Senate Calendar

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Third Reading

S. 115.

An act relating to malpractice claims against public defender contract attorneys.

S. 151.

An act relating to veterans' grave markers.

AMENDMENT TO S. 151 TO BE OFFERED BY SENATOR ASHE BEFORE THIRD READING

Senator Ashe moves to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 86 is added to read:

CHAPTER 86. PURCHASE OF GRAVE MARKERS

§ 3221. GRAVE MARKERS AND ORNAMENTS

(a) A person shall not knowingly purchase, accept, or give anything of value in exchange for a metal grave marker, or any ornament or flag holder bearing a description or an emblem from any branch of the United States armed services or a police or fire department or which bears the designation "veteran."

(b) A person that violates this section shall be subject to a criminal fine of not more than $5,000.00 per violation.

Second Reading

Favorable with Recommendation of Amendment

S. 89.

An act relating to Medicaid for Working Persons with Disabilities.

Reported favorably with recommendation of amendment by Senator Ayer 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. ANALYSIS OF COSTS AND SAVINGS

(a) The agency of human services, in consultation with the legislative joint fiscal office, shall analyze the costs or savings associated with the following options:

(1) Entering into an agreement with the Social Security Administration in which the state pays the Medicare Part B premium for individuals enrolled in the Medicaid for Working People with Disabilities program.

(2) Increasing or eliminating the income limits or asset limits or both for eligibility for the Medicaid for Working People with Disabilities program.

(3) Disregarding spousal income or spousal assets or both when determining eligibility for the Medicaid for Working People with Disabilities program.

(4) Disregarding the income of a spouse enrolled in the Medicaid for Working People with Disabilities program when determining the other spouse's eligibility to receive Medicaid benefits.

(5) Permitting an individual receiving Medicaid pursuant to 33 V.S.A. § 1901(b) immediately preceding a hospitalization or period of temporary unemployment to maintain his or her Medicaid eligibility during that period, as long as the period of hospitalization or unemployment does not exceed 90 days.

(6) Allowing an individual's enrollment in the Medicaid for Working People with Disabilities program to establish his or her eligibility for services under Vermont's developmental services waiver, provided that the individual must meet clinical eligibility and funding priority criteria in order to receive services pursuant to the waiver.

(7) Using benefits counselors at public and nonprofit organizations to increase public awareness of the Medicaid for Working People with Disabilities program and other work incentives for individuals with disabilities.

(b) No later than January 15, 2013, the secretary of human services shall report to the house committees on human services and on appropriations and the senate committees on health and welfare and on appropriations the results of the analysis conducted pursuant to subsection (a) of this section, as well as recommendations about whether and how to pursue any or all of the options described in subdivisions (a)(1) through (7) of this section.

Sec. 2. STATE PLAN AMENDMENT; SPOUSAL INCOME DISREGARD; RULEMAKING

(a) If supported by the analysis performed pursuant to Sec. 1 of this act, the secretary of human services shall apply to the Centers for Medicare and Medicaid Services for an amendment to the state Medicaid plan pursuant to 42 CFR § 430.12 to specify that the income of an individual receiving Medicaid pursuant to 33 V.S.A. § 1902(b) shall be disregarded in determining the eligibility of such person's spouse to receive medical assistance pursuant to Title XIX (Medicaid) of the Social Security Act.

(b) The secretary shall apply for a state plan amendment pursuant to subsection (a) of this section in a timely manner in order to ensure that the income disregard will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

(c) Upon approval of the state plan amendment pursuant to subsection (a) of this section, the secretary of human services shall adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the income disregard.

Sec. 3. STATE PLAN AMENDMENT; DEVELOPMENTAL SERVICES WAIVER

(a) If supported by the analysis performed pursuant to Sec. 1 of this act, the secretary of human services shall apply to the Centers for Medicare and Medicaid Services for an amendment to the state Medicaid plan pursuant to 42 CFR § 430.12 to specify that an individual's enrollment in the Medicaid for Working People with Disabilities program establishes his or her financial eligibility for services under the state's developmental services waiver; provided that the individual shall still be required to meet clinical eligibility and funding priority criteria in order to receive services pursuant to the waiver.

(b) The secretary shall apply for a state plan amendment pursuant to subsection (a) of this section in a timely manner in order to ensure that the financial eligibility criteria will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Appropriations.

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. ANALYSIS OF COSTS AND SAVINGS

(a) The agency of human services, in consultation with the legislative joint fiscal office, shall analyze the costs or savings associated with the following options:

(1) Entering into an agreement with the Social Security Administration in which the state pays the Medicare Part B premium for individuals enrolled in the Medicaid for Working People with Disabilities program.

(2) Increasing or eliminating the income limits or asset limits or both for eligibility for the Medicaid for Working People with Disabilities program.

(3) Disregarding spousal income or spousal assets or both when determining eligibility for the Medicaid for Working People with Disabilities program.

(4) Disregarding the income of a spouse enrolled in the Medicaid for Working People with Disabilities program when determining the other spouse's eligibility to receive Medicaid benefits.

(5) Permitting an individual receiving Medicaid pursuant to 33 V.S.A. § 1902(b) immediately preceding a hospitalization or period of temporary unemployment to maintain his or her Medicaid eligibility during that period, as long as the period of hospitalization or unemployment does not exceed 90 days.

(6) Allowing an individual's enrollment in the Medicaid for Working People with Disabilities program to establish his or her eligibility for developmental disability services under Vermont's Global Commitment to Health waiver.

(7) Using benefits counselors at public and nonprofit organizations to increase public awareness of the Medicaid for Working People with Disabilities program and other work incentives for individuals with disabilities.

(b) No later than January 15, 2013, the secretary of human services shall report to the house committees on human services and on appropriations and the senate committees on health and welfare and on appropriations the results of the analysis conducted pursuant to subsection (a) of this section, as well as recommendations about whether and how to pursue any or all of the options described in subdivisions (a)(1) through (7) of this section.

Sec. 2. STATE PLAN AMENDMENT; SPOUSAL INCOME DISREGARD; RULEMAKING

(a) If the general assembly is not in session upon completion of the analysis required pursuant to subdivision (a)(4) of Sec. 1 of this act and if the agency's

cost-benefit analysis supports implementation of the spousal income disregard, the secretary of human services shall request approval from the joint fiscal committee to apply to the Centers for Medicare and Medicaid Services for an amendment to the state Medicaid plan pursuant to 42 CFR § 430.12 to specify that the income of an individual receiving Medicaid pursuant to 33 V.S.A. § 1902(b) shall be disregarded in determining the eligibility of such person's spouse to receive medical assistance pursuant to Title XIX (Medicaid) of the Social Security Act.

(b) Upon approval by the joint fiscal committee, the secretary shall apply for a state plan amendment pursuant to subsection (a) of this section in a timely manner in order to ensure that the income disregard will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

(c) Upon approval of the state plan amendment pursuant to subsection (a) of this section, the secretary of human services shall adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the income disregard.

Sec. 3. STATE PLAN AMENDMENT; DEVELOPMENTAL SERVICES WAIVER

(a) If the general assembly is not in session upon completion of the analysis required pursuant to subdivision (a)(6) of Sec. 1 of this act and if the agency's cost-benefit analysis supports implementation of the presumptive eligibility, the secretary of human services shall request approval from the joint fiscal committee to apply to the Centers for Medicare and Medicaid Services for an amendment to the state Medicaid plan pursuant to 42 CFR § 430.12 to specify that an individual's enrollment in the Medicaid for Working People with Disabilities program establishes his or her financial eligibility for developmental disability services under the state's Medicaid Section 1115 Global Commitment to Health waiver.

(b) Upon approval by the joint fiscal committee, the secretary shall apply for a state plan amendment pursuant to subsection (a) of this section in a timely manner in order to ensure that the financial eligibility criteria will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-2)

S. 183.

An act relating to the testing of potable water supplies.

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 groundwater sources.

(2) Property owners currently are not required to test groundwater sources that are a potable water supply serving one single-family residence.

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

(4) 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 consumption of contaminated groundwater, the state should conduct education and outreach regarding the need for property owners to test the water quality of groundwater used as a potable water supply.

(6) The state should utilize tests of groundwater sources to identify 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. 1396 is amended to read:

§ 1396. RECORDS AND REPORTS

(a) Each licensee shall keep accurate records and file a report with the department and well owner on each water well constructed or serviced, including but not limited to the name of the owner, location, depth, character of rocks or earth formations and fluids encountered, and other reasonable and appropriate information the department may, by rule, require.

(b) The reports required to be filed under subsection (a) of this section shall be on forms provided by the department as follows:

(1) Each licensee classified as a water well driller shall submit a well completion report within 90 days after completing the construction of a water well.

(2) Each licensee classified as a monitoring well driller shall submit a monitoring well completion or closure report or approved equivalent within 90 days after completing the construction or closure of a monitoring well. Reporting on the construction of a monitoring well shall be limited to information obtained at the time of construction and need not include the work products of others. The filing of a monitoring well completion or closure report shall be delayed for one or more six-month periods from the date of construction upon the filing of a request form provided by the department which is signed by both the licensee and well owner.

(3), (4) [Repealed.]

(c) No report shall be required to be filed with the department if the well is hand driven or is dug by use of a hand auger or other manual means.

(d) On or after January 1, 2013, a licensee drilling or developing a new water well for use as a potable water supply, as that term is defined in subdivision 1972(6) of this title, shall provide the owner of the property to be served by the groundwater source informational materials developed by the department of health regarding:

(1) the potential health effects of the consumption of contaminated groundwater; and

(2) recommended tests for specific contaminants.

