Senate Calendar

WEDNESDAY, APRIL 11, 2012

SENATE CONVENES AT: 3:30 P.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

CONSIDERATION POSTPONED

Second Reading

Favorable with Recommendation of Amendment

S. 28 Consolidating land use and environmental permit administration, rulemaking, and appeals into a department of environmental quality headed by an environmental council 1241

UNFINISHED BUSINESS

Second Reading

Favorable with Recommendation of Amendment

S. 99 Agricultural economic development 1241
Ec. Development, Housing and Energy Committee Report 1241
Finance Committee Report 1257
Appropriations Committee Report 1258

J.R.S. 11 Urging the United States Congress to propose an amendment to the United States Constitution for the states' consideration which provides that corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions 1259
Government Operations Committee Report 1259
Sen. Brock amendment 1261

Favorable with Proposal of Amendment

H. 412 An act relating to harassment and bullying in educational settings 1263
Education Committee Report 1263

H. 758 An act relating to divorce and dissolution proceedings 1263
Judiciary Committee Report 1263
Finance Committee Report 1264
Sen. Snelling Committee Report 1264

NEW BUSINESS

Third Reading

S. 142 Pet merchants 1263

S. 180 The universal service fund & establishment of a high-cost program 1263

H. 403 An act relating to foreclosure of mortgages 1264

H. 459 An act relating to approval of amendments to the charter of the town of Brattleboro 1264

H. 565 An act relating to regulating licensed lenders and mortgage loan originators 1264

H. 613 An act relating to governance of the Community High School of Vermont 1264

H. 765 An act relating to the mental health needs of the corrections population 1264

Second Reading

Favorable

H. 760 An act relating to lowering to 16 the age of consent for blood donation 1264
Health and Welfare Committee Report 1264

Favorable with Recommendation of Amendment

S. 233 Gradually increasing the mandatory age of school attendance 1264
Education Committee Report 1264
Appropriations Committee Report 1277

Favorable with Proposal of Amendment

H. 761 An act relating to executive branch fees, including motor vehicle and fish and wildlife fees 1279
Finance Committee Report 1279

NOTICE CALENDAR

Favorable

H. 327 An act relating to the uniform principal and income act 1281
Judiciary Committee Report 1281

H. 773 An act relating to veterans' tax exemption 1281
Ec. Development, Housing and General Affairs Committee Report 1281

Favorable with Recommendation of Amendment

S. 137 An act relating to workers' compensation and unemployment compensation 1281
Ec. Development, Housing and General Affairs Committee Report 1281

Favorable with Proposal of Amendment

H. 37 An act relating to telemedicine 1311
Health and Welfare Committee Report 1311

H. 157 An act relating to restrictions on tanning beds 1314
Health and Welfare Committee Report 1314

H. 496 An act relating to preserving Vermont's working landscape 1326
Agriculture Committee Report 1326

H. 759 An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment 1333
Health and Welfare Committee Report 1334

H. 770 An act relating to the state's transportation program 1336
Transportation Committee Report 1336
Appropriations Committee Report 1355

House Proposal of Amendment

S. 181 School resource officers 1355

ORDERS OF THE DAY

ACTION CALENDAR

CONSIDERATION POSTPONED

Second Reading

Favorable with Recommendation of Amendment

S. 28.

An act relating to consolidating land use and environmental permit administration, rulemaking, and appeals into a department of environmental quality headed by an environmental council.

PENDING QUESTION: Shall the recommendation of amendment of the committee on Natural Resources and Energy be amended as recommended by the Committee on Appropriations?

(For text of reports of Committee on Natural Resources and Energy and Committee on Appropriations, see Senate Journal for Tuesday, April 10, 2012, pages 557 & 568.)

UNFINISHED BUSINESS

Second Reading

Favorable with Recommendation of Amendment

S. 99.

An act relating to agricultural economic development.

Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Economic Development, Housing and General Affairs.

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

The general assembly finds:

(1) The damage resulting throughout Vermont from both the 2011 spring flooding and from Tropical Storm Irene had a devastating impact in many areas on mobile homes and mobile home parks.

(2) Given that mobile homes represent one of few available affordable housing options in the state, these storms caused significant hardship for many lower and middle income Vermonters whose homes were damaged or destroyed.

(3) Although the local, state, and federal housing and disaster relief officials have worked cooperatively throughout the recovery, questions on authority to issue condemnation letters to homeowners who could then apply for FEMA assistance may have cost some homeowners the opportunity for significant federal reimbursement for their destroyed homes.

(4) Given the economic costs endured by mobile home owners, it is appropriate at this time to exempt the purchase of mobile homes from sales and use tax, local option sales tax, and property transfer tax when such homes are purchased to replace homes destroyed by recent flooding and natural disasters.

(5) During the course of exploring the issues surrounding the impacts of these disasters, it is apparent that mobile home owners and mobile home park owners face unique economic pressures, and more assistance should be focused to facilitate the availability and ownership of modern, safe, mobile homes and the availability of suitable lots, and to facilitate the sale of parks to residents or nonprofit entities in order to preserve affordability and availability of housing.

(6) It is the purpose of this act to focus state, municipal, and private resources on assisting mobile home owners recovering from the storms, and on ensuring that in the long term, Vermonters have an adequate supply of safe, affordable housing.

Sec. 2. 10 V.S.A. chapter 153 is amended to read:

CHAPTER 153. MOBILE HOME PARKS

§ 6201. DEFINITIONS

As used in this chapter, unless the context requires otherwise:

(1) "Mobile home" means:

(A) a structure or type of manufactured home, including the plumbing, heating, air-conditioning, and electrical systems contained in the structure, that is:

(i) built on a permanent chassis ~~and is~~;

(ii) designed to be used as a dwelling with or without a permanent foundation~~, includes plumbing, heating, cooling, and electrical systems, and is:~~ when connected to the required utilities;

~~(A)~~(iii) transportable in one or more sections; and

~~(B)~~(iv)(I) at least eight feet wide ~~or~~, 40 feet long, or when erected has at least 320 square feet; or

(II) if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long; or

~~(C)~~(B) any structure that meets all the requirements of this subdivision (1) except ~~for~~ the size requirements, and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing and Urban Development and complies with the construction and safety standards established under Title 42 of the U.S. Code.

* * *

(4) ~~"Commission" means the advisory commission on manufactured homes, established under section 6202 of this title.~~ [Repealed.]

* * *

(8) "Department" means the ~~department of housing and community affairs~~ department of economic, housing and community development.

(9) "Good faith" means honesty in fact and the observance of reasonable standards and fair dealing, such that each party shall respond promptly and fairly to offers from the other party.

(10) ~~[Expired.]~~ "Lot rent" means a charge assessed on a mobile home park resident for the occupancy of a mobile home lot, but does not include charges permitted under section 6238 of this title.

(11) "Commissioner" means the commissioner of ~~housing and community affairs~~ economic, housing and community development.

* * *

§ 6231. RULES

(a) [Deleted.]

(b) The department may adopt rules to carry out the provisions ~~of sections 6236-6243~~ of this ~~title~~ chapter.

(c) A mobile home park that has been closed pursuant to section 6237a of this title and reduced to no more than two occupied leased lots, shall be required, if the number of occupied leased lots subsequently is increased to more than two, to obtain all state land use and environmental permits required for a mobile home park that has been established or expanded after May 31, 1970.

§ 6236. LEASE TERMS; MOBILE HOME PARKS

* * *

(e) All mobile home lot leases shall contain the following:

* * *

(3) Notice that the park owner shall not discriminate for reasons of race, religious creed, color, sex, sexual orientation, gender identity, marital status, ~~handicap~~ disability, ~~or~~ national origin, or because a person is a recipient of public assistance.

(4) Notice that the park owner shall not discriminate based on age or the presence of one or more minor children in the household, except as permitted under 9 V.S.A. § 4503(b) and (c). If age restrictions exist in all or part of a park, the specific restrictions and geographic sections in which restrictions apply shall be documented in the lease.

* * *

§ 6237. EVICTIONS

(a) A leaseholder may be evicted only for nonpayment of rent or for a substantial violation of the lease terms of the mobile home park, or if there is a change in use of the park land or parts thereof or a termination of the mobile home park, and only in accordance with the following procedure:

* * *

(4) A substantial violation of the lease terms, other than an uncured nonpayment of rent, will be insufficient to support a judgment of eviction unless the proceeding is commenced within 60 days of the last alleged violation. A substantial violation of the lease terms based upon criminal activity will be insufficient to support a judgment of eviction unless the proceeding is commenced no later than 60 days after arraignment.

* * *

§ 6237a. MOBILE HOME PARK CLOSURES

* * *

(b) Prior to issuing a closure notice pursuant to subsection (a) of this section, a park owner shall first ~~notify all mobile home owners of the park owner's~~ issue a notice of intent to sell in accordance with section 6242 of this title that discloses the potential closure of the park. However, if the park owner sends a notice of closure to the residents and leaseholders without first providing the mobile home owners with a notice of ~~sale~~ intent to sell under section 6242 that discloses the potential closure of the park, then the park owner must retain ownership of the land for five years after the date the closure notice was provided. If required, the park owner shall record the notice of the five-year restriction in the land records of the municipality in which the park is located. The park owner may apply to the commissioner for relief from the notice and holding requirements of this subsection if the commissioner determines that strict compliance is likely to cause undue hardship to the park

owner or the leaseholders, or both. This relief shall not be unreasonably withheld.

* * *

(d) A park owner who gives notice of intent to sell pursuant to section 6242 of this title shall not give notice of closure until after:

(1) At least 45 days after giving notice of intent to sell.

(2) If applicable, the commissioner receives notice from the mobile home owners and the park owner that negotiations have ended following the ~~90-day~~ 120-day negotiation period provided in subdivision 6242(c)(1) of this title.

* * *

§ 6242. MOBILE HOME OWNERS' RIGHT TO NOTIFICATION PRIOR TO PARK SALE

(a) Content of notice. A park owner shall give to each mobile home owner and to the commissioner of the department of economic, housing and community ~~affairs~~ development notice by certified mail of his or her intention to sell the mobile home park. Nothing herein shall be construed to restrict the price at which the park owner offers the park for sale. The notice shall state all the following:

(1) That the park owner intends to sell the park.

(2) The price, terms, and conditions under which the park owner offers the park for sale.

(3) A list of the affected mobile home owners and the number of leaseholds held by each.

(4) The status of compliance with applicable statutes, regulations and permits, to the park owner's best knowledge, and the reasons for any noncompliance.

(5) That for 45 days following the notice the park owner shall not make a final unconditional acceptance of an offer to purchase the park and that if within the 45 days the park owner receives notice pursuant to subsection (c) of this section that a majority of the mobile home owners intend to consider purchase of the park, the park owner shall not make a final unconditional acceptance of an offer to purchase the park for an additional ~~90~~ 120 days, starting from the 46th day following notice, except one from a group representing a majority of the mobile home owners or from a nonprofit corporation approved by a majority of the mobile home owners.

(b) Resident intent to negotiate; timetable. The mobile home owners shall have 45 days following notice under subsection (a) of this section in which to determine whether they intend to consider purchase of the park through a group representing a majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners. A majority of the mobile home owners shall be determined by one vote per leasehold and no mobile home owner shall have more than three votes or 30 percent of the aggregate park vote, whichever is less. During this 45-day period, the park owner shall not accept a final unconditional offer to purchase the park.

(c) Response to notice; required action. If the park owner receives no notice from the mobile home owners during the 45-day period or if the mobile home owners notify the park owner that they do not intend to consider purchase of the park, the park owner has no further restrictions regarding sale of the park pursuant to this section. If during the 45-day period, the park owner receives notice in writing that a majority of the mobile home owners intend to consider purchase of the park then the park owner shall do all the following:

(1) Not accept a final unconditional offer to purchase from a party other than leaseholders for ~~90~~ 120 days following the 45-day period, a total of ~~135~~ 165 days following the notice from the leaseholders.

(2) Negotiate in good faith with the group representing a majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners concerning purchase of the park.

(3) Consider any offer to purchase from a group representing a majority of the mobile home owners or from a nonprofit corporation approved by a majority of the mobile home owners.

* * *

(f) Relief from additional notice requirement. ~~No additional notice pursuant to subsection (a) of this section shall be required if the sale is in compliance with either of the following~~ A notice of intent to sell issued pursuant to subsection (a) of this section shall be valid for a period of one year from the expiration of the 45-day period following the date of the notice, and a new notice shall not be required under subsection (a) if:

(1) The park owner completes a sale of the park within one year from the expiration of the 45-day period following the date of the notice and the sale price is either of the following:

(A) No ~~less than~~ more than five percent below the price for which the park was offered for sale pursuant to subsection (a) of this section.

(B) ~~Substantially higher than~~ More than five percent above the final written offer from a group representing a majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners.

(2) The park owner has not completed a sale of the park but has entered into a binding purchase and sale agreement with a group representing a majority of the mobile home owners or a nonprofit corporation approved by a majority of the mobile home owners ~~with a closing date later than one year from~~ within one year from the expiration of the 45-day period following the date of the notice.

* * *

§ 6245. ILLEGAL EVICTIONS

(a) No park owner may ~~wilfuly~~ willfully cause, directly or indirectly, the interruption or termination of any utility service to a mobile home except for temporary interruptions for necessary repairs.

(b) No park owner may directly or indirectly deny a leaseholder access to and possession of ~~a mobile home~~ the leaseholder's leased premises, except through proper judicial process.

