. § 4902 that was constructed prior to 1978.

(4) ~~"Commissioner" means the commissioner of the department of health.~~

~~(5) "Comprehensive environmental lead inspection" or "inspection"~~
"Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and other lead hazards and the provision of a report explaining the results of the investigation.

~~(6) "Department" means the department of health.~~

~~(7)(5)~~ "Deteriorated paint" means any interior or exterior lead-based paint that is peeling, chipping, chalking, flaking, or cracking or any lead-based paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

~~(8)(6)~~ "Dwelling" means either of the following:

(A) ~~a single family dwelling,~~ A detached family residential unit including attached structures such as porches and stoops; ~~or,~~

(B) a single-family dwelling residential unit in a structure that contains more than one separate residential dwelling unit, and ~~which is used or occupied, or intended to be used or occupied, in whole or in part,~~ as the home or residence of one or more persons.

(7) "EMP" means essential maintenance practices required by section 1759 of this title.

(8) "Elevated blood lead level" means having a blood lead level of five micrograms per deciliter of human blood, or a lower level as determined by the commissioner.

(9) "Independent dust clearance" means a visual examination and collection of environmental samples, including dust samples, by a licensed inspector in whose firm or corporation lead inspector or lead assessor who has no financial interest in and is independent of both the person performing the work and the owner of the property to be inspected has no financial interest. The licensed inspector lead inspector or lead assessor shall use methods specified by the department and analysis by an accredited laboratory to determine that lead exposures do not exceed limits set by the department utilizing current information from the U.S. Environmental Protection Agency or the U.S. Department of Housing and Urban Development.

(10) "Interim controls" means a set of measures designed to temporarily reduce human exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment of management and resident education programs.

(11) "Lead-based paint" means paint or other surface coatings that contain lead in excess of limits established under section 302(c) of the Federal Lead-Based Paint Poisoning Prevention Act.

(12) ~~"Lead contractor" means any person engaged in deleading or lead hazard reduction as a business and includes consultants and inspectors who design, perform, oversee or evaluate lead hazard reduction projects employing one or more individuals licensed by the department under this chapter.~~

(13) ~~"Lead based paint activities" means:~~

~~(A) in the case of target housing, risk assessment, inspection, and abatement.~~

~~(B) in the case of any public building constructed before 1978, identification of lead based paint and materials containing lead based paint, deleading, and demolition. The term "lead based paint activities" may be further limited or restricted by rule adopted by the secretary. "Lead abatement worker" means any individual who has satisfactorily completed an accredited training program approved by the department and has a current license issued by the department to perform abatements.~~

~~(14) "Lead designer" means any individual who has satisfactorily completed an accredited training program approved by the department and has a current license issued by the department to prepare lead abatement project designs, occupant protection plans, and abatement reports.~~

~~(14)(15) "Lead based paint hazard" or "LBP" "Lead hazard" means any condition that causes exposure to lead inside and in the immediate vicinity of target housing from water, lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that has deteriorated or is present in accessible surfaces, friction surfaces, or impact surfaces, or building materials that would result in adverse human health effects as defined by the department using current information from the U.S. Environmental Protection Agency or the U.S. Department of Housing and Urban Development.~~

~~(15) "Lead based paint hazard control" or "LBP hazard control" or "lead hazard control" means a measure or set of measures designed to control or eliminate human exposure to lead based paint hazards through methods that include interim controls, abatement, and complete removal.~~

~~(16) "Lead poisoning" means a confirmed blood lead level in a child six years of age or younger greater than or equal to ten micrograms of lead per deciliter of whole blood, unless the commissioner finds by rule that a higher or lower concentration is necessary to protect public health. "Lead inspector" means any individual who has satisfactorily completed an accredited training~~

program approved by the department and has a current license issued by the department to conduct inspections.

(17) "Lead risk assessor" means any individual who has satisfactorily completed an accredited training program approved by the department and has a current license issued by the department to conduct risk assessments.

(18) "Lead-safe renovator" means any person who has completed a lead-safe training program approved by the department and has a current registration issued by the department to perform renovations in target housing or child care facilities in which interior or exterior lead-based paint will be disturbed.

(19) "Lead supervisor" means any individual who has satisfactorily completed an accredited training program approved by the department and has a current license issued by the department to supervise and conduct abatement projects and prepare occupant protection plans and abatement reports.

~~(17)~~(20) "Occupant" means any person who resides in, or regularly uses, a dwelling, ~~ear~~ mobile dwelling unit, or structure.

~~(18)~~(21) "Owner" means any person who, alone or jointly or severally with others:

(A) Has legal title to any dwelling ~~or dwelling unit~~ or child care facility with or without ~~accompanying~~ actual possession thereof; ~~or of the property.~~

(B) Has charge, care, or control of any dwelling or dwelling unit or child care facility as agent of the owner or guardian of the estate of the owner. An agent of the owner does not include real estate and property management functions where the agent is only responsible for the property management and does not have authority to fund capital or major property rehabilitation on behalf of the owner.

(C) ~~For purposes of publicly owned property only, the owner shall be the~~ ~~Is the~~ chief executive officer of the municipal or state agency ~~which that~~ owns, leases, or controls the use of the publicly owned property.

(D) ~~A Is a person who holds indicia of ownership in a dwelling or dwelling unit or child care facility furnished by the owner or person in lawful possession for the primary purpose of assuring repayment of a financial obligation shall not be considered an owner unless such person has taken full legal title of a dwelling or child care facility through foreclosure, deed in lieu of foreclosure, or otherwise. "Owner" does not include a person who holds indicia of ownership given by the person in lawful possession for the primary~~

purpose of assuring repayment of a financial obligation. Indicia of ownership includes interests in real or personal property ~~that are~~ held as security or collateral for repayment of a financial obligation such as a mortgage, lien, security interest, assignment, pledge, surety bond or guarantee and includes participation rights of a financial institution used for legitimate commercial purposes in making or servicing the loan.

~~(E) Owns a building in which a child care facility is located or owns the child care business, although the owner of the child care business may not own the building.~~

~~(19)~~(22) "Rental target housing" means target housing offered for lease or rental under a rental agreement as defined in 9 V.S.A. § 4451. "Rental target housing" does not include a rented single room located within a residential dwelling unit in which the owner of the dwelling unit resides unless a child six years of age or younger resides in or is expected to reside in that dwelling unit.

~~(20)~~(23) "Risk assessment" means an on-site investigation by a ~~licensed inspector or risk assessor~~ lead risk assessor to determine and report the existence, nature, severity, and location of ~~lead-based paint~~ lead hazards, including information gathering about the age and history of the property and occupancy by children ~~under the age of six years~~, visual inspection, limited wipe sampling, or other environmental sampling techniques, other appropriate risk assessment activities and a report on the results of the investigation.

~~(21)~~ "Secretary" means the secretary of the agency of human services.

~~(22)~~ "Severely lead poisoned" means ~~a confirmed venous blood lead level in a child six years of age or younger that is greater than or equal to 20 micrograms of lead per deciliter of whole blood or as defined by the commissioner.~~

~~(23)~~ "State inspector" means ~~the commissioner or any person who is authorized in writing by the commissioner to conduct inspections for the department.~~

~~(24)~~ "Screen," "screened," or "screening" relating to blood lead levels, means the initial blood test to determine the presence of lead in a human.

~~(24)~~(25) "Target housing" means any dwelling ~~or dwelling unit~~ constructed prior to 1978 and used as a residence, except any 0-bedroom residential dwelling unit or any residential dwelling unit located in multiple-unit buildings or projects reserved for the exclusive use of the elderly or persons with disabilities, unless a child six years of age or younger resides in or is expected to reside in that housing. "Target housing" does not include

units in a hotel, motel, or other lodging, including condominiums, that are ~~designed and rented for transient occupancy for travelers or vacationers and not intended to be used as a primary residence 30 days or less.~~

Sec. 3. 18 V.S.A. § 1752 is amended to read:

§ 1752. ACCREDITATION OF TRAINING PROGRAMS;
CERTIFICATION, REGISTRATION AND LICENSURE OF
~~ENVIRONMENTAL LEAD INSPECTORS AND LEAD~~
~~CONTRACTORS, SUPERVISORS AND WORKERS~~

(a) ~~No later than six months after promulgation of final federal regulations under section 402 of the Federal Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the~~ The department shall develop a program to administer and enforce the ~~lead based paint activities training and certification standards, regulations, or requirements of this chapter and other requirements as established by the administrator of the federal Environmental Protection Agency for persons engaged in lead based paint~~ lead abatement activities. The commissioner shall adopt rules to implement and enforce this chapter, including establishing standards and specifications for registration, licensing, issuing a certificate, and accreditation of training programs both within and outside Vermont.

(b) ~~The secretary shall adopt emergency rules, and not later than January 1, 1994, the secretary shall adopt permanent rules, establishing standards and specifications for the accreditation of training programs both within and outside Vermont, including the mandatory topics of instruction, the knowledge and performance standards that must be demonstrated by graduates in order to be certified, and required qualifications for training programs and instructors. Such standards shall be designed to protect children, their families, and workers from improperly conducted lead based paint activities, and shall be at least as protective of human health and the environment as the federal program. Hands on instruction and instruction for identification and proper handling of historic fabric and materials shall be components of the required training. The commissioner shall issue certificates to all persons who satisfactorily complete an essential maintenance practices training program for lead hazard control, approved by the commissioner.~~

(c) ~~The commissioner shall certify risk assessors, designers, issue registrations and licenses to laboratories, inspectors, lead contractors, supervisors, abatement workers, and other persons engaged in lead based paint activities when such persons individuals, and firms, provided they have successfully completed an accredited a training program approved by the commissioner and met such other requirements as the secretary may, by rule,~~

impose complied with all registration and licensing criteria required by the commissioner.

(d) ~~After the adoption of rules pursuant to subsection (b) of this section, no~~ No person shall perform for compensation of any kind engage in any activity likely to disturb more than one square foot of lead-based paint activities without first registering or obtaining a license from the commissioner, as provided in this section. The commissioner may grant a license to a person who holds a comparable valid license from another state.

(e) Nothing in this chapter shall be construed to limit the authority of the ~~secretary, the commissioner of health, the commissioner of labor, or the commissioner of environmental conservation~~ under the provisions of any other law.

Sec. 4. 18 V.S.A. § 1754 is amended to read:

§ 1754. PUBLIC EDUCATION

(a) ~~Beginning January 1, 1994, the~~ The commissioner of health shall prepare and distribute clear and simple ~~printed~~ materials describing the dangers of lead poisoning, the need for parents to have their ~~child~~ children screened, how to have a child ~~tested and receive a confirmation test,~~ recommended nutrition and housekeeping practices, and materials on other lead hazards in housing, identifying possible sources of lead exposure in housing in addition to lead-based paint, and describing methods for addressing those sources. The commissioner shall work with persons and organizations ~~involved in occupations that may involve lead-based paint hazards or childhood lead poisoning to distribute the materials to their clients, patients, students, or customers whose work involves disturbance of lead-based paint or preventing and treating elevated blood lead levels in humans,~~ such as realtors, subcontractors, apartment owners, public housing authorities, pediatricians, family practitioners, nurse clinics, child clinics, other health care providers, child care and preschool operators, and kindergarten teachers to encourage them to distribute the materials to their clients, patients, students, or customers. The commissioner shall also identify those points in time or specific occasions, when members of the public are in contact with public agencies and lead might be an issue, such as building permits, home renovations, and ~~the ANFC and WIC~~ appropriate state and federal programs, and make the materials available on these occasions.

(b) The commissioner shall prepare an appropriate media campaign to educate the public on lead poisoning prevention. The commissioner shall encourage professional property managers, ~~rehab~~ rehabilitation and

weatherization contractors, ~~minimum~~ housing inspectors, social workers, and visiting nurses to attend education and awareness workshops.

~~(c) The commissioner shall develop a program or approve a program, or both, to train owners and managers of rental target housing and child care facilities and their employees to perform essential maintenance practices. The names and addresses of all persons who attend the approved training program shall be maintained as a public record that the commissioner shall provide to the department of housing and community affairs.~~

Sec. 5. 18 V.S.A. § 1755 is amended to read:

§ 1755. UNIVERSAL ACCESS TO SCREENING

~~(a) Not later than November 1, 1993, the~~ The commissioner shall publish the results of the department's lead poisoning prevalence study. ~~Not later than January 1, 1994, the commissioner shall publish and the~~ guidelines establishing that establish the methods by which and the intervals at which children under six years of age are recommended to should be screened and tested given a confirmation test for blood lead poisoning, according to the age of the children and their probability of exposure to ~~high dose sources of~~ lead. The guidelines shall take into account the recommendations of the U.S. Centers for Disease Control and the American Academy of Pediatrics and shall be updated as those recommendations are changed. The commissioner ~~may~~ also shall recommend screening for lead poisoning in other high risk groups.

~~(b) Not later than January 1, 1994, the Vermont the commissioner of banking, insurance, securities, and health care administration shall recommend to the general assembly whether lead screening should be a common benefit under the universal access proposals it has presented, and, if so, how such benefits should be financed. The cost of implementing the Vermont commissioner of banking, insurance, securities, and health care administration's plan under this chapter shall be included in the unified health care budget to be adopted by the authority effective July 1, 1994.~~

~~(c) Beginning July 1, 1994, all~~ All health care providers who provide primary medical care shall ensure that parents and guardians of children below the age of six are advised of the availability and advisability of screening and testing their children for lead poisoning in accordance with the commissioner's guidelines.;

(1) Screen all children one- and two-years old for lead unless the parent or guardian of the child objects on the grounds that the procedure conflicts with the parent or guardian's moral or religious tenets or practices.

(2) Conduct a confirmation test of blood lead levels by venous draw for any child whose screening results are ten micrograms of lead per deciliter of blood or more.

~~(d)(c) Any health care provider or employee thereof making the diagnosis of lead poisoning shall report such diagnosis to the department within such time and using such format as the department shall prescribe. Any laboratory in Vermont which that analyzes blood samples of children below the age of six Vermont residents for lead levels shall report to the department such all information on blood lead analyses as required by the department may require including data on the number and results of blood lead analyses performed by the laboratory. All health care providers who analyze blood samples for lead levels or who use laboratories outside Vermont to analyze blood samples of children below the age of six for lead levels shall report to the department such all information as required by the department may require including data on the number and results of such blood lead tests. The commissioner shall establish procedures to ensure the confidentiality of the children and families. All blood lead data reports to the department shall include the name, date of birth, date of blood test, and address of the individual whose blood is analyzed and, if known, the owner of the residence of the individual.~~

~~(e) After the guidelines established pursuant to subsection (a) of this section have been in place for two years, the commissioner shall determine the percentage of children below the age of six who are being screened in accordance with those guidelines. If fewer than 75 percent of such children are receiving such screening, the secretary shall adopt rules to require that all health care providers who provide primary medical care to young children shall ensure that their patients are screened and tested according to the commissioner's guidelines beginning January 1, 1997. Such rules shall provide that no screening or testing shall be required pursuant to this subsection if the parent or guardian of the child objects to the child undergoing blood lead screening on the grounds that such screening conflicts with their moral or religious tenets or practices.~~

Sec. 6. 18 V.S.A. § 1756 is amended to read:

§ 1756. ANNUAL REPORT

(a) The commissioner shall, at least annually, on or before October 15, analyze and summarize all aggregate the information collected during the previous fiscal year relating to lead screening and confirmation testing information provided by physicians, health care facilities, and laboratories and shall provide this information to all other local and state agencies involved with case management and lead hazard reduction.

(b) The commissioner shall ~~also at least~~ annually on or before October 15 provide to the general assembly, the health community, and the general public an analysis and summary of such data, collected during the previous fiscal year, and a progress report on the commissioner's efforts to prevent elevated blood lead poisoning in young children levels in a format that is easily understandable to nontechnical readers. The report shall include:

(1) The number and percentage of children under the age of six who have been screened and ~~tested for lead poisoning~~ had a confirmation test, and the ~~number found to have lead poisoning at various~~ blood lead levels of those children.

(2) ~~Estimates of the public and private costs incurred since July 1, 1993 to prevent, correct, or treat lead poisoning.~~

(3) An analysis of barriers to universal blood screening of children under the age of six years.

(3) The number of home visits conducted, work plans issued, and the number and nature of enforcement actions taken based on elevated blood lead levels.

(4) Any report to the general assembly required by subsection 1757(d) of this title.

(5) The number of annual EMP compliance certifications filed with the department.

(6) The number and blood lead levels of all individuals not included in subdivision (1) of this subsection.

(7) The commissioner's recommendations for action.

Sec. 7. 18 V.S.A. § 1757 is amended to read:

§ 1757. LEAD POISONED CHILDREN

(a) Upon receiving a report that a child ~~under age six has been diagnosed by a qualified physician to have lead poisoning,~~ a screening test result of ten or more micrograms of lead per deciliter of blood, or a lower level as determined by the commissioner, the commissioner shall take prompt action to ~~confirm the diagnosis~~ ensure that the child obtains a confirmation test pursuant to subsection 1755(b) of this title.

(b) If the child ~~is severely lead poisoned~~ has an elevated blood lead level, the commissioner shall provide for information on lead hazards to the parents or guardians of the child.

(c) If the child has a confirmed blood lead level at or above ten micrograms of lead per deciliter of blood and if resources permit, the commissioner:

(1) Shall provide an inspection of the dwelling unit occupied by the child or the child care center the child attends, by a state inspector or licensed private inspector lead risk assessor, and a plan developed in consultation with the parents, owner, physician, and others involved with the child to minimize the exposure of the child to lead. The plan developed under this subdivision shall require that any lead hazards identified through the inspection be addressed through interim controls or abatement.