Sec. 3. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The commissioner may certify a laboratory to perform the testing and monitoring required under 10 V.S.A. chapter 56 and the federal Safe Drinking Water Act, and of water supplies from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), if such laboratory meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent.

(b)(1) The commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction or condition of the certificate; or

(C) violated any statute, rule or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the board under section 128 of this title.

* * *

(f) A laboratory accredited to conduct testing of water supplies from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), shall submit the results of groundwater analyses to the department of health and the agency of natural resources in a format required by the department of health.

Sec. 4. 27 V.S.A. § 616 is added to read:

§ 616. GROUNDWATER SOURCE TESTING; DISCLOSURE OF EDUCATIONAL MATERIAL

(a) Disclosure of potable water supply. Prior to the time of a purchase and sale agreement for residential housing property executed on or after January 1, 2013, the seller shall provide the buyer with a disclosure form provided by the department of health indicating whether the property has a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), that is used as the primary drinking water source for the residential housing on the property.

(b) Disclosure of health effects. The disclosure form required by subsection (a) of this section shall include informational materials regarding the potential health effects of the consumption of contaminated groundwater.

(c) Disclosure of opportunity to test. The disclosure form required by subsection (a) of this section shall include a statement regarding the buyer's opportunity under the purchase and sale agreement to test the potable water supply. The disclosure form shall also indicate that the buyer may obtain test kits from the department of the health.

(d) Marketability of title. Noncompliance with the requirements of this section shall not affect the marketability of title of a property.

Sec. 5. 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 groundwater sources of drinking water in order to improve citizen access to such materials and to increase awareness of the need to conduct testing of groundwater 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. 6. EFFECTIVE DATES

This act shall take effect on January 1, 2013.

(Committee vote: 5-0-0)

S. 209.

An act relating to naturopathic physicians.

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. § 4088d(a) is amended to read:

(a) A health insurance plan shall provide coverage for medically necessary health care services covered by the plan when provided by a naturopathic physician licensed in this state for treatment within the scope of practice described in ~~chapter 81 of Title~~ 26 V.S.A. chapter 81 and shall recognize naturopathic physicians who practice primary care to be primary care physicians. Health care services provided by naturopathic physicians may be subject to reasonable deductibles, co-payment and co-insurance amounts, and fee or benefit limits~~,~~ consistent with those applicable to other primary care physicians under the plan, as well as practice parameters, cost-effectiveness and clinical efficacy standards, and utilization review consistent with any applicable regulations published by the department of banking, insurance, securities, and health care administration. Any amounts, limits, standards, and review shall not function to direct treatment in a manner unfairly discriminative against naturopathic care, and collectively shall be no more restrictive than those applicable under the same policy to care or services provided by other primary care physicians, but may allow for the management

of the benefit consistent with variations in practice patterns and treatment modalities among different types of health care providers. A health insurance plan may require that the naturopathic physician's services be provided by a licensed naturopathic physician under contract with the insurer or shall be covered in a manner consistent with out-of-network provider reimbursement practices for primary care physicians; however, this shall not relieve a health insurance plan from compliance with the applicable Rule ~~10~~ H-2009-3 network adequacy requirements adopted by the commissioner. Nothing contained herein shall be construed as impeding or preventing either the provision or the coverage of health care services by licensed naturopathic physicians, within the lawful scope of naturopathic practice, in hospital facilities on a staff or employee basis.

Sec. 2. 8 V.S.A. § 4080f is amended to read:

§ 4080f. CATAMOUNT HEALTH

(a) As used in this section:

* * *

(8) "Primary care" means health services provided by health care professionals, including naturopathic physicians licensed pursuant to 26 V.S.A. chapter 81, who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis, and shall include prenatal care and the treatment of mental illness.

* * *

Sec. 3. 18 V.S.A. § 704 is amended to read:

§ 704. MEDICAL HOME

(a) Consistent with federal law to ensure federal financial participation, a health care professional providing a patient's medical home shall:

* * *

(b) A naturopathic physician licensed pursuant to 26 V.S.A. chapter 81 may serve as a patient's medical home.

Sec. 4. 18 V.S.A. § 706(c) is amended to read:

(c)(1) The Blueprint payment reform methodologies shall include per-person per-month payments to medical home practices by each health insurer and Medicaid for their attributed patients and for contributions to the shared costs of operating the community health teams. Per-person per-month payments to practices shall be based on the official National Committee for

Quality Assurance's Physician Practice Connections - Patient Centered Medical Home (NCQA PPC-PCMH) score to the extent practicable and shall be in addition to their normal fee-for-service or other payments.

(2) Consistent with the recommendation of the Blueprint expansion design and evaluation committee, the director of the Blueprint may implement changes to the payment amounts or to the payment reform methodologies described in subdivision (1) of this subsection, including by providing for enhanced payment to health care professional practices which operate as a medical home, including primary care naturopathic physicians' practices; payment toward the shared costs for community health teams~~,~~; or other payment methodologies required by the Centers for Medicare and Medicaid Services (CMS) for participation by Medicaid or Medicare.

* * *

Sec. 5. 26 V.S.A. § 4131 is added to read:

§ 4131. SUPERVISION

A naturopathic physician licensed pursuant to this chapter shall be authorized to work independently and shall not require supervision by any other health care professional; provided, however, that this section shall not be construed to limit the regulatory authority of the director or office of professional regulation.

Sec. 6. 33 V.S.A. § 1823 is amended to read:

§ 1823. DEFINITIONS

For purposes of this subchapter:

* * *

(10) "Primary care" means health services provided by health care professionals, including naturopathic physicians licensed pursuant to 26 V.S.A. chapter 81, who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis, and shall include family planning, prenatal care, and mental health and substance abuse treatment.

* * *

Sec. 7. HEALTH INFORMATION TECHNOLOGY

Vermont's health information technology coordinator shall actively seek to secure electronic health record funding opportunities and incentives for naturopathic physician practices comparable to those available to other health care practitioners.

Sec. 8. EFFECTIVE DATES

(a) Secs. 1 and 2 (insurance provisions) of this act shall take effect on October 1, 2012, and shall apply to all health benefit plans on and after October 1, 2012 on such date as a health insurer offers, issues, or renews the health benefit plan, but in no event later than October 1, 2013.

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

(Committee vote: 5-0-0)

Reported favorably by Senator McCormack for the Committee on Finance.

(Committee vote: 7-0-0)

Resolution for Action

J.R.S. 52.

Joint resolution relating to the issuance of a commemorative United States postage stamp in honor of former United States Senator George D. Aiken.

(For text of resolution, see Senate Journal of March 21, 2012, page 401.)

NEW BUSINESS

Third Reading

S. 179.

An act relating to amending perpetual conservation easements.

S. 222.

An act relating to cost-sharing for employer-sponsored insurance assistance plans.

S. 238.

An act relating to establishing the Vermont farm guest worker program.

Second Reading

Favorable with Recommendation of Amendment

S. 223.

An act relating to extending health insurance coverage for autism spectrum disorders.

Reported favorably with recommendation of amendment by Senator Pollina 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. § 4088i is amended to read:

§ 4088i. COVERAGE FOR DIAGNOSIS AND TREATMENT OF ~~AUTISM SPECTRUM~~ EARLY CHILDHOOD DEVELOPMENTAL DISORDERS

(a)(1) A health insurance plan shall provide coverage for the evidence-based diagnosis and treatment of ~~autism spectrum disorders~~ early childhood developmental disorders, including applied behavior analysis supervised by a nationally board-certified behavior analyst, for children, beginning at 18 months of age and continuing until the child reaches age ~~six or enters the first grade, whichever occurs first~~ 21.

(2) Coverage provided pursuant to this section by Medicaid, the Vermont health access plan, or any other public health care assistance program shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.

(3) Any benefits required by this section that exceed the essential health benefits specified under Section 1302(b) of the Patient Protection and Affordable Care Act, Public Law 111-148, as amended, shall not be required in a health insurance plan offered in the individual, small group, and large group markets on and after January 1, 2014.

(b) ~~A health insurance plan shall not limit in any way the number of visits an individual eligible for coverage under subsection (a) of this section may have with an autism services provider~~ The amount, frequency, and duration of treatment described in this section shall be based on medical necessity and may be subject to a prior authorization requirement under the health insurance plan. A private health insurance plan may limit coverage for applied behavior analysis treatment to a maximum benefit of $50,000.00 a year, but shall not apply payments for coverage unrelated to early childhood disorders to any maximum benefit established under this subsection.

(c) A health insurance plan shall not impose greater coinsurance, co-payment, deductible, or other cost-sharing requirements for coverage of the diagnosis or treatment of ~~autism spectrum~~ early childhood developmental disorders than apply to the diagnosis and treatment of any other physical or mental health condition under the plan.

(d)(1) A health insurance plan shall provide coverage for applied behavior analysis when the services are provided or supervised by a licensed provider who is working within the scope of his or her license or who is a nationally board-certified behavior analyst.

(2) A health insurance plan shall provide coverage for services under this section delivered in the natural environment when the services are furnished by a provider working within the scope of his or her license or under the direct supervision of a licensed provider or, for applied behavior analysis, by or under the supervision of a nationally board-certified behavior analyst.

(e) Except for inpatient services, if an individual is receiving treatment for an early developmental delay, a health insurance plan may review the treatment plan for children under the age of eight no more frequently than once every six months. After the child reaches the age of eight, the health insurance plan may require treatment plan reviews based on the needs of the individual beneficiary, consistent with reviews for other diagnostic areas and with rules established by the department of banking, insurance, securities, and health care administration.