(c) No park owner may directly or indirectly deny a leaseholder access to and possession of the leaseholder's ~~rented or leased~~ mobile home and personal property, except through proper judicial process.

* * *

§ 6251. MOBILE HOME LOT RENT INCREASE; NOTICE; MEETING

(a) A mobile home park owner shall provide written notification on a form provided by the department to the commissioner and all the affected mobile home park leaseholders of any lot rent increase no later than 60 days before the effective date of the proposed increase. The notice shall include all the following:

(1) The amount of the proposed lot rent increase, including any amount of the increase that is attributable to a surcharge for any capital improvements of the mobile home park pursuant to subsection (b) of this section, the estimated cost~~, which includes interest,~~ of the capital improvements, and the proposed duration of the surcharge prorated in 12-month increments sufficient to recover the estimated cost of the capital improvements.

(2) The effective date of the increase.

(3) A copy of the mobile home park leaseholder's rights pursuant to this section and sections 6252 and 6253 of this title.

(4) ~~[Deleted.]~~ The percentage of increase from the current base lot rent.

* * *

§ 6254. REGISTRATION OF MOBILE HOME PARKS; REPORT

(a) No later than September 1 each year, each park owner shall register with the department on a form provided by the department. The form shall include the following information:

* * *

(8) The lot rent to be charged for each lot as ~~of the preceding~~ scheduled for October 1 of that year, and the effective date of that lot rent charge.

* * *

* * * Affordable Housing Tax Credit * * *

Sec. 3. 32 V.S.A. § 5930u(g) is amended to read:

(g) In any fiscal year, the allocating agency may award up to $400,000.00 in total first-year credit allocations to all applicants for rental housing projects; and may award up to ~~$100,000.00~~ $300,000.00 per year for owner-occupied unit applicants. In any fiscal year, total first-year allocations plus succeeding-year deemed allocations shall not exceed ~~$2,500.000.00~~ $3,500.000.00.

* * * DEHCD Study and Planning * * *

Sec. 4. DEHCD STUDIES; LONG-RANGE PLANNING FOR THE VIABILITY AND DISASTER RESILIENCY OF MOBILE HOME OWNERSHIP AND PARKS

(a) The department of economic, housing and community development shall, in collaboration with other organizations and interested stakeholders, develop a plan for the future viability and disaster resiliency of mobile home ownership and parks.

(b) The plan shall:

(1) With input from the agency of natural resources, identify parks vulnerable to natural hazards such as flooding and develop a strategy for improving their safety and resiliency through education, emergency planning, mitigation measures, reconfiguration, and relocation.

(2) Identify barriers to mobile home ownership including the availability of financing and mortgage insurance and recommend methods for the state to assist, including coordinating with USDA Rural Development to extend its pilot program under the section 502 direct loan and guarantee loan programs and working with public, private, and nonprofit entities to develop solutions.

(3) Address the potential loss of mobile home parks and affordability due to sale, closure, or natural disaster by recommending actions to encourage

resident or nonprofit purchase and ownership and the creation of new mobile home parks or lots through technical assistance and planning guidance to municipalities and developers.

(4) Assess other housing designs as alternatives to mobile homes that are affordable when all related costs, such as siting, water and sewer, and energy use are taken into consideration.

Sec. 5. 20 V.S.A. § 2731(k) is added to read:

(k) Building codes. Pursuant to his or her authority under this section, the commissioner of public safety shall:

(1) Develop and maintain on the department website a graphic chart or grid depicting categories of construction, including new construction, major rehabilitation, change of use, and additions, and the respective building codes that apply to each category.

(2) Whenever practicable and appropriate, offer the opportunity to construction and design professionals to participate in division of fire safety staff training.

(3) Update building codes on three-year cycles, consistent with codes developed by code-writing authorities, to keep pace with technology, products, and design.

(4) Create a publicly accessible database of decisions that are decided on appeal to the commissioner.

(5) Apply the International Building Code (IBC) to new construction.

Sec. 6. 9 V.S.A. § 2461b(h) is added to read:

(h)(1) The owner of a propane storage tank shall anchor the tank or affix the tank to a structure or other fixture to ensure the safety of persons and property in the event of a flood or other natural disaster.

(2) In the event a propane storage tank becomes unsecured due to flood or other natural disaster, the owner of the tank shall be responsible for the recovery and, if applicable, appropriate disposal of the tank and its contents.

Sec. 7. 9 V.S.A. § 4503 is amended to read:

§ 4503. UNFAIR HOUSING PRACTICES

(a) It shall be unlawful for any person:

* * *

(12) To discriminate in land use decisions or in the permitting of housing because of race, sex, sexual orientation, gender identity, age, marital

status, religious creed, color, national origin, disability, the presence of one or more minor children, income, or except as otherwise provided by law.

* * *

Sec. 8. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

(A) No bylaw nor its application by an appropriate municipal panel under this chapter shall have the effect of excluding housing that meets the needs of the population as determined in the housing element of its municipal plan as required under subdivision 4382(a)(10) of this title or the effect of discriminating in the permitting of housing as specified in 9 V.S.A. § 4503.

* * *

* * * Allocation of Rental Housing Subsidies by State Entities (VSHA) * * *

Sec. 9. ADMINISTRATION OF RENTAL HOUSING SUBSIDIES; FINDINGS AND PURPOSE

The general assembly finds:

(1) Administration of rental housing subsidies in Vermont, including federal housing funds, is a public and essential governmental function to be focused primarily on assuring safe and decent housing for low and moderate income persons without undue regard for the generation of profit or surplus.

(2) In recent years, private entities, including nominally private entities controlled by public jurisdictions from other states, have sought contracts to administer allocations of federal rental subsidies throughout the United States.

(3) To the maximum extent permitted by applicable law, it is the purpose of Sec. 10 of this act to limit the administrative control of federal rental subsidies to state of Vermont public bodies.

Sec. 10. 24 V.S.A. § 4005(e) is added to read:

(e) Notwithstanding any provision of law, no person, domestic or foreign, shall be authorized to administer allocations of money under 42 U.S.C.A. § 1437a or 1437f or other federal statute authorizing rental subsidies for the benefit of persons of low or moderate income, except:

(1) a subcontractor of the state authority; or

(2) a state public body authorized by law to administer such allocations.

* * * Expedited Removal of Mobile Home by Municipality * * *

Sec. 11. 9 V.S.A. § 2608 is added to read:

§ 2608. MUNICIPAL ACTION FOR SALE OF ABANDONED MOBILE HOME

(a) In the alternative to the process for foreclosure of a tax lien on a mobile home pursuant to 32 V.S.A. chapter 133, a municipality shall have the authority to commence an action to sell at public auction an abandoned mobile home located within the municipality pursuant to this section.

(b) A municipality shall file a verified complaint in the civil division of the superior court for the county in which the municipality is located, which shall be entitled "In re: Abandoned Mobile Home of [name of owner]," and shall include the following information:

(1) The physical location and address of the mobile home.

(2) The name and last known mailing address of the owner of the mobile home.

(3) A description of the mobile home, including make, model, and serial number, if available.

(4) The names and addresses of creditors, holders of housing subsidy covenants, or others having an interest in the mobile home based on liens or notices of record in the municipality offices or the office of the secretary of state.

(5) The facts supporting the claim that the mobile home has been abandoned.

(6) The name of a person disinterested in the mobile home or of a municipality employee who will be responsible for the sale of the mobile home at a public auction.

(7) A statement of the amount of taxes, fees, and other charges due or which will become due to the municipality.

(8) If the mobile home is located on leased land, the name and address of the landowner.

(c) A municipality may request an order approving transfer of a mobile home which is unfit for human habitation to the municipality without a public sale by filing a verified complaint containing the information required in subsection (a) of this section and the facts supporting the claim that the mobile home is unfit for human habitation.

(d) When a verified complaint is filed under this section, the clerk of the civil division of the superior court shall set a hearing to be held at least 15 days but no later than 30 days after the filing of the complaint.

(e) Within five days after filing the verified complaint, the municipality shall post a copy of the verified complaint and order for hearing on the mobile home and send a copy of the verified complaint and order for hearing by certified mail, return receipt requested, to the mobile home owner's last known mailing address, to the landowner if the mobile home is located on leased land, and to all lien-holders of record.

(f) The municipality shall publish the verified complaint and order for hearing in a newspaper of general circulation in the municipality where the mobile home is located. The notice shall be published no later than five calendar days before the date of hearing.

(g) If prior to or at the hearing any lien-holder certifies to the court that the lien-holder has paid to the municipality all taxes, charges, and fees due the municipality and will commence or has commenced proceedings to enforce the lien and will continue to pay municipal taxes, charges, and fees during the proceedings under this section, the court shall, upon confirmation of the representations of the lien-holder, stay the action under this section pending completion of the lien-holder's action.

(h) At the hearing, the municipality shall prove ownership of the mobile home; abandonment of the mobile home; the amount of taxes, fees, and other charges due the municipality; and the amount of attorney fees claimed. The municipality shall also prove compliance with the notice requirements of subsections (e) and (f) of this section. Whether a mobile home is abandoned shall be a question of fact determined by the court.

(i) If the court finds that the municipality has complied with subsection (h) of this section, the court shall enter an order approving the sale of the mobile home at a public auction to be held within 15 days of the date of the order. The municipality shall send the order by first-class mail to the mobile home owner, to the landowner if the mobile home is located on leased land, and to all lien-holders of record. The order shall require all the following:

(1) That the sale shall be conducted by the person identified in the verified complaint or some other person approved by the court.

(2) That notice of the sale shall be published in a newspaper of general circulation in the municipality where the mobile home is located and sent by first-class mail to the mobile home owner, to the landowner if the mobile home is located on leased land, and to all lien-holders of record. The notice of sale shall be published two times, at least five days apart with the second publication being no later than three calendar days before the date of sale.

(3) That the terms of sale provide for conveyance of the mobile home by real estate deed or by uniform mobile home bill of sale, as appropriate under this chapter, executed on behalf of the mobile home owner pursuant to the order of the court by the person authorized by the court, in "as is" condition, and free and clear of all liens and other encumbrances of record.

(4) A minimum bid established by the court sufficient to cover the total costs listed in subdivisions (7)(A)–(D) of this subsection. The mobile home shall be sold to the highest bidder over the minimum bid set by the court; provided, however, that if no bid meets or exceeds the minimum bid set by the court, the court shall order transfer of the mobile home to the municipality upon payment of costs due to the person who conducted the sale.

(5) The successful bidder, if other than the municipality:

(A) shall make full payment at the auction if the bid does not exceed $2,000.00; or

(B) if the bid exceeds $2,000.00, shall provide a nonrefundable deposit at the time of the auction of at least $2,000.00 or 25 percent of the bid, whichever is greater, and shall make full payment within three working days after the auction.

(6) A successful bidder, if other than the municipality, shall remove the mobile home from its current location within five working days after the auction unless the municipality permits the mobile home to remain on the site or permits removal of the mobile home at a later date. If the mobile home is located on leased land, the mobile home shall be removed within five days unless the landowner grants permission to the successful bidder, including the municipality, for the mobile home to remain on the leased land.

(7) The person who conducted the public sale shall report to the court the results of the sale, the proposed distribution of the proceeds of the sale, and the bank in which any excess proceeds are deposited and shall send a copy of the report to the mobile home owner, the municipality, the landowner if the mobile home is located on leased land, and all lien-holders of record by certified mail, return receipt requested, within three working days after the sale. Anyone claiming impropriety in the conduct of the sale may file an objection with the court within seven days after the sale. The filing of an objection shall not invalidate the sale or delay transfer of ownership of the abandoned mobile home. If an objection is filed and if the court finds impropriety in the conduct of the sale, the court may order distribution of the proceeds of the sale as is fair, taking into account the impropriety. If no objection is filed with the court, on the eighth day after the sale, the proceeds shall be distributed as follows:

(A) To the person conducting the sale for costs of the sale.

(B) To the municipality for court costs, publication and mailing costs, and attorney fees incurred in connection with the action in an amount approved by the court.

(C) To the municipality for taxes, penalties, and interest owed in an amount approved by the court.

(D) To the landowner for unpaid lot rent if the mobile home is located on leased land.

(E) The balance to a bank account in the name of the mobile home municipality as trustee, for the benefit of the mobile home owner and lien-holders of record, to be distributed pursuant to further order of the court.

(j) Notwithstanding provisions of this section and 10 V.S.A. § 6249 (sale of abandoned mobile home by park owner) to the contrary, if an action is commenced by a municipality pursuant to this section and by a mobile home park owner pursuant to 10 V.S.A. § 6249 for the sale of the same abandoned mobile home within 30 days of one another, the court shall consolidate the cases and shall distribute the proceeds of a sale as follows:

(1) To the person conducting the sale for costs of the sale.

(2) To the municipality and the park owner equitably in the discretion of the court:

(A) for court costs, publication and mailing costs, and attorney fees incurred in connection with the action in an amount approved by the court;

(B) for taxes, penalties, and interest owed the municipality in an amount approved by the court; and

(C) for rent and other charges owed to the park owner in an amount approved by the court.

(3) The balance to a bank account in the name of the mobile home municipality as trustee for the benefit of the mobile home owner and lien-holders of record, to be distributed pursuant to further order of the court.

(k) If a municipality requests an order approving transfer of a mobile home to the municipality without a public sale, the court shall approve that order if it finds that the municipality has complied with subsection (h) of this section and has proved that the mobile home is unfit for human habitation. In determining whether a mobile home is unfit for human habitation, the court shall consider whether the mobile home:

(1) contains functioning appliances and plumbing fixtures;

(2) contains safe and functioning electrical fixtures and wiring;

(3) contains a safe and functioning heating system;

(4) contains a weather-tight exterior closure;

(5) is structurally sound;

(6) is reasonably free of trash, debris, filth, and pests.