(2) The commissioner may May inspect and evaluate other dwelling units in a the building in which a severely lead-poisoned the child has been identified as is living and if it is reasonable to believe that a child under the age of six occupies, receives care, or otherwise regularly frequents the other dwelling units in that building.

(3) Shall promptly take necessary action to ensure compliance with this section including appropriate enforcement action. If the commissioner finds a violation of section 1759 of this title, a civil penalty shall be assessed.

~~(c) The commissioner shall work with the parents, owner, physician, and others involved with the child to develop a plan to minimize exposure of the child to lead hazards.~~

~~(d) Concerning target housing which is rented or leased, on or before January 1, 1994, the secretary with the concurrence of the commissioner of housing and community affairs shall adopt rules to implement this section including rules which assure that prompt action will be taken to confirm a lead poisoning diagnosis, to inspect the possible sources of lead poisoning, and to secure voluntary compliance or to take necessary enforcement action. Enforcement action shall include providing the child's parents or guardians and the owner of the dwelling unit with appropriate educational materials on lead poisoning prevention and may include requiring the owner of the dwelling unit to initiate interim controls or abatement of lead based paint hazards within a specified time. If resources do not permit the commissioner to provide the inspection and plan pursuant to subsection (b) of this section for at least 80 percent of the children with a confirmed blood lead level at or above ten micrograms of lead per deciliter of blood during any fiscal year, the commissioner shall submit a special report on this lack of resources to the general assembly no later than October 15 following the end of that fiscal year.~~

(e) Nothing in this section shall be construed to limit the commissioner's authority under any other provision of Vermont law.

Sec. 8. 18 V.S.A. § 1758 is amended to read:

§ 1758. HOUSING-REGISTRY LEAD HAZARD DATA

(a) ~~The department shall issue certificates to all persons who satisfactorily complete a training program on performing essential maintenance practices for lead-based hazard control and shall compile a list of those persons' the names of all persons who satisfactorily complete a training program on essential maintenance practices, lead-safe renovation, and any other lead hazard training programs authorized by the department.~~

(b) ~~If additional funds are appropriated to the department in fiscal year 1998, on or before October 1, 1997, the department of housing and community affairs shall establish and maintain a list of housing units which (1) are lead free or (2) have undergone lead hazard control measures and passed independent dust clearance tests. The registry shall be maintained as a public record.~~

(c) ~~The department of social and rehabilitation services for children and families, child development division shall identify all child care facilities in which the owners have completed essential maintenance practices or lead hazard control measures and provide the findings to the department annually.~~

Sec. 9. 18 V.S.A. § 1759 is amended to read:

§ 1759. ESSENTIAL MAINTENANCE PRACTICES

(a) ~~For the purposes of this section, all~~ All paint in target housing and child care facilities is presumed to be lead-based unless a certified lead inspector or lead risk assessor has determined that it is not lead-based. All owners of rental target housing and child care facilities shall perform the Essential maintenance practices in rental target housing and child care facilities shall be performed only by a person who has successfully completed an EMP training program approved by the commissioner or a person who works under the direct, on-site supervision of a person who has successfully completed such training. That person shall comply with section 1760 of this title and shall take all reasonable precautions to avoid creating lead hazards during any renovations, remodeling, maintenance, or repair project that disturbs more than one square foot of lead-based paint, pursuant to guidelines issued by the department. The following essential maintenance practices on their property shall be performed in all rental target housing and child care facilities, unless a lead inspector or a lead risk assessor has certified that the property is lead-free:

(1) ~~Take all reasonable precautions to avoid creating lead hazards during any renovation, remodeling, maintenance, or repair project that disturbs a lead-based painted surface pursuant to guidelines issued by the department. The guidelines shall include the following requirements:~~

~~(A) A prohibition against lead based paint removal by burning, water blasting, dry scraping, power sanding, or sandblasting, unless authorized by the department.~~

~~(B) Use of good work practices and safety precautions to prevent the spread of lead dust, including limiting access to work areas to workers, covering the work area with six mil polyethylene plastic or the equivalent, wearing of protective clothing by workers, protecting belongings of occupants by covering or removing them from the work area, misting painted surfaces before disturbing the paint, and wetting sweeping debris.~~

~~(C) At the conclusion of the work, specialized cleaning of the work area shall be performed shall be thoroughly cleaned using methods designed to remove lead dust and recommended by the department.~~

~~(2) Perform visual on site inspections of all interior and exterior surfaces and fixtures of the building to identify deteriorated paint and install window well inserts into all windows, or protect window wells by another method approved by the department, no later than July 1, 1998; thereafter, visual on site inspections shall be performed annually and upon a change of tenant. Install window well inserts in all windows, or protect window wells by another method approved by the department.~~

~~(3)(2) At least once a year and at each change of tenant, and annually in units in which a child six years of age or younger resides clean all window wells and window sills within the unit and in all areas of the building to which access by tenants is not restricted by the rental agreement. The cleaning shall be accomplished by using cleaning methods, products, and devices that are effective in the removal of lead contaminated dust and recommended by the department perform visual on-site inspection of all interior and exterior painted surfaces and components at the property to identify deteriorated paint.~~

~~(4)(3) Promptly and safely remove or stabilize lead-based paint if more than one square foot of deteriorated lead-based paint is found on any interior or exterior surface located within any area of the building property to which access by tenants is not restricted by the rental agreement or on any exterior porch or an exterior wall, surface or fixture within the exterior porch. An owner shall restore the assure that all surfaces to be are free of deteriorated lead-based paint within 30 days after deteriorated lead-based paint has been visually identified or within 30 days after receipt of a written or oral report of deteriorated lead-based paint from any person including the department, a tenant, or from an owner of a child care facility. If Because exterior paint repairs cannot be completed in cold weather, any exterior repair work is identified after November 1 ~~of any year, the repair may be delayed for~~~~

~~completion until~~ shall be completed no later than the following May 31 of the following year provided that access to surfaces and components with lead hazards and areas directly below the deteriorated surfaces is restricted by the use of physical barriers or other methods approved by the department.

(5)(4) If more than one square foot of deteriorated paint is found on any exterior wall surface or fixture not covered by subdivision (4)(3) of this subsection and is located in an area frequented by children six years of age or younger in warm weather, the owner shall:

(A) promptly and safely repair and stabilize the paint and restore the surface; or

(B) prohibit access to the area, surface, or fixture to assure that children will not come into contact with the deteriorated lead-based paint.

(5) Annually remove all visible paint chips from the ground on the property and assure that any bare soil within four feet of buildings is inaccessible by using any appropriate and effective method, including fencing, groundcover, or other vegetation, or covering the bare soil with stone or other materials recommended by the department.

(6) At least once a year, using methods recommended by the department, thoroughly clean all interior horizontal surfaces, except ceilings, in common areas accessible to tenants.

~~(6)(7) Provide written LBP hazard information prepared or approved by the department to current and prospective tenants and current and prospective owners of child care facilities. At each change of tenant, thoroughly clean all interior horizontal surfaces of the dwelling unit, except ceilings, using methods recommended by the department.~~

(7)(8) Post, in a prominent place in buildings containing rental target housing units or a child care facility, a notice to occupants emphasizing the importance of promptly reporting deteriorated paint to the owner or to the owner's agent. The notice shall include the name, address, and telephone number of the owner or the owner's agent.

~~(8) Attend a training program offered or approved by the department. The training, which shall be available to any person who repairs, remodels or renovates property, shall be attended by the owner, the owner's property manager, or a representative of the owner's regular maintenance staff.~~

~~(9) Ensure that any person who performs essential maintenance work has completed a department approved training program or is being supervised~~

~~on-site by a person who has completed the training program and complies with the essential maintenance practices.~~

~~(10) At each change of tenant, the owner shall clean all horizontal surfaces, except ceilings, within all areas of the building used by tenants and not otherwise restricted by the rental agreement. This cleaning shall be done by using cleaning methods, products and devices prescribed by the department that are effective in cleaning up lead contaminated dust, such as vacuum cleaners with HEPA filters, and wet cleaning with trisodium phosphate or other lead specific detergents.~~

(b) The owner of rental target housing or a child care facility shall perform all the following:

(1) When the essential maintenance practices are completed, the owner shall sign an affidavit indicating that, to the best of the owner's knowledge and belief EMP compliance statement certifying that the essential maintenance practices have been performed, including the addresses of the units in which EMPs were performed, the dates they were completed, and by whom they were of completion, and the person who performed the EMPs, and that subdivisions (2) and (3) of this subsection have been or will be complied with. The owner shall file the affidavit

(2) File the statement required in subdivision (1) of this subsection with the owner's liability insurance carrier and the department, and shall provide a copy of the statement to all tenants. Annually, the owner shall conduct a visual check, perform required essential maintenance practices, and sign and file an affidavit as required by this subsection.

(3) Provide current and prospective tenants with written information regarding lead hazards approved by the department at the time the owner provides the tenant with the EMP compliance statement.

Sec. 10. 18 V.S.A. § 1760 is amended to read:

§ 1760. CERTIFICATION; RULES; REPORT; FUTURE DEPARTMENT UNSAFE WORK PRACTICES

~~(a) No later than January 1, 1997, the secretary shall adopt rules that establish methods and practices to be used by licensed inspectors who certify that target housing and child care facilities are lead free or have had lead-based paint hazards identified and controlled and have passed independent dust clearance tests. The rules shall include the duration of validity of any certifications and requirements for renewal of certifications.~~

~~(b) By January 1, 1999, the secretary shall report to the general assembly on the need for additional essential maintenance practices or other actions to further prevent lead poisoning in children based on significant:~~

~~(1) Reductions in the number and percentage of poisoned and severely lead-poisoned children.~~

~~(2) Increases in the number and percentages of owners of rental target housing that have performed essential maintenance practices.~~

~~(3) Increases in the number and percentage of housing units that have achieved higher levels of lead hazard control.~~

~~(4) Advances in lead poisoning prevention technology.~~

~~(5) Impact of public education efforts in reducing the lead levels of children at risk.~~

~~(c) After July 1, 2000, the secretary may adopt rules for the low cost and cost effective implementation of the essential maintenance practices established in section 1759 of this title and additional recommended low cost and cost effective essential maintenance practices and other actions to further prevent lead poisoning in children.~~

(a) No person shall disturb more than one square foot of lead-based paint using unsafe work practices. The commissioner may include additional unsafe work practices by rule. Unsafe work practices include the following, unless specifically authorized by the department:

(1) Removing lead-based paint by:

(A) Open flame burning or torching.

(B) Use of heat guns operated above 1100 degrees Fahrenheit.

(C) Dry scraping.

(D) Machine sanding or grinding.

(E) Uncontained hydro-blasting or high pressure washing.

(F) Abrasive blasting or sandblasting without containment and high-efficiency particulate exhaust controls.

(G) Chemical stripping using methylene chloride products.

(2) Failing to employ one or more of the following lead-safe work practices:

(A) Limiting access to interior and exterior work areas.

(B) Enclosing interior work areas with plastic sheathing or other effective lead dust barrier.

(C) Using protective clothing.

(D) Misting painted surfaces before disturbing paint.

(E) Wetting paint debris before sweeping to limit dust creation.

(F) Any other measure required by the department.

(b) If it is determined that a person is disturbing lead-based paint using unsafe work practices, the commissioner may require the person to cease work and to take action necessary to terminate or mitigate lead hazards. The order shall identify the unsafe work practice, the location of the work being performed, and the person performing the work.

(c) No person shall perform, or hire another person to perform, any work for compensation of any kind in any target housing or child care facility if the work is likely to disturb more than one square foot of lead-based paint unless the person hired holds a current registration or license issued by the department applicable to the work to be performed.

(d) No person shall perform any renovation in target housing or child care facility for compensation without complying with the pre-renovation notification requirements pursuant to rules of the U.S. Environmental Protection Agency.

Sec. 11. 18 V.S.A. § 1760a is added to read:

§ 1760a. ENFORCEMENT; ADMINISTRATIVE ORDER; PENALTIES

(a) The commissioner may issue an administrative order when the commissioner determines that there has been a violation of this chapter. The order shall be served on the respondent in person or by certified mail, return receipt requested, and a copy of the order shall be provided to the attorney general. An order shall be effective on receipt unless stayed by court order. An administrative order shall include:

(1) A statement of the facts that provide the basis for the violation.

(2) Identification of the applicable statute, rule, permit, assurance, work plan, or order.

(3) Rights of appeal pursuant to subsection (d) of this section.

(4) Notice that injunctive relief in the order is effective on receipt unless stayed by court order.

(5) The amount of any administrative penalty.

(6) Suspension of registration, certification, or licensure, if any.

(7) Applicable directives for actions to address any violations described in the order.

(b) A person who violates a provision of this chapter in target housing or a child care facility shall be subject to an administrative penalty of not more than \$10,000.00 for each violation or for each day of a continuing violation. A violator may be subject to any other available enforcement proceedings, remedies, and penalties. In assessing a penalty, the commissioner shall consider at least the following:

(1) The degree of actual or potential impact on public health resulting from the violation.

(2) The confirmed elevated blood lead level of the child who occupies or regularly frequents the property.

(3) The extent of the violator's knowledge of the violation.

(4) The respondent's record of compliance with essential maintenance practice requirements.

(5) Any economic gain derived from the violation, including the estimated costs avoided by noncompliance.

(6) The deterrent effect of the penalty on the violator and the regulated community.

(7) The cost to the state of investigation, enforcement, and attorney fees.

(8) The length of time the violation has existed.

(9) Any other relevant factors.

(c) In lieu of part or all of a civil penalty, the commissioner may accept a contribution to the lead hazard education and cleanup fund. Penalties or payments paid in lieu of penalties paid pursuant to this section shall be deposited in the lead hazard education and cleanup fund.

(d) A person may appeal a violation determination and penalty to the superior court within 30 days after the determination is issued. The superior court review shall be de novo and pursuant to Rule 74 of the Vermont Rules of Civil Procedure.

(e) The commissioner may refer violations of this chapter to the attorney general for civil or criminal enforcement.

(f) The attorney general shall bring the case in the name of the state of Vermont.

(g) In any civil action brought pursuant to this section in which a temporary restraining order or preliminary injunction is sought, relief shall be obtained upon a showing that there is the probability of success on the merits, and that a violation exists or a violation is imminent and likely to result in substantial harm. There is no requirement to demonstrate immediate and irreparable injury, loss, or damage for an action under this subsection.

(h) The attorney general may seek all equitable and legal remedies available, including civil penalties.

(i) The court shall assess civil penalties pursuant to subsections (b) and (c) of this section.

(j) Nothing in this section shall limit the commissioner's authority under any other provision of law.

Sec. 12. 18 V.S.A. § 1761 is amended to read:

§ 1761. DUTY OF REASONABLE CARE; NEGLIGENCE; LIABILITY

(a) Owners of target housing and owners of child care facilities shall take reasonable care to prevent exposure to, and the creation of, ~~lead-based paint~~ lead hazards. In an action brought under this section, evidence of actions taken or not taken to satisfy the requirements of this chapter, including performing essential maintenance practices, may be admissible evidence of reasonable care or negligence.

(b) Any person who suffers an injury proximately caused by an owner's breach of this duty of reasonable care shall have a cause of action to recover damages and for other appropriate equitable relief.

~~(c) A person who is severely lead-poisoned as a result of a violation of the duty of reasonable care before the age of six, or a parent, legal guardian or other person authorized to act on behalf of that person, shall have a cause of action to recover damages and other appropriate relief.~~

(d) The owner of target housing or a child care facility who has reduced ~~lead-based paint~~ lead hazards by completing risk assessment and controls and who has had a ~~licensed inspector~~ lead risk assessor certify, ~~pursuant to rules under section 1760 of this title,~~ that identified ~~lead-based paint~~ lead hazards have been controlled in ~~target housing or child care facility premises~~ and the housing or facility contains no lead-contaminated dust shall not be liable for injury or other relief claimed to be caused by exposure to lead during the time period covered by the certification.

This immunity does not apply if:

- (1) there was fraud in the certification process; or
- (2) the owner violated conditions of the certification; or
- (3) the owner created ~~lead-based paint~~ lead hazards during renovation, remodeling, maintenance, or repair after the certification; or
- (4) the owner failed to respond in a timely fashion to notification that ~~lead-based paint~~ lead hazards may have recurred on the premises.

~~(e)~~(d) A defendant in an action brought under this section has a right of contribution from any other person or persons who have violated subsection (a) of this section.

~~(f)~~(e) The remedies provided under this section shall be the exclusive remedies against owners arising from ~~lead-based paint~~ lead hazards, except for the following:

- (1) causes of action under 9 V.S.A. chapter 63;
- (2) causes of action for relief under 9 V.S.A. § 4458; and
- (3) common law actions for fraud or fraudulent misrepresentation.

~~(g)~~(f) Nothing in this section shall be construed to limit the right of the commissioner or any agency or instrumentality of the state of Vermont to seek remedies available under any other provision of Vermont statutory law.

~~(h)~~(g) In an action under 9 V.S.A. § 4458, compliance by the landlord with the duties required under section 1759 of this title shall create a ~~conclusive~~ presumption of habitability with respect to lead-based paint hazards. However, if a child ~~under the age of six~~ who occupies or regularly frequents the dwelling ~~is lead poisoned as defined in subdivision 1751(b)(16) of this title~~ has a confirmed elevated blood lead level, this presumption shall be rebuttable, ~~not conclusive~~. Presumptions under this subsection shall be limited to actions based on a breach of the warranty of habitability under 9 V.S.A. § 4458.