(f) As used in this section:

(1) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior. The term includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(2) ~~"Autism services provider" means any licensed or certified person providing treatment of autism spectrum disorders.~~

~~(3)~~ "Autism spectrum disorders" means one or more pervasive developmental disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including autistic disorder, pervasive developmental disorder not otherwise specified, and Asperger's disorder.

(3) "Behavioral health treatment" means evidence-based counseling and treatment programs, including applied behavior analysis, that are:

(A) necessary to develop skills and abilities for the maximum reduction of physical or mental disability and for restoration of an individual to his or her best functional level, or to ensure that an individual under the age of 21 achieves proper growth and development;

(B) provided or supervised by a nationally board-certified behavior analyst or by a licensed provider, so long as the services performed are within the provider's scope of practice and certifications.

(4) "Diagnosis of ~~autism spectrum disorder~~ early childhood developmental disorders" means medically necessary assessments~~;~~, evaluations, ~~including neuropsychological evaluations; genetic testing; or other~~

~~testing~~ or tests to determine whether an individual has ~~one or more~~ an early childhood developmental delay, including an autism spectrum ~~disorders~~ disorder.

(5) ~~"Habilitative care" or "rehabilitative care" means professional counseling, guidance, services, and treatment programs, including applied behavior analysis and other behavioral health treatments, in which the covered individual makes clear, measurable progress, as determined by an autism services provider, toward attaining goals the provider has identified~~ "Early childhood developmental disorder" means a childhood mental or physical impairment or combination of mental and physical impairments that results in functional limitations in major life activities, accompanied by a diagnosis defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Classification of Disease (ICD). The term includes autism spectrum disorders, but does not include a learning disability.

(6) "Evidence-based" means the same as in 18 V.S.A. § 4621.

(7) "Health insurance plan" means Medicaid, the Vermont health access plan, and any other public health care assistance program, any individual or group health insurance policy, any hospital or medical service corporation or health maintenance organization subscriber contract, or any other health benefit plan offered, issued, or renewed for any person in this state by a health insurer, as defined in 18 V.S.A. § 9402. The term does not include benefit plans providing coverage for specific diseases or other limited benefit coverage.

~~(7)~~(8) "Medically necessary" ~~means any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a physician licensed pursuant to chapter 23 of Title 26 or by a psychologist licensed pursuant to chapter 55 of Title 26 if such treatment is consistent with the most recent relevant report or recommendations of the American Academy of Pediatrics, the American Academy of Child and Adolescent Psychiatry, or another professional group of similar standing~~ describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual's diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(9) "Natural environment" means a home or child care setting.

(10) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need for or effectiveness of a medication.

(11) "Psychiatric care" means direct or consultative services provided by a licensed physician certified in psychiatry by the American Board of Medical Specialties.

(12) "Psychological care" means direct or consultative services provided by a psychologist licensed pursuant to 26 V.S.A. chapter 55.

~~(8)~~(13) "Therapeutic care" means services provided by licensed or certified speech language ~~pathologists~~ therapists, occupational therapists, or physical therapists~~, or social workers~~.

~~(9)~~(14) "Treatment ~~of disorders~~ for early developmental disorders" means ~~the following~~ evidence-based care and related equipment prescribed~~, provided,~~ or ordered for an individual ~~diagnosed with one or more autism spectrum disorders~~ by a licensed physician ~~licensed pursuant to chapter 23 of Title 26~~ or a licensed psychologist ~~licensed pursuant to chapter 55 of Title 26 if such physician or psychologist~~ who determines the care to be medically necessary, including:

(A) ~~habilitative or rehabilitative care~~ behavioral health treatment;

(B) pharmacy care;

(C) psychiatric care;

(D) psychological care; and

(E) therapeutic care.

~~(e)~~(g) Nothing in this section shall be construed to affect any obligation to provide services to an individual under an individualized family service plan, individualized education program, or individualized service plan. A health insurance plan shall not reimburse services provided under 16 V.S.A. § 2959a.

Sec. 2. REPORT

It is the intent of the general assembly to accept the offer of Autism Speaks to submit a report, in consultation with the agency of human services and health insurers, to the senate committee on health and welfare and the house committee on health care on or before January 15, 2014 regarding the implementation of this act, including an assessment of whether eligible individuals are receiving evidence-based services, how such services may be improved, and the fiscal impact of these services.

Sec. 3. EFFECTIVE DATES

(a) This act shall take effect on July 1, 2012 and shall apply to Medicaid, the Vermont health access plan, and any other public health care assistance program on or after July 1, 2012.

(b) The provisions of this act shall apply to all other health insurance plans on or after October 1, 2012, on such date as a health insurer issues, offers, or renews the health insurance plan, but in no event later than October 1, 2013.

and that after passage the title of the bill be amended to read: "An act relating to health insurance coverage for early childhood developmental disorders, including autism spectrum disorders"

(Committee vote: 4-0-1)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with further amendment thereto in Sec. 1, in 8 V.S.A. § 4088i, subsection (b), by striking out the following: ". A private health insurance plan may limit coverage for applied behavior analysis treatment to a maximum benefit of $50,000.00 a year, but shall not apply payments for coverage unrelated to early childhood disorders to any maximum benefit established under this subsection"

(Committee vote: 7-0-0)

Reported favorably by Senator Kitchel for the Committee on Appropriations.

(Committee vote: 4-0-3)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 143.

An act relating to disclosing building energy performance and promoting thermal energy efficiency.

Reported favorably with recommendation of amendment by Senator MacDonald 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. 30 V.S.A. chapter 2 is added to read:

CHAPTER 2. BUILDING ENERGY PERFORMANCE

§ 51. PURPOSE

This chapter requires disclosure of the energy efficiency of residential and commercial buildings in order to make data on building energy performance visible in the marketplace for real property and to inform the choices of those who might purchase the property.

§ 52. DEFINITIONS

As used in this chapter:

(1) "Asset rating" means a rating of a building's energy use through modeling under standardized weather and occupancy conditions.

(2) "Btu" means a British thermal unit.

(3) "Building" means any enclosed structure created for use as a residence or as a place of business or of any other activity, whether commercial or noncommercial in character.

(4) "Buyer" means a person to whom a building, real property containing a building, or a unit is or is to be sold or who makes an offer to purchase the building, real property, or unit, and the person's agent, if any.

(5) "Commercial building" means any building that is not a residential building. The term excludes equipment and physical systems that are exempt from the commercial building energy standards under 21 V.S.A. § 268(a)(2) (industrial and manufacturing processes).

(6) "Commercial unit" means that part of a commercial building which is occupied by or intended for occupation by an individual owner or tenant.

(7) "Conditioned space" means space within a building that is heated or cooled or both by one or more physical systems.

(8) "Department" means the department of public service under section 1 of this title.

(9) "Large residential building" means a residential building that contains five or more residential units.

(10) "Low energy use building" means a commercial building or residential building whose peak energy usage design rate for all purposes is less than 3.4 Btus per hour per square foot or less than one watt per square foot of floor area.

(11) "Operational rating" means a rating of a building's energy use by measuring actual energy consumption on an annual basis, taking into consideration all physical systems and their operation.

(12) "Residential building" means a building in which the space meets or is intended to meet the living needs of one or more individuals and excludes a building that mixes residential with commercial or other nonresidential uses.

(13) "Residential unit" means a separately enclosed space within a building that meets or is intended to meet the living needs of one or more individuals.

(14) "Sale" means a transfer of all or any part of the ownership of a building, real property that contains a building, or a unit.

(15) "Seller" means a person whose building, real property, or unit is or is to be transferred by sale or who offers to make the transfer, and the person's agent, if any.

(16) "Small residential building" means a residential building that is a one-family dwelling or which contains up to and including four residential units.

(17) "Unit," when used as a stand-alone term, includes commercial units and residential units, except when the context clearly refers to a unit of measurement.

§ 53. SCOPE; APPLICABILITY

This chapter applies to all new and existing buildings and units and real property containing such buildings or units, but does not apply to any of the following:

(1) A transfer or change of title to real property or the right to possess real property by reason of inheritance, gift, marriage, or divorce.

(2) An involuntary transfer of title resulting from default on an obligation secured by real property.

(3) A transfer of title from a financial institution or credit union subject to supervision under 8 V.S.A. part 5 or 6 if the property whose title is being transferred was security for a mortgage or other loan issued by the financial institution or credit union and the financial institution or credit union obtained title to the property through a foreclosure or bankruptcy proceeding or a deed in lieu of foreclosure.

(4) A low energy use building.

(5) A building that does not contain conditioned space.

(6) The sale of real property that does not contain a building.

(7) A building that is used no more than 30 consecutive days annually between December 15 and April 15.

(8) A building that is under construction and is not used, occupied, or habitable.

(9) A farm structure as defined in 24 V.S.A. § 4413(d)(1).

§ 54. SELLER'S ENERGY DISCLOSURE

(a) Duty of seller. At the request of a prospective buyer of a building, property, or unit that is within the scope of section 53 of this title, a seller shall provide a prospective buyer with an energy disclosure in accordance with this section. A seller may provide such a disclosure to a prospective buyer without request from the buyer. On disclosure to a prospective buyer, the seller shall provide a copy of the disclosure to the statewide database established under section 55 of this title. A property owner may provide an energy disclosure to the statewide database at any time. However, the seller or property owner need not provide to the statewide database the attachment containing itemized data described in subdivision (c)(4)(F) of this section.