Sec. 12. 9 V.S.A. § 4462 is amended to read:

§ 4462. ABANDONMENT; UNCLAIMED PROPERTY

* * *

(d) Any personal property remaining in the dwelling unit or leased premises after the tenant has vacated may be disposed of by the landlord without notice or liability to the tenant or owner of the personal property, provided that one of the following has occurred:

(1) The tenant provided actual notice to the landlord that the tenant has vacated the dwelling unit ~~or~~, leased premises, or mobile home lot.

(2) The tenant has vacated the dwelling unit ~~or~~, leased premises, or mobile home lot at the end of the rental agreement.

(3) Fifteen days have expired following service of a writ of possession pursuant to 10 V.S.A. chapter 153, 11 V.S.A. chapter 13, or 12 V.S.A. chapter 169.

Sec. 13. SALES AND USE TAX HOLIDAYS FOR MOBILE HOMES

(a) Notwithstanding the provisions of 32 V.S.A. § 233 and 24 V.S.A. § 138, no sales and use tax, local option sales tax, or property transfer tax shall be imposed or collected on sales to individuals for mobile homes purchased after April 1, 2011 to replace a mobile home that was damaged or destroyed as a result of flooding and storm damage that occurred after that date.

(b) Any resident of Vermont who purchased a mobile home after August 28, 2011 and prior to the effective date of this act, and the mobile home was purchased to replace a mobile home that was damaged or destroyed as a result of Tropical Storm Irene, shall be entitled to a reimbursement in the amount of any sales and use tax, local option sales tax, or property transfer tax paid.

(c) The department of taxes may establish standards and procedures necessary to implement this section. The department of taxes shall reimburse taxpayers that qualify under subsection (b) of this section.

Sec. 14. APPROPRIATIONS

(a) The amount of $100,000.00 is appropriated from the general fund to the department of economic, housing and community development as follows:

(1) $50,000.00 for a grant to the Champlain Valley Office of Economic Opportunity to increase its ability to provide start-up and ongoing technical assistance to mobile home park residents interested in cooperative ownership of their parks.

(2) $50,000.00 to increase department staff for long-range planning for the preservation and replacement of mobile home parks noticed for sale or closure or damaged by flooding.

(b) The amount of $50,000.00 is appropriated from the general fund to the Vermont housing and conservation board's project feasibility fund to conduct financial feasibility and infrastructure needs analyses of mobile home parks noticed for sale or closure or damaged by flooding.

(c) The amount of $500,000.00 is appropriated from the settlement funds due the state under the joint state–federal settlement of claims with the five largest mortgage servicers arising from mortgage foreclosure practices to the department of economic, housing and community development to develop and implement with the Champlain Housing Trust, the Central Vermont Community Land Trust, Gilman Housing Trust, NeighborWorks of Western Vermont, and Windham & Windsor Housing Trust, and other stakeholders a program to help finance the purchase, repair, refinance, and replacement of up to 100 individual mobile homes. The department shall coordinate with the Champlain Housing Trust and other stakeholders to secure at minimum an additional $1,800,000.00 in grant capital to help fund the program from a variety of public and private sources, including equity from the sale of Vermont affordable housing tax credits, the Vermont community development block grant program, the Vermont Community Foundation, and the Vermont disaster relief fund.

(d)(1) The amount of $2,500,000.00 is appropriated to the department of economic, housing and community development to fund the following activities related to mobile home parks that will be maintained as affordable housing for low income Vermonters on a perpetual basis:

(A) the purchase of mobile home parks, including purchase by resident-owned cooperatives;

(B) infrastructure improvements; and

(C) disaster recovery, including relocation or replacement of mobile home parks damaged by flooding.

(2) The amount appropriated pursuant to this subsection shall come from the following sources:

(A) $500,000.00 from the settlement funds due the state under the joint state–federal settlement of claims with the five largest mortgage servicers arising from mortgage foreclosure practices; and

(B) $2,000,000.00 in state capital appropriations.

Sec. 15. AUTHORITY TO ISSUE LETTER OF CONDEMNATION

(a) Because repairs to homes damaged in natural disasters must be done in accordance with local codes and ordinances, the Federal Emergency Management Agency (FEMA) recognizes that there may be reasons for a local authority to deem a home condemned.

(b) According to FEMA policy, the letter must come from the jurisdictional authority and the condemnation notice of demolition must be disaster-related. FEMA then reviews each notice on a case-by-case basis for approval of replacement assistance up to the maximum award.

(c) Accordingly, for purposes of complying with FEMA policies and procedures, any state or local person or entity empowered to condemn property by statute, rule, regulation, ordinance, or similar legal authority shall qualify as a jurisdictional authority with all the necessary rights and powers to declare property to be condemned, provide notice of condemnation and demolition to FEMA or any other entity, and take such other steps as are necessary to ensure Vermonters are eligible for receiving the maximum amount of state and federal recovery assistance otherwise available.

Sec. 16. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 15 (authority to issue letter of condemnation) of this act shall apply retroactively to January 1, 2011.

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 supporting mobile home ownership, strengthening mobile home parks, and preserving affordable housing"

(Committee vote: 4-0-1)

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 Secs. 3, 6 and 13 in their entirety and by renumbering the remaining sections to be numerically correct.

(Committee vote: 7-0-0)

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

The Committee recommends that the bill be amended by striking Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. PRIORITIES FOR MOBILE HOME INVESTMENTS

In the event that sources of funding are available for investments in securing mobile home infrastructure, expanding affordable ownership opportunities, and other activities consistent with the goals and purposes of this act, it is the intent of the general assembly to invest in the following priorities:

(1) Investment in the department of economic, housing and community development:

(A) for one or more grants to the Champlain Valley Office of Economic Opportunity to increase its ability to provide start-up and ongoing technical assistance to mobile home park residents interested in cooperative ownership of their parks.

(B) to increase department staff for long-range planning for the preservation and replacement of mobile home parks noticed for sale or closure or damaged by flooding.

(2) Investment in the Vermont housing and conservation board's project feasibility fund to conduct financial feasibility and infrastructure needs analyses of mobile home parks noticed for sale or closure or damaged by flooding.

(3) Investment in the department of economic, housing and community development to develop and implement with the Champlain Housing Trust, the Central Vermont Community Land Trust, Gilman Housing Trust, NeighborWorks of Western Vermont, Windham & Windsor Housing Trust, and other stakeholders a program to help finance the purchase, repair, refinance, and replacement of up to 100 individual mobile homes. The general assembly further recommends that the department coordinate with the Champlain Housing Trust and other stakeholders to secure additional grant capital to help fund the program from a variety of public and private sources.

(4) Investment in the department of economic, housing and community development to fund the following activities related to mobile home parks that will be maintained as affordable housing for low-income Vermonters on a perpetual basis:

(A) the purchase of mobile home parks, including purchase by resident-owned cooperatives;

(B) infrastructure improvements; and

(C) disaster recovery, including relocation or replacement of mobile home parks damaged by flooding.

(Committee vote: 5-0-2)

J.R.S. 11.

Joint resolution urging the United States Congress to propose an amendment to the United States Constitution for the states' consideration which provides that corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.

The Committee recommends that the joint resolution be amended by striking out all after the title and inserting in lieu thereof the following:

Whereas, the U.S. Bill of Rights provides certain inalienable rights to natural persons, and

Whereas, corporations are not mentioned in the U.S. Constitution, and

Whereas, corporations are legal entities that governments create, and the rights they enjoy under the U.S. Constitution should be more narrowly defined than the rights that are afforded to natural persons, and

Whereas, the decision to regulate corporate financial campaign contributions is one that historically Congress and the states have been constitutionally allowed to address, and

Whereas, in 1907, Congress enacted the Tillman Act prohibiting corporate financial contributions to federal election campaigns for public office, and

Whereas, in 2010, the U.S. Supreme Court in *Citizens United v. Federal Election Commission,* 130 S.Ct. 876 (U.S. 2010), ruled that Congress and the states lacked the constitutional right to ban independent corporate expenditures to political campaigns for public office, and

Whereas, the U.S. Supreme Court in the *Citizens* decision relied on its previously issued opinion in the 1976 case *Buckley v. Valeo*, 424 U.S. 1 (U.S. 1976), in which it equated the spending of money for electing candidates to public office as speech, and

Whereas, the *Citizens* decision has allowed for the creation of super political action committees in election campaigns for public office that allow for unregulated campaign expenditures in unprecedented amounts, and

Whereas, as a result of the *Citizens* decision, Congress and the state legislatures were denied any legal authority to regulate independent corporate political expenditures, and

Whereas, a restoration of the guidelines established in the Bipartisan Campaign Reform Act of 2002 is imperative so that Congress and the state

legislatures may exercise their historic authority to make their own decisions about whether to regulate corporate political expenditures, and

Whereas, this policy change will require that the U.S. Constitution be amended to authorize congressional or state regulation of individual and corporate financial participation in political campaigns, and

Whereas, on Vermont town meeting day, March 6, 2012, 64 Vermont towns and cities passed resolutions urging the Vermont congressional delegation and the U.S. Congress to propose legislative or congressional action to address the issues raised by *Citizens* including that money is not speech and corporations are not persons under the U.S. Constitution, and

Whereas, these resolutions, passed by towns on town meeting day, also urged the general assembly to pass a similar resolution directed at the Vermont congressional delegation, and

Whereas, U.S. Senator Tom Udall of New Mexico with 22 cosponsors has introduced Senate Joint Resolution 29, "proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections," that would give the Congress and the states the authority to regulate the raising and spending of moneys with respect to elections, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its disagreement with the holdings of the U.S. Supreme Court in *Buckley* and in *Citizens* that money is speech and urges Congress to adopt Senate Joint Resolution 29, *and be it further*

Resolved: That the General Assembly urges Congress to consider the request of many Vermont cities and towns to propose a U.S. constitutional amendment for the state's consideration that provides that money is not speech and corporations are not persons under the U.S. Constitution and that also affirms the constitutional rights of natural persons, *and be it further*

Resolved: That the General Assembly does not support an amendment to the U.S. Constitution that would abridge the constitutional rights of any person or organization including freedom of religion or freedom of the press, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation.

After adoption, the title of this resolution be amended to read:

Joint resolution urging the United States Congress to propose amendments to the United States Constitution for the states' consideration relating to

contributions and expenditures intended to affect elections and relating to the rights of corporations.

(Committee vote: 4-1-0)

AMENDMENT TO J.R.S. 11 TO BE OFFERED BY SENATOR BROCK

Senator Brock moves to amend the resolution by striking out all after the title and inserting in lieu thereof the following:

Whereas, the decision to regulate corporate and union financial campaign contributions is one that historically Congress and the states have been constitutionally allowed to address, and

Whereas, 2 U.S.C. § 441b(a) prohibits corporations and labor organizations from making contributions to federal election campaigns for political office, and

Whereas, 2 U.S.C. § 441b(b)(1) effectively defines "labor organization" as including unions, and

Whereas, in 2010, the U.S. Supreme Court in *Citizens United v. Federal Election Commission*, 130 S.Ct. 876 (U.S. 2010), ruled that Congress and the states lacked the constitutional right to ban independent corporate expenditures on political campaigns for public office, and

Whereas, the U.S. Supreme Court in the *Citizens* decision relied on its previously issued opinion in the 1976 case *Buckley v. Valeo*, 424 U.S. 1 (U.S. 1976), in which it equated the spending of money for electing candidates to public office with speech, and

Whereas, the *Citizens* decision has allowed for the creation of super political action committees in election campaigns for public office that allow for unregulated campaign expenditures in unprecedented amounts, and

Whereas, as a result of the *Citizens* decision, Congress and the state legislatures were denied any legal authority to regulate independent corporate or independent union political expenditures, and

Whereas, a restoration of the guidelines established in the Bipartisan Campaign Reform Act of 2002 is imperative so that Congress and the state legislatures may exercise their historic authority to make their own decisions about whether to regulate corporate or union political expenditures in federal and state elections, and

Whereas, this policy change will require that the U.S. Constitution be amended to authorize congressional or state regulation of individual and corporate financial participation in political campaigns, and

Whereas, U.S. Senator Tom Udall of New Mexico with 22 cosponsors has introduced Senate Joint Resolution 29, "proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections," that would give the Congress and the states the authority to regulate the raising and spending of moneys with respect to elections, and

Whereas, the adoption of Senate Joint Resolution 29 would enable Congress and the states to determine the extent of any limitation on individual, corporate, or union contributions and expenditures on behalf of candidates seeking election to public office, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its disagreement with the holdings of the U.S. Supreme Court in *Buckley* and in *Citizens* that money is speech and urges Congress to adopt Senate Joint Resolution 29, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation.

and that upon adoption, the title of this resolution be amended to read: "Joint resolution urging the United States Congress to propose an amendment to the United States Constitution for the states' consideration relating to contributions and expenditures intended to affect elections."

Favorable with Proposal of Amendment

H. 412.

An act relating to harassment and bullying in educational settings.

Reported favorably with recommendation of proposal of amendment by Senator Baruth for the Committee on Education.

The Committee recommends that the Senate propose to the House that after passage of the bill, the title be amended to read:

An act relating to harassment in educational settings

(Committee vote: 3-2-0)

(For House amendments, see House Journal for March 20, 2012, page 741.)

H. 758.

An act relating to divorce and dissolution proceedings.