~~(i) This section shall apply only to actions arising from acts or omissions that occur on or after July 1, 1996.~~

Sec. 13. 18 V.S.A. § 1762 is amended to read:

§ 1762. SECURED LENDERS AND FIDUCIARIES; LIABILITY

(a) A person who holds indicia of ownership in rental target housing or a child care facility furnished by the owner or person in lawful possession, for the primary purpose of assuring repayment of a financial obligation and takes full legal title through foreclosure or deed in lieu of foreclosure or otherwise

shall not be liable as an owner of the property for injury or loss claimed to be caused by exposure to lead of a child on the premises, provided that, on or before the 120th day after the date of possession, the person completes all the following:

(1) ~~performs essential~~ Essential maintenance practices as required by section 1759 of this title; and .

(2) ~~fully discloses~~ Full disclosure to all potential purchasers, child care facility operators or tenants of the property of any information in the possession of such the person or the person's agents, regarding the presence of lead-based paint lead hazards or a lead-poisoned child on the property and, upon request, provides, including providing copies of all written reports on lead-based paint lead hazards to potential purchasers, operators, or tenants.

(b) The immunity provided in subsection (a) of this section shall expire 365 days after the secured lender or fiduciary takes full legal title.

(c) A person who holds legal title to rental target housing or a child care facility as an executor, administrator, trustee, or the guardian of the estate of the owner, and demonstrates that in that fiduciary capacity does not have either the legal authority or the financial resources to fund capital or major property rehabilitation ~~necessary to conduct essential maintenance practices~~ shall not be personally liable as an owner for injury or loss caused by exposure to lead by a child on the premises. However, nothing in this section shall limit the liability of the trust estate for such claims and those claims may be asserted against the trustee as a fiduciary of the trust estate.

Sec. 14. 18 V.S.A. § 1763 is amended to read:

§ 1763. PUBLIC FINANCIAL ASSISTANCE; RENTAL TARGET HOUSING AND CHILD CARE FACILITIES

Every state agency or instrumentality that makes a commitment to provide public financial assistance for the purchase or rehabilitation of rental target housing or child care facilities shall give priority to projects in which the property is lead free, the lead hazards have been or will be identified and abated, or ~~lead-based paint~~ the lead hazards have been or will be identified and controlled and have passed or will pass an independent dust clearance test that determines that the property contains no lead-contaminated dust prior to occupancy or use. Priority rental target housing projects may include units occupied by severely lead-poisoned children with a confirmed venous blood lead level at or greater than ten micrograms of lead per deciliter or at a lower level as determined by the commissioner and units in a building that are likely to contain lead-based paint lead hazards. For purposes of this section, "public financial assistance" means any grant, loan, or allocation of tax credits funded

by the state or the federal government, or any of their agencies or instrumentalities.

Sec. 15. 18 V.S.A. § 1764 is amended to read:

§ 1764. LEAD INSPECTORS; FINANCIAL RESPONSIBILITY FOR LEAD HAZARD CONTROL ACTIVITIES

The commissioner may require that a registrant, licensee, or an applicant for a registration or license under section ~~1752(d)~~ 1752 of this title provide evidence of ability to properly indemnify a person who suffers damage from ~~lead-based paint~~ the registrant's or licensee's activities such as proof of effective liability insurance coverage or a surety bond in an amount to be determined by the commissioner which shall not be less than \$300,000.00. This section shall not restrict or enlarge the liability of any person under any applicable law.

Sec. 16. 18 V.S.A. § 1765 is amended to read:

§ 1765. LIABILITY INSURANCE

(a) If the commissioner of banking, insurance, securities, and health care administration determines that ~~lead-based paint~~ lead hazards have substantially diminished the availability of liability insurance for owners of rental property or child care facilities and that a voluntary market assistance plan will not adequately restore availability, the commissioner shall order liability insurers to provide or continue to provide liability coverage or to participate in any other appropriate remedial program as determined by the commissioner, provided the prospective insured is otherwise in compliance with the provisions of this chapter.

* * *

Sec. 17. 18 V.S.A. § 1766 is added to read:

§ 1766. LEAD HAZARD EDUCATION AND CLEANUP FUND

(a) A fund to be known as the lead hazard education and cleanup fund is created in the state treasury shall be administered by the Vermont housing and conservation board to assist Vermont families and property owners to control lead hazards in housing. The board shall administer the fund in compliance with 10 V.S.A. § 312 and the policies and priorities of the board lead-based paint hazard reduction program with particular attention to targeting resources, promoting primary prevention in order to maximize both the number of young children protected from exposure to lead hazards and the number of homes made safe from lead hazards. Disbursement may be authorized to fund any of the following:

(1) Free or reduced rate training on essential maintenance practices and lead-safe work practices for property owners, contractors, child care facility operators and other appropriate persons.

(2) Public education and outreach.

(3) Costs minimally necessary to administer the fund.

(4) Technical assistance to Vermont property owners to identify and control housing-based lead hazards.

(5) Collection and analysis of environmental samples.

(6) Grants and loans to property owners to control lead hazards in housing units likely to be inhabited by families with young children.

(b) The fund shall consist of loan repayments, recovered disbursements, donations, gifts, administrative penalties related to lead hazards, and any funds appropriated by the general assembly, or received from any other source, private or public. All balances in the fund at the end of any fiscal year shall be carried forward and remain a part of the fund. Interest earned by the fund shall remain in the fund.

(c) The executive director of the Vermont housing and conservation board or designee, and the commissioner of health or designee, shall annually review receipts and disbursements from the fund, evaluate the effectiveness of the fund in meeting its purposes and goals, evaluate the reasonableness of the cleanup costs, and recommend changes to enhance and encourage abatement of lead hazards in target housing and child care facilities and, on each January 15, submit an annual report of its findings to the general assembly.

Sec. 18. 18 V.S.A. § 1767 is added to read:

§ 1767. TRANSFER OF OWNERSHIP OF TARGET HOUSING; RISK ASSESSMENT; EMP COMPLIANCE

(a) At the time a purchase and sale agreement for target housing is executed, the real estate agent and seller shall provide the buyer with a lead paint hazard brochure, materials on other lead hazards in housing, and a disclosure form approved by the commissioner. The disclosure form shall include any assurance of discontinuance, administrative order, or court order, the terms of which are not completed, and, if the property is rental target housing, verification that the essential maintenance practices have been completed and that a current EMP compliance statement has been filed with the department.

(b) At a closing for the transfer of title of target housing, real estate agents and sellers shall provide the buyer with a lead-safe renovation practices packet

approved by the commissioner and shall disclose any assurance of discontinuance, administrative order, or court order not disclosed pursuant to subsection (a) of this section, the terms of which are not completed.

(c) No transfer of title of a rental target housing, building or unit may occur if the building or unit is currently the subject of an assurance of discontinuance, administrative order, or court order unless the assurance or order is amended in writing to transfer to the buyer all remaining obligations under the assurance or order.

(d) At the time of transfer of title of rental target housing the real estate agents and sellers shall provide the buyer with information explaining EMP obligations approved by the commissioner.

(e) A buyer of rental target housing who has purchased a building or unit that is not in full compliance with section 1759 of this title shall bring the target housing into compliance with section 1759 of this title within 60 days after the closing. Within the 60-day period, the buyer may submit a written request for an extension of time for compliance, which the commissioner may grant in writing for a stated period of time for good cause only. Failure to comply with this subsection shall result in a mandatory civil penalty.

(f) This section shall not apply to target housing that has been certified lead free.

(g) Noncompliance with this section shall not affect marketability of title.

Sec. 19. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

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

* * *

(23) To enforce laws related to lead hazards pursuant to chapter 38 of Title 18, including requiring screening and testing of individuals, enforcing the use of safe work practices and essential maintenance practices. This subdivision confers no new authority to regulate firearms, ammunition, or shooting ranges or circumstances resulting from shooting, handling, storing, or reloading ammunition.

Sec. 20. GRANTS FOR LEAD HAZARD REDUCTION

The commissioner is authorized to secure grants from public and private sources and to receive and disburse funds that are assigned, donated, or

bequeathed to the department to increase lead hazard reduction activities, to promote primary prevention of exposure to lead hazards, and to evaluate primary prevention programs in the state.

Sec. 22. CONSTRUCTION

Nothing in this act shall be construed to regulate firearms, ammunition, or shooting ranges or circumstances resulting from shooting, handling, storing, or reloading ammunition.

Sec. 23. EFFECTIVE DATE

This act shall take effect on July 1, 2007, except section 18, relating to transfer of target housing, and the licensing requirement for lead safe renovators shall take effect on July 1, 2008.

Rep. Mrowicki of Putney, for the committee on Human Services, recommended the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND INTENT

The general assembly finds that:

(1) Lead is highly toxic to humans, particularly to young children, and can cause irreversible damage resulting in long-lasting, permanent neurological damage, including decreases in I.Q.

(2) Medical research shows that there is no safe level of lead, and that decreases in I.Q. are greatest for the first ten micrograms of lead per deciliter of blood in young children.

(3) In February 2007, the Vermont department of health announced that it would lower from ten to five micrograms of lead per deciliter the blood lead level that triggers educational outreach.

(4) In 2004, four percent of all Vermont children aged one and two years who received lead screening—or approximately 300 children—had blood lead levels at or above ten micrograms per deciliter. Approximately one third or nearly 3,000 of all children tested had blood lead levels at or above five micrograms. In 2006, 2.7 percent of all Vermont children under the age of six who received lead screening—or approximately 250 children—had blood lead levels at or above ten micrograms per deciliter. Approximately 20 percent or nearly 2,000 of all children under the age of six tested had blood lead levels at or above five micrograms per deciliter.

(5) The primary exposure to lead for Vermont children is lead-based paint in housing built prior to 1978 when lead was banned in residential paint.

Vermont has over 112,000 owner-occupied housing units and over 56,000 rental housing units built prior to 1978.

(6) Vermont's existing lead law, which has been in place since 1996, attempts to prevent exposing children to lead in rental housing and child care facilities by requiring that EMP be performed in nearly all rental housing units and child care facilities built prior to 1978. Even though 40 percent of children with blood lead levels above 20 micrograms per deciliter live in owner-occupied housing, the primary provisions under current law that attempt to prevent elevated blood lead levels in children in owner-occupied housing are related to public awareness.

(7) The intent of this act is to decrease Vermonters' exposure to lead in pre-1978 housing and child care facilities. This act does not address lead in other consumer products, in ammunition, or at shooting ranges.

Sec. 2. 18 V.S.A. § 1751 is amended to read:

§ 1751. DEFINITIONS

(a) Words and phrases used in this chapter or in rules adopted pursuant to this chapter and not defined herein shall have the meanings given to them have the same definitions as provided in the Federal Residential Lead-Based Paint Hazard Reduction Act of 1992. In the event of unless there is an inconsistency between meanings given in such federal act and meanings given in this chapter, the federal act shall apply except where meanings given in this chapter serve to narrow, limit or restrict the applicability of a word or phrase, in which cases the narrower meaning shall apply in which case, any definition provided in this section that narrows, limits, or restricts shall control.

(b) For the purposes of this chapter:

(1) "Abatement" means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by appropriate state and federal agencies. The term includes:

(A) ~~the removal~~ Removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and .

(B) all All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(2) ~~"Certified inspector" or "licensed inspector" means an individual who has been trained by an accredited training program and certified by the department to perform the duties of an inspector or risk assessor. "Child" or~~

"children" means an individual or individuals under the age of 18 years, except where specified as a child or children six years of age or younger.

(3) "Child care facility" means a day care facility or family day care home as defined in 33 V.S.A. § 4902 that was constructed prior to 1978.

(4) ~~"Commissioner" means the commissioner of the department of health.~~

~~(5) "Comprehensive environmental lead inspection" or "inspection" means a surface by surface investigation to determine the presence of lead based paint and the provision of a report explaining the results of the investigation.~~

~~(6) "Department" means the department of health.~~

(7) "Deteriorated paint" means any interior or exterior lead-based paint that is peeling, chipping, chalking, flaking, or cracking or any lead-based paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

~~(8)~~(5) "Dwelling" means either of the following:

(A) ~~a single family dwelling;~~ A detached family residential unit including attached structures such as porches and stoops; or,

(B) a A single-family dwelling residential unit in a structure that contains more than one separate residential dwelling unit, and which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

(6) "Elevated blood lead level" means having a blood lead level of at least five micrograms per deciliter of human blood, or a lower threshold as determined by the commissioner.

(7) "EMP" means essential maintenance practices required by section 1759 of this title.

~~(9)~~(8) "Independent dust clearance" means a visual examination and collection of ~~environmental samples, including dust samples, by a licensed inspector in whose firm or corporation lead inspector or lead assessor who has no financial interest in either the work being performed or the owner of the property to be inspected has no financial interest, and is independent of both the persons performing the work and the owner of the property.~~ The licensed inspector lead inspector or lead assessor shall use methods specified by the department and analysis by an accredited laboratory to determine that lead exposures do not exceed limits set by the department utilizing current

information from the U.S. Environmental Protection Agency or the U.S. Department of Housing and Urban Development.

(9) “Inspection” means a surface-by-surface investigation to determine the presence of lead-based paint and other lead hazards and the provision of a report explaining the results of the investigation.

(10) “Interim controls” means a set of measures designed to temporarily reduce human exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment of management and resident education programs.

(11) “Lead-based paint” means paint or other surface coatings that contain lead in excess of limits established under section 302(c) of the Federal Lead-Based Paint Poisoning Prevention Act.

(12) ~~“Lead contractor” means any person engaged in deleading or lead hazard reduction as a business and includes consultants and inspectors who design, perform, oversee or evaluate lead hazard reduction projects employing one or more individuals licensed by the department under this chapter.~~

(13) “Lead-based paint activities” means:

~~(A) in the case of target housing, risk assessment, inspection, and abatement.~~

~~(B) in the case of any public building constructed before 1978, identification of lead based paint and materials containing lead based paint, deleading, and demolition. The term “lead based paint activities” may be further limited or restricted by rule adopted by the secretary. “Lead abatement worker” means any individual who has satisfactorily completed an accredited training program approved by the department and has a current license issued by the department to perform abatements.~~

(14) “Lead designer” means any individual who has satisfactorily completed an accredited training program approved by the department and has a current license issued by the department to prepare lead abatement project designs, occupant protection plans, and abatement reports.

~~(14)(15) “Lead-based paint hazard” or “LBP” “Lead hazard” means any condition that causes exposure to lead inside and in the immediate vicinity of target housing from water, lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that has deteriorated or is present in accessible surfaces, friction surfaces, or impact surfaces, or building materials that would result in adverse human health effects as defined by the department using~~

current information from the U.S. Environmental Protection Agency or the U.S. Department of Housing and Urban Development.

~~(15) "Lead based paint hazard control" or "LBP hazard control" or "lead hazard control" means a measure or set of measures designed to control or eliminate human exposure to lead-based paint hazards through methods that include interim controls, abatement, and complete removal.~~

~~(16) "Lead poisoning" means a confirmed blood lead level in a child six years of age or younger greater than or equal to ten micrograms of lead per deciliter of whole blood, unless the commissioner finds by rule that a higher or lower concentration is necessary to protect public health. "Lead inspector" means any individual who has satisfactorily completed an accredited training program approved by the department and has a current license issued by the department to conduct inspections.~~

~~(17) "Lead risk assessor" means any individual who has satisfactorily completed an accredited training program approved by the department and has a current license issued by the department to conduct risk assessments.~~

~~(18) "Lead-safe renovator" means any person who has completed a lead-safe training program approved by the department and has a current registration issued by the department to perform renovations in target housing or child care facilities in which interior or exterior lead-based paint will be disturbed.~~

~~(19) "Lead supervisor" means any individual who has satisfactorily completed an accredited training program approved by the department and has a current license issued by the department to supervise and conduct abatement projects and prepare occupant protection plans and abatement reports.~~

~~(17)(20)~~ "Occupant" means any person who resides in, or regularly uses, a dwelling, ~~ear~~ mobile dwelling unit, or structure.

~~(18)(21)~~ "Owner" means any person who, alone or jointly or severally with others:

(A) Has legal title to any dwelling ~~or dwelling unit~~ or child care facility with or without ~~accompanying~~ actual possession ~~thereof; or of the property.~~

(B) Has charge, care, or control of any dwelling or dwelling unit or child care facility as agent of the owner or guardian of the estate of the owner. An agent of the owner does not include real estate and property management functions where the agent is only responsible for the property management and does not have authority to fund capital or major property rehabilitation on behalf of the owner.

(C) ~~For purposes of publicly owned property only, the owner shall be the~~ Is the chief executive officer of the municipal or state agency ~~which that~~ owns, leases, or controls the use of the publicly owned property.

(D) ~~A~~ Is a person who holds ~~indicia of ownership in a dwelling or dwelling unit or child care facility furnished by the owner or person in lawful possession for the primary purpose of assuring repayment of a financial obligation shall not be considered an owner unless such person has taken full legal title of a dwelling or child care facility through foreclosure, deed in lieu of foreclosure, or otherwise.~~ “Owner” does not include a person who holds indicia of ownership given by the person in lawful possession for the primary purpose of assuring repayment of a financial obligation. Indicia of ownership includes interests in real or personal property ~~that are~~ held as security or collateral for repayment of a financial obligation such as a mortgage, lien, security interest, assignment, pledge, surety bond or guarantee and includes participation rights of a financial institution used for legitimate commercial purposes in making or servicing the loan.

~~(E) Owns a building in which a child care facility is located or owns the child care business, although the owner of the child care business may not own the building.~~

~~(19)(22)~~ “(22) “Rental target housing” means target housing offered for lease or rental under a rental agreement as defined in 9 V.S.A. § 4451. “Rental target housing” does not include a rented single room located within a residential dwelling unit in which the owner of the dwelling unit resides unless a child six years of age or younger resides in or is expected to reside in that dwelling unit.