(b) Energy disclosure; creation. The seller's energy disclosure shall be created using the applicable tool developed or selected by the department for the seller's energy disclosure pursuant to section 56 (department; tool development; process) of this title. A seller's disclosure using this tool shall be created not more than two years prior to its provision to a prospective buyer unless within that two-year period there has been an addition, alteration, renovation, or repair to the building to which the building energy standards under 21 V.S.A. § 266 (residential building energy standards) or 268 (commercial building energy standards) would apply, in which case the disclosure shall be created no earlier than the date on which the addition, alteration, renovation, or repair was completed.

(c) Energy disclosure tool. The department shall ensure that a seller's energy disclosure tool developed or selected for use under this section meets each of the following:

(1) The tool shall be readily and publicly available at no charge to the end user.

(2) The tool shall be available on the Internet and shall be capable of being completed and saved by a person using a web browser.

(3) For a small residential building, the applicable tool shall be based on an asset rating methodology. For other kinds of buildings, the applicable tool may be based on an asset rating or operational rating methodology. For

residential units, different tools may be developed or selected according to building type (e.g., townhouse or flat style). In developing or selecting tools applicable to residential units, the department's goal shall be to allow, as much as possible, prospective buyers of such units to compare the units' energy performance regardless of whether the units are in a small residential or large residential building.

(4) A tool developed or selected by the department for a small residential building shall result in a rating that can be presented as a single number to allow comparison with other buildings or units rated with the same tool and shall have the following features:

(A) The disclosure shall present the rating as a single number on a visual scale.

(B) The disclosure shall compare the rating to other buildings or units of the same type as the building or unit being rated (e.g., an average building of the same type in Vermont or a building that meets the energy standards under Title 21 applicable to the type of building being rated).

(C) The disclosure shall produce an estimate, in Btus, of the site energy consumption of the building or unit based on standardized weather and occupancy conditions.

(D) The disclosure shall state the square footage of the building or unit and the energy consumed (in Btus) per square foot.

(E) The disclosure shall state an estimated annual energy cost.

(F) The disclosure shall attach an itemization of the data supplied by the user to reach the rating that shall be provided to the buyer.

(G) The disclosure shall provide notice of the seller's duty to provide a copy to the statewide database under subdivision (a)(3) of this section and the seller's option not to provide, to the database, a copy of the itemization described in subdivision (F) of this subdivision (4).

(H) The disclosure shall include a statement that describes its underlying assumptions and the potential for actual performance or costs to differ from its results.

(5) For a building, property, or unit within the scope of this chapter that is not a small residential building, a tool developed or selected by the department shall meet the requirements of subdivision (4) of this subsection to the extent feasible.

(6) The rating generated by the tool shall be either compatible with the Home Energy Rating System (HERS) or the tool shall provide a means for comparing and reconciling the rating it generates with a HERS rating.

(7) The tool shall predict with reasonable accuracy the energy performance of the building or unit assuming an average occupant, and its results shall be repeatable and predictable.

(8) If the selected tool is one created for national use, the department shall ensure that it is appropriately adapted for use in Vermont.

§ 55. STATEWIDE DATABASE

(a) The director of property valuation and review, in consultation with the commissioner of public service, shall develop and maintain a statewide database of seller's energy disclosures issued pursuant to section 54 of this title.

(b) The database shall be publicly available.

§ 56. DEPARTMENT; TOOL DEVELOPMENT; PROCESS

(a) The department shall select or develop each tool required under section 54 of this title, after complying with each of the following:

(1) The department shall provide for broad public notice of the proposed tool, including notice on its web page and notice to mortgage lenders, persons licensed to engage in the business of selling or appraising real property in Vermont and each association of such persons, home inspectors, the Vermont Bar Association, the Vermont Homebuilders and Remodelers Association, construction contractors, the Vermont Fuel Dealers Association, each entity appointed to deliver energy efficiency under subdivision 209(d)(2) of this title, and energy efficiency experts and businesses. Notice also shall be given to the advisory committees described in 21 V.S.A. §§ 266(c) (residential building energy standards) and 268(c) (commercial building energy standards).

(2) The department shall provide a reasonable opportunity for the submission of written comments and to request a public hearing on the proposed tool. The department shall hold a public hearing on the proposed tool if so requested by 25 or more persons, a governmental subdivision or agency, or an association having 25 or more members.

(3) Following the actions described in subdivisions (1) and (2) of this subsection, the department shall adopt the tool, as it may be revised based on the comment and hearing process, for effect 90 days after the date of adoption. Immediately on adoption, the department shall cause the adopted tool to be posted on a website and shall provide notice of the adopted tool to each person who submitted comments on the proposed tool, to each person licensed to sell

or appraise real property in Vermont and each association of such persons, to the Vermont Bar Association, the Vermont Homebuilders and Remodelers Association, the Vermont Fuel Dealers Association, and to each entity appointed to deliver energy efficiency under subdivision 209(d)(2) of this title.

(b) Using the procedures described in subsection (a) of this section, the department may from time to time revise or replace an adopted tool.

(c) The department shall be entitled to the assistance of the office of professional regulation created under 3 V.S.A. § 122 for the purpose of providing notice under this section to persons licensed to sell or appraise real property in Vermont.

§ 57. COMMON LAW UNAFFECTED

Nothing in this chapter reduces, expands, or otherwise alters the rights, remedies, and obligations of a seller or buyer at common law as they existed prior to enactment of this chapter. A failure to disclose or inaccurate or false disclosure under this chapter shall not be used to satisfy any element of a cause of action at common law.

Sec. 2. 30 V.S.A. § 209(d)(8) is amended to read:

(8) ~~Effective January 1, 2010, such net~~ Net revenues above costs from the sale of carbon credits under the cap and trade program as provided for in section 255 of this title shall be deposited into the electric efficiency fund established by this section. ~~Such revenues~~ Any such net revenues not transferred to the state PACE reserve fund under 24 V.S.A. § 3270(c) shall be used as follows:

(A) Up to $100,000.00 annually shall be available to the department of public service solely for the purpose of selection, development, and maintenance of energy disclosure tools under section 54 of this title.

(B) The remainder of these revenues shall be used by the entity appointed under subdivision (2) of this subsection to support delivery of the services described in subdivision (7) of this subsection.

Sec. 3. 32 V.S.A. § 3411 is amended to read:

§ 3411. POWERS OF THE PROPERTY VALUATION AND REVIEW DIVISION

The property valuation and review division shall through its director:

(1) employ such staff as is necessary, subject to the approval of the commissioner of the department of taxes;

(2) cooperate fully with the commissioner in any matter in which he or she requires assistance in connection with his or her duties, including the valuation of property for any tax administered and collected by the commissioner;

(3) adopt rules under 3 V.S.A. chapter 25 ~~of Title 3~~ to provide for the uniform administration of the property tax;

(4) maintain any information obtained by the director from any local official subject to the same rules as to public access and confidentiality as apply to such information in the possession of a local official, as contained in section 4009 of this title;

(5) provide technical assistance and instruction to the listers in a uniform appraisal system and provide other related assistance within the limits of available resources;

(6) prepare and provide to towns at a reasonable fee form books, other required forms and copies of relevant statutes in booklet form;

(7) to the extent of available resources to prepare and provide tax maps for all municipalities not having the same;

(8) from time to time to develop and recommend to the general assembly improved methods for standardizing property assessment procedures and to administer the current use program in accordance with chapter 124 of this title;

(9) annually publish the report described in section 3412 of this title;

(10) assist municipalities in administration of property taxes, including the appraisal of classes of property difficult to appraise, such as industrial and utility properties; ~~and~~

(11) appraise property required by law to be appraised by the director, including but not limited to railroad property under 32 V.S.A. chapter 21; and

(12) develop and maintain a statewide database of sellers' energy disclosures in accordance with 30 V.S.A. § 55.

Sec. 4. THERMAL ENERGY EFFICIENCY; TASK FORCE

(a) Findings. The general assembly finds that:

(1) In 2008, the state of Vermont enacted numeric building efficiency goals that are codified at 10 V.S.A. § 581. These goals include improving the energy fitness of large percentages of the state's housing stock (e.g., 80,000 homes by 2020); significant reductions in annual fuel needs and fuel bills; substantial reductions in fossil fuel consumption across all buildings;

significant monetary savings on the fuel bills of Vermont families and businesses; and increases in weatherization services to low income Vermonters.

(2) In a 2011 update to its report, "Affordable Heat: Whole-Building Efficiency Services for Vermont Families and Businesses," the Regulatory Assistance Project determined that in 2010, Vermonters paid over $600 million to import fossil fuels for use in homes, businesses, and other buildings. Yet, despite the economic and environmental benefits to be gained, the report concludes that, without further action, Vermont will likely fall significantly short of its building efficiency goal for 2020 by as many as 31,000 homes.

(3) In Sec. 7.2.1.1 of the Comprehensive Energy Plan (CEP) (Dec. 2011), the department of public service (the department) states that it will "create a task force to develop a detailed plan for facilitating a simple, integrated, and comprehensive statewide whole-building approach to thermal energy efficiency that will put us on the path toward meeting the building efficiency goals set out in statute. The task force should complete analysis and recommendations by December 2012 . . ."

