

# Senate Calendar

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THURSDAY, MARCH 24, 2011

SENATE CONVENES AT: 11:30 A.M.

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF WEDNESDAY, MARCH 23, 2011**

**Third Reading**

**S. 18.**

An act relating to the disclosure of tax administration information to tax representatives.

**UNFINISHED BUSINESS OF THURSDAY, MARCH 17, 2011**

**Third Reading**

**S. 30.**

An act relating to enhancing the penalty for assault of a nurse.

**AMENDMENT TO S. 30 TO BE OFFERED BY SENATOR  
GALBRAITH BEFORE THIRD READING**

Senator Galbraith moves that the bill be amended as follows:

First: In Sec. 1, 13 V.S.A. § 1028, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) A person convicted of a simple or aggravated assault against a law enforcement officer, a firefighter, ~~emergency room personnel~~ a health care worker, or a member of emergency ~~services~~ medical personnel as defined in subdivision 24 V.S.A. § 2651(6) of Title 24 while the officer, firefighter, health care worker, or emergency medical personnel member is performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

- (1) For the first offense, be imprisoned not more than one year;
- (2) For the second offense and subsequent offenses, be imprisoned not more than 10 years.

Second: In Sec. 1, 13 V.S.A. § 1028, by adding a new subsection (c) to read as follows:

(c) For purposes of this section:

(1) "Health care worker" means an employee of a health care facility or a licensed physician who is on the medical staff of a health care facility who provides direct care to patients or who is part of a team-response to a patient or visitor incident involving real or potential violence.

(2) "Health care facility" shall have the same meaning as defined in 18 V.S.A. § 9432(8)

**UNFINISHED BUSINESS OF TUESDAY, MARCH 22, 2011**

**Third Reading**

**S. 38.**

An act relating to the Uniform Collateral Consequences of Conviction Act.

**AMENDMENT TO S. 38 TO BE OFFERED BY SENATOR GALBRAITH BEFORE THIRD READING**

Senator Galbraith moves that the bill be amended in Sec. 1, 13 V.S.A. § 8009(d), after the words "issuing jurisdiction" by adding the following: except that, for purposes of this subsection, Vermont shall not impose a collateral consequence as a result of a conviction in another jurisdiction if the consequence would not be imposed as a result of such a conviction under Vermont law

**UNFINISHED BUSINESS OF THURSDAY, MARCH 17, 2011**

**Third Reading**

**S. 67.**

An act relating to the open meeting law.

**AMENDMENT TO S. 67 TO BE OFFERED BY SENATORS ASHE AND FLORY BEFORE THIRD READING**

Senators Ashe and Flory move to amend the bill in Sec. 2, 1 V.S.A. § 312, by inserting subdivision (a)(3) to read:

(3) Electronic communications may be distributed among members of a public body, provided that such communications shall not be used to circumvent the spirit or the requirements of this subchapter or to make a decision upon a matter concerning the business of the public body.

**UNFINISHED BUSINESS OF WEDNESDAY, MARCH 23, 2011**

**Committee Bill for Second Reading**

**S. 98.**

An act relating to authorizing owner-financed property sales. (Sen. Illuzzi for the committee)

**AMENDMENT TO S. 98 TO BE OFFERED BY SENATOR ILLUZZI**

Senator Illuzzi moves to amend the bill by adding a new Sec. 1 to read as follows:

## Sec. 1. FINDINGS AND PURPOSE

(1) During the 2009 legislative session Vermont enacted Act 29 to bring Vermont law and the License Lender Statue (8 VSA Chapter 73) into compliance with the mandates of the federal Secure and Fair Enforcement for Mortgage Licensing Act (the "SAFE Act"). The SAFE Act addressed issues related to residential mortgage loans.

(2) The general assembly finds that there remains confusion and misunderstanding regarding seller financing of property other than residential real estate. Act 29 did not alter Chapter 73 as it relates to seller financing of property other than residential real estate. This act clarifies that a seller of real estate, other than residential real estate, may finance the sale of his or her real estate without obtaining a license under Chapter 73. The financing of residential real estate, however, remains subject to the licensing requirements and the limited exemptions found in Chapter 73.