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

The Committee recommends that the Senate propose to the House to amend the bill by adding Sec. 5a to read as follows:

Sec. 5a. 32 V.S.A. § 1431 is amended to read as follows:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(b)(2) Prior to the entry of any divorce or annulment proceeding in the superior court, there shall be paid to the clerk of the court for the benefit of the state a fee of $250.00 in lieu of all other fees not otherwise set forth in this section~~; however, if~~. If the divorce or annulment complaint is filed with a stipulation for a final order acceptable to the court, the fee shall be $75.00 if one or both of the parties are residents, and $150.00 if neither party is a resident.

* * *

(Committee vote: 4-0-1)

Reported favorably by Senator McCormack for the Committee on Finance.

(Committee vote: 7-0-0)

PROPOSAL OF AMENDMENT TO H. 758 TO BE OFFERED BY SENATOR SNELLING ON BEHALF OF THE COMMITTEE ON JUDICIARY

Senator Snelling, on behalf of the Committee on Judiciary, moves that the Senate propose to the House to amend the bill as follows:

First: In Sec. 4, 15 V.S.A. § 1206, in subdivision (d)(1), after the words "parties to a civil union" by adding the words certified in Vermont

Second: In Sec. 5, 18 V.S.A. § 5131, in subdivision (a)(4)(A), in the first sentence, by striking the word "solemnized" and inserting in lieu thereof the word certified

NEW BUSINESS

Third Reading

S. 142.

An act relating to pet merchants.

S. 180.

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

H. 403.

An act relating to foreclosure of mortgages.

H. 459.

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

H. 565.

An act relating to regulating licensed lenders and mortgage loan originators.

H. 613.

An act relating to governance of the Community High School of Vermont .

H. 765.

An act relating to the mental health needs of the corrections population.

Second Reading

Favorable

H. 760.

An act relating to lowering to 16 the age of consent for blood donation.

Reported favorably by Senator Mullin for the Committee on Health and Welfare.

(Committee vote: 3-0-2)

Favorable with Recommendation of Amendment

S. 233.

An act relating to gradually increasing the mandatory age of school attendance.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Education.

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

* * * Legal School Age * * *

Sec. 1. 16 V.S.A. § 1121 is amended to read:

§ 1121. ATTENDANCE BY CHILDREN OF SCHOOL AGE REQUIRED

~~A~~ (a) Except as provided in subsection (b) of this section, a person having the control of a child between the ages of six and 16 years, 183 days shall cause the child to attend a public school, an approved or recognized

independent school, an approved education program, or a home study program for the full number of days for which that school is held, unless the child:

(1) is mentally or physically unable so to attend; ~~or~~

(2) ~~has completed the tenth grade; or~~ has completed all requirements necessary for graduation from secondary school;

(3) is excused by the superintendent or a majority of the school directors as provided in this chapter; or

(4) is enrolled in and attending a postsecondary school, as defined in subdivision 176(b)(1) of this title, which is approved or accredited in Vermont or another state.

(b) A person having the control of a child who is enrolled in a home study program for the academic year in which the child is 15 years old shall not be subject to the provisions of subsection (a) of this section when the child is 16 years old or older.

Sec. 2. 16 V.S.A. § 1121(a) is amended to read:

(a) Except as provided in subsection (b) of this section, a person having the control of a child between the ages of six and ~~16~~ 17 years~~, 183 days~~ shall cause the child to attend a public school, an approved or recognized independent school, an approved education program, or a home study program for the full number of days for which that school is held, unless the child:

(1) is mentally or physically unable so to attend;

(2) has completed all requirements necessary for graduation from secondary school;

(3) is excused by the superintendent or a majority of the school directors as provided in this chapter; or

(4) is enrolled in and attending a postsecondary school, as defined in subdivision 176(b)(1) of this title, which is approved or accredited in Vermont or another state.

Sec. 3. 16 V.S.A. § 1121(a) is amended to read:

(a) Except as provided in subsection (b) of this section, a person having the control of a child between the ages of six and 17 years, 183 days shall cause the child to attend a public school, an approved or recognized independent school, an approved education program, or a home study program for the full number of days for which that school is held, unless the child:

(1) is mentally or physically unable so to attend;

(2) has completed all requirements necessary for graduation from secondary school;

(3) is excused by the superintendent or a majority of the school directors as provided in this chapter; or

(4) is enrolled in and attending a postsecondary school, as defined in subdivision 176(b)(1) of this title, which is approved or accredited in Vermont or another state.

Sec. 4. 16 V.S.A. § 1121(a) is amended to read:

(a) Except as provided in subsection (b) of this section, a person having the control of a child between the ages of six and ~~17~~ 18 years~~, 183 days~~ shall cause the child to attend a public school, an approved or recognized independent school, an approved education program, or a home study program for the full number of days for which that school is held, unless the child:

(1) is mentally or physically unable so to attend;

(2) has completed all requirements necessary for graduation from secondary school;

(3) is excused by the superintendent or a majority of the school directors as provided in this chapter; or

(4) is enrolled in and attending a postsecondary school, as defined in subdivision 176(b)(1) of this title, which is approved or accredited in Vermont or another state.

* * * Related Provisions * * *

Sec. 5. 16 V.S.A. § 1121a is added to read:

§ 1121a. PUPILS WHO ARE 16 YEARS OLD AND OLDER

(a) A child who is at least 16 years old but is younger than the legal school age established in section 1121 of this title and who is not subject to the exceptions set out in subdivisions (a)(1)–(4) or subsection (b) of that section may terminate his or her secondary education in a public school, an approved or recognized independent school, or an approved education program if the child and at least one of the child's parents or the child's legal guardian personally appear before the superintendent to sign a notice of withdrawal. The notice shall include a statement signed by the student, the parent or guardian, and the principal or headmaster of the school in which the child is enrolled that the child and the parent or guardian attended a final counseling session with the principal, headmaster, or school guidance counselor that included a discussion of alternative educational opportunities available to the child, including workforce development programs eligible to receive funding from the department of labor, and other services available to support the child,

including Linking Learning to Life, Inc., Spectrum Youth and Family Services, Inc., Vermont Youth Build, and the Vermont Youth Conservation Corps, Inc.

(b) A school district shall contact each child who has voluntarily withdrawn from school pursuant to subsection (a) of this section within three months after the date of withdrawal to encourage the child to enroll in a public school, an approved or recognized independent school, a home study program, an approved education program, or a workforce development program or to pursue some other alternative educational or training opportunity.

(c) The departments of labor and of education shall publish and update at least annually a list of alternative education and workforce development programs under their respective jurisdictions that would be available to a student who has not completed secondary school.

Sec. 6. 16 V.S.A. § 1122 is amended to read:

§ 1122. PUPILS ~~OVER 16~~ WHO EXCEED THE LEGAL SCHOOL AGE

A person having the control of a child ~~over 16 years of~~ who exceeds the legal school age as established in section 1121 of this title who allows the child to become enrolled in a public school shall cause the child to attend the school continually for the full number of the school days of the term in which he or she is enrolled, unless the child is mentally or physically unable to continue, or is excused in writing by the superintendent or a majority of the school directors. In case of ~~such~~ enrollment, the person, and the teacher, child, superintendent, and school directors shall be under the laws and subject to the penalties relating to the attendance of children ~~between the ages of six and 16 years~~ of legal school age.

Sec. 7. 16 V.S.A. § 1126 is amended to read:

§ 1126. FAILURE TO ATTEND; NOTICE BY TEACHER

When a pupil ~~between the ages of six and 16 years~~ of legal school age, as established in section 1121 of this title, who is not excused or exempted from school attendance~~,~~ fails to enter school at the beginning ~~thereof~~ of the academic year, or being enrolled, fails to continue to attend ~~the same~~, and when a pupil who ~~has become 16 years of~~ exceeds the legal school age becomes enrolled in a public school and fails to attend, the teacher or principal shall forthwith notify the superintendent or school directors, and the truant officer, unless the teacher or principal is satisfied upon information that the pupil is absent on account of sickness.

Sec. 8. 16 V.S.A. § 1128(a) is amended to read:

(a) A superintendent may and the truant officer shall stop a child ~~between the ages of six and 16 years or a child 16 years of age or over and~~ of legal school age or a child who exceeds the legal school age but is enrolled in public

school, wherever found during school hours, and shall, unless ~~such~~ the child is excused or exempted from school attendance, take the child to the school which she or he should attend.

Sec. 9. 16 V.S.A. § 1123(c) is amended to read:

(c) ~~The superintendent with the consent of a majority of the school board of the town in which the pupil resides, may excuse, in writing, a pupil who has reached the age of fifteen years and has completed the work required in the first six years of the elementary school course from further school attendance if his services are needed for the support of those dependent upon him, or for any other sufficient reason.~~ [Repealed.]

* * * Human Services * * *

Sec. 10. 33 V.S.A. § 5102(3) is amended to read:

(3) "Child in need of care or supervision (CHINS)" means a child who:

* * *

(D) is under the age of 16 and is habitually and without justification truant from compulsory school attendance.

* * * Flexible Pathways to Graduation; Dual Enrollment * * *

Sec. 11. 16 V.S.A. chapter 23, subchapter 6 is amended to read:

Subchapter 6. Flexible Pathways to Secondary School Completion; Adult Education and Literacy

§ 1049. ~~PROGRAMS~~ FLEXIBLE PATHWAYS; POLICY; INITIATIVE; GUIDELINES; DEFINITIONS

~~(a) The commissioner of education may provide programs designed to fit the individual needs and circumstances of adult students. Programs authorized under this section shall give priority to those adult persons with the lowest levels of literacy skills.~~

~~(b)(1) Fees for general educational development shall be $3.00 for a transcript.~~

~~(2) The adult diploma program (ADP) means an assessment process administered by the Vermont department of education through which an adult can receive a local high school diploma granted by one of the program's participating high schools.~~

~~(3) General educational development (GED) means a testing program administered jointly by the Vermont department of education, the GED testing service, and approved local testing centers through which an adult can receive~~

~~a secondary school equivalency certificate based on successful completion of the tests of general educational development.~~

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

(a) Policy. It is the policy of the state:

(1) to take all necessary measures to increase the Vermont secondary school completion rate to 100 percent;

(2) to promote opportunities for every Vermont student to have high-quality educational experiences; and

(3) to create opportunities for every Vermont student to achieve career and college readiness while respecting diverse student goals and personal learning styles and abilities.

(b) Flexible pathways initiative. There is created within the department a flexible pathways initiative:

(1) to promote opportunities for Vermont students to complete secondary school and achieve career and college readiness through high-quality educational experiences that acknowledge individual goals, learning styles, and abilities; and

(2) to encourage and support the creativity of school districts as they develop or expand high-quality alternative educational experiences that advance the policies set forth in subsection (a) of this section.

(c) Flexible pathways guidance. The commissioner of education shall develop, publish, and regularly update guidance, in the form of technical assistance, sharing of best practices, legal interpretations, and other support, designed to encourage and assist school districts:

(1) to identify and support elementary and secondary students who require additional assistance to succeed in school, including individual students identified under subsection 2902(c) of this title, or who would otherwise benefit from flexible pathways to graduation;

(2) to encourage movement toward development of a personalized learning plan by every student, in consultation with a representative of the school and the student's parents or legal guardian;

(3) to implement strategies and flexible pathways components such as:

(A) the provision of targeted assistance, including individual tutoring, evidence-based literacy instruction, alternative and extended scheduling, and

the provision of a variety of opportunities to earn credits or demonstrate proficiency necessary to earn a high school diploma;

(B) the assignment of one or more adults from within the school community to provide continuity to the student;

(C) the opportunity to acquire knowledge and skills through applied or work-based learning opportunities, including those that foster appropriate social interactions with adults and other students;

(D) the opportunity to participate in dual enrollment courses with tutorial support provided as needed;

(E) assessments that allow the student to demonstrate proficiency by applying his or her knowledge and skills to tasks that are of interest to that student; and

(4) to oversee implementation of publicly funded components of flexible pathways established in this subchapter, including:

(A) the high school completion program as set forth in section 1049a:

(B) the dual enrollment program as set forth in section 1049b;

(C) other innovative components as set forth in section 1049c; and

(D) the adult diploma and general educational development programs as set forth in section 1049d.

(d) Definitions. In this title:

(1) "Approved provider" means an entity approved by the commissioner to provide educational services that may be awarded credits or used to determine proficiency necessary for a high school diploma.

(2) "Career and college readiness" means the ability to enter the workforce or pursue postsecondary education or training without the need for remediation.

(3) "Contracting agency" means an entity that enters into a contract with the department to provide "flexible pathways to graduation" services itself or in conjunction with one or more approved providers in Vermont.

(4) "Dual enrollment" means enrollment by a secondary student in a course offered by an accredited postsecondary institution as defined in section 913 of this title and for which, upon successful completion of the course, the student will receive:

(A) credit toward graduation from the secondary school in which the student is enrolled; and

(B) postsecondary credit from the institution that offered the course if the course is a credit-bearing course at that institution.

(5) "Flexible pathways to graduation" means any combination of high-quality academic and experiential components leading to secondary school completion and career and college readiness.

(6) "Personalized learning plan" means a written document developed by a student, a representative of the school, and, if the student is a minor, the student's parents or legal guardian that describes a flexible pathway to graduation that is unique to the individual student. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma and may describe educational services to be provided by a public school, an approved independent school, an approved provider, a contracting agency, or a combination of these.

(e) Other initiatives. Nothing in this subchapter shall be construed as limiting the authority of any school district to develop or continue to provide alternative educational opportunities for its students that are otherwise permitted, including participation in dual enrollment programs with out-of-state postsecondary institutions or the provision of advanced placement courses.