(4) The department has created and convened the thermal efficiency task force described in subdivision (3) of this subsection and has included in the task force energy efficiency experts and representatives of a wide array of relevant entities such as the state's regional community action and weatherization organizations, the City of Burlington Electric Department, the Conservation Law Foundation, Efficiency Vermont, the High Meadows Fund, Neighborworks of Western Vermont, the office of economic opportunity, the Regulatory Assistance Project, the school energy management program of the Vermont Superintendents Association, the Vermont Energy Climate Action Network, the Vermont Fuel Dealers Association, Vermont Gas Systems, the Vermont Homebuilders and Remodelers Association, the Vermont Housing and Conservation Board, and the Vermont Public Interest Research Group. The department also has agreed to invite representatives of Vermont's financial institutions and credit unions to participate in the task force.

(b) Analysis, recommendations, and report. In consultation with the thermal efficiency task force that the department has convened, the commissioner of public service shall, by January 15, 2013, complete an analysis, develop recommendations, and submit a report to the general assembly on improving the delivery, funding, and financing of thermal energy efficiency in Vermont, using a whole buildings approach, in a manner that will enable the state to meet the building efficiency goals set out in 10 V.S.A. § 581.

(1) The analysis, recommendations, and report shall address at least each of the following:

(A) An assessment of current thermal efficiency programs and services, including identification of all current market actors delivering these services and existing programs that provide incentives or technical assistance.

(B) Analysis of the relationship between electric and thermal energy efficiency measures and services.

(C) Evaluation of and recommendations on the potential for integrating delivery of thermal energy efficiency with encouraging the use of heating sources that use renewable fuels.

(D) Assessment of barriers and disincentives to consumer adoption of thermal energy efficiency measures and recommendations on how to improve the delivery and coordination of thermal energy efficiency programs from the customer perspective, including consideration of a "one-stop" approach.

(E) Evaluation of the current level of integration and coordination in Vermont between administration of the Low Income Home Energy Assistance Program (LIHEAP), 42 U.S.C. § 8621 et seq. and the home weatherization assistance program under 33 V.S.A. § 2502 and recommendations, if any, for improving the delivery of whole buildings energy efficiency services to recipients of LIHEAP funds.

(F) Identification of the amount of funding needed to achieve the state's building energy goals at 10 V.S.A. § 581 and recommendation of funding sources and financing mechanisms that will achieve the necessary funding.

(i) Funding sources to be evaluated shall include at least the following: use of the fuel gross receipts tax under 33 V.S.A. § 2501; use of the electric energy efficiency charge under 30 V.S.A. § 209(d)(3); and establishing a tax or charge on the creation of waste, air emissions, pollutant discharges, or other by-products by energy generated in the state.

(ii) Financing sources to be evaluated shall include at least the following: use of on-the-bill tariff financing (OTF) on electric or natural gas bills or both; use of property-assessed clean energy districts under 24 V.S.A. chapter 87, subchapter 2; mechanisms to encourage the development and deployment in Vermont of energy service companies whose services include whole buildings energy efficiency; encouraging or requiring lenders to promote the energy efficiency mortgage developed by the Federal Housing Administration or similar products; and mechanisms to encourage increased incorporation of building energy performance into conventional lending.

(G) Evaluation of and recommendations on the role of the energy efficiency entities appointed under 30 V.S.A. § 209(d)(2), Efficiency Vermont and BED, in the delivery of whole buildings thermal energy efficiency services, including review of measures to be implemented by other persons and associated energy savings claims.

(H) In consultation with the commissioner of building and general services and Efficiency Vermont, identification, evaluation, and recommendation of methods to increase the energy efficiency of state buildings, including the treatment of energy efficiency as an investment.

(I) Recommendations on how to measure and track progress toward compliance with the building efficiency goals.

(2) In meeting the requirements of this section, the department may use and build on analysis and evaluations completed in connection with the CEP or contained in other relevant reports issued since enactment of the building efficiency goals in 2008.

(3) Between the effective date of this section and the date for submission of the report, the commissioner shall meet at least twice at mutually agreeable intervals with the chairs of the house and senate committees on natural resources and energy to report on the progress of the task force and the analysis, recommendations, and report to be completed under this section.

Sec. 5. ON-BILL FINANCING; REPORT

No later than 30 days after passage of this section, the public service board (the board) by order shall require that, by January 15, 2013, any electric distribution utility that offers its customers, or some of them, on-bill financing of energy efficiency shall submit a report to the board on the use of such on-bill financing, customer response to such financing, and benefits discerned or problems encountered in using and implementing on-bill energy efficiency financing. Immediately on receipt, the board shall submit a copy of the report to the general assembly electronically in accordance with the guidelines established by the office of legislative council for electronic submission of reports by state agencies.

Sec. 6. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of ~~0.5~~ 1 percent on the retail sale of the following types of fuel by sellers receiving more than $10,000.00 annually for the sale of such fuels:

(1) heating oil, kerosene, and other dyed diesel fuel delivered to a residence or business;

(2) propane;

(3) natural gas;

(4) electricity;

(5) coal.

(b) The tax shall be levied upon and collected quarterly from the seller. Fuel sellers may include the following message on their bills to customers:

"The amount of this bill includes a ~~0.5%~~ 1% gross receipts tax~~, enacted in 1990,~~ for support of Vermont's low income home weatherization program."

* * *

Sec. 7. EFFECTIVE DATES; IMPLEMENTATION

(a) This section and Secs. 2 (revenues from carbon credits), 4 (thermal energy efficiency; task force) and 5 (on-bill financing; report) of this act shall take effect on passage.

(b) Secs. 1 (building energy performance) and 3 (property valuation and review) of this act shall take effect on January 1, 2014, except that on passage of this act, the department of public service shall have authority to select and adopt energy disclosure tools in accordance with the provisions of Sec. 1, and the director of property valuation and review shall have authority to develop a statewide database in accordance with Sec. 1, 30 V.S.A. § 55, and Sec. 3.

(c) On or before October 1, 2013:

(1) The department of public service shall complete adoption of the energy disclosure tools required by Sec. 1 of this act for implementation commencing on January 1, 2014.

(2) The director of property valuation and review shall complete development of the statewide database required by Secs. 1 and 3 of this act for implementation commencing on January 1, 2014.

(d) Sec. 6 of this act (fuel gross receipts tax) shall take effect on July 1, 2012. The quarter ending September 30, 2012 shall be the first quarter for which the tax imposed by 33 V.S.A. § 2503, as amended by Sec. 5 of this act, shall be due.

(Committee vote: 3-2-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: By striking out Secs. 1 (building energy performance), 2 (revenues from carbon credits), 3 (property valuation and review), 5 (on-bill financing; report), 6 (fuel gross receipts tax) and 7 (effective dates; implementation) in their entireties

Second: By renumbering Sec. 4 (thermal energy efficiency; task force) to be Sec. 1

Third: By adding a new section to be numbered Sec. 2 to read:

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to a task force on thermal energy efficiency"

(Committee vote: 6-1-0)

S. 180.

An act relating to the universal service fund and establishment of a high-cost program.

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:

Sec. 1. FINDINGS AND PURPOSE

(a) The general assembly finds:

(1) Incumbent local exchange carriers (ILECs) are obligated to provide broad-based access to telephone services, even in areas that are high cost, sparsely populated, or filled with subscribers of limited means.

(2) Traditionally, ILECs were rewarded with an exclusive franchise in return for carrying out their regulatory responsibilities in unprofitable areas.

(3) However, with increased competition in the telecommunications field, particularly in profitable areas, ILECs have less of an opportunity to cover the costs of serving unprofitable areas.

(4) Vermont has a state universal service fund which is currently used to support the lifeline and enhanced 911 programs. Funds are generated by an end-user surcharge on all retail telecommunications service provided to a Vermont address.

(b) It is the purpose of this act to establish a new regulatory model under which ILECs can continue their costly responsibilities over wide areas and still have an opportunity to cover their costs, even in the presence of competitors.

* * * Universal Service Fund Studies * * *

Sec. 2. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST BASIC TELECOMMUNICATIONS SERVICE

(a) The general assembly intends that the universal service charge be used in the future as a means of keeping basic telecommunications service affordable in all parts of this state, thereby maintaining universal service. ~~In the future, and after this section has been amended by further act of legislation, payments may be made to reduce the cost of basic telecommunications service in areas where that cost would otherwise jeopardize universal service or uniform economic development.~~

(b) The commissioner of public service, in conjunction with the public service board, shall conduct a study of the costs and other factors affecting the delivery of local exchange service by the incumbent local exchange carriers (the providers of last resort). The study shall ~~be conducted either as an independent inquiry or as part of a proceeding or docket affecting other matters~~ include an informal workshop process to be conducted by the board. Such process shall be noticed to the general public and structured to allow written and verbal comments by the general public, service providers, public officials, and others as determined by the board. The study shall:

(1) After considering information on how various factors affect the costs of providing telecommunications service in Vermont and elsewhere, estimate the current costs and estimate, on a forward-looking basis, the differential costs of providing local exchange service to various customer groups throughout Vermont.

(2) Estimate the relationship between basic telecommunications service charges and universal service, and the threshold level beyond which universal residential service is likely to be harmed.

(3) Estimate the relationship between basic telecommunications service charges and opportunities for uniform economic development throughout the state, and the threshold prices beyond which such opportunities may be adversely affected.

(4) Estimate the potential effects of local exchange competition on uniform and affordable basic telecommunications service charges in all parts of the state.