(3) The general assembly finds that there remains confusion and misunderstanding about the exemption for loans between immediate family members. Act 29 provided an exemption from licensing for residential mortgage loans between immediate family members. It appears that some have interpreted Chapter 73 to only permit "residential mortgage loans" between immediate family members. This act clarifies that any loan between immediate family members, regardless of whether it is a residential mortgage loan, car loan, school loan, or any other type of loan, is exempt from the licensing requirements of Chapter 73.

(4) The general assembly finds that it is appropriate to expand the definition of "immediate family member" to include former spouses, step-grandparents, and step-grandchildren. The general assembly finds that the distinction between "spouse" and "former spouse" in a divorce proceeding and property settlement may simply be a matter of timing. Thus, it is appropriate to exempt licensing requirements for loans between former spouses in order to facilitate property settlements in divorce proceedings. The general assembly also finds that including "step-grandparents" and "step-grandchildren" in the definition of "immediate family member" is consistent with the current definition that already includes "stepparents", "stepchildren", and stepsiblings" and completes the step-family relationship.

(5) The general assembly believes that this act is consistent with the mandates of the SAFE Act and with the current interpretive guidance issued by the U.S. Department of Housing and Urban Development ("HUD"). The general assembly understands that HUD has been given interpretive authority for the SAFE Act and that HUD is in the process of publishing SAFE Act rules. In the event any of the provisions of this act are inconsistent with

HUD's final SAFE Act rules, the general assembly understands that it will have a reasonable period of time to review the final SAFE Act rules and to amend Chapter 73 accordingly.

And by renumbering the remaining sections to be numerically correct.

**UNFINISHED BUSINESS OF FRIDAY, MARCH 18, 2011**

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 36.**

An act relating to the surplus lines insurance multi-state compliance compact.

**Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Finance.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

**\*\*\* Authorization to Enter into Compact or Agreement \*\*\***

Sec. 1. 8 V.S.A. § 5020 is added to read:

§ 5020. AUTHORIZATION TO ENTER INTO COMPACT OR OTHER AGREEMENT; NON-ADMITTED INSURANCE

(a) The general assembly finds that:

(1) The Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub.L. 111-203, was signed into law on July 21, 2010. Title V, Subtitle B of that act is known as the Non-Admitted and Reinsurance Reform Act of 2010 (NRRA). NRRA states that:

(A) the placement of non-admitted insurance shall be subject to the statutory and regulatory requirements solely of the insured's home state; and

(B) any law, regulation, provision, or action of any state that applies or purports to apply to non-admitted insurance sold to, solicited by, or negotiated with an insured whose home state is another state shall be preempted with respect to such application; except that any state law, rule, or regulation that restricts the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with a non-admitted insurer shall not be preempted.

(2) In compliance with NRRA, no state other than the home state of an insured may require any premium tax payment for non-admitted insurance; and no state other than an insured's home state may require a surplus lines broker

to be licensed in order to sell, solicit, or negotiate non-admitted insurance with respect to such insured.

(3) NRRA intends that the states may enter into a compact or otherwise establish procedures to allocate among the states the premium taxes paid to an insured's home state; and that each state adopt nationwide uniform requirements, forms, and procedures, such as an interstate compact, that provides for the reporting, payment, collection, and allocation of premium taxes for non-admitted insurance.

(4) By July 21, 2011, if Vermont does not enter into a compact or other reciprocal agreement with other states for the purpose of collecting, allocating, and disbursing premium taxes and fees attributable to multi-state risks, the state could lose up to 20 percent of its surplus lines premium tax collected annually. In fiscal year 2010, Vermont's surplus lines premium tax was \$938,636.54. A revenue loss of 20 percent would be \$187,727.31.

(b) In accordance with NRRA and by July 21, 2011, the commissioner of banking, insurance, securities, and health care administration, subject to the prior approval required in subsection (c) of this section, may enter into a compact, cooperative agreement, reciprocal agreement, or multistate agreement with another state or states to provide for the reporting, payment, collection, and allocation of premium fees and taxes imposed on non-admitted insurance. The commissioner may also enter into other cooperative agreements with surplus lines stamping offices and other similar entities located in other states related to the capturing and processing of insurance premium and tax data. The commissioner is further authorized to participate in any clearinghouse established under any such agreement or agreements for the purpose of collecting and disbursing to reciprocal states any funds collected and applicable to properties, risks, or exposures located or to be performed outside of this state. To the extent that other states where portions of the insured properties, risks, or exposures are located have failed to enter into a compact or reciprocal allocation procedure with Vermont, the net premium tax collected shall be retained by Vermont.