(f) Scope. No individual entitlement or private right of action is created by this section.

§ 1049a. HIGH SCHOOL COMPLETION PROGRAM

(a) ~~In this section:~~

~~(1) "Graduation education plan" means a written plan leading to a high school diploma for a person who is 16 to 22 years of age and has not received a high school diploma, who may or may not be enrolled in a public or approved independent school. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma, and may describe educational services to be provided by a public high school, an approved independent high school, an approved provider, or a combination of these.~~

~~(2) "Approved provider" means an entity approved by the commissioner to provide educational services which may be counted for credit toward a high school diploma.~~

~~(3) "Contracting agency" means an agency that has entered into a contract with the department of education to provide adult education services in Vermont.~~ There is created a high school completion program to be a potential component of a flexible pathway for any student who is at least 16 years old, who has not received a high school diploma, and who may or may not be enrolled in a public or approved independent school.

(b) If a person who wishes to work on a ~~graduation education~~ personalized learning plan leading to graduation through the high school completion program is not enrolled in a public or approved independent school, then the commissioner shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. The school district in which a student is enrolled or to which a non-enrolled student is assigned shall work with the contracting agency and the student to develop a ~~graduation education~~ personalized learning plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The commissioner shall reimburse, and net cash payments where possible, a school district that has agreed to a ~~graduation education~~ personalized learning plan under this section in an amount:

(1) established by the commissioner for development of the ~~graduation education~~ personalized learning plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in cocurricular activities, and participation in academic or other courses, provided this amount shall not be available to a district that provides services under this section to an enrolled student; and

(2) negotiated by the commissioner and the contracting agency, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the ~~graduation education~~ personalized learning plan.

§ 1049b. DUAL ENROLLMENT PROGRAM

(a) Program created. There is created a statewide dual enrollment program to be a potential component of a student's flexible pathway and through which a Vermont secondary student who is enrolled in a Vermont public school or a Vermont approved independent school at public expense or who is assigned to a public school through the high school completion program may enroll in up to four postsecondary courses for which the program shall pay tuition.

(b) Courses. The dual enrollment program shall include college courses offered on the campus of an accredited postsecondary institution and college courses offered by an accredited postsecondary institution on the campus of a secondary school. The program may include online college courses or components. Provided, however, a personalized learning plan that includes a dual enrollment course offered by an accredited postsecondary institution that is not approved pursuant to section 176 or 176a of this title shall be submitted to the program manager for review prior to enrollment in the course. The program manager may approve enrollment if it determines that the institution meets quality standards established by the manager or state board rule, that the

student does not have access to the same or a comparable course offered by an institution approved pursuant to section 176 or 176a of this title, and that enrollment is in the best interest of the student. A student may appeal a decision of the program manager to the commissioner, whose decision shall be final.

(c) Postsecondary institutions.

(1) Vermont's public postsecondary institutions shall work together to ensure that dual enrollment opportunities are available throughout the state. Other nonprofit accredited postsecondary institutions may participate in the dual enrollment program pursuant to criteria established by this section, the state board, and the program manager.

(2) Each participating postsecondary institution shall:

(A) define how it will determine whether a student is sufficiently prepared to succeed academically in a dual enrollment course;

(B) develop the curriculum and select instructors for dual enrollment courses;

(C) maintain the postsecondary academic record of each participating student and provide transcripts on request;

(D) agree to accept as full payment for a dual enrollment course the tuition set forth in subsection (f) of this section; and

(E) to the extent permitted under the Family Educational Rights and Privacy Act, collect and send data related to student participation and success to the student's secondary school and the commissioner.

(d) Secondary schools. A public secondary school, regional technical center as defined in section 1522 of this title, and approved independent secondary school that receives publicly funded tuition dollars shall:

(1) provide access for eligible students to participate in dual enrollment courses offered on the campus of the secondary school;

(2) accept postsecondary credit awarded for dual enrollment courses as meeting secondary school graduation requirements;

(3) collect enrollment data as prescribed by the department for longitudinal review and evaluation;

(4) identify and provide necessary support for participating students and continue to provide services for students with disabilities; and

(5) provide support for a seamless transition to postsecondary enrollment upon graduation.

(e) Students.

(1) A Vermont resident in any flexible pathway who has completed grade 10 but has not received a high school diploma is eligible to participate in the dual enrollment program if:

(A) the student is enrolled in a Vermont public school or a Vermont approved independent school at public expense or is assigned to a public school through the high school completion program;

(B) dual enrollment is an element included within the student's personalized learning plan; and

(C) the secondary school and the postsecondary institution have determined that the student is sufficiently prepared to succeed in a dual enrollment course, which can be determined in part by the assessment tool or tools identified by the participating postsecondary institution.

(2) An eligible student may enroll in up to four dual enrollment courses prior to completion of secondary school for which the dual enrollment program will pay tuition. A student may enroll in courses offered while secondary school is in session and during the summer.

(3) A student's personalized learning plan shall include provisions for support services, including transitional support for students with disabilities and including academic, emotional, and other support services as appropriate.

(f) Tuition.

(1) For any course for which the postsecondary institution pays the instructor, the commissioner shall reimburse a secondary school district the full amount of tuition paid to the postsecondary institution, which shall not exceed the Community College of Vermont tuition rate charged at the time the dual enrollment course is offered.

(2) For any course that is taught by an instructor who is paid as part of employment by a secondary school, the commissioner shall reimburse a secondary school district the full amount of tuition paid to the postsecondary institution, which shall not exceed 50 percent of the Community College of Vermont tuition rate charged at the time the dual enrollment course is offered.

(g) Program management**.** The department shall manage or may contract for the management of the dual enrollment program in Vermont by:

(1) coordinating secondary and postsecondary partners to ensure success of the programs, including assisting partners to develop memoranda of understanding;

(2) marketing of the dual enrollment program to students and their families throughout the state;

(3) evaluating all aspects of the dual enrollment program;

(4) coordinating with secondary and postsecondary partners to understand and define student academic readiness;

(5) assessing what is needed to support student success;

(6) reviewing program costs;

(7) managing distribution of tuition funds;

(8) coordinating the use of technology to ensure access and coordination of the program;

(9) ensuring overall quality and accountability;

(10) convening regular meetings of interested parties to explore and develop improved student support services; and

(11) performing other necessary or related duties.

(h) Annually in January, the commissioner and program manager shall report to the house and senate committees on education regarding the dual enrollment program, including data relating to student demographics, levels of participation, and program success.

§ 1049c. INNOVATIVE COMPONENTS OF FLEXIBLE PATHWAYS

(a) The commissioner may use sums appropriated for the high school completion program to support other innovative components of a flexible pathway that are available to a student instead of or in addition to the high school completion program by reimbursing or awarding grants to Vermont public schools, Vermont career and technical education centers, Vermont supervisory unions, approved providers, and contracting agencies for activities that create opportunities for Vermont students to have high-quality educational experiences and achieve career and college readiness while respecting diverse student goals and personal learning styles and abilities, including:

(1) implementation of innovative, comprehensive programs offered by and within a school; and

(2) implementation of innovative, comprehensive programs offered through the school by entities other than the school or offered at a location other than the school campus, including work-based learning, virtual or blended learning, career and technical education, dual enrollment, and programs operated by the Vermont Youth Conservation Corps, Inc.

(b) Money awarded by the commissioner under this section shall be pursuant to criteria established in rule by the state board.

§ 1049d. ADULT DIPLOMA PROGRAM; GENERAL EDUCATIONAL DEVELOPMENT PROGRAM

(a) The department shall maintain an adult diploma program ("ADP"), which shall be an assessment process administered by the department through which an individual who is at least 20 years old can receive a local high school diploma granted by one of the program's participating high schools.

(b) The department shall maintain a general educational development ("GED") program, which it shall administer jointly with the GED testing service and approved local testing centers and through which an individual who is at least 16 years old and who is not enrolled in secondary school can receive a secondary school equivalency certificate based on successful completion of the GED tests.

(c) The commissioner of education may provide additional programs designed to address the individual needs and circumstances of adult students, particularly students with the lowest levels of literacy skills.

Sec. 12. APPROPRIATION

The sum of $1,200,000.00 is appropriated from the education fund in fiscal year 2013 to be used for the purposes of paying tuition under Sec. 11, 16 V.S.A. §§ 1049b (dual enrollment) of this act.

Sec. 13. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on July 1, 2013, but shall not apply to a child who lawfully stopped attending school prior to that date.

(b) Sec. 2 of this act shall take effect on July 1, 2014, but shall not apply to a child who lawfully stopped attending school prior to that date.

(c) Sec. 3 of this act shall take effect on July 1, 2015, but shall not apply to a child who lawfully stopped attending school prior to that date.

(d) Sec. 4 of this act shall take effect on July 1, 2016, but shall not apply to a child who lawfully stopped attending school prior to that date.

(e) This section and Secs. 5 through 12 of this act shall take effect on July 1, 2012.

(f) The commissioner of education shall ensure that both new and updated guidance documents required by this act are published no later than July 1, 2012.

and that after passage the title of the bill be amended to read: "An act relating to the mandatory age of school attendance and creating flexible pathways to high school completion"

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as follows:

First: In Sec. 11, 16 V.S.A. chapter 23, subchapter 6, in § 1049b, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) Program created. There is created a statewide dual enrollment program to be a potential component of a student's flexible pathway and through which a Vermont secondary student who is enrolled in a Vermont public school or a Vermont-approved independent school at public expense or who is assigned to a public school through the high school completion program may enroll in postsecondary courses for which neither the student nor the student's parent or guardian shall be required to pay tuition.

Second: In Sec. 11, 16 V.S.A. chapter 23, subchapter 6, § 1049b, in subsection (e), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read:

(2) Subject to available funding, an eligible student may enroll in up to four dual enrollment courses prior to completion of secondary school for which neither the student nor the student's parent or guardian shall be required to pay tuition. A student may enroll in courses offered while secondary school is in session and during the summer.

Third: In Sec. 11, 16 V.S.A. chapter 23, subchapter 6, in § 1049b, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read:

(f) Tuition.

(1) For any course for which the postsecondary institution pays the instructor, tuition shall not exceed the Community College of Vermont tuition rate charged at the time the dual enrollment course is offered.

(2) For any course that is taught by an instructor who is paid as part of employment by a secondary school, tuition shall not exceed 50 percent of the Community College of Vermont tuition rate charged at the time the dual enrollment course is offered.

Fourth: In Sec. 11, 16 V.S.A. chapter 23, subchapter 6, by striking out § 1049c (innovative components of flexible pathways) in its entirety, redesignating § 1049d as § 1049c, and inserting a new § 1049d to read:

§ 1049d. REPORT

Notwithstanding provisions of 2 V.S.A. § 20(d) to the contrary, the prekindergarten–16 council created in section 2905 of this title shall report

annually in January to the senate and house committees on appropriations and on education, the senate committee on finance, and the house committee on ways and means regarding the flexible pathways initiative and its potential components as set forth in this subchapter 6, including detailed data regarding and analysis of:

(1) the annual expenditures from the education fund for dual enrollment courses and other alternative programs under this subchapter, including a breakdown of the amount spent for each program statewide and by each participating secondary school;

(2) the annual number of students accessing dual enrollment and alternative programs, including a breakdown by secondary school of:

(A) the total number of students eligible to participate;

(B) the number of students accessing each program;

(C) the per-student tuition and other costs paid for each program;

(3) the geographic areas of the state that are underserved or unable to access dual enrollment programs and each other type of alternative program; and

(4) whether participation in dual enrollment and other alternative programs has improved high school completion rates, student aspiration, college and career readiness, and completion of college or other postsecondary education or training.

Fifth: By striking out Sec. 12 (appropriation) in its entirety and inserting in lieu thereof a new Sec. 12 to read:

Sec. 12. 16 V.S.A. § 2885(c) and (g) are amended to read:

(c) In August of each fiscal year~~, beginning in the year 2000~~, the state treasurer shall withdraw and divide an amount equal to five percent of the assets equally among the University of Vermont, the Vermont ~~state colleges~~ State Colleges, and the Vermont ~~student assistance corporation~~ Student Assistance Corporation. In this subsection, "assets" means the average of the fund's market values at the end of each quarter for the most recent 12 quarters, or all quarters of operation, whichever is less. Therefore, up to five percent of the fund assets are hereby annually allocated pursuant to this section, provided that the amount allocated shall not exceed an amount which would bring the fund balance below the initial funding made in fiscal year 2000 plus any additional contributions to the principal. The University of Vermont and the Vermont ~~state colleges~~ State Colleges shall use the funds to provide nonloan financial aid to Vermont students attending their institutions; the Vermont ~~student assistance corporation~~ Student Assistance Corporation shall use the funds to provide nonloan financial aid to Vermont students attending a

Vermont postsecondary institution. For purposes of this section, "nonloan financial aid" includes tuition paid for financially needy Vermont students and Vermont students whose parents have not pursued higher education for:

(1) early college and dual enrollment programs; and

(2) Science, Technology, Engineering, and Mathematics ("STEM") programs.

(g) The University of Vermont, the Vermont State Colleges, and the Vermont Student Assistance Corporation shall review expenditures made from the fund, evaluate the impact of the expenditures on higher education in Vermont, and report this information to the state treasurer each year in January. In addition, in November of each year, the three entities shall report to the joint fiscal committee regarding expenditures made in connection with early college, dual enrollment, and STEM programs.

(Committee vote: 6-0-1)

Favorable with Proposal of Amendment

H. 761.

An act relating to executive branch fees, including motor vehicle and fish and wildlife fees.