(5) Examine policy options by which the cost to customers may be managed so as not to jeopardize universal service and the uniform economic development opportunities, including at least the following:

(A) establishing a maximum price for basic telecommunications service, beyond which customers would have access, without regard to income, to credits or vouchers negotiable for local exchange service from a local exchange provider or competitive access provider;

(B) broadening eligibility for the lifeline program; and

(C) establishing a mechanism to adjust the level of support for higher cost customers over time to reflect legal rights, recover historic costs, and reflect the advantages of improved technology and increased efficiency.

(6) Examine the actions, if any, of the Federal Communications Commission (FCC) in revising its universal service fund, and the need, if any, for additional action in Vermont. In particular, the study shall examine the impact on Vermont services caused by the FCC's report and order released November 18, 2011, which, among other things, expands the federal universal service fund to include broadband deployment in unserved areas. Further, the study shall consider the potential impact of various legal challenges to the FCC action on the federal universal service fund.

(7) Propose mechanisms to support universal service and rural economic development while securing the benefits of telecommunications competition for Vermont households and businesses.

(8) Include an audit of the universal service fund to examine, among other things, the contributions made to the fund in terms of the categories of telecommunications service providers covered as well as the specific services charged. In addition, the audit shall assess the disbursements made from the fund.

(9) Consider any other relevant issues that may arise during the course of the study.

(c) The results of the study, together with any plan for amending and distributing funds under this section, shall be submitted to the ~~general assembly~~ house committee on commerce and economic development and the senate committee on finance on or before ~~January 15, 1996~~ December 1, 2012.

(d) The commissioner of public service may contract with a consultant to conduct the study required by this section. Costs incurred in conducting the

study shall be reimbursed from the state universal service fund up to $75,000.00.

(e) To the extent this study may require disclosure of confidential information by a telecommunications service provider, such confidential information shall be disclosed to a third party pursuant to a protective agreement. In no event shall the third party be a person or persons employed by a business competitor or whose primary duties engage them in business competition with a telecommunications service provider submitting the confidential information. The third party may be the consultant retained by the commissioner under subsection (d) of this section or may be another third party agreed upon by the commissioner and the telecommunications service providers. The third party shall be responsible for aggregating the information and, once aggregated, may publicly disclose such information consistent with the purposes of this section. The confidentiality requirements of this subsection shall not affect whether information provided to an agency of the state or a political subdivision of the state pursuant to other laws is or is not subject to disclosure.

Sec. 3. CREATION OF ONE-YEAR HIGH-COST PROGRAM

(a) There is created a high-cost program under which the universal service charge shall be used as a means of keeping basic telecommunications service affordable in all parts of this state, thereby maintaining universal service. Payments shall be made to Vermont's incumbent local exchange carriers (ILECs) for the purpose of reducing the cost of providing basic local telecommunications service in areas where that cost would otherwise jeopardize universal service or uniform economic development.

(b) Funds distributed under the high-cost program are intended to defray the cost an ILEC incurs in building and maintaining its network so that it stands ready to serve any customer in its service area, even those in the most remote areas of Vermont. In order to achieve this goal, funding shall not be based upon the number of basic telecommunications services ordered, but rather upon the cost to serve any customer in that service area who may request basic local exchange service. This includes the costs of building and maintaining the entire network in each exchange in the applicable service area.

(c) The fiscal agent shall make distributions for the high-cost program to the ILECs, as required by this section. The percentage of funds distributed to each ILEC shall reflect the percentage of total access lines reported by each ILEC in its annual report to the public service board.

(d) Any funds in excess of $1,000,000.00 remaining in the Vermont universal service fund as of September 1, 2012 shall be distributed among all the ILECs in a manner determined by the commissioner of public service.

Sec. 4. STUDY ON THE STATE USF AND PREPAID WIRELESS TELECOMMUNICATIONS SERVICES

(a) The commissioner of public service or designee, in consultation with the commissioner of taxes or designee, shall convene a work group to study issues related to application of the state's universal service charge established under 30 V.S.A. chapter 88 to prepaid wireless telecommunications services. The work group shall include representatives of prepaid wireless telecommunications service providers, Vermont retailers of prepaid wireless telecommunications services, consumers, the enhanced-911 program, and any other stakeholders identified by the commissioner. The study shall consider:

(1) the retail transactions subject to the charge;

(2) the amount of the charge;

(3) application of the charge to bundled telecommunications services;

(4) the effective date of any adjustments to the charge;

(5) billing and collection procedures, including:

(A) notice of charges to consumers; and

(B) various payment and collection methods, including payment and collection procedures similar to those used for the sales and use tax imposed under 32 V.S.A. chapter 233;

(6) the ability of retailers or the department of taxes, if applicable, to retain a percentage of the fees collected to offset collection and administration costs and, if so, the percentage which may be retained; and

(7) any other matter deemed relevant by the commissioner.

(b) The commissioner, on behalf of the work group established under subsection (a) of this section, shall report his or her findings and recommendations to the house committee on commerce and economic development and the senate committee on finance not later than December 1, 2012. The report shall include draft legislation for consideration during the 2013 legislative session.

(c) It is the intent of the general assembly that the study authorized under this section shall not circumscribe any obligation which may be imposed on a wireless telecommunications service provider in pending or future proceedings

before the public service board concerning designation as an eligible telecommunications carrier.

Sec. 5. EFFECTIVE DATE

(a) This act shall take effect on passage.

(b) Sec. 3 of this act (creation of high cost program) shall take effect on passage and shall be repealed on June 30, 2013.

(Committee vote: 5-0-2)

S. 200.

An act relating to the reporting requirements of health insurers.

Reported favorably with recommendation of amendment by Senator Pollina 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. § 3561(a) is amended to read:

(a)(1) Each domestic, foreign, and alien insurance company doing business in this state shall annually submit to the commissioner a statement of its financial condition, verified by oath of two of its executive officers. The statement shall be prepared in accordance with the National Association of Insurance Commissioners' Instructions Handbook and Accounting Practices and Procedures Manual and shall be in such general form and context, as approved by, and shall contain any other information required by, the National Association of Insurance Commissioners with any useful or necessary modifications or adaptations thereof required or approved or accepted by the commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the commissioner.

(2)(A) In addition, a health insurance company with a minimum of 200 Vermont lives covered in the relevant reporting year or which offers a plan in the Vermont health benefit exchange pursuant to 33 V.S.A. § 1803 shall provide the following information:

(i) the total number of claims submitted to the health insurance company;

(ii) the total number of denials of service by the health insurance company at the preauthorization level, including:

(I) the total number of denials of service at the preauthorization level appealed to the health insurance company at the first level grievance;

(II) the total number of denials of service at the preauthorization level overturned at the first level grievance;

(III) the total number of denials of service at the preauthorization level appealed to the health insurance company at any second level grievance;

(IV) the total number of denials of service at the preauthorization level overturned at any second level grievance; and

(V) the total number of denials of service at the preauthorization level for which external review is sought and the number overturned by external review;

(iii) the total number of service claims denied by the health insurance company, including:

(I) the total number of denied service claims appealed to the health insurance company at the first level grievance;

(II) the total number of denied service claims overturned at the first level grievance;

(III) the total number of denied service claims appealed to the health insurance company at any second level grievance;

(IV) the total number of denied service claims overturned at any second level grievance; and

(V) the total number of denied service claims for which external review is sought and the number overturned by external review; and

(iv) the total number of claims denied by a health insurance company for reasons not related to network issue, medical necessity, or benefit coverage.

(B) The department of banking, insurance, securities, and health care administration shall create a standardized form for the purpose of collecting the information described in subdivision (2)(A) of this subsection (a), and a health insurance company shall use the standardized form for reporting the required information as an addendum to its annual report. Where possible, the standardized form shall require that reported information be divided into categories determined by the department, including categories for coding errors, services not covered, and out-of-network providers.

(C)(i) The department of banking, insurance, securities, and health care administration shall post on its website the standardized forms completed by each health insurance company pursuant to subdivision (2)(B) of this subsection (a).

(ii) The department of Vermont health access shall post on the Vermont health benefit exchange an electronic link to the standardized forms posted by the department of banking, insurance, securities, and health care administration pursuant to subdivision (i) of this subdivision (2)(C).

(3) The statement of an alien insurer shall relate only to the insurer's transactions and affairs in the United States unless the commissioner requires otherwise.

(4) A foreign or alien company, upon withdrawing from the state of Vermont shall pay to the commissioner $25.00 for the filing of its final financial statement.

Sec. 2. 8 V.S.A. § 4516 is amended to read:

§ 4516. ANNUAL REPORT TO COMMISSIONER

(a) Annually, on or before March 15, a hospital service corporation shall file with the commissioner of banking, insurance, securities, and health care administration a statement sworn to by the president and treasurer of the corporation showing its condition on December 31. The statement shall be in such form and contain such matters as the commissioner shall prescribe, including for hospital service corporations with a minimum of 200 Vermont lives covered in the relevant reporting year or which offer a plan in the Vermont health benefit exchange pursuant to 33 V.S.A. § 1803:

(1) the total number of claims submitted to the hospital service corporation;

(2) the total number of denials of service by the hospital service corporation at the preauthorization level, including:

(A) the total number of denials of service at the preauthorization level appealed to the hospital service corporation at the first level grievance;

(B) the total number of denials of service at the preauthorization level overturned at the first level grievance;

(C) the total number of denials of service at the preauthorization level appealed to the hospital service corporation at any second level grievance;

(D) the total number of denials of service at the preauthorization level overturned at any second level grievance; and

(E) the total number of denials of service at the preauthorization level for which external review is sought and the number overturned by external review;

(3) the total number of service claims denied by the hospital service corporation, including:

(A) the total number of denied service claims appealed to the hospital service corporation at the first level grievance;

(B) the total number of denied service claims overturned at the first level grievance;

(C) the total number of denied service claims appealed to the hospital service corporation at any second level grievance;

(D) the total number of denied service claims overturned at any second level grievance; and

(E) the total number of denied service claims for which external review is sought and the number overturned by external review; and

(4) the total number of claims denied by a hospital service corporation for reasons not related to network issue, medical necessity, or benefit coverage.