(c) Prior to entering into a compact, cooperative agreement, reciprocal agreement, or multistate agreement with another state or states pursuant to subsection (b) of this section, the commissioner shall obtain the prior approval of the joint fiscal committee, in consultation with the chairs of the senate committee on finance and the house committees on ways and means and on commerce and economic development.

(d) By July 1, 2011, if a clearinghouse is not established or otherwise in operation in order to implement NRRA, all payments and taxes that otherwise would be payable to such a clearinghouse shall be submitted to the

commissioner or with a voluntary domestic organization of surplus lines brokers with which the commissioner has contracted for the purpose of collecting and allocating all payments and taxes.

(e) The commissioner may adopt rules deemed necessary to carry out the purposes of this section.

**\* \* \* NRRA Conforming Amendments to Existing VT Laws \* \* \***

Sec. 2. 8 V.S.A. § 5022 is amended to read:

§ 5022. DEFINITIONS

~~For the purposes of this chapter:~~

~~(1) “Surplus lines insurance” means coverage not procurable from admitted insurers.~~

~~(2) “Surplus lines broker” means an individual licensed pursuant to this chapter and chapter 131 of this title.~~

~~(3) “Surplus lines insurer” means a non-admitted insurer with which insurance coverage may be placed under this chapter.~~

~~(4) “Domestic risk” means a subject of insurance which is resident, located or to be performed in this state.~~

~~(5) “To export” means to place surplus lines insurance with a non-admitted insurer.~~

~~(6) “Commissioner” means the commissioner of banking, insurance, securities, and health care administration.~~

~~(7) “Admitted insurer” means an insurer possessing a certificate of authority to transact business in this state issued by the commissioner pursuant to section 3361 of this title.~~

(a) Notwithstanding subsection (b) of this section, as used in this chapter, unless the context requires otherwise, words and phrases shall have the meaning given under Title V, Subtitle B of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub.L. 111-203, as amended.

(b) For purposes of this chapter:

(1) “Admitted insurer” means an insurer possessing a certificate of authority to transact business in this state issued by the commissioner pursuant to section 3361 of this title.

(2) “Commissioner” means the commissioner of banking, insurance, securities, and health care administration.



(3) “Domestic risk” means a subject of insurance which is resident, located, or to be performed in this state.

(4) “To export” means to place surplus lines insurance with a non-admitted insurer.

(5) “Home state” means, with respect to an insured:

(A)(i) the state in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence; or

(ii) if 100 percent of the insured risk is located outside the state referred to in subdivision (A)(i) of this subsection, the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

(B) If more than one insured from an affiliated group are named insureds on a single non-admitted insurance contract, the term “home state” means the home state, as determined pursuant to subdivision (A) of this subdivision (5), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(6) “NAIC” means the national association of insurance commissioners.

(7) “Surplus lines broker” means an individual licensed under this chapter and chapter 131 of this title.

(8) “Surplus lines insurance” means coverage not procurable from admitted insurers.

(9) “Surplus lines insurer” means a non-admitted insurer with which insurance coverage may be placed under this chapter.

Sec. 3. 8 V.S.A. § 5024 is amended to read:

#### § 5024. CONDITIONS FOR PLACEMENT OF INSURANCE

(a) Insurance coverage, except as described in section 5025 of this chapter, shall not be placed with a nonadmitted insurer unless the full amount of insurance required is not reasonably procurable from admitted insurers actually transacting that kind and class of insurance in this state; and the amount of insurance exported shall be only the excess over the amount procurable from admitted insurers actually transacting and insuring that kind and class of insurance.

(b) Notwithstanding any other provision of this section, the commissioner may order eligible for export any class or classes of insurance coverage or risk for which he or she finds there to be an inadequate competitive market among

admitted insurers either as to acceptance of the risk, contract terms or premium or premium rate.

(c) The due diligence search for reasonably procurable insurance coverage required under subsection (a) of this section is not required for an exempt commercial purchaser, provided:

(1) the surplus lines broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may be available from an admitted insurer and may provide greater protection with more regulatory oversight; and

(2) the exempt commercial purchaser has subsequently requested in writing the surplus lines broker to procure or place such insurance from a nonadmitted insurer.