~~(20)(23)~~ “(23) “Risk assessment” means an on-site investigation by a licensed inspector or risk assessor lead risk assessor to determine and report the existence, nature, severity, and location of lead-based paint lead hazards, including information gathering about the age and history of the property and occupancy by children under the age of six years of age or younger, visual inspection, limited wipe sampling, or other environmental sampling techniques, other appropriate risk assessment activities and a report on the results of the investigation.

~~(21) “Secretary” means the secretary of the agency of human services.~~

~~(22) “Severely lead poisoned” means a confirmed venous blood lead level in a child six years of age or younger that is greater than or equal to 20 micrograms of lead per deciliter of whole blood or as defined by the commissioner.~~

~~(23) "State inspector" means the commissioner or any person who is authorized in writing by the commissioner to conduct inspections for the department.~~

(24) "Screen," "screened," or "screening" relating to blood lead levels, means the initial blood test to determine the presence of lead in a human.

~~(24)(25) "Target housing" means any dwelling or dwelling unit constructed prior to 1978 and used as a residence, except any 0-bedroom residential dwelling unit or any residential dwelling unit located in multiple-unit buildings or projects reserved for the exclusive use of the elderly or persons with disabilities, unless a child six years of age or younger resides in or is expected to reside in that housing. "Target housing" does not include units in a hotel, motel, or other lodging, including condominiums, that are designed and rented for transient occupancy for travelers or vacationers and not intended to be used as a primary residence 30 days or less.~~

Sec. 3. 18 V.S.A. § 1752 is amended to read:

§ 1752. ACCREDITATION OF TRAINING PROGRAMS;
CERTIFICATION, REGISTRATION AND LICENSURE OF
~~ENVIRONMENTAL LEAD INSPECTORS AND LEAD~~
CONTRACTORS, SUPERVISORS AND WORKERS

~~(a) No later than six months after promulgation of final federal regulations under section 402 of the Federal Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the~~ The department shall develop a program to administer and enforce the ~~lead-based paint activities training and certification standards, regulations, or requirements of this chapter~~ and other requirements as established by ~~the administrator~~ of the federal Environmental Protection Agency for persons engaged in ~~lead-based paint lead abatement~~ activities. The commissioner shall adopt rules to implement and enforce this chapter, including establishing standards and specifications for registration, licensing, issuing a certificate, and accreditation of training programs both within and outside Vermont.

~~(b) The secretary shall adopt emergency rules, and not later than January 1, 1994, the secretary shall adopt permanent rules, establishing standards and specifications for the accreditation of training programs both within and outside Vermont, including the mandatory topics of instruction, the knowledge and performance standards that must be demonstrated by graduates in order to be certified, and required qualifications for training programs and instructors. Such standards shall be designed to protect children, their families, and workers from improperly conducted lead-based paint activities, and shall be at least as protective of human health and the environment as the federal~~

~~program. Hands on instruction and instruction for identification and proper handling of historic fabric and materials shall be components of the required training.~~ The commissioner shall issue certificates to all persons who satisfactorily complete an approved EMP training program for lead hazard control.

(c) ~~The commissioner shall certify risk assessors, designers, issue registrations and licenses to laboratories, inspectors, lead safe renovation contractors, lead contractors, supervisors, abatement workers, and other persons engaged in lead based paint activities when such persons individuals, and firms, provided they have successfully completed an accredited a training program approved by the commissioner and met such other requirements as the secretary may, by rule, impose~~ complied with all registration and licensing criteria required by the commissioner.

(d) ~~After the adoption of rules pursuant to subsection (b) of this section Except as provided in subsection 1760(c) of this title, no person shall perform for compensation of any kind engage in any activity likely to disturb more than one square foot of lead-based paint activities without first registering or obtaining a license from the commissioner, as provided in this section.~~ The commissioner may grant a license to a person who holds a comparable valid license from another state.

(e) Nothing in this chapter shall be construed to limit the authority of the secretary, the commissioner of ~~health~~, the commissioner of labor, or the commissioner of environmental conservation under the provisions of any other law.

Sec. 4. 18 V.S.A. § 1753 is amended to read:

§ 1753. ACCREDITATION, REGISTRATION, CERTIFICATION, AND LICENSE FEES

(a) The commissioner shall assess fees for accrediting training programs and for certifications, registrations, licenses, and license renewals issued in accordance with this chapter. Fees shall not be imposed on any state or local government or nonprofit training program and may be waived for the purpose of training state employees.

(b) Each accredited training program, registrant, and licensee shall be subject to the following fees:

Training courses = \$480.00 per year

Lead contractors = \$600.00 per year

Lead workers = \$60.00 per year

~~Supervisors~~ Lead supervisors = \$120.00 per year

~~Inspectors~~ Lead inspectors = \$180.00 per year

~~Risk-assessors~~ Lead risk assessors = \$180.00 per year

~~Designers~~ Lead designers = \$180.00 per year

Laboratories = \$600.00 per year

~~Lead-safe renovation contractors~~ Lead-safe renovators = \$50.00 per year

(c) Each lead abatement project shall be subject to the following permit fees:

(1) Lead abatement project permit fee \$50.00.

(2) Lead abatement project permit revision \$25.00.

(d) Fees imposed by this section shall be deposited into the lead paint abatement accreditation and licensing special fund. Monies in the fund may be used by the commissioner only to support departmental accreditation, certification, and licensing activities related to this chapter. The fund shall be subject to the provisions of subchapter 5 of chapter 7 of Title 32.

Sec. 5. 18 V.S.A. § 1754 is amended to read:

§ 1754. PUBLIC EDUCATION

(a) ~~Beginning January 1, 1994, the~~ The commissioner of ~~health~~ shall prepare and distribute clear and simple ~~printed~~ materials describing the dangers of lead poisoning, the ~~need for importance of~~ parents ~~to have~~ having their ~~child~~ children screened, how to have a child ~~tested and receive a confirmation test,~~ recommended nutrition and housekeeping practices, and materials on other lead hazards in housing, identifying possible sources of lead exposure in housing in addition to lead-based paint, and describing methods for addressing those sources. The commissioner shall work with persons and organizations ~~involved in occupations that may involve lead-based paint hazards or childhood lead poisoning to distribute the materials to their clients, patients, students, or customers whose work involves disturbance of lead-based paint or preventing and treating elevated blood lead levels in humans,~~ such as realtors, subcontractors, apartment owners, public housing authorities, pediatricians, family practitioners, nurse clinics, child clinics, other health care providers, child care and preschool operators, and kindergarten teachers to encourage them to distribute the materials to their clients, patients, students, or customers. The commissioner shall also identify those points in time or specific occasions, when members of the public are in contact with public agencies and lead might be an issue, such as building permits, home renovations, and ~~the ANFC and~~

WIC appropriate state and federal programs, and make the materials available on these occasions.

(b) The commissioner shall prepare an appropriate media campaign to educate the public on lead poisoning the prevention of elevated blood lead levels. To the extent resources permit, educational outreach efforts shall include public service announcements, education through community access channels, direct mailings to homeowners, postings in public places, or other methods that cost effectively communicate this information to the broad public. The commissioner shall encourage professional property managers, rehab rehabilitation and weatherization contractors, minimum housing inspectors, social workers, and visiting nurses to attend education and awareness workshops.

~~(c) The commissioner shall develop a program or approve a program, or both, to train owners and managers of rental target housing and child care facilities and their employees to perform essential maintenance practices. The names and addresses of all persons who attend the approved training program shall be maintained as a public record that the commissioner shall provide to the department of housing and community affairs.~~

Sec. 6. 18 V.S.A. § 1755 is amended to read:

§ 1755. UNIVERSAL ACCESS TO SCREENING

(a) ~~Not later than November 1, 1993, the~~ The commissioner shall publish ~~the results of the department's lead poisoning prevalence study. Not later than January 1, 1994, the commissioner shall publish guidelines establishing that~~ establish the methods by which and the intervals at which children ~~under six years of age are recommended to~~ should be screened and ~~tested given a confirmation test for elevated blood lead poisoning levels,~~ according to the age of the children and their probability of exposure to ~~high dose sources of lead.~~ The guidelines shall take into account the recommendations of the U.S. Centers for Disease Control and the American Academy of Pediatrics and shall be updated as those recommendations are changed. The commissioner ~~may~~ also shall recommend screening for lead poisoning in other high risk groups.

(b) ~~Not later than January 1, 1994, the Vermont the commissioner of banking, insurance, securities, and health care administration shall recommend to the general assembly whether lead screening should be a common benefit under the universal access proposals it has presented, and, if so, how such benefits should be financed. The cost of implementing the Vermont commissioner of banking, insurance, securities, and health care administration's plan under this chapter shall be included in the unified health care budget to be adopted by the authority effective July 1, 1994.~~

~~(e) Beginning July 1, 1994, all~~ All health care providers who provide primary medical care shall ~~ensure that parents and guardians of children below the age of six are advised of the availability and advisability of screening and testing their children for lead poisoning in accordance with the commissioner's guidelines;~~

(1) Screen for lead, or refer for lead screening, all children one or two years of age unless the parent or guardian of the child refuses to consent.

(2) Conduct, or refer for, a confirmation test of blood lead levels by venous draw for any child whose screening result is ten micrograms of lead per deciliter of blood or more.

(3) The requirements of subdivisions (1) and (2) of this subsection, including the blood lead level at which a confirmation test may be required, may be amended by the commissioner by rule to allow for the most effective methods and timing of screening and testing according to scientific studies and according to the guidelines and recommendations referenced in subsection (a) of this section, provided the rules are consistent with the requirements of those subdivisions.

~~(d)(c) Any health care provider or employee thereof making the diagnosis of lead poisoning shall report such diagnosis to the department within such time and using such format as the department shall prescribe. Any laboratory in Vermont which that analyzes blood samples of children below the age of six~~ Vermont residents for lead levels shall report to the department such all information on blood lead analyses as required by the department may require including data on the number and results of blood lead analyses performed by the laboratory. All health care providers who analyze blood samples for lead levels or who use laboratories outside Vermont to analyze blood samples of children below the age of six for lead levels shall report all information required by the department to the department such information as the department may require including data on the number and results of such blood lead tests. The commissioner shall establish procedures to ensure the confidentiality of the children and families immediately by telephone if the result of any analysis is 45 micrograms or more of lead per deciliter of blood, or by electronic means within 14 days of analysis if the result of the analysis is less than 45 micrograms of lead per deciliter of blood. All blood lead data reports to the department shall include the name, date of birth, date of blood test, and address of the individual whose blood is analyzed and, if known, the owner of the residence of the individual.

~~(e)(d) After the guidelines established pursuant to subsection (a) of this section have been in place for two years, the commissioner shall determine the~~

~~percentage of children below the age of six who are being screened in accordance with those guidelines. If fewer than 75 percent of such children are receiving such screening, the secretary shall adopt rules to require that all health care providers who provide primary medical care to young children shall ensure that their patients are screened and tested according to the commissioner's guidelines beginning January 1, 1997. Such rules shall provide that no screening or testing shall be required pursuant to this subsection if the parent or guardian of the child objects to the child undergoing blood lead screening on the grounds that such screening conflicts with their moral or religious tenets or practices. No health care provider shall be liable for the refusal of a parent or guardian to consent to have a child screened or have a confirmation test of blood lead level, or for a parent's or guardian's failure to follow through with a referral for a screening or confirmation test.~~

Sec. 7. 18 V.S.A. § 1756 is amended to read:

§ 1756. ANNUAL REPORT

(a) The commissioner shall, at least annually, on or before October 15, analyze and summarize all aggregate the information collected during the previous fiscal year relating to lead screening and confirmation testing information provided by physicians, health care facilities, and laboratories, and shall provide this information to all ~~other~~ local and state agencies involved with case management and lead hazard reduction.

(b) The commissioner shall ~~also at least annually~~ on or before October 15 provide to the general assembly, the health community, and the general public an analysis and summary of such data, collected during the previous fiscal year, and a progress report on the commissioner's efforts to prevent elevated blood lead poisoning in young children levels in a format that is easily understandable to nontechnical readers. The report shall include:

(1) The For each age group for children six years of age or younger, the number and percentage of children under the age of six who have been screened and tested for lead poisoning had a confirmation test, and the number found to have lead poisoning results of those tests at various blood lead levels.

(2) ~~Estimates of the public and private costs incurred since July 1, 1993 to prevent, correct, or treat lead poisoning.~~

(3) ~~An analysis of barriers to universal blood screening of children under the age of six years of age or younger.~~

(3) The number of children over the age of six and adults who have had a lead screen or a confirmation test and the number at various blood lead levels.

(4) An analysis of current data related to studies on the health risks associated with elevated blood lead levels, as well as any information on technological advances related to the prevention of elevated blood lead levels.

(5) A description of the department's activities relating to inspections and plans to address sources of lead for children with a confirmed blood lead level at or above ten micrograms of lead per deciliter of blood. The report shall include the number and percentage of homes inspected and plans developed relative to the number of children with a confirmed blood lead level at or above ten micrograms of lead per deciliter of blood reported to the department and, if that percentage is less than 80, an explanation of the barriers to and efforts of the department to achieve that level.

(6) The number of annual EMP compliance certifications filed with the department and the number and percentage of child care facilities which the department for children and families, child development division, has identified as having completed EMP or lead hazard control measures pursuant to subsection 1758(c) of this title.

(7) Findings as required under subsection 1766(c) of this title relative to the lead hazard education and cleanup fund.

(8) A description of the department's public education and outreach efforts pursuant to section 1754 of this title, including monies spent and persons and geographical areas targeted.

(9) An analysis of historical trends related to: the prevalence of elevated blood lead levels; the filing of EMP compliance certifications; spending on public education programs; and the number, nature, and outcome of enforcement actions.

(10) The commissioner's recommendations for action.

(11) The commissioner's 2009 report to the general assembly shall include: an analysis of provider reimbursement rates for blood lead level screenings and confirmation tests under the Medicaid program and under the primary, private health insurance programs offered to Vermont residents; in consultation with the office of Vermont health access, a cost estimate for full Medicaid reimbursement; and, in consultation with the department of banking, insurance, securities, and health care administration, a cost estimate for a private insurance mandate related to screenings and confirmation tests for all one- and two-year olds.

Sec. 8. COMMISSIONER'S RECOMMENDATION REGARDING
MANDATORY SCREENINGS AND CONFIRMATION TESTS

By January 15, 2009, the commissioner of health shall submit to the house committee on human services and the senate committee on health and welfare a letter containing a recommendation on whether screenings and confirmation tests should be mandatory, as provided in subsection 1755(b) of this title. Any proposed recommendation by the commissioner shall not be effective unless enacted by the general assembly.

Sec. 9. 18 V.S.A. § 1756a is added to read:

§ 1756a. SPECIAL REPORT ON INSPECTIONS

In any fiscal year in which the commissioner does not conduct inspections and develop plans to address sources of lead exposure for at least 80 percent of all children six years of age or younger with a confirmed blood lead level at or above ten micrograms of lead per deciliter of blood, the commissioner shall submit to the general assembly by October 15 a report detailing the barriers to and efforts of the department to achieve that level.

Sec. 10. 18 V.S.A. § 1757 is amended to read:

§ 1757. ~~LEAD-POISONED CHILDREN~~ WITH ELEVATED BLOOD LEAD LEVELS

(a) Upon receiving a report that a child under age six has been diagnosed by a qualified physician to have lead poisoning, the a screening test result of ten or more micrograms of lead per deciliter of blood, or a lower level as determined by the commissioner, the commissioner shall take prompt action to confirm the diagnosis ensure that the child obtains a confirmation test.

(b) If the child is severely lead poisoned has an elevated blood lead level, the commissioner shall provide for information on lead hazards to the parents or guardians of the child.

(c) If a child six years of age or younger has a confirmed blood lead level at or above ten micrograms of lead per deciliter of blood, and if resources permit, the commissioner:

(1) Shall provide an inspection of the dwelling unit occupied by the child or the child care center facility the child attends; by a state inspector or licensed private inspector lead risk assessor, and develop a plan in consultation with the parents, owner, physician, and others involved with the child to minimize the exposure of the child to lead. The plan developed under this subdivision shall require that any lead hazards identified through the inspection be addressed.

(2) The commissioner may May inspect and evaluate other dwelling units in a the building in which a severely lead poisoned the child has been

identified as is living and if it is reasonable to believe that a child under the age of six years of age or younger occupies, receives care, or otherwise regularly frequents the other dwelling units in that building.

~~(c) The commissioner shall work with the parents, owner, physician, and others involved with the child to develop a plan to minimize exposure of the child to lead hazards.~~

~~(d) Concerning target housing which is rented or leased, on or before January 1, 1994, the secretary with the concurrence of the commissioner of housing and community affairs shall adopt rules to implement this section including rules which assure that prompt action will be taken to confirm a lead poisoning diagnosis, to inspect the possible sources of lead poisoning, and to secure voluntary compliance or to take necessary enforcement action. Enforcement action shall include providing the child's parents or guardians and the owner of the dwelling unit with appropriate educational materials on lead poisoning prevention and may include requiring the owner of the dwelling unit to initiate interim controls or abatement of lead-based paint hazards within a specified time.~~

~~(e) Nothing in this section shall be construed to limit the commissioner's authority under any other provision of Vermont law.~~

Sec. 11. 18 V.S.A. § 1758 is amended to read:

§ 1758. HOUSING REGISTRY LEAD HAZARD DATA

~~(a) The department shall issue certificates to all persons who satisfactorily complete a training program on performing essential maintenance practices for lead-based hazard control and shall compile a list of those persons' the names of all persons who satisfactorily complete a training program on EMP, lead-safe renovation, and any other lead hazard training program authorized by the department.~~

~~(b) If additional funds are appropriated to the department in fiscal year 1998, on or before October 1, 1997, the department of housing and community affairs shall establish and maintain a list of housing units which (1) are lead free or (2) have undergone lead hazard control measures and passed independent dust clearance tests. The registry shall be maintained as a public record.~~

~~(c) The department of social and rehabilitation services for children and families, child development division, shall identify all child care facilities in which the owners have completed essential maintenance practices EMP or lead hazard control measures and provide the findings percentage of all child care~~

facilities that the number represents to the department annually by September 1 for the previous fiscal year.