(b)(1) The department of banking, insurance, securities, and health care administration shall create a standardized form for the purpose of collecting the information described in subsection (a) of this section, and a hospital service corporation shall use the standardized form for reporting the required information as an addendum to its annual report. Where possible, the standardized form shall require that reported information be divided into categories determined by the department, including categories for coding errors, services not covered, and out-of-network providers.

(2)(A) The department of banking, insurance, securities, and health care administration shall post on its website the standardized forms completed by each hospital service corporation pursuant to subdivision (1) of this subsection (b).

(B) The department of Vermont health access shall post on the Vermont health benefit exchange an electronic link to the standardized forms posted by the department of banking, insurance, securities, and health care administration pursuant to subdivision (2)(A) of this subsection (b).

(c) To qualify for the tax exemption set forth in section 4518 of this title, the statement shall include a certification that the hospital service corporation operates on a nonprofit basis for the purpose of providing an adequate hospital service plan to individuals of the state, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, and medical history, except as allowed by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

Sec. 3. 8 V.S.A. § 4588 is amended to read:

§ 4588. ANNUAL REPORT TO COMMISSIONER

(a) Annually, on or before March 15, a medical service corporation shall file with the commissioner of banking, insurance, securities, and health care administration a statement sworn to by the president and treasurer of the corporation showing its condition on December 31, which shall be in such form and contain such matters as the commissioner shall prescribe, including for medical service corporations with a minimum of 200 Vermont lives covered in the relevant reporting year or which offer a plan in the Vermont health benefit exchange pursuant to 33 V.S.A. § 1803:

(1) the total number of claims submitted to the medical service corporation;

(2) the total number of denials of service by the medical service corporation at the preauthorization level, including:

(A) the total number of denials of service at the preauthorization level appealed to the medical service corporation at the first level grievance;

(B) the total number of denials of service at the preauthorization level overturned at the first level grievance;

(C) the total number of denials of service at the preauthorization level appealed to the medical service corporation at any second level grievance;

(D) the total number of denials of service at the preauthorization level overturned at any second level grievance; and

(E) the total number of denials of service at the preauthorization level for which external review is sought and the number overturned by external review;

(3) the total number of service claims denied by the medical service corporation, including:

(A) the total number of denied service claims appealed to the medical service corporation at the first level grievance;

(B) the total number of denied service claims overturned at the first level grievance;

(C) the total number of denied service claims appealed to the medical service corporation at any second level grievance;

(D) the total number of denied service claims overturned at any second level grievance; and

(E) the total number of denied service claims for which external review is sought and the number overturned by external review; and

(4) the total number of claims denied by a medical service corporation for reasons not related to network issue, medical necessity, or benefit coverage.

(b)(1) The department of banking, insurance, securities, and health care administration shall create a standardized form for the purpose of collecting the information described in subsection (a) of this section, and a medical service corporation shall use the standardized form for reporting the required information as an addendum to its annual report. Where possible, the standardized form shall require that reported information be divided into categories determined by the department, including categories for coding errors, services not covered, and out-of-network providers.

(2)(A) The department of banking, insurance, securities, and health care administration shall post on its website the standardized forms completed by each medical service corporation pursuant to subdivision (1) of this subsection (b).

(B) The department of Vermont health access shall post on the Vermont health benefit exchange an electronic link to the standardized forms posted by the department of banking, insurance, securities, and health care administration pursuant to subdivision (2)(A) of this subsection (b).

(c) To qualify for the tax exemption set forth in section 4590 of this title, the statement shall include a certification that the medical service corporation operates on a nonprofit basis for the purpose of providing an adequate medical service plan to individuals of the state, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, and medical history, except as allowed by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

Sec. 4. 8 V.S.A. § 5106(a) is amended to read:

(a)(1) Every organization subject to this chapter, annually, within 120 days of the close of its fiscal year, shall file a report with the commissioner, said report verified by an appropriate official of the organization, showing its financial condition on the last day of the preceding fiscal year. The report shall be prepared in accordance with the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual for health maintenance organizations and shall be in such general form and context, as approved by, and shall contain any other information required by the National Association of Insurance Commissioners together with any useful or necessary modifications or adaptations thereof required, approved or accepted by the commissioner for the type of organization to be reported upon, and as

supplemented by additional information required by the commissioner, including for organizations with a minimum of 200 Vermont lives covered in the relevant reporting year or which offer a plan in the Vermont health benefit exchange pursuant to 33 V.S.A. § 1803:

(A) the total number of claims submitted to the organization;

(B) the total number of denials of service by the organization at the preauthorization level, including:

(i) the total number of denials of service at the preauthorization level appealed to the organization at the first level grievance;

(ii) the total number of denials of service at the preauthorization level overturned at the first level grievance;

(iii) the total number of denials of service at the preauthorization level appealed to the organization at any second level grievance;

(iv) the total number of denials of service at the preauthorization level overturned at any second level grievance; and

(v) the total number of denials of service at the preauthorization level for which external review is sought and the number overturned by external review;

(C) the total number of service claims denied by the organization, including:

(i) the total number of denied service claims appealed to the organization at the first level grievance;

(ii) the total number of denied service claims overturned at the first level grievance;

(iii) the total number of denied service claims appealed to the organization at any second level grievance;

(iv) the total number of denied service claims overturned at any second level grievance; and

(v) the total number of denied service claims for which external review is sought and the number overturned by external review; and

(D) the total number of claims denied by an organization for reasons not related to network issue, medical necessity, or benefit coverage.

(2)(A) The department of banking, insurance, securities, and health care administration shall create a standardized form for the purpose of collecting the information described in subdivision (1) of this subsection (a), and an

organization shall use the standardized form for reporting the required information as an addendum to its annual report. Where possible, the standardized form shall require that reported information be divided into categories determined by the department, including categories for coding errors, services not covered, and out-of-network providers.

(B)(i) The department of banking, insurance, securities, and health care administration shall post on its website the standardized forms completed by each organization pursuant to subdivision (2)(A) of this subsection (a).

(ii) The department of Vermont health access shall post on the Vermont health benefit exchange an electronic link to the standardized forms posted by the department of banking, insurance, securities, and health care administration pursuant to subdivision (2)(B)(i) of this subsection (a).

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(Committee vote: 5-0-0)

Reported favorably by Senator Westman for the Committee on Finance.

(Committee vote: 7-0-0)

S. 204.

An act relating to creating an expert panel on the creation of a state bank.

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:

Sec. 1. 32 V.S.A. § 993 is added to read:

§ 993. PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

(a)(1) Creation; composition. There is created a private activity bond advisory committee, which shall consist of the following members:

(A) the state treasurer or his or her designee;

(B) the secretary of administration or his or her designee;

(C) the secretary of commerce and community development or his or her designee;

(D) two members who shall be representatives of the public, appointed by the governor.

(2) Each public representative shall serve for a two-year term beginning February 1 or until his or her successor is appointed. The terms of the public representatives shall be staggered so that only one member's term expires in each year.

(3) The state treasurer or designee shall serve as chair of the committee.

(4) The office of the state treasurer shall provide administrative support to the committee.

(5) Except as provided in section 1010(d) of this title, members of the committee who are not legislative members or Vermont state employees shall be entitled to receive per diem compensation and expense reimbursement pursuant to subsections 1010(b) and (c), respectively, of this title.

(b) Committee charge.

(1) The committee shall survey the expected need for private activity bond allocations among constituted and eligible issuing authorities empowered to issue such bonds on an annual basis.

(2)(A) The committee shall develop guidelines for allocation of private activity bonding capacity designed to maximize the availability of tax-exempt financing among various sectors of the Vermont economy with a focus on economic development, housing, education, redevelopment, public works, energy, waste management, waste and recycling collection, transportation, and other activities that the committee determines will benefit the citizens of Vermont.

(B) The guidelines should support efforts and entities that increase the number of well-paying jobs in the state, promote economic development, support affordable housing, support affordable access to postsecondary education and training, and encourage the use of Vermont's human and natural resources in endeavors that maximize Vermont's comparative economic advantages. The guidelines should be flexible enough to include new and innovative uses of private activity bonds consistent with federal regulations and the Internal Revenue Code.

(3) The committee shall meet at least annually and shall hold at least one public hearing prior to submitting its recommendations to the emergency board. The committee shall further submit its recommendations in an annual report of its activities to the governor and the general assembly.

(4) On or before December 1 of each year, the committee shall make recommendations to the emergency board on the allocation, including any amounts reserved for contingency allocations, of the state's private activity

bond ceiling for the following calendar year to and among the constituted issuing authorities empowered to issue such bonds.

(5) On its own initiative, at the request of the governor, or at the request of the emergency board, the committee may make recommendations to the governor or the emergency board concerning assignments or reallocation of any unused portion of the ceiling subsequent to the emergency board's initial allocation in a given year.

Sec. 2. TRANSITION OF PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

Notwithstanding any provision of law to the contrary, on the effective date of this act, the private activity bond advisory committee created in Executive Order 14-11 shall become for all lawful purposes the private activity bond committee authorized in Sec. 1 of this act; provided, however, that the term of the public representative first appointed by the governor pursuant to EO 14-11 shall end on February 1, 2013, and the term of the public representative appointed second by the governor shall end on February 1, 2014.