Sec. 4. 8 V.S.A. § 5025 is amended to read:

§ 5025. EXCEPTIONS CONCERNING PLACEMENT OF INSURANCE WITH NONADMITTED INSURERS; RECORDS

The provisions of this chapter controlling the placement of insurance with nonadmitted insurers shall not apply to life insurance, health insurance, annuities, or reinsurance, nor to the following insurance when so placed by any licensed producer in this state:

(1) ~~insurance on subjects located, resident, or to be performed wholly outside this state~~ whose home state is other than Vermont;

\* \* \*

Sec. 5. 8 V.S.A. § 5026 is amended to read:

§ 5026. SOLVENT INSURERS REQUIRED

(a) ~~Surplus~~ Where Vermont is the home state of the insured, surplus lines brokers shall not knowingly place or continue surplus lines insurance with nonadmitted insurers who are insolvent or unsound financially, and in no event shall any surplus lines broker place any insurance with a nonadmitted insurer unless such insurer:

(1) ~~has paid to the commissioner an initial fee of \$100.00 and an annual listing fee of \$300.00, payable before March 1 of each year;~~

(2) ~~has furnished the commissioner with a certified copy of its current annual statement; and~~

(3) ~~has and maintains capital, surplus or both to policyholders in an amount not less than \$10,000,000.00; and~~ surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of:

(A) the minimum capital and surplus requirements under the law of this state; or

(B) \$15,000,000.00; and

~~(4)(2) if an alien insurer, in addition to the requirements of subdivisions (1), (2), and (3) of this subsection, has established a trust fund in a minimum amount of \$2,500,000.00 within the United States maintained in and administered by a bank that is a member of the Federal Reserve System and held for the benefit of all of its insurer's policyholders and beneficiaries in the United States. In the case of an association of insurers, which association includes unincorporated individual insurers, they shall maintain in a bank that is a member of the Federal Reserve System assets held in trust for all their policyholders and beneficiaries in the United States of not less than \$50,000,000.00 in lieu of the foregoing trust fund requirement. These trust funds or assets held in trust shall consist of investments of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers authorized to write like kinds of insurance is listed on the quarterly listing of alien insurers maintained by the NAIC international insurers department.~~

(b) Notwithstanding the capital and surplus requirements of this section, a non-admitted insurer may receive approval upon an affirmative finding of acceptability by the commissioner. The finding shall be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment-income trends, market availability, and company record and reputation within the industry. In no event, however, shall the commissioner make an affirmative finding of acceptability when the surplus lines insurer's capital and surplus is less than \$4,500,000.00.

(c) The commissioner may from time to time publish a list of all nonadmitted insurers deemed by him or her to be currently eligible surplus lines insurers under the provisions of this section, and shall mail a copy of such list to each surplus lines broker. The commissioner may satisfy this subsection by adopting the list of approved surplus lines insurers published by the Nonadmitted Insurers Information Office of the National Association of Insurance Commissioners. This subsection shall not be deemed to cast upon the commissioner the duty of determining the actual financial condition or claims practices of any nonadmitted insurer; and the status of eligibility, if granted by the commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the commissioner has no credible evidence to the contrary. While any such list is in effect, the surplus lines broker shall restrict to the insurers so listed all

surplus lines insurance business placed by him or her. However, upon the request of a surplus lines broker or an insured, the commissioner may deem a nonadmitted insurer to be an eligible surplus lines insurer for purposes of this subsection prior to publication of the name of such surplus lines insurer on the list.

Sec. 6. 8 V.S.A. § 5027(a) is amended to read:

(a) ~~Upon~~ Where Vermont is the home state of the insured, the surplus lines broker, upon placing a domestic risk with a surplus lines insurer, ~~the surplus lines broker~~ shall promptly deliver to the insured the policy issued by the surplus lines insurer, or if such policy is not then available, a certificate, cover note, or other confirmation of insurance, showing the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and taxes collected from the insured, and the name and address of the insured and surplus lines insurer. If the risk is assumed by more than one insurer, the document or documents shall state the name and address and proportion of the entire risk assumed by each insurer.