Sec. 12. 18 V.S.A. § 1759 is amended to read:

§ 1759. Essential maintenance practices

~~(a) For the purposes of this section, all paint is presumed to be lead based unless a certified inspector has determined that it is not lead based. All owners of rental target housing and child care facilities shall perform the Essential maintenance practices (EMP) in rental target housing and child care facilities shall be performed only by a person who has successfully completed an EMP training program approved by the commissioner or a person who works under the direct, on-site supervision of a person who has successfully completed such training. That person shall comply with section 1760 of this title and shall take all reasonable precautions to avoid creating lead hazards during any renovations, remodeling, maintenance, or repair project that disturbs more than one square foot of lead-based paint, pursuant to guidelines issued by the department. The following essential maintenance practices EMP on their property shall be performed in all rental target housing and child care facilities, unless a lead inspector or a lead risk assessor has certified that the property is lead-free:~~

~~(1) Take all reasonable precautions to avoid creating lead hazards during any renovation, remodeling, maintenance, or repair project that disturbs a lead based painted surface pursuant to guidelines issued by the department. The guidelines shall include the following requirements:~~

~~(A) A prohibition against lead based paint removal by burning, water blasting, dry scraping, power sanding, or sandblasting, unless authorized by the department.~~

~~(B) Use of good work practices and safety precautions to prevent the spread of lead dust, including limiting access to work areas to workers, covering the work area with six mil polyethylene plastic or the equivalent, wearing of protective clothing by workers, protecting belongings of occupants by covering or removing them from the work area, misting painted surfaces before disturbing the paint, and wetting sweeping debris.~~

~~(C) At the conclusion of the work, specialized cleaning of the work area shall be performed shall be thoroughly cleaned using methods designed to remove lead dust and recommended by the department.~~

~~(2) Perform visual on-site inspections of all interior and exterior surfaces and fixtures of the building to identify deteriorated paint and install window well inserts into all windows, or protect window wells by another~~

~~method approved by the department, no later than July 1, 1998; thereafter, visual on-site inspections shall be performed annually and upon a change of tenant. Install window well inserts in all windows, or protect window wells by another method approved by the department.~~

~~(3)(2) At least once a year and at each change of tenant, and annually in units in which a child six years of age or younger resides clean all window wells and window sills within the unit and in all areas of the building to which access by tenants is not restricted by the rental agreement. The cleaning shall be accomplished by using cleaning methods, products, and devices that are effective in the removal of lead contaminated dust and recommended by the department perform visual on-site inspection of all interior and exterior painted surfaces and components at the property to identify deteriorated paint.~~

~~(4)(3) Promptly and safely remove or stabilize lead-based paint if more than one square foot of deteriorated lead-based paint is found on any interior or exterior surface located within any area of the building dwelling to which access by tenants is not restricted by the rental agreement or on any exterior porch or an exterior wall, surface or fixture within the exterior porch. An owner shall restore the assure that all surfaces to be are free of deteriorated lead-based paint within 30 days after deteriorated lead-based paint has been visually identified or within 30 days after receipt of a written or oral report of deteriorated lead-based paint from any person including the department, a tenant, or from an owner of a child care facility. If Because exterior paint repairs cannot be completed in cold weather, any exterior repair work is identified after November 1 of any year, the repair may be delayed for completion until shall be completed no later than the following May 31 of the following year provided that access to surfaces and components with lead hazards and areas directly below the deteriorated surfaces is clearly restricted.~~

~~(5)(4) If more than one square foot of deteriorated paint is found on any exterior wall surface or fixture not covered by subdivision (4)(3) of this subsection and is located in an area frequented by children six years of age or younger in warm weather, the owner shall:~~

~~(A) promptly and safely repair and stabilize the paint and restore the surface; or~~

~~(B) prohibit access to the area, surface, or fixture to assure that such children will not come into contact with the deteriorated lead-based paint.~~

~~(5) For any outdoor area frequented in warm weather by children six years of age or younger, annually remove all visible paint chips from the ground on the property and assure that any bare soil within four feet of buildings is inaccessible by using any appropriate and effective method.~~

including fencing, groundcover, or other vegetation, or covering the bare soil with stone or other materials recommended by the department.

(6) At least once a year, using methods recommended by the department, thoroughly clean all interior horizontal surfaces, except ceilings, in common areas accessible to tenants.

~~(6)(7) Provide written LBP hazard information prepared or approved by the department to current and prospective tenants and current and prospective owners of child care facilities. At each change of tenant, thoroughly clean all interior horizontal surfaces of the dwelling unit, except ceilings, using methods recommended by the department.~~

~~(7)(8) Post, in a prominent place in buildings containing rental target housing units or a child care facility, a notice to occupants emphasizing the importance of promptly reporting deteriorated paint to the owner or to the owner's agent. The notice shall include the name, address, and telephone number of the owner or the owner's agent.~~

~~(8) Attend a training program offered or approved by the department. The training, which shall be available to any person who repairs, remodels or renovates property, shall be attended by the owner, the owner's property manager, or a representative of the owner's regular maintenance staff.~~

~~(9) Ensure that any person who performs essential maintenance work has completed a department approved training program or is being supervised on-site by a person who has completed the training program and complies with the essential maintenance practices.~~

~~(10) At each change of tenant, the owner shall clean all horizontal surfaces, except ceilings, within all areas of the building used by tenants and not otherwise restricted by the rental agreement. This cleaning shall be done by using cleaning methods, products and devices prescribed by the department that are effective in cleaning up lead-contaminated dust, such as vacuum cleaners with HEPA filters, and wet cleaning with trisodium phosphate or other lead specific detergents.~~

(b) The owner of rental target housing or a child care facility shall perform all the following:

(1) When the essential maintenance practices EMP are completed, the owner shall sign an affidavit indicating that, to the best of the owner's knowledge and belief EMP compliance statement certifying that the essential maintenance practices EMP have been performed, including the addresses of the units in which EMPs were performed, the dates they were completed, and by whom they were of completion, and the person who performed the EMPs,

and that subdivisions (2) and (3) of this subsection have been or will be complied with. The owner shall file the affidavit

(2) File the statement required in subdivision (1) of this subsection with the owner's liability insurance carrier and the department and shall provide a copy of the statement to all tenants. Annually, the owner shall conduct a visual check, perform required essential maintenance practices, and sign and file an affidavit as required by this subsection.

(3) Provide current and prospective tenants with written information regarding lead hazards approved by the department at the time the owner provides the tenant with the EMP compliance statement.

Sec. 13. 18 V.S.A. § 1760 is amended to read:

§ 1760. CERTIFICATION; RULES; REPORT; FUTURE DEPARTMENT UNSAFE WORK PRACTICES

~~(a) No later than January 1, 1997, the secretary shall adopt rules that establish methods and practices to be used by licensed inspectors who certify that target housing and child care facilities are lead free or have had lead based paint hazards identified and controlled and have passed independent dust clearance tests. The rules shall include the duration of validity of any certifications and requirements for renewal of certifications.~~

~~(b) By January 1, 1999, the secretary shall report to the general assembly on the need for additional essential maintenance practices or other actions to further prevent lead poisoning in children based on significant:~~

~~(1) Reductions in the number and percentage of poisoned and severely lead poisoned children.~~

~~(2) Increases in the number and percentages of owners of rental target housing that have performed essential maintenance practices.~~

~~(3) Increases in the number and percentage of housing units that have achieved higher levels of lead hazard control.~~

~~(4) Advances in lead poisoning prevention technology.~~

~~(5) Impact of public education efforts in reducing the lead levels of children at risk.~~

~~(c) After July 1, 2000, the secretary may adopt rules for the low cost and cost effective implementation of the essential maintenance practices established in section 1759 of this title and additional recommended low cost and cost effective essential maintenance practices and other actions to further prevent lead poisoning in children.~~

(a) All paint in target housing and child care facilities is presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based. Unsafe work practices include the following, unless specifically authorized by the department:

(1) Removing lead-based paint by:

(A) Open flame burning or torching.

(B) Use of heat guns operated above 1100 degrees Fahrenheit.

(C) Dry scraping.

(D) Machine sanding or grinding.

(E) Uncontained hydro-blasting or high pressure washing.

(F) Abrasive blasting or sandblasting without containment and high-efficiency particulate exhaust controls.

(G) Chemical stripping using methylene chloride products.

(2) Failing to employ one or more of the following lead-safe work practices:

(A) Limiting access to interior and exterior work areas.

(B) Enclosing interior work areas with plastic sheathing or other effective lead dust barrier.

(C) Using protective clothing.

(D) Misting painted surfaces before disturbing paint.

(E) Wetting paint debris before sweeping to limit dust creation.

(F) Any other measure required by the department.

(b) No person shall disturb more than one square foot of lead-based paint using unsafe work practices in rental target housing or in child care facilities.

(c) No person shall perform, or hire another person to perform, any work for compensation of any kind in any target housing or child care facility if the work is likely to disturb more than one square foot of lead-based paint unless the person hired:

(1) holds a current registration or license issued by the department applicable to the work to be performed;

(2) performs work that only infrequently and incidentally involves the disturbance of lead-based paint; or

(3) performs no more than one project that involves the disturbance of lead-based paint in an owner-occupied, single-family dwelling.

(d) No person shall perform any renovation in target housing or child care facility for compensation without complying with the pre-renovation notification requirements pursuant to rules of the U.S. Environmental Protection Agency.

(e) If it is determined that a person is disturbing lead-based paint using unsafe work practices, the commissioner may require the person to cease work and to take action necessary to terminate the unsafe activity or mitigate lead hazards. The order shall identify the unsafe work practice, the location of the work being performed, and the person performing the work.

Sec. 14. 18 V.S.A. § 1760a is added to read:

§ 1760a. ENFORCEMENT; ADMINISTRATIVE ORDER; PENALTIES

(a) The commissioner may issue an administrative order when the commissioner determines that there has been a violation of this chapter. The order shall be served on the respondent in person or by certified mail, return receipt requested, and a copy of the order shall be provided to any resident of an affected unit, any other person directly affected by the order, and to the attorney general. An order shall be effective upon receipt by the respondent unless stayed by court order, and shall provide for compliance within a reasonable amount of time depending on the number and severity of the violations. An administrative order shall include:

(1) A statement of the facts that provide the basis for the violation.

(2) Identification of the applicable statute, rule, permit, assurance, work plan, or order.

(3) Rights of appeal pursuant to subsection (d) of this section.

(4) Notice that the order is effective upon receipt by the respondent unless stayed by court order.

(5) The amount of any administrative penalty.

(6) Suspension of registration, certification, or licensure issued under this chapter, if any.

(7) Applicable directives for actions to address any violations described in the order.

(b) A person who violates a provision of this chapter in target housing or a child care facility shall be subject to an administrative penalty in accordance with section 130 of this title. A violator may be subject to any other available

enforcement proceedings, remedies, and penalties. In assessing a penalty, the commissioner shall consider at least the following:

(1) The degree of actual or potential impact on public health resulting from the violation.

(2) The extent of the violator's knowledge of the violation.

(3) The confirmed elevated blood lead level of the child who occupies or regularly frequents the property.

(4) The respondent's record of compliance with essential maintenance practice requirements.

(5) Any economic gain derived from the violation, including the estimated costs avoided by noncompliance.

(6) The deterrent effect of the penalty on the violator and the regulated community.

(7) The cost to the state of investigation, enforcement, and attorney fees.

(8) The length of time the violation has existed.

(9) Any other relevant factors.

(c) In lieu of part or all of a civil penalty, in the discretion of the commissioner, a payment may be made by the respondent to the lead hazard education and cleanup fund. Penalties paid pursuant to this section shall be deposited in the lead hazard education and cleanup fund.

(d) A person may appeal a violation determination and penalty to the superior court within 30 days after the determination is issued. The superior court review shall be de novo and pursuant to the procedures set out in Rule 74 of the Vermont Rules of Civil Procedure.

(e) The commissioner may refer violations of this chapter to the attorney general for civil or criminal enforcement and possible assessment of civil penalties pursuant to subsections (b) and (c) of this section.

(f) The attorney general shall bring the case in the name of the state of Vermont.

(g) In any civil action brought pursuant to this section in which a temporary restraining order or preliminary injunction is sought, relief shall be obtained upon a showing that there is the probability of success on the merits, and that a violation exists or a violation is imminent and likely to result in substantial

harm. There is no requirement to demonstrate immediate and irreparable injury, loss, or damage for an action under this subsection.

(h) The attorney general may seek all equitable and legal remedies available, including civil penalties.

(i) The court shall assess civil penalties pursuant to subsections (b) and (c) of this section.

(j) Nothing in this section shall limit the commissioner's authority under any other provision of law.

Sec. 15. 18 V.S.A. § 1761 is amended to read:

§ 1761. DUTY OF REASONABLE CARE; NEGLIGENCE; LIABILITY

(a) Owners of target housing and owners of child care facilities shall take reasonable care to prevent exposure to, and the creation of, ~~lead-based paint~~ lead hazards. In an action brought under this section, evidence of actions taken or not taken to satisfy the requirements of this chapter, including performing ~~essential maintenance practices~~ EMP, may be admissible evidence of reasonable care or negligence.

(b) Any person who suffers an injury proximately caused by an owner's breach of this duty of reasonable care shall have a cause of action to recover damages and for all other appropriate equitable relief.

~~(c) A person who is severely lead poisoned as a result of a violation of the duty of reasonable care before the age of six, or a parent, legal guardian or other person authorized to act on behalf of that person, shall have a cause of action to recover damages and other appropriate relief.~~

~~(d) The owner of target housing or a child care facility who has reduced lead-based paint hazards by completing risk assessment and controls and who has had a licensed inspector or a lead risk assessor certify, pursuant to rules under section 1760 of this title the Vermont regulations for lead control, that all identified lead-based paint lead hazards have been controlled in target housing or child care facility premises and the housing or facility contains no lead-contaminated dust has passed an independent dust clearance test, shall not be liable for injury or other relief claimed to be caused by exposure to lead during the time period covered by the certification. The lead risk assessor shall determine the time period of the certification and any special conditions.~~

This immunity does not apply if:

- (1) there was fraud in the certification process; or
- (2) the owner violated conditions of the certification; or

(3) the owner created ~~lead-based paint~~ lead hazards during renovation, remodeling, maintenance, or repair after the certification; or

(4) the owner failed to respond in a timely fashion to notification that ~~lead-based paint~~ lead hazards may have recurred on the premises.

~~(e)(d)~~ A defendant in an action brought under this section has a right of contribution from any other person ~~or persons who have violated subsection (a) of this section~~ is determined to be responsible, in whole or in part, for the child's blood lead level.

~~(f)(e)~~ The remedies provided under this section shall be the exclusive remedies against owners arising from ~~lead-based paint~~ lead hazards, except for the following:

- (1) causes of action under 9 V.S.A. chapter 63;
- (2) causes of action for relief under 9 V.S.A. § 4458; and
- (3) common law actions for fraud or fraudulent misrepresentation.

~~(g)(f)~~ Nothing in this section shall be construed to limit the right of the commissioner or any agency or instrumentality of the state of Vermont to seek remedies available under any other provision of Vermont statutory law.

~~(h)(g)(1)~~ In an action under 9 V.S.A. § 4458, compliance by the landlord with the duties required under section 1759 of this title shall create a conclusive presumption of habitability with respect to lead-based paint hazards. ~~However except that, if a child under the age of six years of age or younger who occupies or regularly frequents the dwelling is lead poisoned as defined in subdivision 1751(b)(16) of this title has a confirmed blood lead level at or above ten micrograms of lead per deciliter, this presumption shall be rebuttable, not conclusive.~~

(2) Notwithstanding the provisions of subdivision (1) of this subsection, in an action brought under 9 V.S.A. § 4458 while the landlord is in compliance with a plan required by section 1757(c) of this title or during the time period of the certification under subsection (c) of this section, such compliance or certification shall create a conclusive, non-rebuttable presumption of habitability with respect to lead-based paint hazards.

(3) Presumptions under this subsection shall be limited to actions based on a breach of the warranty of habitability under 9 V.S.A. § 4458.

~~(i) This section shall apply only to actions arising from acts or omissions that occur on or after July 1, 1996.~~

Sec. 16. 18 V.S.A. § 1762 is amended to read:

§ 1762. SECURED LENDERS AND FIDUCIARIES; LIABILITY

(a) A person who holds indicia of ownership in rental target housing or a child care facility furnished by the owner or person in lawful possession, for the primary purpose of assuring repayment of a financial obligation and takes full legal title through foreclosure or deed in lieu of foreclosure or otherwise shall not be liable as an owner of the property for injury or loss claimed to be caused by exposure to lead of a child on the premises, provided that, on or before the 120th day after the date of possession, the person completes all the following:

(1) ~~performs essential maintenance practices~~ EMP as required by section 1759 of this title; and

(2) ~~fully discloses~~ Full disclosure to all potential purchasers, child care facility operators or tenants of the property of any information in the possession of ~~such the~~ person or the person's agents, regarding the presence of ~~lead-based paint lead~~ hazards ~~or a lead-poisoned child~~ on the property ~~and, upon request, provides, including providing~~ copies of all written reports on ~~lead-based paint lead~~ hazards to potential purchasers, operators, or tenants.