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

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By adding an internal caption and Sec. 2a to read:

* * * Motor vehicle racing * * *

Sec. 2a. 26 V.S.A. § 4806 is amended to read:

§ 4806. FEES; DISPOSITIONS

(a) Notwithstanding the fee provisions of 3 V.S.A. § 125, applicants and persons regulated under this chapter shall pay the following fees:

(1) Annual event permit applications:	
(A) Auto racing	$ 800.00;
(B) Go-cart, snowmobile, or motorcycle racing	$ 500.00;
(2) Unlimited event permit applications:	
(A) Auto racing	$ 1,250.00;
(B) Go-cart, snowmobile, or motorcycle racing	$ 1,250.00;
(3) Single event permit applications:	

(A) Auto racing $ 500.00;
(B) Go-cart, snowmobile, or motorcycle racing $ 500.00;

(4) Annual event permit biennial ~~renewal~~ renewals:
(A) Auto racing $ 500.00;
(B) Go-cart, snowmobile, or motorcycle racing $ 500.00;

(5) Unlimited event permit biennial ~~renewal~~ renewals:
(A) Auto racing $ 2,500.00;
(B) Go-cart, snowmobile, or motorcycle racing $ 2,500.00.

(b) A municipality where a race is to be held may charge an additional fee, not to exceed the municipality's costs associated with the race.

(c) A single event permit shall authorize any number of events within a 10-day period in the same location and on the same racing track. An annual-event permit shall authorize any number of events within two 10-day periods in consecutive years and may be renewed every two years.

(d) Notwithstanding the provisions of subsection (a) of this section, a person in good standing incorporated or authorized to transact business as a nonprofit corporation under Title 11B shall pay a fee of $100.00 for an annual event permit application under subdivisions (a)(1)(A) and (B) of this section; an annual event permit biennial renewal under subdivisions (a)(4)(A) and (B); or for any five events within a one-year period.

Second: By striking out Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read:

Sec. 7. REPEAL

18 V.S.A. § 4463 (regarding salvage food facility license) is repealed.

Third: By adding a new Sec. 35a to read:

Sec. 35a. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

(a) Vermont residents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

* * *

(4) Big game licenses (all require a hunting license)

* * *

(G) ~~second~~ additional bear tag $5.00

* * *

(l) If the board determines that it is in the interest of bear management, it may authorize the department to issue ~~a second bear tag for the taking of bear~~ bear tags in addition to ~~that~~ those allowed by a hunting license issued under this chapter.

(Committee vote: 7-0-0)

(No House amendments.)

NOTICE CALENDAR

Second Reading

Favorable

H. 327.

An act relating to the uniform principal and income act .

Reported favorably by Senator Cummings for the Committee on Judiciary.

(Committee vote: 4-0-1)

(For House amendments, see House Journal for February 2, 2012, page 168.)

H. 773.

An act relating to veterans' tax exemption.

Reported favorably by Senator Doyle for the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 5-0-0)

Favorable with Recommendation of Amendment

S. 137.

An act relating to workers' compensation and unemployment compensation.

Reported favorably with recommendation of amendment by Senator Illuzzi for the Committee on Economic Development, Housing and General Affairs.

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

* * * Vermont internship program * * *

Sec. 1. 3 V.S.A. § 330 is amended to read:

§ 330. VERMONT INTERNSHIP PROGRAM

(a) A Vermont internship program is created for permanent or limited employees in state government:

(1) to attract persons to train for and then serve state government in occupations where the state anticipates difficulty attracting or retaining qualified employees;

(2) to provide an enriched experience designed to bring trainees to full class performance levels in a logical and systematic manner;

(3) to support equal employment opportunity; and

(4) to provide upward mobility, lateral movement or other opportunities for current employees who have demonstrated high potential.

(b) Position authorization.

* * *

(3) Each position authorized by the commissioner shall be established for a specific period of time not to exceed ~~five years~~ two years without the specific authorization of the commissioner of human resources. In accordance with the approved plan, or where the commissioner deems it appropriate, Vermont internship program positions shall revert to the commissioner for reallocation.

* * *

(5) Requests for positions under the Vermont internship program shall be in a form and following procedures prescribed by the commissioner. ~~All requests shall certify that all reasonable efforts shall be made to insure a vacant position will be available to each Vermont internship program participant upon completion of the program.~~

* * *

(e)(1) Development of candidates. All Vermont internship program members shall have individual development plans approved by the commissioner of human resources.

* * *

(3) The department or agency making use of a Vermont internship program for state government shall conduct regular reviews of performance and progression of capabilities and shall submit written documentation of this on a form and using procedures provided for by the commissioner of human resources.

(f)(1) Rights of Vermont internship program members. Vermont internship program participants ~~shall be deemed to be classified state employees in their initial probationary period~~ who are otherwise classified state employees shall

continue their status for the entire period of their participation, and continuation of one's training in Vermont internship programs shall be in the discretion of the appointing authority. They shall be paid the minimum rate for comparable positions in the classified service, unless otherwise authorized by the commissioner of human resources.

(2) Vermont internship program participants shall agree, if a condition of the submitted training plan of the department, to work in a state position consistent with the approved plan after completion of the planned Vermont internship for a period of time equal to the length of Vermont internship program participation. Any Vermont internship program member who does not satisfy this requirement shall reimburse the state for all tuition, fees and/or expenses paid by the state in connection with Vermont internship program participation, including salary paid during periods of paid educational leave, unless waived by the commissioner of human resources.

* * *

Sec. 1a. 3 V.S.A. § 330a is added to read:

§ 330a. STUDENT INTERN PROGRAM

The commissioner of human resources shall coordinate requests from agency secretaries and department commissioners for the hiring of student interns for short-term assignments and training that will inform and enhance their educational choices and career opportunities. In order to receive approval, the secretary or commissioner shall submit a written request to the department of human resources and to the applicable collective bargaining representative identifying the work to be performed, length of service, and the candidate's information, and shall identify the available funding and proposed rate of pay. The commissioner of human resources shall ensure that the intern is not performing work normally assigned to any employee who has been displaced or laid off from classified service. Interns may be in high schools if they have completed at least their junior year, may be college students, or have graduated from college or graduate school within two years of this placement.

* * * Commissioner of labor * * *

Sec. 2. 21 V.S.A. § 7 is added to read:

§ 7. POWERS OF COMMISSIONER

In addition to all other powers granted the commissioner by this title, the commissioner or his or her designee may, upon presenting appropriate credentials, at reasonable times, enter and inspect any place of business or employment, question any employees, and investigate any facts, conditions, or matters necessary and material to the administration of chapters 9 and 17 of this title. If entry is refused the commissioner may apply, without notice to the

employer, to the civil division of the superior court of Washington County for an order to enforce the rights given the commissioner under this section.

* * * Wage claims * * *

Sec. 3. 14 V.S.A. § 1205 is amended to read:

§ 1205. CLASSIFICATION OF CLAIMS

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the executor or administrator shall make payment in the following order:

(1) costs and expenses of administration;

(2) reasonable funeral, burial, and headstone expenses, and perpetual care, not to exceed $3,800.00 exclusive of governmental payments, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him or her;

(3) all outstanding wages due employees of the decedent ~~which have been earned within three months prior to the death of the decedent, not to exceed $300.00 to each claimant~~;

(4) all other claims~~; including the balance of wages due but unpaid under subdivision (3) of this subsection~~.

* * *

* * * Employment practices * * *

Sec. 4. 21 V.S.A. § 342 is amended to read:

§ 342. WEEKLY BIWEEKLY AND SEMIMONTHLY PAYMENT OF WAGES; SCHOOL EMPLOYEES; CALENDAR YEAR

(a)(1) Any person having employees doing and transacting business within the state shall pay each week, in lawful money or checks, the wages earned by each employee to a day not more than six days prior to the date of such payment.

(2) After giving written notice to the employees, any person having employees doing and transacting business within the state may, notwithstanding subdivision (1) of this subsection, pay ~~bi-weekly~~ biweekly or ~~semi-monthly~~ semimonthly in lawful money or checks, each employee the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment.

(3) Notwithstanding subsection 384(a) of this title, an employee of a school district may in his or her sole discretion elect to have his or her wages paid over the course of a calendar year, beginning on the first day of the school

year and ending not later than 12 months after the wage payment period begins.

(4) Any person having employees within the state who fails to make timely payment upon separation from employment in accordance with this section may be assessed an administrative penalty of up to $100.00 for each day that wages remain unpaid, not to exceed $500.00 per employee.

* * *

Sec. 5. 21 V.S.A. § 348 is added to read:

§ 348. RETALIATION PROHIBITED

(a) An employer shall not discharge or in any other manner retaliate against an employee because:

(1) The employee lodged a complaint of a violation of this subchapter.

(2) The employee has cooperated with the commissioner or commissioner's designee in an investigation of a violation of this subchapter.

(3) The employer believes that the employee may lodge a complaint or cooperate in an investigation of a violation of this subchapter.

(b) Any person aggrieved by a violation of this section may bring an action in the civil division of the superior court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

Sec. 6. 21 V.S.A. § 397 is added to read:

§ 397. RETALIATION PROHIBITED

(a) An employer shall not discharge or in any other manner retaliate against an employee because:

(1) The employee lodged a complaint of a violation of this subchapter.

(2) The employee has cooperated with the commissioner or commissioner's designee in an investigation of a violation of this subchapter.

(3) The employer believes that the employee may lodge a complaint or cooperate in an investigation of a violation of this subchapter.

(b) Any person aggrieved by a violation of this section may bring an action in the civil division of the superior court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

Sec. 7. 21 V.S.A. § 385a is added to read:

§ 385a. REQUIRED APPAREL

(a) An employer that is a common carrier engaged in interstate commerce that requires an employee to wear uniform apparel which displays the employer's trademark, logo, or other clearly identifying characteristic shall furnish to employees based in this state the uniform apparel to the employee. The amount provided shall be reasonable for the needs of the position.

(b) An employer that requires an employee to wear clothing sold or produced by the employer shall furnish the clothing free of charge to the employee.

(c) An employer may require an employee to return any uniform or clothing upon separation from employment.

* * * Workers' compensation * * *

Sec. 8. 21 V.S.A. § 624 is amended to read:

§ 624. DUAL LIABILITY; CLAIMS, SETTLEMENT PROCEDURE

* * *

(e)(1) In an action to enforce the liability of a third party, the injured employee may recover any amount which the employee or the employee's personal representative would be entitled to recover in a civil action. Any recovery against the third party for damages resulting from personal injuries or death only, after deducting ~~expenses of recovery~~ attorney's fees, and litigation expenses and costs, shall first reimburse the employer or its workers' compensation insurance carrier for any amounts paid or payable under this chapter to date of recovery, and the balance shall forthwith be paid to the employee or the employee's dependents or personal representative and shall be treated as an advance payment by the employer on account of any future payment of compensation benefits. Reimbursement required under this subsection, except to prevent double recovery, shall not reduce the employee's recovery of any benefit or payment provided by a plan or policy that was privately purchased by the injured employee, including uninsured-under insured motorist coverage, or any other first party insurance payments or benefits.

(2) In addition to the limitations on recovery set forth in subdivision (1) of this subsection, if a lien or subrogation claim that arose out of the payment of medical expenses or benefits under this chapter exists in respect to a claim of personal injury or death and the injured employee's recovery is diminished by comparative fault or the inability to collect the full value of the claim due to limited liability insurance or other cause, the lien or subrogation claim shall be diminished in the same proportion as the injured employee's recovery is

diminished. The settlement agreement may include reference to the amount by which the employee's recovery is diminished by comparative fault or the inability to collect the full value of the claim due to limited liability insurance or other cause. In the event the agreement or release does not contain such information, the amount by which the recovery is compromised or diminished shall be established by affidavit of the employee.

* * *

Sec. 8a. 12 V.S.A. § 5653 is amended to read:

§ 5653. LIMITATIONS

(a) This chapter applies to all arbitration agreements to the extent not inconsistent with the laws of the United States. However, this chapter does not apply to labor interest arbitration, ~~nor to arbitration agreements contained in a contract of insurance,~~ nor to grievance arbitration under 3 V.S.A. chapter 28 ~~of Title 3~~. "Labor interest arbitration" means the method of concluding labor negotiations by having a disinterested person determine what will be the terms of an agreement.