Sec. 7. 8 V.S.A. § 5028 is amended to read:

§ 5028. INFORMATION REQUIRED ON CONTRACT

~~Each~~ Where Vermont is the home state of the insured, each surplus lines broker through whom a surplus lines insurance coverage is procured shall endorse on the outside of the policy and on any confirmation of the insurance, his or her name, address and license number, and the name and address of the producer, if any, through whom the business originated. Where such coverage is placed with an eligible surplus lines insurer there shall be stamped or written conspicuously in no smaller than 10 point boldface type of a contrasting color upon the first page of the policy and the confirmation of insurance if any, “The company issuing this policy has not been licensed by the state of Vermont and the rates charged have not been approved by the commissioner of insurance. Any default on the part of the insurer is not covered by the Vermont Insurance Guaranty Association.”

Sec. 8. 8 V.S.A. § 5033(a) is amended to read:

(a) ~~Each~~ Where Vermont is the home state of the insured, each surplus lines broker shall keep in his or her office a full and true record of each surplus lines insurance contract covering a domestic risk placed by or through him or her with a surplus lines insurer, including a copy of the daily report, if any, and showing such of the following items as may be applicable:

\* \* \*

Sec. 9. 8 V.S.A. § 5035(a) is amended to read:

(a) ~~Gross~~ Where Vermont is the home state of the insured, gross premiums charged, less any return premiums, for surplus lines coverages placed with nonadmitted insurers are subject to a premium receipts tax of three percent, which shall be collected from the insured by the surplus lines broker at the time of delivery of policy or other confirmation of insurance, in addition to the full amount of the gross premium charged by the insurer for the insurance. The tax on any portion of the premium unearned at termination of insurance shall be returned to the policyholder by the surplus lines broker. Nothing contained in this section will preclude a surplus lines broker from charging a fee to the purchaser of the contract sufficient to recover the amount of this tax. Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on gross premiums charged, less any return premiums, as follows:

(1) An amount equal to three percent on that portion of the premiums applicable to properties, risks, or exposures located or to be performed in Vermont; plus

(2) An amount equal to a percentage on that portion of the premiums applicable to properties, risks, or exposures located or to be performed outside Vermont. Such percentage shall be determined based on the laws of the jurisdiction within which the property, risk, or exposure is located or to be performed.

Sec. 10. 8 V.S.A. § 5036 is amended to read:

§ 5036. DIRECT PLACEMENT OF INSURANCE

(a) Every insured and every self-insurer in this state for whom this is their home state, who procures or causes to be procured or continues or renews insurance from any non-admitted insurer, covering a subject located or to be performed within this state, other than insurance procured through a surplus lines broker pursuant to this chapter, shall, before March 1 of the year after the year in which the insurance was procured, continued or renewed, file a written report with the commissioner on forms prescribed and furnished by the commissioner. The report shall show:

\* \* \*

Sec. 11. 8 V.S.A. § 5037(7) is amended to read:

(7) ~~Violation~~ Material violation of any provision of this chapter; or

Sec. 12. 8 V.S.A. § 4807 is amended to read:

§ 4807. SURPLUS LINES INSURANCE BROKER

(a) Every surplus lines insurance broker who solicits an application for insurance of any kind, in any controversy between the insured or his or her beneficiary and the insurer issuing any policy upon such application, shall be regarded as representing the insured and his or her beneficiary and not the insurer; except any insurer which directly or through its agents delivers in this state to any surplus lines insurance broker a policy or contract for insurance pursuant to the application or request of the surplus lines insurance broker, acting for an insured other than himself or herself, shall be deemed to have authorized the surplus lines insurance broker to receive on its behalf payment of any premium which is due on the policy or contract for insurance at the time of its issuance or delivery.

(b) [Repealed.]

(c) Notwithstanding any other provision of this title, a person licensed as a surplus lines insurance broker in his or her home state shall receive a nonresident surplus lines insurance broker license pursuant to section 4800 of this chapter.

(d) Not later than July 1, 2012, the commissioner shall participate in the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses.

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 7-0-0)

**CONSIDERATION POSTPONED**

**Second Reading**

**S. 52.**

An act to protect employees from abuse at work.

PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs? (For text of Report of Economic Development, Housing and General Affairs, see Senate Journal for March 28, 2011, page 267.)