(b) The immunity provided in subsection (a) of this section shall expire 365 days after the secured lender or fiduciary takes full legal title.

(c) A person who holds legal title to rental target housing or a child care facility as an executor, administrator, trustee, or the guardian of the estate of the owner, and demonstrates that in that fiduciary capacity does not have either the legal authority or the financial resources to fund capital or major property rehabilitation ~~necessary to conduct essential maintenance practices~~ shall not be personally liable as an owner for injury or loss caused by exposure to lead by a child on the premises. However, nothing in this section shall limit the liability of the trust estate for such claims and those claims may be asserted against the trustee as a fiduciary of the trust estate.

Sec. 17. 18 V.S.A. § 1763 is amended to read:

§ 1763. PUBLIC FINANCIAL ASSISTANCE; RENTAL TARGET HOUSING AND CHILD CARE FACILITIES

Every state agency or instrumentality that makes a commitment to provide public financial assistance for the purchase or rehabilitation of rental target housing or child care facilities shall give priority to projects in which the property is lead free, the lead hazards have been or will be identified and abated, or ~~lead-based paint the lead~~ hazards have been or will be identified and controlled and have passed or will pass an independent dust clearance test that ~~determines that the property contains no lead-contaminated dust~~ prior to

occupancy or use. Priority rental target housing projects may include units occupied by ~~severely lead-poisoned~~ children six years of age or younger with a confirmed venous blood lead level at or greater than ten micrograms of lead per deciliter or at a lower level as determined by the commissioner and units ~~in a building~~ that are likely to contain ~~lead-based-paint~~ lead hazards. For purposes of this section, "public financial assistance" means any grant, loan, or allocation of tax credits funded by the state or the federal government, or any of their agencies or instrumentalities.

Sec. 18. 18 V.S.A. § 1764 is amended to read:

§ 1764. LEAD INSPECTORS; FINANCIAL RESPONSIBILITY FOR LEAD HAZARD CONTROL ACTIVITIES

The commissioner may require that a registrant, licensee, or an applicant for a registration or license under section ~~1752(d)~~ 1752 of this title provide evidence of ability to properly indemnify a person who suffers damage from ~~lead-based-paint~~ the registrant's or licensee's activities such as proof of effective liability insurance coverage or a surety bond in an amount to be determined by the commissioner which shall not be less than \$300,000.00. This section shall not restrict or enlarge the liability of any person under any applicable law.

Sec. 19. 18 V.S.A. § 1765 is amended to read:

§ 1765. LIABILITY INSURANCE

(a) If the commissioner of banking, insurance, securities, and health care administration determines that ~~lead-based-paint~~ lead hazards have substantially diminished the availability of liability insurance for owners of rental property or child care facilities and that a voluntary market assistance plan will not adequately restore availability, the commissioner shall order liability insurers to provide or continue to provide liability coverage or to participate in any other appropriate remedial program as determined by the commissioner, provided the prospective insured is otherwise in compliance with the provisions of this chapter.

* * *

Sec. 20. 18 V.S.A. § 1766 is added to read:

§ 1766. LEAD HAZARD EDUCATION AND CLEANUP FUND

(a) A fund to be known as the lead hazard education and cleanup fund is created in the state treasury shall be administered by the Vermont housing and conservation board to assist Vermont families and property owners to control lead hazards in housing. The board shall administer the fund in compliance

with 10 V.S.A. § 312 and the policies and priorities of the board's lead-based paint hazard reduction program with particular attention to targeting resources, promoting primary prevention in order to maximize both the number of young children protected from exposure to lead hazards and the number of homes made safe from lead hazards. Disbursement may be authorized to fund any of the following:

(1) Free or reduced rate training on EMP and lead-safe work practices for property owners, contractors, child care facility operators and other appropriate persons.

(2) Public education and outreach.

(3) Costs minimally necessary to administer the fund.

(4) Technical assistance to Vermont property owners to identify and control housing-based lead hazards.

(5) Collection and analysis of environmental samples.

(6) Grants and loans to property owners to control lead hazards in housing units likely to be inhabited by families with young children.

(b) The fund shall consist of loan repayments, recovered disbursements, donations, gifts, administrative penalties related to lead hazards, and any funds appropriated by the general assembly, or received from any other source, private or public. All balances in the fund at the end of any fiscal year shall be carried forward and remain a part of the fund. Interest earned by the fund shall remain in the fund.

(c) Annually, by September 1, the executive director of the Vermont housing and conservation board or designee, and the commissioner of health or designee, shall annually review receipts and disbursements from the fund for the previous fiscal year, evaluate the effectiveness of the fund in meeting its purposes and goals, evaluate the reasonableness of the cleanup costs, and recommend changes to enhance and encourage abatement of lead hazards in target housing and child care facilities and their findings shall be included in the annual report required under section 1756 of this title.

Sec. 21. 18 V.S.A. § 1767 is added to read:

§ 1767. TRANSFER OF OWNERSHIP OF TARGET HOUSING; RISK ASSESSMENT; EMP COMPLIANCE

(a) At the time a purchase and sale agreement for target housing is executed, the real estate agent and seller shall provide the buyer with materials approved by the commissioner, including a lead paint hazard brochure, materials on other lead hazards in housing, and a disclosure form. The

disclosure form shall include any assurance of discontinuance, administrative order, or court order, the terms of which are not completed, and, if the property is rental target housing, verification that the EMP have been completed and that a current EMP compliance statement has been filed with the department.

(b) At a closing for the transfer of title of target housing, real estate agents, sellers, and other transferors shall provide the buyer or transferee with any materials delineated in subsection (a) of this section not previously disclosed and a lead-safe renovation practices packet approved by the commissioner and shall disclose any assurance of discontinuance, administrative order, or court order not disclosed pursuant to subsection (a) of this section, the terms of which are not completed.

(c) No transfer of title of a rental target housing, building or unit may occur if the building or unit is currently the subject of an assurance of discontinuance, administrative order, or court order unless the assurance or order is amended in writing to transfer to the buyer or other transferee all remaining obligations under the assurance or order.

(d) At the time of any transfer of title of rental target housing the real estate agents, sellers, and other transferors of title shall provide the buyer or transferee with information approved by the commissioner explaining EMP obligations.

(e) A buyer or other transferee of title to rental target housing who has purchased or received a building or unit that is not in full compliance with section 1759 of this title shall bring the target housing into compliance with section 1759 of this title within 60 days after the closing. Within the 60-day period, the buyer or transferee may submit a written request for an extension of time for compliance, which the commissioner may grant in writing for a stated period of time for good cause only. Failure to comply with this subsection shall result in a mandatory civil penalty.

(f) This section shall not apply to target housing that has been certified lead free.

(g) Noncompliance with this section shall not affect marketability of title.

Sec. 22. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

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

* * *

(23) To enforce laws related to lead hazards pursuant to chapter 38 of Title 18, including requiring screening and testing of individuals, enforcing the use of safe work practices and EMP. This subdivision confers no new authority to regulate firearms, ammunition, or shooting ranges or circumstances resulting from shooting, handling, storing, or casting and reloading ammunition.

Sec. 23. GRANTS FOR LEAD HAZARD REDUCTION

The commissioner of health is authorized to secure grants from public and private sources and to receive and disburse funds that are assigned, donated, or bequeathed to the department to increase lead hazard reduction activities, to promote primary prevention of exposure to lead hazards, and to evaluate primary prevention programs in the state.

Sec. 24. CONSTRUCTION

Nothing in this act shall be construed to regulate firearms, ammunition, or shooting ranges or circumstances resulting from shooting, handling, storing, or casting and reloading ammunition.

Sec. 25. SUNSET

Section 1756 of Title 18, requiring the commissioner of health to file an annual report related to lead in housing, shall be repealed on October 16, 2014.

Sec. 26. EFFECTIVE DATE

This act shall take effect on July 1, 2008, except:

(1) Sec. 6, subsection 1755(b) of Title 18, relating to mandatory screenings and confirmation tests; Sec. 13, subsection 1760(c) of Title 18, only as it relates to unsafe work practices in owner-occupied housing by hired persons; and Sec. 21, relating to transfer of target housing, shall take effect on July 1, 2009; and

(2) Sec. 9, relating to a special report on inspections, shall take effect on October 16, 2014.

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

Thereupon, **Rep. Trombley of Grand Isle** asked and was granted leave of the House to withdraw the report of the committee on General, Housing and Military Affairs.

Pending the question, Shall the House amend the bill as recommended by the committee on Human Services? **Rep. Marcotte of Coventry** moved to recommit the bill to the committee on Human Services.

Pending the question, Shall the bill be recommitted to the committee on Human Services? **Rep. Marcotte of Coventry** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be recommitted to the committee on Human Services? was decided in the negative. Yeas, 39. Nays, 94.

Those who voted in the affirmative are:

Acinapura of Brandon	Flory of Pittsford	Morrissey of Bennington
Adams of Hartland	Helm of Castleton	Myers of Essex
Ainsworth of Royalton	Kilmartin of Newport City	O'Donnell of Vernon
Baker of West Rutland	Komline of Dorset	Otterman of Topsham
Bostic of St. Johnsbury	Krawczyk of Bennington	Oxholm of Vergennes
Brennan of Colchester	Larocque of Barnet	Peaslee of Guildhall
Canfield of Fair Haven	LaVoie of Swanton	Perry of Richford
Clark of Vergennes	Lawrence of Lyndon	Scheuermann of Stowe
Clerkin of Hartford	Marcotte of Coventry	Shand of Weathersfield
Crawford of Burke	McDonald of Berlin	Valliere of Barre City
Devereux of Mount Holly	McFaun of Barre Town	Wheeler of Derby
Donaghy of Poultney	McNeil of Rutland Town	Winters of Williamstown
Errecart of Shelburne	Morley of Barton	Wright of Burlington

Those who voted in the negative are:

Ancel of Calais	Fisher of Lincoln	Leriche of Hardwick
Andrews of Rutland City	Fitzgerald of St. Albans City	Lippert of Hinesburg
Aswad of Burlington	Frank of Underhill	Lorber of Burlington
Atkins of Winooski	French of Randolph	Maier of Middlebury
Audette of S. Burlington	Gervais of Enosburg	Malcolm of Pawlet
Bissonnette of Winooski	Gilbert of Fairfax	Manwaring of Wilmington
Botzow of Pownal	Godin of Milton	Marek of Newfane
Bray of New Haven	Grad of Moretown	Martin, C. of Springfield
Browning of Arlington	Haas of Rochester	Martin of Wolcott
Chen of Mendon	Head of S. Burlington	Masland of Thetford
Cheney of Norwich	Heath of Westford	McAllister of Highgate
Clarkson of Woodstock	Hosford of Waitsfield	McCormack of Rutland City
Consejo of Sheldon	Howard of Rutland City	McCullough of Williston
Copeland-Hanzas of Bradford	Howigan of Fairfield	Milkey of Brattleboro
Corcoran of Bennington	Hunt of Essex	Miller of Shaftsbury
Courcelle of Rutland City	Hutchinson of Randolph	Minter of Waterbury
Davis of Washington	Jerman of Essex	Mitchell of Barnard
Deen of Westminster	Jewett of Ripton	Mook of Bennington
Donahue of Northfield	Johnson of South Hero	Moran of Wardsboro
Donovan of Burlington	Keenan of St. Albans City	Mrowicki of Putney
Dostis of Waterbury	Keogh of Burlington	Nease of Johnson
Edwards of Brattleboro	Klein of East Montpelier	Nuovo of Middlebury
Emmons of Springfield	Kupersmith of S. Burlington	Obuchowski of Rockingham
Fallar of Tinmouth	Larson of Burlington	Ojibway of Hartford
	Lenes of Shelburne	Orr of Charlotte

Partridge of Windham	Pugh of S. Burlington	Sweaney of Windsor
Pearson of Burlington	Randall of Troy	Trombley of Grand Isle
Pellett of Chester	Rodgers of Glover	Westman of Cambridge
Peltz of Woodbury	Sharpe of Bristol	Weston of Burlington
Peterson of Williston	Smith of Morristown	Zenie of Colchester
Pillsbury of Brattleboro	Spengler of Colchester	Zuckerman of Burlington
Potter of Clarendon	Stevens of Shoreham	

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

Allard of St. Albans Town	Evans of Essex	Larrabee of Danville
Anderson of Montpelier	Hube of Londonderry	Livingston of Manchester
Barnard of Richmond	Johnson of Canaan	Monti of Barre City
Branagan of Georgia	Kitzmiller of Montpelier	Shaw of Derby
Condon of Colchester	Koch of Barre Town	Turner of Milton

Rep. Haas of Rochester explained her vote as follows:

“Madam Speaker:

It is hard to imagine how the State of Vermont could ever do enough to increase public awareness of the dangers to children from lead exposure. But that effort is underway. Every member of the environmental health team at the Dept. of Health includes lead education in their work with the public. This bill is an important step to educate all our neighbors.”

Rep. McAllister of Highgate explained his vote as follows:

“Madam Speaker:

I do not think recommitting the bill will change the fact we were told there was no money, and that is the biggest problem.”

Rep. Morrissey of Bennington explained her vote as follows:

“Madam Speaker:

I guess our actions speak louder than our words. What are we so afraid of in developing a solid plan in regards to the critical resources and education piece need for this comprehensive bill?”

Thereupon, the report of the committee on Human Services was agreed to and third reading ordered.

Recess

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

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

Action on Bill Postponed**H. 709**

House bill, entitled

An act relating to campgrounds;

Was taken up and pending the reading of the report of the committee on General, Housing and Military Affairs, on motion of **Rep. Wright of Burlington**, action on the bill was postponed until the next legislative day.

Favorable Report; Third Reading Ordered**J.R.H. 45**

Rep. Oxholm of Vergennes, for the committee on Education, to which had been referred Joint resolution, entitled

Joint resolution urging Congress to repeal the planned Competitive Loan Auction Pilot program for the Federal Family Education Loan program's PLUS LOANS to parents;

Reported in favor of its passage. The resolution, 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. 575**

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

An act relating to small eligible telecommunications carriers;

In Sec. 1, 30 V.S.A. §227d(b)(4), by striking out the second sentence in its entirety.

Which proposal of amendment was considered and concurred in.

Message from the Senate No. 29

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

Madam Speaker:

I am directed to inform the House that the Senate requests the House to return to the custody of the Senate a bill originating in the House of the following title:

H. 737. An act relating to fiscal year 2008 budget adjustments.

Rules Suspended; Bill Messaged to Senate Forthwith**H. 737**

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

An act relating to fiscal year 2008 budget adjustments;

Was taken up for immediate consideration.

Thereupon, **Rep. Adams of Hartland** moved that pursuant to the request of the Senate, custody of the bill be returned to the Senate, which was agreed to.

On motion of **Rep. Adams of Hartland**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Rules Suspended; Bill Recommitted**H. 871**

On motion of **Rep. Lippert of Hinesburg**, the rules were suspended and House bill, entitled

An act relating to professional requirements for the deputy attorney general, assistant attorneys general, probate judges, deputy state's attorneys, constables and sheriffs;

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

Thereupon, **Rep. Lippert of Hinesburg** moved to recommit the bill to Judiciary, which was agreed to.

Message from the Senate No. 30

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

Madam Speaker:

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

S. 358. An act relating to enhanced driver licenses.

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

Adjournment

At two o'clock and thirty-five minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at ten o'clock in the forenoon.

THURSDAY, FEBRUARY 28, 2008

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

Devotional Exercises

Devotional exercises were conducted by **Reverend Mark Pitton of Bethany Church of Christ, Montpelier, VT.**

Senate Bill Referred**S. 358**

Senate bill, entitled

An act relating to enhanced driver licenses;

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

**Senate Proposal of Amendment to House Proposal of Amendment
Considered and Concurred in****S. 209**

The Senate has considered the House proposal of amendment to Senate bill, entitled

An act relating to the Vermont energy efficiency and affordability act;

With the following amendments thereto:

First: In Sec, 11, 30 V.S.A. § 203a(a) by striking out the following:

“: (1) net revenues above costs associated with payments from the New England Independent System Operator (ISO-NE) for capacity savings resulting from the activities of an energy efficiency utility designated under subdivision 209(d)(2) of this title;

(2)”

Second: In Sec. 12, 30 V.S.A. § 209(d), after subdivision (6), by adding a new subdivision to be numbered subdivision (7) to read as follows:

(7) Net revenues above costs associated with payments from the New England Independent System Operator (ISO-NE) for capacity savings resulting from the activities of the energy efficiency utility designated under subdivision (2) of this subsection shall be deposited into the electric efficiency fund established by this section.

Third: After Sec. 13, by adding a new section to be numbered Sec. 13a to read as follows:

* * * Affordability * * *

Sec. 13a. 30 V.S.A. § 218(e) is added to read:

(e) Notwithstanding any other provisions of this section, the board, on its own motion or upon petition of any person, may issue an order approving a rate schedule, tariff, agreement, contract, or settlement that provides reduced rates for low income electric utility consumers better to assure affordability. For the purposes of this subsection, "low income electric utility consumer" means a customer who has a household income at or below 150 percent of the current federal poverty level. When considering whether to approve a rate schedule, tariff, agreement, contract, or settlement for low income electric utility consumers, the board shall take into account the potential impact on, and cost-shifting to, other utility customers.