* * * Bonding Obligation Authority * * *

Sec. 3. 10 V.S.A. § 219(d) is amended to read:

(d) In order to assure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the authority, there may be appropriated annually and paid to the authority for deposit in each such fund, such sum as shall be certified by the chair of the authority, to the governor or the governor-elect, the president of the senate, and the speaker of the house, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor or the governor-elect, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the authority during the then current state fiscal year. The principal amount of bonds or notes

outstanding at any one time and secured in whole or in part by a debt service reserve fund to which state funds may be appropriated pursuant to this subsection shall not exceed ~~$100,000,000.00~~ $115,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the authority in contravention of the Constitution of the United States.

Sec. 4. 10 V.S.A. § 262(5) is amended to read:

(5) The principal obligation of the authority's mortgage does not exceed ~~$1,300,000.00~~ $1,500,000.00 which may be secured by land and buildings or by machinery and equipment, or both; unless an integral element of the project consists of the generation of heat or electricity employing biomass, geothermal, methane, solar, or wind energy resources to be primarily consumed at the project, in which case the principal obligation of the authority's mortgage does not exceed $2,000,000.00, which may be secured by land and by buildings, or machinery and equipment, or both; such principal obligation does not exceed 40 percent of the cost of the project; and the mortgagor is able to obtain financing for the balance of the cost of the project from other sources as provided in the following section;

Sec. 5. 10 V.S.A. § 216(15) is amended to read:

(15) To delegate to loan officers the power to review, approve and make loans under this chapter, subject to the approval of the manager, and to disburse funds on such loans, subject to the approval of the manager, provided that such loans do not exceed ~~$250,000.00~~ $350,000.00 in aggregate amount for any industrial loan for any three-year period for any particular individual, partnership, corporation, or other entity or related entity, or do not exceed ~~$200,000.00~~ $350,000.00 in aggregate amount if the loan is guaranteed by the Farm Services Agency, or its successor agency, or ~~$150,000.00~~ $300,000.00 in aggregate amount if the loan is not guaranteed by the Farm Services Agency, or its successor agency, for any agricultural loan for any three-year period for any particular individual, partnership, corporation, or other entity or related entity. No funds may be disbursed for any loan approved under this provision, except for any agricultural loan referenced above in an amount not to exceed $50,000.00, and no rejection of a loan by a loan officer pursuant to this subdivision shall become final, until three working days after the members of the authority are notified by facsimile, electronic mail, or overnight delivery mailed or sent on the day of approval or rejection, of the intention to approve or reject such loan. If any member objects within that three-day period, the approval or rejection will be held for reconsideration by the members of the authority at its next duly scheduled meeting;

Sec. 6. 10 V.S.A. § 221(a) is amended to read:

(a) Upon application of the proposed mortgagee, the authority may insure mortgage payments required to repay loans made by the mortgagee for the purpose of financing the costs of a project, upon such terms and conditions as the authority may prescribe; provided, however, that the total principal obligations of all mortgages insured under this subsection and under subsection (c) of this section outstanding at any one time shall not exceed ~~$9,000,000.00~~ $3,500,000.00. Before insuring any mortgage payments hereunder, the

authority shall determine and incorporate each of the findings established by this subsection in its minutes. Such findings, when adopted by the authority shall be conclusive:

* * *

Sec. 7. COMPREHENSIVE CAPITAL GAPS STUDY COMMITTEE

(a) Creation. There is created an expert committee for the purpose of identifying areas of Vermont's economy that have unmet or underserved access to capital, determining what barriers are preventing the efficient and appropriate flow of capital, and developing innovative strategies to make capital more accessible to these underserved areas. The committee shall receive administrative support from the office of the treasurer.

(b) Membership. The committee shall be composed of seven members as follows:

(1) the state treasurer or designee, who shall serve as chair of the committee;

(2) the deputy commissioner of banking within the department of banking, insurance, securities, and health care administration or designee;

(3) the secretary of commerce and community development or designee;

(4) a senior officer of a Vermont bank, who shall be appointed by the governor;

(5) a member of the public, who shall be appointed by the speaker of the house;

(6) a member of the public, who shall be appointed by the president pro tempore of the senate; and

(7) an executive director of a Vermont nonprofit organization which, as part of its mission, directly lends or services loans or other similar obligations, who shall be appointed by the governor.

(c) Powers and duties.

(1) The committee shall identify:

(A) The areas of Vermont's economy that are currently underserved by traditional private and public capital sources. Such areas may include: equity and debt financing for start-ups and growing small businesses; mortgage financing for low income families, first-time homebuyers, and nonprofit developers; underwriting and risk capital for multifamily housing and community facilities; low-interest financing for sustainable agriculture, energy

efficiency and renewable energy ventures; and affordable financing for higher education opportunities for Vermonters;

(B) Public and quasi-public agencies that provide a combination of direct lending, bond financing, loan guarantees, and grant programs for the subject areas referenced in subdivision (1)(A) of this subsection (c). The committee shall receive testimony and reports for the purpose of completing an inventory of current capital sources and related services, missions, and goals, and the extent to which the results are consistent with expected volumes. These institutions may include: the Vermont economic development authority; the Vermont Housing Finance Agency; the Vermont Student Assistance Corporation; the Vermont municipal bond bank; the Vermont community loan fund; and the state treasurer's banking and investment services;

(C) Banking and private sector organizations that work with or provide services in the areas referenced in subdivision (1)(A) of this subsection (c);

(D) Economic impacts relative to financing activities undertaken by the organizations currently providing capital in the state;

(E) The main barriers, such as risk aversion, transactional limits, and existing regulations, that are inhibiting the access to capital in the underserved areas; and

(F) The extent to which capital to meet the needs identified in subdivision (1)(A) of this subsection (c) comes from Vermont sources or is invested in Vermont firms or organizations. Identify opportunities for local investment.

(2) On or before January 15, 2013, the committee shall submit a report of its findings and recommendations to the senate committee on finance and to the house committees on commerce and economic development and on ways and means. The report shall:

(A) Identify the extent to which the capital needs of the underserved areas are currently being met by traditional public and private funding sources, including how public and quasi-public agencies address their statutory missions, deploy Vermont's resources, and measure effectiveness;

(B) Recommend opportunities for collaboration to create efficiencies within existing public, quasi-public, and private financing channels with the goal of adding new capital investment rather than replacing existing markets;

(C) Identify and recommend options for combined activity, tools, policies, strategies, and funding options for strengthening the stated goals of

various public and quasi-public agencies, the treasurer's office, financial institutions, and nonprofits that help to fill capital gaps in the marketplace;

(D) Recommend, where feasible, opportunities for collaboration to restructure or create efficiencies within and among state-sponsored financial institutions;

(E) Review feasibility of creating one or more vehicles or capacity to foster in-state investment opportunities where appropriate. These may include new delivery strategies and changes to state treasury operations to foster local financing activities;

(F) Evaluate conceptual models of a state bank, green trust, or similar state-created institution authorized to aggregate state funds and raise capital and determine whether further detailed study should be conducted to determine whether one or more such institutions could effectively provide and leverage investment in the Vermont economy where capital needs are identified; and

(G) Provide recommendations that foster partnerships with banking institutions doing business in the state to address unmet needs.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

and that when so amended the bill ought to pass, and that after passage the title of the bill be amended to read: "An act relating to state bonding authority and evaluating capital needs".

(Committee vote: 7-0-0)

Favorable with Proposal of Amendment

H. 634.

An act relating to remedies for failure to pay municipal tickets.

Reported favorably with recommendation of proposal of amendment by Senator Westman for the Committee on Judiciary.

The Committee recommends that the Senate propose to the House to amend the bill by striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on July 1, 2012.

(b) Sec. 2 of this act and this section shall take effect on passage.

(Committee vote: 4-0-1)

(For House amendments, see House Journal for March 21, 2012, page 297.)

ORDERED TO LIE

S. 138.

An act relating to the record keeping of search warrants.

PENDING QUESTION: Shall the amendment proposed by Senators Benning and Baruth be substituted as moved by Sen. Sears on behalf of the Committee on Judiciary?

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.

David Luce of Waterbury Center – Member of the Community High School of Vermont Board- By Sen. Kittell for the Committee on Education. (1/13/12)

Patrick Flood of East Calais – Commissioner of the Department of Mental Health – By Sen. Mullin for the Committee on Health and Welfare. (2/8/12)

John Snow of Charlotte – Member of the Vermont Economic Development Authority – By Sen. Fox for the Committee on Finance. (2/8/12)

Martin Maley of Colchester – Superior Court Judge – By Sen. Sears for the Committee on Judiciary. (2/9/12)

Alison Arms of South Burlington – Superior Court Judge – By Sen. Snelli8lng for the Committee on Judiciary. (2/16/12)

Robert Bishop of St. Johnsbury – Member of the State Infrastructure Bank Board – By Sen. MacDonald for the Committee on Finance. (2/21/12)

John Valente of Rutland – Member of the Vermont Municipal Bond Bank – By Sen. McCormack for the Committee on Finance. (2/21/12)

James Volz of Plainfield – Chair of the Public Service Board – By Sen. Cummings for the Committee on Finance. (2/21/12)

Ed Amidon of Charlotte – Member of the Valuation Appeals Board – By Sen. Ashe for the Committee on Finance. (2/21/12)