**CONSIDERATION POSTPONED TO MARCH 31, 2011**

**Second Reading**

**S. 34.**

An act relating to the collection and disposal of mercury-containing lamps.

PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?.

**NEW BUSINESS**

**Third Reading**

**S. 94.**

An act relating to miscellaneous amendments to the motor vehicle laws.

**NOTICE CALENDAR**

**Committee Bill for Second Reading**

**S. 101.**

An act relating to child support enforcement.

By the Committee on Judiciary.

**Reported favorably by Senator Campbell for the Committee on Rules.**

(Committee vote: 5-0-0)

**Favorable with Recommendation of Amendment**

**S. 77.**

An act relating to water testing of private wells.

By the Committee on Natural Resources.

**Reported favorably with recommendation of amendment by Senator Brock for the Committee on Natural Resources and Energy.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) The U.S. Environmental Protection Agency and the Vermont department of health estimate that 40 percent of Vermont residents obtain drinking water from private wells.

(2) Property owners are not required to test private wells used for potable water, and the state does not regulate the water quality of private drinking water wells.

(3) In adults and especially in children, contaminated well water can cause serious health effects, such as digestive problems, kidney problems, blue baby syndrome, and brain damage.

(4) Because the state does not regulate water quality in private wells, the state lacks a comprehensive database or map identifying where groundwater contamination is prevalent in the state.

(5) To help mitigate the potential health effects of contaminated well water, the state should require well tests for all newly constructed or drilled wells and should conduct education and outreach regarding the need for property owners to test the water quality of private wells used as potable water supplies.

(6) The state should utilize private well tests to construct a database and map of groundwater contamination in the state so that the department of health can recommend treatment options to property owners in certain parts of the state.

Sec. 2. 10 V.S.A. § 1981 is added to read:

§ 1981. TESTING OF PRIVATE WELLS; NEW WELLS

(a) After initial construction or drilling of a well intended for use as a potable water supply, the owner of the property on which the well is located shall test the well for the parameters set forth in subsection (b) of this section. The test required by this subsection shall be conducted at a time and by a laboratory established by rule under subsection (c) of this section.

(b) A water test conducted under this section shall include, at a minimum, a test for arsenic; lead; uranium; gross alpha radiation; coliform bacteria, nitrate, nitrite, fluoride, manganese, and any other parameters required by the agency by rule.

(c) The secretary shall, after consultation with the department of health, the wastewater and potable water supply technical advisory committee, the Vermont realtors' association, the Vermont home inspectors' association, private laboratories, and other interested parties, adopt by rule requirements for:

(1) when, after construction or drilling of a well, the well test required under subsection (a) of this section shall be conducted;



(2) how such well samples will be delivered for testing, including the form and information to be submitted with the well sample;

(3) accreditation or approval of laboratories conducting the well test required under subsection (a) of this section; and

(4) any other requirements necessary to implement the requirements of this section.

(d) Any laboratory that analyzes a water sample of a private well in Vermont shall report the results of the well analysis to the entity submitting the sample and shall report, in an electronic format, to the department of health all information that is required by the department pursuant to the rule adopted under subsection (c) of this section.

Sec. 3. 27 V.S.A. § 616 is added to read:

§ 616. PRIVATE WELL TESTING; DISCLOSURE OF EDUCATIONAL MATERIAL

(a) Prior to the execution of a purchase and sale agreement for a property not served by a public community water system, the seller shall provide the buyer with informational materials developed by the department of health regarding:

(1) the potential health effects of untreated well water; and

(2) the buyer's opportunity under the agreement to test the potable water supply.

(b) Noncompliance with this section shall not affect marketability of title.

Sec. 4. DEPARTMENT OF HEALTH; EDUCATION AND OUTREACH ON SAFE DRINKING WATER

The department of health, after consultation with the agency of natural resources, shall revise and update its education and outreach materials regarding the potential health effects of contaminants in private sources of drinking water in order to improve citizen access to such materials and to increase awareness of the need to conduct testing of private water sources. In revising and updating its education and outreach materials, the department shall update the online safe water resource guide by incorporating the most current information on the health effects of contaminants, treatment of contaminants, and causes of contamination and by directly linking users to the department of health contaminant fact sheets.

Sec. 5. EFFECTIVE DATES

This act shall take effect upon passage, except that 10 V.S.A. § 1981(a) (testing of new wells) and 10 V.S.A. § 1981(d) (well test reports) shall take effect on January 1, 2013.