* * *

Sec. 9. 21 V.S.A. § 643a is amended to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice. The liability for the payments shall continue for ~~seven days after the notice is received by the commissioner and the employee~~ at least 14 days after the notice is received by the commissioner and the employee, during which time the claimant may file with the commissioner an objection to discontinuance. The notice shall include a provision that the injured worker may object to the discontinuance with the commissioner with supporting evidence or arguments. If the employee files an objection with an explanation, the liability for the payments shall continue until a decision is issued by the commissioner. ~~Those payments~~ Payments made after the notice of discontinuance is received by the commissioner shall be made without prejudice to the employer and may be deducted from any amounts due

pursuant to section 648 of this title if the commissioner determines that the discontinuance is warranted or if otherwise ordered by the commissioner. Every notice shall be reviewed by the commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the commissioner shall order that payments continue until a formal hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the department that establishes that a preponderance of all evidence now supports the claim. If the commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 10. 21 V.S.A. § 692 is amended to read:

§ 692. PENALTIES; FAILURE TO INSURE; STOP WORK ORDERS

* * *

(b) Stop-work orders. If an employer fails to comply with the provisions of section 687 of this title after investigation by the commissioner, the commissioner shall issue an emergency order to that employer to stop work until the employer has secured workers' compensation insurance. If the commissioner determines that issuing a stop-work order would immediately threaten the safety or health of the public, the commissioner may permit work to continue until the immediate threat to public safety or health is removed. The commissioner shall document the reasons for permitting work to continue, and the document shall be available to the public. In addition, the employer shall be assessed an administrative penalty of not more than $250.00 for every day that the employer fails to secure workers' compensation coverage after the commissioner issues an order to obtain insurance and may also be assessed an administrative penalty of not more than $250.00 for each employee for every day that the employer fails to secure workers' compensation coverage as required in section 687 of this title. When a stop-work order is issued, the commissioner shall post a notice at a conspicuous place on the work site of the employer informing the employees that their employer failed to comply with the provisions of section 687 of this title and that work at the work site has been ordered to cease until workers' compensation insurance is secured. If an employer fails to comply with a stop-work order, the commissioner may seek injunctive relief in the civil division of the superior court by filing a complaint and supporting affidavit. The court shall issue without notice and hearing an

ex parte order temporarily or permanently enjoining the employer from employing workers. The ex parte order shall be provided to the employer. Thereafter, the court may modify or vacate the order at the request of the commissioner or employer. The stop-work order shall be rescinded as soon as the commissioner determines that the employer is in compliance with section 687 of this title. An employer against whom a stop-work order has been issued, or who has not been in compliance with section 687 of this title, unless the failure to comply was inadvertent or excusable, is prohibited from contracting, directly or indirectly, with the state or any of its subdivisions for a period of up to three years following the date of the issuance of the stop-work order, as determined by the commissioner in consultation with the commissioner of buildings and general services or the secretary of transportation, as appropriate. Either the secretary or the commissioner, as appropriate, shall be consulted in any contest of the prohibition of the employer from contracting with the state or its subdivisions.

* * *

* * * Unemployment compensation * * *

Sec. 11. 21 V.S.A. § 1101 is amended to read:

§ 1101. APPRENTICESHIP DIVISION AND COUNCIL

The apprenticeship division and state apprenticeship council, hereinafter referred to as the "council," shall be located within the department of labor. The commissioner of labor shall supervise the work of the division, and shall be the chair of the council. The council shall consist of ~~10~~ 12 members, four ex officio members and ~~six~~ eight members who shall be appointed by the governor. Of the ex officio members, one shall be the commissioner of labor, one shall be the commissioner of public safety, or designee, one shall be the commissioner of education or designee, and one shall be the director of the apprenticeship division who shall act as secretary of the council without vote. The council shall be composed of persons familiar with apprenticeable occupations. Of the ~~appointive~~ appointed members, three shall be individuals who ~~on account of previous vocation, employment, occupation, or affiliation can be classed as~~ represent employers ~~and~~, three shall be individuals who ~~on account of previous vocation, employment, occupation, or affiliation can be classed as employees~~ represent employees or employee organizations, and two shall be members of the public. Appointment of the employer and the employee members shall be made for the term of three years except the employer and employee members first appointed shall be appointed for the term of one, two, and three years respectively. The governor shall annually designate one member of the council as chair. Each member of the council who is not a salaried official or employee of the state shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

Sec. 12. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings unless the context clearly requires otherwise:

* * *

(6)(A)(i) "Employment," subject to the other provisions of this subdivision (6), means service within the jurisdiction of this state, performed prior to January 1, 1978, which was employment as defined in this subdivision prior to such date and, subject to the other provisions of this subdivision, service performed after December 31, 1977, by an employee, as defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Services partly within and partly without this state may by election as hereinbefore provided be treated as if wholly within the jurisdiction of this state. And whenever an employing unit shall have elected to come under the provisions of a similar act of a state where a part of the services of an employee are performed, the commissioner, upon his or her approval of said election as to any such employee, may treat the services covered by said approved election as having been performed wholly without the jurisdiction of this state.

* * *

(C) The term "employment" shall not include:

* * *

(xxi) Service performed by a direct seller if the individual is in compliance with all the following:

(I) The individual is engaged in:

(aa) the trade or business of selling or soliciting the sale of consumer products, including services or other intangibles, in the home or a location other than in a permanent retail establishment, including whether the sale or solicitation of a sale is to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis for resale by the buyer or any other person.

(bb) the trade or business of the delivery or distribution of newspapers or shopping news that are delivered on a weekly or less frequent basis, including any services directly related to such trade or business.

(II) Substantially all the remuneration, whether or not received in cash, for the performance of the services described in subdivision (I) of this

subdivision (C)(xxi) is directly related to sales or other output, including the performance of services, rather than to the number of hours worked.

(III) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee for federal and state tax purposes.

Sec. 13. 21 V.S.A. § 1301a is amended to read:

§ 1301a. DEPARTMENT OF LABOR; COMPOSITION

The department of labor, created by ~~section~~ 3 V.S.A. § 212 ~~of Title 3~~, shall consist of a commissioner of labor, the Vermont employment security board, the Vermont workforce development division, the unemployment insurance and wages division, the economic and labor market information division, the workforce development council which serves as the statewide workforce investment board, and the workers' compensation and safety division. The chair of the employment security board shall be the commissioner of labor ex officio. The deputy commissioner of labor or a designee chosen by the commissioner may serve as chair in the absence of the commissioner as the commissioner's designee.

Sec. 14. FINDINGS

The general assembly finds that:

(1) Federal law allows employees who do not work in an instructional, research, or principal administrative capacity in an educational institution to receive unemployment benefits between academic terms. This law permits only bus drivers, custodians, and food service school employees to receive benefits between academic terms to the extent that they are not employed. These employees are the lowest paid in the school system and the inability to receive unemployment benefits can impose a significant hardship on those who cannot find other summer work.

(2) At one time, Vermont allowed these employees to receive unemployment benefits between academic terms but no longer does, despite being authorized to do so by federal law.

Sec. 15. 21 V.S.A. § 1343 is amended to read:

§ 1343. CONDITIONS

* * *

(c) After March 31, 1984 benefits are payable on the basis of service in employment as defined in subdivision 1301(6)(A)(ix) and (x) of this title, in the same amount, on the same terms, and subject to the same conditions as

benefits payable on the basis of other service subject to this chapter, except that:

(1) With respect to services performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be payable on the basis of such services for any week of unemployment commencing during the period between two successive academic years or terms (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

~~(2) With respect to services performed in any other capacity for an educational institution benefits shall not be payable on the basis of such services to any individual for any week of unemployment which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services for any educational institution in the second of such academic years or terms, except that if benefits are denied to any individual under this subdivision and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subdivision;~~

~~(3)~~(2) ~~With respect to any services described in subdivision (1) or (2) of this subsection,~~ With respect to services performed in any capacity for an educational institution benefits shall not be payable on the basis of services in any such capacities to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess;

~~(4)~~(3) With respect to any services described in subdivision (1) ~~or (2)~~ of this subsection, benefits shall not be payable on the basis of services in any such capacities as specified in subdivisions ~~(1), (2), and (3)~~ (1) and (2) to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this subdivision, the term "educational service agency" means a governmental agency or

governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

* * *

Sec. 16. 21 V.S.A. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION

* * *

(c) The person liable under this section shall repay such amount to the commissioner for the fund. In addition to the repayment, if the commissioner finds that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits, the person shall pay an additional penalty of 15 percent of the amount of the overpaid benefits. Such amount may be collectible by civil action in a Vermont district or superior court, in the name of the commissioner. ~~No action shall be commenced for the collection of such amount more than five years after the date of such determination under this section or the final decision confirming the liability of such person on an appeal from such determination.~~

(d) In any case in which under this section a person is liable to repay any amount to the commissioner for the fund, the commissioner may withhold, in whole or in part, any future benefits payable to such person, and credit such withheld benefits against the amount due from such person until it is repaid in full, less any penalties assessed under subsection (c) of this section. ~~No benefits shall be withheld after five years from the date of such determination or the date of the final decision confirming the liability of such person on an appeal from such determination.~~

(e) In addition to the foregoing, when it is found by the commissioner that a person intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits and in the event the person is not prosecuted under section 1368 of this title and penalty provided in section 1373 of this title is not imposed, the person shall be disqualified and shall not be entitled to receive benefits to which he or she would otherwise be entitled after the determination for such number of weeks not exceeding 26 as the commissioner shall deem just~~, provided, however, that no benefits shall be denied to a claimant because of such determination after three years from the date thereof or the date of final decision on an appeal from such determination~~. The notice of determination shall also specify the period of disqualification imposed hereunder.

* * *

* * * Short-time compensation * * *

Sec. 17. 21 V.S.A. § 1451 is amended to read:

§ 1451. DEFINITIONS

For the purpose of this subchapter:

(1) "Affected unit" means a specific plan, department, shift, or other definable unit consisting of not less than five employees to which an approved short-time compensation plan applies.

(2) "Short-time compensation" or "STC" means the unemployment benefits payable to employees in an affected unit under an approved short-time compensation plan as distinguished from the unemployment benefits otherwise payable under the conventional unemployment compensation provisions of this chapter.

(3) "Short-time compensation plan" means a plan of an employer under which there is a reduction in the number of hours worked by employees of an affected unit rather than temporary layoffs. The term "temporary layoffs" for this purpose means the total separation of one or more workers in the affected unit for an indefinite period expected to last for more than two months but not more than six months.

(4) "Short-time compensation employer" means an employer who has one or more employees covered by an approved "Short-Time Compensation Plan." ~~Both employers with experience-rating records and employers who make payments in lieu of tax contributions to the UI Trust Fund may become short-time compensation employers.~~ "Short-time compensation employer" includes employers with experience-rating records and employers who make payments in lieu of tax contributions to the unemployment compensation trust fund and that meet the following:

(A) Has five or more employees covered by an approved short-time compensation plan.

(B) Is not delinquent in the payment of contributions or reimbursement, or in the reporting of wages.

(C) Is not a negative balance employer. For the purposes of this section, a negative balance employer is an employer who has for three or more consecutive calendar years paid more in unemployment benefits to its employees than it has contributed to its unemployment insurance account.

(5) "Usual weekly hours of work" means the normal hours of work for full-time and regular part-time employees in the affected unit when that unit is operating on its normally full-time basis but not less than 30 hours and not to exceed 40 hours and not including overtime.

(6) "Unemployment compensation" means the unemployment benefits payable under this chapter other than short-time compensation and includes any amounts payable pursuant to an agreement under any federal law

providing for compensation, assistance, or allowances with respect to unemployment.

(7) "Fringe benefits" means benefits including health insurance, retirement benefits, paid vacations and holidays, sick leave, and similar benefits that are incidents of employment.

(8) "Intermittent employment" means employment that is not continuous but may consist of intervals of weekly work and intervals of no weekly work.

(9) "Seasonal employment" means employment with an employer who experiences at least a 20-percent difference between its highest level of employment during a particular season and its lowest level of employment during the off-season in each of the previous three years as reported to the department, or employment with an employer on a temporary basis during a particular season.

Sec. 18. 21 V.S.A. § 1452 is amended to read:

§ 1452. CRITERIA FOR APPROVAL

An employer wishing to participate in an STC program shall submit a department of labor electronic application or a signed written short-time compensation plan to the commissioner for approval. The commissioner may approve an STC plan only if the following criteria are met:

(1) the plan identifies the specified affected units to which it applies;

(2) the employees in the affected unit or units are identified by name, Social Security number, and by any other information required by the commissioner;

(3) the plan ~~specifies any impact on~~ certifies that fringe benefits, including health insurance, of employees participating in the plan will not be reduced;

(4) the usual total weekly hours of work for employees in the affected unit or units are reduced by not less than 20 percent and not more than 50 percent;

(5) the plan certifies that the aggregate reduction in work hours is in lieu of temporary total layoffs of one or more workers which would have resulted in an equivalent reduction in work hours and which the commissioner finds would have caused an equivalent dollar amount to be payable in unemployment compensation;

(6) the plan certifies that the STC employer will submit a request for a STC plan termination to the department within 24 hours of a layoff that occurs during an active STC plan;

(7) the identified work week reduction is applied consistently throughout the duration of the plan;

(8) the plan applies to at least 10 percent of the employees in the affected unit, and when applicable applies to all affected employees of the unit equally;

~~(7)~~(9) the plan will not subsidize seasonal employers during the off-season, nor subsidize employers who have traditionally used part-time employees or intermittent employment;

~~(8)~~(10) the employer agrees to maintain records relative to the plan for a period of three years and furnish reports relating to the proper conduct of the plan and agrees to allow the commissioner or his or her authorized representatives access to all records necessary to verify the plan prior to approval and, after approval, to monitor and evaluate application of the plan;

~~(9)~~(11) the plan certifies that the collective bargaining agent or agents for the employees, if any, have agreed to participate in the program. If there is no bargaining unit, the employer specifies how he or she will notify the employees in the affected group and work with them to implement the program once the plan is approved; and

~~(10)~~(12) in addition to subdivisions (1) through ~~(9)~~(11) of this section, the commissioner shall take into account any other factors which may be pertinent to proper implementation of the plan.

Sec. 19. 21 V.S.A. § 1453 is amended to read:

§ 1453. APPROVAL OR REJECTION; RESUBMISSION

The commissioner shall approve or reject a plan in writing within 30 days of its receipt, and in the case of rejection shall state the reasons therefor. The reasons for rejection shall be final and nonappealable, but the employer shall be allowed to submit another plan for approval, that addresses the reasons that led to the rejection of the original plan.