Fourth: In Sec. 14, amending 30 V.S.A. § 219a, in subdivision (g)(5), by striking out the second sentence, and inserting in lieu thereof the following:

Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net metering system. A union or district school facility shall be considered in the same group net metering system with buildings of its member municipalities that are located within the service area of the same electric company that serves the facility.

Fifth: In Sec. 14, amending 30 V.S.A. § 219a, by striking subsection (l) and inserting the following:

(l) The board shall adopt rules regarding the application of the esthetics criterion established in subdivision 248(b)(5) of this title to an application for a certificate under this section for a single, net metered wind turbine that is less than 150 feet in height.

Sixth: In Sec. 15, 30 V.S.A. § 235(a), after the second sentence, by inserting the following: The contracts entered into during the first year after the effective date of this section shall be for a period of time of no greater than three years.

And in subsection (c), after the period, by adding the following:

During fiscal year 2009, any contracts or grants to be made from the fund for other than administrative purposes shall be subject to appropriation by the general assembly. The department shall provide the joint fiscal committee, at

the committee's November 2008 meeting, with a preliminary report on the program to be presented to the public service board.

Seventh: In Sec. 25, in 32 V.S.A. § 5402c(c), by striking out the following: "a 15 percent nameplate capacity" and inserting in lieu thereof the following: 15 percent of the facility's average capacity factor

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

Sec. 36. REPORT ON VALUATION OF NET METERED SYSTEMS

By December 1, 2008, the department of taxes shall present to the House and Senate committees on natural resources and energy a report on how net metered systems are now being valued and taxed at the town and municipal level in Vermont and recommendations on how such customer-sited renewable energy generation should be valued for property tax purposes by towns and municipalities.

Which proposal of amendment was considered and concurred in.

Bill Read Second Time; Amended and Third Reading Ordered

H. 709

House bill entitled

An act relating to campgrounds;

Was taken up, read the second time and pending the question, Shall the bill be read a third time? **Rep. Wright of Burlington** moved to amend the bill as follows:

First: In Sec. 1, in 9 V.S.A. § 4452 in (7) before the words "van camper" by inserting the word "and"

Second: By striking Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. 10 V.S.A. §6204(f) is added to read:

(f) This chapter shall not apply to the rental or use of campsites occupied for vacation or recreational purposes by camping units, such as: tents, yurts, tepees, lean-tos, camping cabins, and recreational vehicles, including motor homes, folding camping trailers, conventional travel trailers, fifth wheel travel trailers, truck campers, van campers, and conversion vehicles designed and used for travel, recreation, and camping.

Which was agreed to and third reading ordered.

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

House bill entitled

An act relating to making miscellaneous amendments to education law;

Was taken up, read the second time and pending the question, Shall the bill be read the third time? **Reps. Pearson of Burlington, Bray of New Haven, Cheney of Norwich, Donahue of Northfield, Flory of Pittsford, Haas of Rochester, Hube of Londonderry, Krawczyk of Bennington, Mrowicki of Putney, Nuovo of Middlebury, Pillsbury of Brattleboro, Stevens of Shoreham and Zuckerman of Burlington** moved to amend the bill as follows:

By adding two new sections to be Secs. 3a and 3b to read as follows:

Sec. 3a. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; ~~FORM OF VOTE IF BUDGET EXCEEDS BENCHMARK AND DISTRICT SPENDING IS ABOVE AVERAGE~~

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

(11)(A) Shall prepare and distribute annually a proposed budget for the next school year according to such major categories as may from time to time be prescribed by the commissioner.

~~(B) If the proposed budget contains education spending in excess of the Maximum Inflation Amount, and the district's education spending per equalized pupil in the fiscal year preceding the year for which the budget is proposed was in excess of the statewide average district education spending per equalized pupil in that same fiscal year, as determined by the commissioner of education, then in lieu of any other statutory or charter form of budget adoption or budget vote, the board shall present the budget to the voters by means of a divided question, in the form of vote provided in subdivision (ii) of this subsection.~~

(i) ~~"Maximum Inflation Amount" in this section means:~~

~~(I) the statewide average district education spending per equalized pupil, as defined in subdivision 4001(6) of this title, in the fiscal year preceding the year for which the budget is proposed, as determined by the commissioner of education, multiplied by the New England Economic Project~~

~~Cumulative Price Index percentage change, as of November 15 preceding distribution of the proposed budget, for state and local government purchases of goods and services for the fiscal year for which the budget is proposed, plus one percentage point; plus the district's education spending per equalized pupil in the fiscal year preceding the year for which the budget is proposed, as determined by the commissioner of education;~~

~~(II) multiplied by the higher of the following amounts as determined by the commissioner of education:~~

~~(aa) the district's equalized pupil count in the fiscal year preceding the year for which the budget is proposed; or~~

~~(bb) the district's equalized pupil count in the fiscal year for which the budget is proposed.~~

~~(ii) Form of vote:~~

~~"School Budget Question #1:~~

~~Shall the voters of the _____ School District approve a total budget in the amount of [\$ _____], which includes the Maximum Inflation Amount of education spending?~~

~~"School Budget Question #2:~~

~~If Question #1 is approved, shall the voters of the School District also approve additional education spending of [\$ _____]?"~~

~~(C)(B)~~ At a school district's annual meeting, the electorate may vote to provide notice of availability of the school budget required by this subdivision to the electorate in lieu of distributing the budget. If the electorate of the school district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual meeting. The proposed budget shall be prepared and distributed at least ten days before a sum of money is voted on by the electorate. Any proposed budget shall show the following information in a format prescribed by the commissioner of education:

* * *

Sec. 3b. REPEAL

Sec. 6 (effective date for requiring a divided question when voting for school budgets that exceed the Maximum Inflation Amount) of No. 82 of the Acts of 2007 is repealed.

Pending the question, Shall the House amend the bill as recommended by Reps. Pearson of Burlington, et al? **Rep. Donovan of Burlington** moved to amend the recommendation of amendment offered by Reps. Pearson of Burlington, et al, as follows:

By adding five new sections to be Secs. 19 through 23 to read:

* * * Excess Spending * * *

Sec. 19. 32 V.S.A. § 5401(12) is amended to read:

(12) "Excess spending" means:

* * *

(B) in excess of ~~125~~ 123 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education.

Sec. 20. 32 V.S.A. § 5401(12)(B) is amended to read:

(B) in excess of ~~123~~ 120 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education.

Sec. 21. 16 V.S.A. § 4011(h) is amended to read:

(h) Annually, by October 1, the commissioner shall send to school boards for inclusion in town reports and publish on the department website the following information:

(1) the statewide average district spending per equalized pupil for the current fiscal year, and ~~125~~ 123 percent of that average spending; and

* * *

Sec. 22. 16 V.S.A. § 4011(h)(1) is amended to read:

(1) the statewide average district spending per equalized pupil for the current fiscal year, and ~~123~~ 120 percent of that average spending; and

Sec. 23. EFFECTIVE DATES

(a) Secs. 19 and 21 of this act shall take effect on January 1, 2009 and shall apply to budgets for school years 2009–2010 and 2010–2011.

(b) Secs. 20 and 22 of this act shall take effect on January 1, 2011, and shall apply to budgets for school years 2011–2012 and after.

And by renumbering Sec. 19 to be Sec. 24.

Pending the question, Shall the House amend the recommendation of amendment offered by Reps. Pearson of Burlington, et al, as recommended by Rep. Donovan of Burlington?

Recess

At eleven o'clock in the forenoon, the Speaker declared a recess until the fall of the gavel.

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

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 864

Consideration resumed on House bill entitled

An act relating to making miscellaneous amendments to education law;

The recurring question, Shall the House amend the recommendation of amendment offered by Reps. Pearson of Burlington, et al, as recommended by Rep. Donovan of Burlington? was agreed to.

Thereupon, the recommendation of amendment offered by Reps. Pearson of Burlington, et al, as amended, was agreed to.

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

By adding seven new sections to the bill to be Secs. 19 through 25 to read:

*** * * Excess Spending * * ***

Sec. 19. 32 V.S.A. § 5401(12) is amended to read:

(12) "Excess spending" means:

*** * ***

(B) in excess of ~~125~~ 123 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education.

Sec. 20. 32 V.S.A. § 5401(12)(B) is amended to read:

(B) in excess of ~~123~~ 120 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education.

Sec. 21. 16 V.S.A. § 4011(h) is amended to read:

(h) Annually, by October 1, the commissioner shall send to school boards for inclusion in town reports and publish on the department website the following information:

(1) the statewide average district spending per equalized pupil for the current fiscal year, and ~~125~~ 123 percent of that average spending; and

* * *

Sec. 22. 16 V.S.A. § 4011(h)(1) is amended to read:

(1) the statewide average district spending per equalized pupil for the current fiscal year, and ~~123~~ 120 percent of that average spending; and

Sec. 23. EFFECTIVE DATES

(a) Secs. 19 and 21 of this act shall take effect on January 1, 2009 and shall apply to budgets for school years 2009–2010 and 2010–2011.

(b) Secs. 20 and 22 of this act shall take effect on January 1, 2011, and shall apply to budgets for school years 2011–2012 and after.

* * * Divided Vote * * *

Sec. 24. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE IF BUDGET EXCEEDS ~~BENCHMARK AND DISTRICT SPENDING IS ABOVE AVERAGE~~ “EXCESS SPENDING” THRESHOLD

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

(11)(A) Shall prepare and distribute annually a proposed budget for the next school year according to such major categories as may from time to time be prescribed by the commissioner.

(B) If the per equalized pupil amount of the district's proposed budget contains education spending in excess of the Maximum Inflation Amount, and the district's education spending per equalized pupil in the fiscal year preceding the year for which the budget is proposed was in excess of the statewide average district education spending per equalized pupil in that same fiscal year, as determined by the commissioner of education is “excess spending” as that term is defined in 32 V.S.A. § (12), then in lieu of any other statutory or charter form of budget adoption or budget vote, the board shall present the budget to the voters by means of a divided question, in the following form: of vote provided in subdivision (ii) of this subsection.

(i) ~~"Maximum Inflation Amount" in this section means:~~

~~(I) the statewide average district education spending per equalized pupil, as defined in subdivision 4001(6) of this title, in the fiscal year preceding the year for which the budget is proposed, as determined by the commissioner of education, multiplied by the New England Economic Project Cumulative Price Index percentage change, as of November 15 preceding distribution of the proposed budget, for state and local government purchases of goods and services for the fiscal year for which the budget is proposed, plus one percentage point; plus the district's education spending per equalized pupil in the fiscal year preceding the year for which the budget is proposed, as determined by the commissioner of education;~~

~~(II) multiplied by the higher of the following amounts as determined by the commissioner of education:~~

~~(aa) the district's equalized pupil count in the fiscal year preceding the year for which the budget is proposed; or~~

~~(bb) the district's equalized pupil count in the fiscal year for which the budget is proposed.~~

(ii) ~~Form of vote.~~

"School Budget Question #1:

Shall the voters of the School District approve a total budget in the amount of [\$], which includes the Maximum Inflation Amount of education spending represents that amount of the proposed budget that does not exceed the "excess spending" threshold defined in 32 V.S.A. § 5401(12)?

"School Budget Question #2:

If Question #1 is approved, shall the voters of the School District also approve additional education spending of [\$]?"

* * *

Sec. 25. Sec. 6 of No. 82 of the Acts of 2007 is amended to read:

Sec. 6. EFFECTIVE DATE

Sec. 5 of this act (form of vote if budget exceeds the ~~maximum inflation amount~~ "excess spending" threshold) shall apply to budgets for fiscal years 2010 (school year 2009-2010) through 2014 (school year 2013-2014) only.

and by renumbering the existing Sec. 19 to be Sec. 26

Pending the question, Shall the House amend the bill as recommended by Rep. Kilmartin of Newport City? Rep. Kilmartin of Newport City demanded

the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House amend the bill as recommended by Rep. Kilmartin of Newport City? was decided in the negative. Yeas, 28. Nays, 109.

Those who voted in the affirmative are:

Adams of Hartland
Ainsworth of Royalton
Allard of St. Albans Town
Baker of West Rutland
Bostic of St. Johnsbury
Brennan of Colchester
Canfield of Fair Haven
Clerkin of Hartford
Donaghy of Poultney
Errecart of Shelburne

Helm of Castleton
Kilmartin of Newport City
Komline of Dorset
Larocque of Barnet
Larrabee of Danville
LaVoie of Swanton
Lawrence of Lyndon
Marcotte of Coventry
McAllister of Highgate
McDonald of Berlin

McNeil of Rutland Town
O'Donnell of Vernon
Peaslee of Guildhall
Shaw of Derby
Valliere of Barre City
Wheeler of Derby
Winters of Williamstown
Wright of Burlington

Those who voted in the negative are:

Acinapura of Brandon
Ancel of Calais
Andrews of Rutland City
Aswad of Burlington
Atkins of Winooski
Audette of S. Burlington
Bissonnette of Winooski
Botzow of Pownal
Branagan of Georgia
Bray of New Haven
Browning of Arlington
Chen of Mendon
Cheney of Norwich
Clark of Vergennes
Clarkson of Woodstock
Consejo of Sheldon
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Courcelle of Rutland City
Crawford of Burke
Davis of Washington
Deen of Westminster
Devereux of Mount Holly
Donahue of Northfield
Donovan of Burlington
Dostis of Waterbury
Edwards of Brattleboro
Emmons of Springfield
Evans of Essex
Fallar of Tinmouth

Fisher of Lincoln
Fitzgerald of St. Albans City
Flory of Pittsford
Frank of Underhill
French of Randolph
Gervais of Enosburg
Gilbert of Fairfax
Godin of Milton
Grad of Moretown
Haas of Rochester
Head of S. Burlington
Heath of Westford
Hosford of Waitsfield
Howard of Rutland City
Howrigan of Fairfield
Hube of Londonderry
Hunt of Essex
Hutchinson of Randolph
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Keogh of Burlington
Klein of East Montpelier
Krawczyk of Bennington
Kupersmith of S. Burlington
Lenes of Shelburne
Leriche of Hardwick
Lippert of Hinesburg
Lorber of Burlington
Maier of Middlebury

Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin, C. of Springfield
Martin of Wolcott
Masland of Thetford
McCormack of Rutland City
McCullough of Williston
McFaun of Barre Town
Milkey of Brattleboro
Miller of Shaftsbury
Minter of Waterbury
Mitchell of Barnard
Mook of Bennington
Moran of Wardsboro
Morley of Barton
Morrissey of Bennington
Mrowicki of Putney
Myers of Essex
Nease of Johnson
Nuovo of Middlebury
Obuchowski of Rockingham
Ojibway of Hartford
Orr of Charlotte
Otterman of Topsham
Oxholm of Vergennes
Partridge of Windham
Pearson of Burlington
Pellett of Chester
Peltz of Woodbury
Perry of Richford

Peterson of Williston
 Potter of Clarendon
 Pugh of S. Burlington
 Randall of Troy
 Rodgers of Glover
 Scheuermann of Stowe

Shand of Weathersfield
 Sharpe of Bristol
 Smith of Morristown
 Spengler of Colchester
 Stevens of Shoreham
 Sweaney of Windsor

Trombley of Grand Isle
 Westman of Cambridge
 Weston of Burlington
 Zenie of Colchester
 Zuckerman of Burlington

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

Anderson of Montpelier
 Barnard of Richmond
 Condon of Colchester
 Johnson of Canaan

Kitzmiller of Montpelier
 Koch of Barre Town
 Larson of Burlington
 Livingston of Manchester

Monti of Barre City
 Pillsbury of Brattleboro
 Turner of Milton

Pending the question, Shall the bill be read the third time? **Rep. Donovan of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read the third time? was decided in the affirmative. Yeas, 99. Nays, 38.