(Committee vote: 5-0-0)

**Reported favorably by Senator Campbell for the Committee on Rules.**

(Committee vote: 5-0-0)

### **Second Reading**

#### **Favorable**

#### **S. 53.**

An act relating to the number of prekindergarten children included within a school district's average daily membership.

**Reported favorably by Senator Baruth for the Committee on Education.**

(Committee vote: 4-0-1)

**Reported favorably by Senator Fox for the Committee on Finance.**

(Committee vote: 6-1-0)

**Reported favorably by Senator Kitchel for the Committee on Appropriations.**

(Committee vote: 6-1-0)

#### **Favorable with Recommendation of Amendment**

#### **S. 15.**

An act relating to insurance coverage for midwifery services and home births.

**Reported favorably with recommendation of amendment by Senator Miller for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4099d is added to read:

§ 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

(a) A health insurance plan or health benefit plan providing maternity benefits shall also provide coverage for services rendered by a midwife licensed pursuant to chapter 85 of Title 26 or an advanced practice registered nurse licensed pursuant to chapter 28 of Title 26 who is certified as a nurse

midwife for services within the licensed midwife's or certified nurse midwife's scope of practice and provided in a hospital or other health care facility or at home.

(b) Coverage for services provided by a licensed midwife or certified nurse midwife shall not be subject to any greater co-payment, deductible, or coinsurance than is applicable to any other similar benefits provided by the plan.

#### Sec. 2. DATA SUBMISSION

Each midwife licensed pursuant to chapter 85 of Title 26 and each advanced practice registered nurse licensed pursuant to chapter 28 of Title 26 who is certified as a nurse midwife shall submit data to the database maintained by the Division of Research of the Midwives Alliance of North America regarding each home birth in Vermont for which he or she is the attending midwife.

#### Sec. 3. DEPARTMENT OF HEALTH; REPORTING REQUIREMENT

(a) The department of health shall access the database maintained by the Division of Research of the Midwives Alliance of North America to obtain information relating to care provided in Vermont by midwives licensed pursuant to chapter 85 of Title 26 and by advanced practice registered nurses licensed pursuant to chapter 28 of Title 26 who are certified as nurse midwives.

(b) No later than March 15 of each year from 2012 through 2016, inclusive, the commissioner of health or designee shall provide testimony to the house committee on health care and the senate committee on health and welfare regarding the activities of licensed midwives and certified nurse midwives performing home births and providing prenatal and postnatal care in a nonmedical environment during the preceding year. The testimony shall include the number of home births in Vermont, the number of hospital transports associated with home births, the treatment of high-risk patients, and other relevant data, as well as the level of compliance of the licensed midwives and certified nurse midwives with the laws and rules governing their scope of practice.

#### Sec. 4. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on October 1, 2011, and shall apply to all health insurance plans and health benefit plans on and after October 1, 2011, on such date as a health insurer issues, offers, or renews the plan, but in no event later than October 1, 2012.

(b) The remaining sections of this act shall take effect on passage.

(Committee vote: 5-0-0)

**Reported favorably with recommendation of amendment by Senator Fox for the Committee on Finance.**

The Committee recommends that the bill be amended in Sec. 1. by adding a subsection (c) to read as follows:

(c) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid, the Vermont health access plan, and any other public health care assistance program offered or administered by the state or by any subdivision or instrumentality of the state. The term shall not include policies or plans providing coverage for specific disease or other limited benefit coverage.

(Committee vote: 6-1-0)

**Reported favorably by Senator Miller for the Committee on Appropriations.**

(Committee vote: 6-0-1)

**CONCURRENT RESOLUTIONS FOR NOTICE**

**H.C.R. 99-107** (For text of Resolutions, see Addendum to House and Senate Calendar for March 24, 2011)

**CONFIRMATIONS**

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Kate Duffy of Williston – Commissioner of the Department of Human Resources– By Sen. Flory for the Committee on Government Operations. (1/25/11)

Jim Reardon of Essex Junction – Commissioner of the Department of Finance and Management – By Sen. White for the Committee on Government Operations. (1/28/11)

Chuck Ross of Hinesburg – Secretary of the Agency of Agriculture – By Sen. Kittell for the Committee on Agriculture. (1/28/11)

Robert D. Ide of Peacham – Commissioner of the Department of Motor Vehicles – By Sen. Kitchel for the Committee on Transportation. (1/28/11)

Jeb Spaulding of Montpelier – Secretary of the Agency of Administration – By Sen. Pollina for the Committee on Government Operations. (1/28/11)

Mary Peterson of Williston – Commissioner of the Department of Taxes – By Sen. Westman for the Committee on Finance. (1/28/11)

Steve Kimbell of Tunbridge – Commissioner of the Department of Banking, Insurance, Securities and Health Care Administration – By Sen. Cummings for the Committee on Finance. (1/28/11)

Brian Searles of Burlington – Secretary of the Agency of Transportation – By Sen. Mazza for the Committee on Transportation. (2/1/11)

Bruce Post of Essex Junction – Member of the Board of Libraries – By Sen. Baruth for the Committee on Education. (2/4/11)

Jason Gibbs of Duxbury – Member of the Community High School of Vermont Board – By Sen. Doyle for the Committee on Education. (2/15/11)

John Fitzhugh of West Berlin – Member of the Board of Libraries – By Sen. Doyle for the Committee on Education. (2/15/11)

Susan Wehry of Burlington – Commissioner of the Department of Disabilities, Aging and Independent Living – By Sen. Pollina for the Committee on Health and Welfare. (2/15/11)

Dave Yacavone of Morrisville – Commissioner of the Department of Children and Families – By Sen. Fox for the Committee on Health and Welfare. (2/15/11)

Christine Oliver of Montpelier – Commissioner of the Department of Mental Health – By Sen. Mullin for the Committee on Health and Welfare. (2/15/11)

Doug Racine of Richmond – Secretary of the Agency of Human Services – By Sen. Ayer for the Committee on Health and Welfare. (2/15/11)

Michael Obuchowski of Montpelier – Commissioner of the Department of Buildings and General Services – By Sen. Hartwell for the Committee on Institutions. (2/17/11)

Susan Besio of Jericho – Commissioner of the Department of Vermont Health Access – By Sen. Miller for the Committee on Health and Welfare. (2/18/11)

Susan Besio of Jericho – Commissioner of the Department of Vermont Health Access – By Sen. Miller for the Committee on Health and Welfare.

(2/18/11)

Harry Chen of Mendon – Commissioner of the Department of Health – By Sen. Mullin for the Committee on Health and Welfare. (2/18/11)

Andrew Pallito of Jericho – Commissioner of the Department of Corrections – By Sen. Hartwell for the Committee on Institutions. (2/18/11)

Keith Flynn of Derby Line – Commissioner of the Department of Public Safety – By Sen. Flory for the Committee on Transportation. (2/22/11)

Elizabeth Strano of Bennington – Member of the State Board of Education – By Sen. Baruth for the Committee on Education. (2/24/11)

Amy W. Grillo of Dummerston – Member of the Community High School of Vermont Board – By Sen. Baruth for the Committee on Education. (2/24/11)

Deb Markowitz of Montpelier – Secretary of the Agency of Natural Resources – By Sen. Lyons for the Committee on Natural Resources and Energy. (3/17/11)

David Mears of Montpelier – Commissioner of the Department of Environmental Conservation – By Sen. Brock for the Committee on Natural Resources and Energy. (3/23/11)

Michael Snyder of Stowe – Commissioner of the Department of Forests, Parks and Recreation – By Sen. MacDonald for the Committee on Natural Resources and Energy. (3/23/11)

#### **PUBLIC HEARINGS**

**Thursday, March 24, 2011 – Room 11 – 6:00-8:00 P.M.** – Re: H. 202 – Health reform bill, business community – Senate Committee on Health and Welfare.

**Wednesday, March 30, 2011 – Room 11 – 6:00-8:00 P.M.** – Re: Energy Planning – Senate Committee on Natural Resources and Energy.

**Thursday, March 31, 2011 – WELL OF THE HOUSE – 6:00-8:00 P.M.** – Re: H. 202 – Health reform bill– consumer community – Senate Committee on Health and Welfare.

**Thursday, April 7, 2011 – Room 11 – 6:00-8:00 P.M.** – Re: H. 202 – Health reform bill, provider community – Senate Committee on Health and Welfare.