Those who voted in the affirmative are:

Acinapura of Brandon
 Ancel of Calais
 Andrews of Rutland City
 Aswad of Burlington
 Atkins of Winooski
 Audette of S. Burlington
 Bissonnette of Winooski
 Bostic of St. Johnsbury
 Botzow of Pownal
 Branagan of Georgia
 Bray of New Haven
 Browning of Arlington
 Chen of Mendon
 Cheney of Norwich
 Clarkson of Woodstock
 Consejo of Sheldon
 Copeland-Hanzas of
 Bradford
 Corcoran of Bennington
 Courcelle of Rutland City
 Davis of Washington
 Deen of Westminster
 Donahue of Northfield
 Donovan of Burlington
 Dostis of Waterbury
 Edwards of Brattleboro
 Emmons of Springfield
 Evans of Essex

Fallar of Tinmouth
 Fisher of Lincoln
 Fitzgerald of St. Albans City
 Frank of Underhill
 French of Randolph
 Gervais of Enosburg
 Gilbert of Fairfax
 Godin of Milton
 Grad of Moretown
 Haas of Rochester
 Head of S. Burlington
 Heath of Westford
 Hosford of Waitsfield
 Howard of Rutland City
 Howrigan of Fairfield
 Hunt of Essex
 Hutchinson of Randolph
 Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Keenan of St. Albans City
 Keogh of Burlington
 Klein of East Montpelier
 Kupersmith of S. Burlington
 Lenes of Shelburne
 Leriche of Hardwick
 Lippert of Hinesburg
 Lorber of Burlington

Maier of Middlebury
 Malcolm of Pawlet
 Marek of Newfane
 Martin, C. of Springfield
 Martin of Wolcott
 Masland of Thetford
 McCormack of Rutland City
 McCullough of Williston
 McFaun of Barre Town
 Milkey of Brattleboro
 Miller of Shaftsbury
 Minter of Waterbury
 Mitchell of Barnard
 Mook of Bennington
 Mrowicki of Putney
 Myers of Essex
 Nease of Johnson
 Nuovo of Middlebury
 Obuchowski of Rockingham
 Ojibway of Hartford
 Orr of Charlotte
 Otterman of Topsham
 Oxholm of Vergennes
 Partridge of Windham
 Pearson of Burlington
 Pellett of Chester
 Peltz of Woodbury
 Perry of Richford

Peterson of Williston	Sharpe of Bristol	Weston of Burlington
Potter of Clarendon	Smith of Morristown	Wheeler of Derby
Pugh of S. Burlington	Spengler of Colchester	Zenie of Colchester
Randall of Troy	Stevens of Shoreham	Zuckerman of Burlington
Rodgers of Glover	Sweaney of Windsor	
Shand of Weathersfield	Trombley of Grand Isle	

Those who voted in the negative are:

Adams of Hartland	Helm of Castleton	McNeil of Rutland Town
Ainsworth of Royalton	Hube of Londonderry	Moran of Wardsboro
Allard of St. Albans Town	Kilmartin of Newport City	Morley of Barton
Baker of West Rutland	Komline of Dorset	Morrissey of Bennington
Brennan of Colchester	Krawczyk of Bennington	O'Donnell of Vernon
Canfield of Fair Haven	Larocque of Barnet	Peaslee of Guildhall
Clark of Vergennes	Larrabee of Danville	Scheuermann of Stowe
Clerkin of Hartford	LaVoie of Swanton	Shaw of Derby
Crawford of Burke	Lawrence of Lyndon	Valliere of Barre City
Devereux of Mount Holly	Manwaring of Wilmington	Westman of Cambridge
Donaghy of Poultney	Marcotte of Coventry	Winters of Williamstown
Errecart of Shelburne	McAllister of Highgate	Wright of Burlington
Flory of Pittsford	McDonald of Berlin	

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

Anderson of Montpelier	Kitzmiller of Montpelier	Monti of Barre City
Barnard of Richmond	Koch of Barre Town	Pillsbury of Brattleboro
Condon of Colchester	Larson of Burlington	Turner of Milton
Johnson of Canaan	Livingston of Manchester	

Rep. Ancel of Calais explained her vote as follows:

"Madam Speaker:

This bill is not a retreat from cost containment. Rather, it puts in place effective cost containment through a mechanism that allows school boards and administrators to plan, that respects local decision making and that has been proven to work."

Rep. Hosford of Waitsfield explained her vote as follows:

"Madam Speaker:

I am proud to support a proven mechanism for cost containment that encourages equity by not penalizing lower spending schools. School board members have told me that they keep a close eye on the existing threshold and budget accordingly. Lowering this threshold will encourage further savings while leaving spending decisions in the hands of local boards and citizens. Thresholds provide clarity and predictability in the ever-challenging task of providing quality education for our children while maintaining fiscal responsibility.

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

“Madam Speaker:

I vote no. This is a feckless and reckless retreat from cost containment. It is no longer a matter of “thinking twice” – it is a matter of “not thinking at all”!”

Rep. Marek of Newfane explained his vote as follows:

“Madam Speaker:

I voted yes because I respect the good work of our local boards to control spending. I respect the hard work of our Education Committee to look at all possible ways to help in that effort. And finally, I voted yes because school spending is far too important to be a political football. Doing better work to control expenses is never a mistake.”

Rep. Myers of Essex explained her vote as follows:

“Madam Speaker:

I voted yes on this bill, but in fact it didn’t matter how I voted. My school district would have been adversely affected by the two-vote provision and will also be adversely affected by the threshold provision. What I hoped for last year, and this year, was some attempt by the Legislature to offer true tax savings to the people of my district. That has not happened.”

Rep. Sharpe of Bristol explained his vote as follows:

“Madam Speaker:

Vermont has among the best public schools in the world and local school boards have controlled costs lower than health care and fuel oil costs which drive their budgets. The discussion we should be having is about how we face the educational challenges presented by 21st century economics. I hope we will vote to keep Vermont schools first rate and give our Vermont students the best possible start in life.”

Rep. Wright of Burlington explained his vote as follows:

“Madam Speaker:

Repeal of the think twice provision, while replacing it with something that did not fly last year, sends a bad message to over taxed citizens across Vermont. Serious reform bills sit gathering dust on our Education Committee walls, while we present the failed bill from last year. Today, by passage of this bill we have failed badly on the test of leadership.”

Message from the Senate No. 31

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

Madam Speaker:

I am directed to inform the House that the Senate has on its part considered a bill originating in the House entitled:

H. 737. An act relating to fiscal year 2008 budget adjustments.

And has passed the same in concurrence with proposal of amendment.

Message from the Senate No. 32

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

Madam Speaker:

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

S. 361. An act relating to authority to lease the state lottery.

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. 874. An act relating to decomposed municipal budgets.

And has passed the same in concurrence.

The Senate has considered the request of the House that the Senate recede from its proposal of amendment to House bill of the following title:

H. 93. An act relating to beer producers' interest in retail liquor licenses.

And recedes therefrom, passing the bill in concurrence.

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

J.R.H. 51. Joint resolution supporting the Hanover High School Kids for a Cooler Planet reusable shopping bag campaign.

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

Recess

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

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

Bill Messaged to Senate Forthwith**S. 209**

Senate bill, entitled

An act relating to the Vermont energy efficiency and affordability act

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

Third Reading; Bill Passed**H. 867**

House bill, entitled

An act relating to health insurance plan coverage for athletic trainer services;

Was taken up, read the third time and passed.

Third Reading; Joint Resolution Adopted**J.R.H. 45**

Joint resolution , entitled

Joint resolution urging Congress to repeal the planned Competitive Loan Auction Pilot program for the Federal Family Education Loan program's PLUS LOANS to parents;

Was taken up, read the third time and adopted on the part of the House.

Bill Read Second Time; Third Reading Ordered**H. 870**

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

House bill entitled

An act relating to the regulations and professions and occupations;

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

Bill Amended, Read Third Time and Passed**H. 352**

House bill, entitled

An act relating to reducing lead hazards in housing;

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

By inserting a new Sec. 20a to read:

Sec. 20a. START-UP EDUCATION AND OUTREACH FUNDING

At the commencement of fiscal year 2009, the amount of \$250,000 shall be transferred from the Housing and Conservation Trust Fund to the Lead Hazard Education and Clean-up Fund established in 18 V.S.A. §1766 added by Sec. 20 of this act. The funds transferred shall be used by the board for education and outreach purposes relating to the lead paint hazard reduction program. The funds transferred shall be repaid to the Housing and Conservation Trust Fund from the initial revenues received in the Lead Hazard Education Clean-up Fund from revenue sources set out in 18 V.S.A. §1766 (b).

Thereupon, **Rep. Flory of Pittsford** asked and was granted leave of the House to withdraw her amendment.

Pending third reading of the bill, **Reps. Marcotte of Coventry, Donahue of Northfield, Haas of Rochester, Mrowicki of Putney and Trombley of Grand Isle** moved to amend the bill as follows:

First: In Sec. 5, 18 V.S.A. § 1754, by striking subsection (a) in its entirety and by inserting in lieu thereof the following:

(a)(1) ~~Beginning January 1, 1994, the~~ The commissioner of health shall prepare and distribute clear and simple ~~printed~~ materials describing the dangers of lead poisoning, the need for importance of parents to have having their child children screened, how to have a child ~~tested and receive a confirmation test,~~ recommended nutrition and housekeeping practices, and materials on other lead hazards in housing, identifying possible sources of lead exposure in housing in addition to lead-based paint, and describing methods for addressing those sources. The commissioner shall work with persons and organizations ~~involved in occupations that may involve lead-based paint hazards or childhood lead poisoning to distribute the materials to their clients, patients, students, or customers whose work involves disturbance of lead-based paint or preventing and treating elevated blood lead levels in humans,~~ such as realtors, subcontractors, apartment owners, public housing authorities, pediatricians, family practitioners, nurse clinics, child clinics, other health care providers,

child care and preschool operators, and kindergarten teachers to encourage them to distribute the materials to their clients, patients, students, or customers. The commissioner shall also identify those points in time or specific occasions, when members of the public are in contact with public agencies and lead might be an issue, such as building permits, home renovations, and ~~the ANFC and WIC~~ appropriate state and federal programs, and make the materials available on these occasions.

(2) As part of his or her education and outreach efforts, the commissioner shall give particular emphasis to ensuring that owners of rental target housing and child care facilities are aware of their obligations under this chapter and of the critical importance of avoiding lead exposure to young children. In doing so, the commissioner shall use all sources of information available from relevant state agencies and local governments to help identify and reach all owners of rental target housing and child care facilities.

Second: In Sec. 5, 18 V.S.A. § 1754, subsection (b), by adding a new last sentence to read as follows:

All outreach materials developed under this subsection shall be provided directly to local health officers for their use in local public health and outreach efforts.

Third: In Sec. 7, 18 V.S.A. § 1756, subsection (b), by adding subdivisions (12) and (13) as follows:

(12) The results of an annual survey of all licensed Vermont pediatricians and family practice physicians identifying their protocols for advising the parents and guardians of children about the dangers of lead hazards and for treating children with elevated blood lead levels.

(13) A report on the specific outreach and training provided by the Vermont Medical Society to member pediatricians and family practice physicians regarding the dangers of lead hazards.

Fourth: In Sec. 12, 18 V.S.A. § 1759, subsection (b), by striking subdivision (3) in its entirety and by inserting in lieu thereof the following:

(3) At the time the owner provides each current tenant with a copy of the EMP compliance statement, provide written materials regarding lead hazards supplied by the department. In addition, prior to entering into a lease agreement, the owner shall provide prospective tenants with written materials regarding lead hazards supplied by the department, as well as a copy of the owner's most recent EMP compliance statement. The written materials supplied by the department pursuant to this subdivision shall include information indicating that lead is highly toxic to humans, particularly young

children, and may even cause permanent neurological damage. In addition, owners of rental target housing shall notify all tenants orally about the dangers of lead hazards, as provided in the written materials supplied by the department. This oral notification shall occur for all prospective tenants prior to entering into a lease agreement. For any tenants already living in rental target housing as of July 1, 2008, the owner shall provide such oral notification when the next EMP compliance statement is filed or by July 1, 2009, which ever is sooner.

Which was agreed to.

Pending the question, Shall the bill pass? **Rep. Komline of Dorset** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 86. Nays, 50.

Those who voted in the affirmative are:

Ancel of Calais	Grad of Moretown	McCullough of Williston
Andrews of Rutland City	Haas of Rochester	Milkey of Brattleboro
Aswad of Burlington	Head of S. Burlington	Miller of Shaftsbury
Atkins of Winooski	Heath of Westford	Minter of Waterbury
Audette of S. Burlington	Hosford of Waitsfield	Mitchell of Barnard
Bissonnette of Winooski	Howard of Rutland City	Mook of Bennington
Botzow of Pownal	Howrigan of Fairfield	Moran of Wardsboro
Bray of New Haven	Hunt of Essex	Mrowicki of Putney
Browning of Arlington	Hutchinson of Randolph	Nease of Johnson
Chen of Mendon	Jerman of Essex	Nuovo of Middlebury
Cheney of Norwich	Jewett of Ripton	Obuchowski of Rockingham
Clarkson of Woodstock	Johnson of South Hero	Ojibway of Hartford
Copeland-Hanzas of Bradford	Keenan of St. Albans City	Orr of Charlotte
Courcelle of Rutland City	Keogh of Burlington	Partridge of Windham
Davis of Washington	Klein of East Montpelier	Pearson of Burlington
Deen of Westminster	Kupersmith of S. Burlington	Pellett of Chester
Donahue of Northfield	Larson of Burlington	Peltz of Woodbury
Donovan of Burlington	Lenes of Shelburne	Pugh of S. Burlington
Dostis of Waterbury	Leriche of Hardwick	Randall of Troy
Edwards of Brattleboro	Lippert of Hinesburg	Shand of Weathersfield
Emmons of Springfield	Lorber of Burlington	Sharpe of Bristol
Evans of Essex	Maier of Middlebury	Spengler of Colchester
Fisher of Lincoln	Malcolm of Pawlet	Stevens of Shoreham
Frank of Underhill	Manwaring of Wilmington	Sweaney of Windsor
French of Randolph	Marek of Newfane	Trombley of Grand Isle
Gervais of Enosburg	Martin, C. of Springfield	Weston of Burlington
Gilbert of Fairfax	Martin of Wolcott	Wright of Burlington
Godin of Milton	Masland of Thetford	Zenie of Colchester
	McCormack of Rutland City	Zuckerman of Burlington

Those who voted in the negative are:

Acinapura of Brandon	Errecart of Shelburne	Myers of Essex
Adams of Hartland	Fallar of Tinmouth	O'Donnell of Vernon
Ainsworth of Royalton	Flory of Pittsford	Otterman of Topsham
Allard of St. Albans Town	Helm of Castleton	Oxholm of Vergennes
Baker of West Rutland	Hube of Londonderry	Peaslee of Guildhall
Bostic of St. Johnsbury	Kilmartin of Newport City	Perry of Richford
Branagan of Georgia	Komline of Dorset	Peterson of Williston
Brennan of Colchester	Krawczyk of Bennington	Potter of Clarendon
Canfield of Fair Haven	Larrabee of Danville	Rodgers of Glover
Clark of Vergennes	LaVoie of Swanton	Scheuermann of Stowe
Clerkin of Hartford	Lawrence of Lyndon	Shaw of Derby
Condon of Colchester	McAllister of Highgate	Smith of Morristown
Consejo of Sheldon	McDonald of Berlin	Valliere of Barre City
Corcoran of Bennington	McFaun of Barre Town	Westman of Cambridge
Crawford of Burke	McNeil of Rutland Town	Wheeler of Derby
Devereux of Mount Holly	Morley of Barton	Winters of Williamstown
Donaghy of Poultney	Morrissey of Bennington	

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

Anderson of Montpelier	Kitzmiller of Montpelier	Marcotte of Coventry
Barnard of Richmond	Koch of Barre Town	Monti of Barre City
Fitzgerald of St. Albans City	Larocque of Barnet	Pillsbury of Brattleboro
Johnson of Canaan	Livingston of Manchester	Turner of Milton

Rep. Mrowicki of Putney explained his vote as follows:

"Madam Speaker:

This bill builds on correct law and actually makes it easier for those in compliance to remain so. This bill is also part of a collaborative effort that will present an array of services to protect our children.

I voted for this bill because it allows us to do something, rather than do nothing, to protect our children.

Our actions here are the voice for Vermont children and shows leadership in practicing fidelity in our commitment to our children – and our children's children, the future of Vermont."

Bill Read Second Time; Third Reading Ordered

H. 873

Rep. Deen of Westminster spoke for the committee on Fish, Wildlife and Water Resources.

House bill entitled

An act relating to the cleanup of Lake Champlain and other state waters;

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

Bill Amended; Third Reading Ordered

H. 112

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

An act relating to protection of health care and public safety personnel from communicable disease;

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

Sec. 1. 18 V.S.A. chapter 21, subchapter 5 is added to read:

Subchapter 5. Communicable Disease Testing

§ 1140. DEFINITIONS

As used in this subchapter:

(1) "Bloodborne pathogen" means a pathogenic microorganism that is present in human blood and can cause disease in humans. Such pathogens include hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

(2) "Emergency personnel" shall have the same meaning as in section 3171 of Title 20, but shall also include members of a ski patrol trained through the National Ski Patrol or substantially similar program.

(3) "Employer" means the organization on whose behalf a worker is employed or volunteering when rendering health services to a source patient pursuant to this subchapter.

(4) "Health care provider" shall have the same meaning as in subdivision 9432(8) of this title.

(5) "Health care worker" means any individual or employee of a health care provider who provides medical or other health services in the course of the worker's employment.

(6) "Health services" means activities and functions that are directly related to care, treatment, or diagnosis of a patient, including emergency medical treatment.

(7) "Manner sufficient to transmit" means consistent with current guidelines of the Centers for Disease Control, as determined by a physician licensed to practice medicine in Vermont.

(8) "Public safety personnel" means an individual employed or volunteering for a fire department, police department, or ambulance service.

(9) "Source patient" means an individual who, in the course of receiving health services, may have exposed a health care worker, public safety personnel, or emergency personnel to blood or bodily fluids in a manner sufficient to transmit a bloodborne disease.

(9) "Worker" means emergency personnel, health care worker, or public safety personnel.

§ 1141. COMMUNICABLE DISEASE TESTING

(a) A health care provider may order a test for bloodborne pathogens if a health care worker, public safety personnel, or emergency personnel has been exposed to the blood or bodily fluids of the source patient in a manner sufficient to transmit a bloodborne pathogen-related illness to the affected worker while engaged in rendering health services to the source patient, and provided that:

(1) the source patient:

(A) has provided informed consent, as defined in subsection 9701(16) of this title; or

(B) is deceased;

(2) the worker has provided a blood sample and consented to testing for bloodborne pathogens and a physician has documented that bloodborne pathogen test results are needed for beginning, continuing, modifying, or discontinuing medical treatment for the worker;

(3) a physician with specialty training in infectious diseases has confirmed that the worker has been exposed to the blood or bodily fluids of the source patient in a manner sufficient to transmit a bloodborne pathogen-related illness;

(4) a health care provider has informed the worker of the confidentiality requirements in subsection (c) of this section and the penalties for unauthorized disclosure of source patient information under subsection (e) of this section; and

(5) a health care provider has informed the source patient of the purpose and confidentiality provisions in subsections (b) and (c) of this section, respectively, if applicable.

(b) Bloodborne pathogen test results of a source patient obtained under subsection (a) of this section are for diagnostic purposes and to determine the need for treatment or medical care specific to a bloodborne pathogen-related