Sec. 20. 21 V.S.A. § 1454 is amended to read:

§ 1454. EFFECTIVE DATE; DURATION

A plan shall be effective on the date specified in the plan or on a date mutually agreed upon by the employer and the commissioner. It shall expire at the end of the sixth full calendar month after its effective date or on the date specified in the plan if such date is earlier; provided, that the plan is not previously revoked by the commissioner; or on the effective date of any transfer of ownership of the legal business entity. If a plan is revoked by the commissioner, it shall terminate on the date specified in the commissioner's

written order of revocation. No employer shall be eligible for a short-time compensation plan for more than 26 weeks in any 12-month period.

Sec. 21. 21 V.S.A. § 1458 is amended to read:

§ 1458. SHORT-TIME COMPENSATION BENEFITS

* * *

(f)(1) If an individual works in the same week for both the short-time employer and another employer and his or her combined hours of work for both employers are equal to or greater than 81 percent of the usual hours of work with the short-time employer, he or she shall not be entitled to benefits under these short-time provisions or the unemployment compensation provisions.

(2) If an individual works in the same week for both the short-time employer and another employer and his or her combined hours of work for both employers are equal to or less than 80 percent of the usual hours of work for the short-time employer, the benefit amount payable for that week shall be the weekly unemployment compensation amount reduced by the same percentage that the combined hours are of the usual hours of work. A week for which benefits are paid under this provision shall count as a week of short-time compensation.

(3) An individual who does not work during a week for the short-time employer, and is otherwise eligible, shall be paid his or her full weekly unemployment compensation benefit amount under the provisions of the regular unemployment compensation program. Such a week shall not be counted as a week for which short-time compensation benefits were received.

(4) An individual that does not work the short-time employer's identified workweek reduction hours as certified by the application due to the use of paid vacation or personal time shall be paid benefits for the week under the partial unemployment compensation provisions of the regular unemployment compensation program.

~~(4)~~(5) An individual who does not work for the short-time employer during a week but works for another employer and is otherwise eligible, shall be paid benefits for that week under the partial unemployment compensation provisions of the regular UI program. Such a week shall not be counted as a week with respect to which STC benefits were received.

* * * Directory of new hires * * *

Sec. 22. 33 V.S.A. § 4110 is amended to read:

§ 4110. EMPLOYER OBLIGATIONS

* * *

(c) As used in this section:

(1) "Employee" means

(A) an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

(B) does not include an employee of a federal or state agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to this section with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(2) "Employer" has the meaning given such term in Section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and any labor organization.

(3) "First date of employment" is the first day services are performed for compensation as a new hire.

(4) "New hire" ~~means an employee for whom a W-4 filing is required and whose wages have not been reported by the filing employer to the department of labor during the last reporting quarter~~ means an employee who:

(A) has not previously been employed by the employer; or

(B) was previously employed by the employer but has been separated from that employment for at least 60 consecutive days.

* * * Independent contractors * * *

Sec. 23. 21 V.S.A. § 398 is added to read:

§ 398. NOTICE TO PERSONS RECEIVING REMUNERATION AS AN INDEPENDENT CONTRACTOR

(a) Every employer shall post in a prominent and accessible place on the site where work is performed a legible statement, provided by the commissioner, that describes the responsibility of independent contractors to pay taxes required by state and federal law, the rights of employees to workers' compensation, unemployment benefits, minimum wage, overtime, and other federal and state workplace protections, and the protections against retaliation and the penalties in this title if the independent contractor fails to classify properly an individual as an employee. This notice shall also contain contact information for individuals to file complaints or inquire with the commissioner about employment classification status. This information shall be provided in English or other languages required by the commissioner. The posted statement shall be constructed of materials capable of withstanding adverse weather conditions.

(b) Within 30 days of the effective date of this section, the commissioner shall create the notice described in subsection (a) of this section and post the notice on the department's website for downloading by hiring entities.

(c) Employers who violate this section shall be subject to an administrative penalty of up to $100.00 per violation.

Sec. 24. 21 V.S.A. § 8 is added to read:

§ 8. INDEPENDENT CONTRACTOR DEFINITION

The commissioner is directed to formulate a single definition of independent contractor for the purposes of chapters 9 (workers' compensation) and 17 (unemployment compensation) of this title. The definition shall be simple to understand and provide clarity to employers and employees as to an individual's status as an employee or an independent contractor. The commissioner shall also formulate a test based upon the definition of independent contractor that will allow employers and employees to quickly and easily determine independent contractor status. It is not the intent of this section to substantively change the benefits and protections of employment under this title.

* * * Fair-share representation fees * * *

Sec. 25. POLICY

It is the policy of the state of Vermont that employees in bargaining units organized under state law who exercise their rights not to join a labor organization required to provide them certain services shall pay to that labor organization a fair-share agency fee, representing that portion of the labor organization's membership fees which are attributable to those services.

Sec. 26. FINDINGS

The general assembly finds:

(1) The right of employees to organize and form a labor organization to engage in collective bargaining is fundamental to both a free society and the generation and maintenance of a strong middle class.

(2) The state has long favored the right of employees to organize for the purpose of bargaining collectively with their employer.

(3) Vermont law recognizes that a labor organization democratically selected by bargaining unit employees is the exclusive representative of all the employees within the bargaining unit.

(4) A labor organization engages in both "chargeable" and "nonchargeable" activities on behalf of bargaining unit members. "Chargeable" activities are generally those related to negotiating and ensuring

the enforcement of collective bargaining agreements on behalf of the bargaining unit as a whole and for every employee within it. "Nonchargeable" activities are generally those related to political activities and lobbying.

(5) With respect to "chargeable activities," a labor organization must represent all the employees within its bargaining unit. It may not discriminate between members of the labor organization who pay membership fees and those who exercise their rights not to become members. This is called "the duty of fair representation." This duty does not extend to "nonchargeable" activities.

(6) The "chargeable" activities undertaken by labor organizations on behalf of all bargaining unit employees are in the interest of the public good.

(7) It is the policy of the state to require employees in bargaining units organized under state law who do not become members of the labor organization representing the unit to pay a "fair-share agency fee" for the chargeable activities undertaken on their behalf.

(8) Current labor law in Vermont leaves the question of a fair-share agency fee to the collective bargaining process itself.

(9) It is inconsistent with state policy to continue to permit employers, merely by not agreeing to fair-share fee provisions in collective bargaining agreements, to enable their bargaining unit employees who are not members of the labor organization to avoid paying their fair share of the organization's representation.

(10) The result of allowing employers to withhold consent to fair-share fees has resulted in a patchwork of collective bargaining agreements, some of which include fair-share provisions and some of which do not.

(11) By enacting a fair-share agency fee law, the state will allow employees not to join the labor organizations representing them, but will ensure equitable treatment across bargaining units organized under state law.

(12) The duty of fair representation should be balanced by the duty to pay a fair-share agency fee.

* * * State employees * * *

Sec. 27. 3 V.S.A. § 903 is amended to read:

§ 903. EMPLOYEES' RIGHTS AND DUTIES; PROHIBITED ACTS

(a) Employees shall have the right to self-organization; to form, join, or assist employee organizations; to bargain collectively through representatives of their own choice, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities, except as provided in ~~subsection~~

subsections (b) and (c) of this section, and to appeal grievances as provided in this chapter.

(b) No state employee may strike or recognize a picket line of an employee or labor organization while in the performance of his or her official duties.

(c) An employee who exercises the right not to join the employee organization representing the employee's certified unit pursuant to section 941 of this title shall pay a collective bargaining fee to the representative of the bargaining unit in the same manner as employees who pay membership fees to the representative.

(d) All employers, their officers, agents, and employees or representatives shall exert every reasonable effort to make and maintain agreements concerning matters allowable under section 904 of this title and to settle all disputes, whether arising out of the application of those agreements, or growing out of any dispute between the employer and the employees thereof.

Sec. 28. 3 V.S.A. § 904 is amended to read:

§ 904. SUBJECTS FOR BARGAINING

(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters which are prescribed or controlled by statute. Such matters appropriate for collective bargaining to the extent they are not prescribed or controlled by statute include ~~but are not limited to~~:

* * *

(9) Rules and regulations for personnel administration, except the following: rules and regulations relating to persons exempt from the classified service under section 311 of this title and rules and regulations relating to applicants for employment in state service and employees in an initial probationary status including any extension or extensions thereof provided such rules and regulations are not discriminatory by reason of an applicant's race, color, creed, sex, or national origin~~; and~~

~~(10) A collective bargaining service fee~~.

* * *

Sec. 29. 3 V.S.A. § 941 is amended to read:

§ 941. UNIT DETERMINATION, CERTIFICATION, AND REPRESENTATION

* * *

(k) Nothing in this chapter requires an individual to seek the assistance of his or her collective bargaining unit or its representative(s) in any grievance

proceeding. He or she may represent himself or herself or be represented by counsel of his or her own choice. Employees who are eligible for membership in a collective bargaining unit who exercise their right not to join such unit may upon agreement with the unit representative avail themselves of the services of the unit representative(s) in grievance proceedings upon payment to the unit of a fee established by the unit representative, provided that in the event a collective bargaining service fee is negotiated or imposed, the unit representative shall represent nonmember employees in grievance proceedings without charge.

Sec. 30. 3 V.S.A. § 962 is amended to read:

§ 962. EMPLOYEES

It shall be an unfair labor practice for an employee organization or its agents:

* * *

(10) To charge a collective bargaining fee ~~negotiated pursuant to section 904 of this title~~ unless such employee organization has established and maintained a procedure to provide nonmembers with:

(A) an audited financial statement that identifies the major categories of expenses, and divides them into chargeable and nonchargeable expenses;

(B) an opportunity to object to the amount of the agency fee sought, any amount reasonably in dispute to be placed in escrow;

(C) prompt arbitration by the board to resolve any objection over the amount of the collective bargaining fee.

* * * Judiciary employees * * *

Sec. 31. 3 V.S.A. § 1012 is amended to read:

§ 1012. EMPLOYEES' RIGHTS AND DUTIES; PROHIBITED ACTS

(a) Employees shall have the right to self-organization; to form, join, or assist employee organizations; to bargain collectively through their chosen representatives; to engage in concerted activities of collective bargaining or other mutual aid or protection; to refrain from any or all those activities, except as provided in ~~subsection (b)~~ subsections (b) and (c) of this section; and to appeal grievances as provided in this chapter.

(b) No employee may strike or recognize a picket line of an employee organization while performing the employee's official duties.

(c) An employee who exercises the right not to join the employee organization representing the employee's certified unit pursuant to section 1021 of this title shall pay a collective bargaining fee to the

representative of the bargaining unit in the same manner as employees who pay membership fees to the representative.

~~(c)~~(d) The employer and employees and the employee's representative shall exert every reasonable effort to make and maintain agreements concerning matters allowable under section 1013 of this title and to settle all disputes, whether arising out of the application of those agreements or growing out of any dispute between the employer and the employees.

Sec. 32. 3 V.S.A. § 1013 is amended to read:

§ 1013. SUBJECTS FOR BARGAINING

All matters relating to the relationship between the employer and employees are subject to collective bargaining, to the extent those matters are not prescribed or controlled by law, including:

* * *

~~(10) A collective bargaining service fee.~~

Sec. 33. 3 V.S.A. § 1027 is amended to read:

§ 1027. EMPLOYEES

It shall be an unfair labor practice for an employee organization or its agents:

* * *

(10) To charge a ~~negotiated~~ collective bargaining fee unless the employee organization has established and maintained a procedure to provide nonmembers with all the following:

(A) An audited financial statement that identifies the major categories of expenses and divides them into chargeable and nonchargeable expenses.

(B) An opportunity to object to the amount of the fee requested and to place in escrow any amount reasonably in dispute.

(C) Prompt arbitration by the board to resolve any objection over the amount of the collective bargaining fee.

* * * Teachers * * *

Sec. 34. 16 V.S.A. § 1982 is amended to read:

§ 1982. RIGHTS

(a) Teachers shall have the right to or not to join, assist, or participate in any teachers' organization of their choosing. However, teachers ~~may be required to pay an agency fee~~ who choose not to join the teachers'

organization, recognized pursuant to ~~an agreement negotiated under~~ section 1992 of this chapter as the exclusive representative, shall pay an agency fee in the same manner as teachers who choose to join the teachers' organization pay membership fees.

(b) Principals, assistant principals, and administrators other than superintendent and assistant superintendent shall have the right to or not to join, assist, or participate in any administrators' organization or as a separate unit of any teachers' organization of their choosing. However, administrators other than the superintendent and assistant superintendent ~~may be required to pay an agency fee~~ who choose not to join the administrators' organization, recognized pursuant to ~~an agreement negotiated under~~ section 1992 of this chapter as the exclusive representative, shall pay an agency fee in the same manner as administrators who choose to join the administrators' organization pay membership fees.

(c) Neither the school board nor any employee of the school board serving in any capacity, nor any other person or organization shall interfere with, restrain, coerce, or discriminate in any way against or for any teacher or administrator engaged in activities protected by this legislation.

* * * Certain private sector employees * * *

Sec. 35. 21 V.S.A. § 1502 is amended to read:

§ 1502. DEFINITIONS

In this chapter, the following words shall have the following meaning:

* * *

(14) "Agency service fee" means a fee for representation in collective bargaining not exceeding labor organization dues, payable to a labor organization which is the exclusive representative for employees in a bargaining unit from individuals who are not members of the labor organization.

Sec. 36. 21 V.S.A. § 1621 is amended to read:

§ 1621. UNFAIR LABOR PRACTICES

(a) It shall be an unfair labor practice for an employer:

* * *

(6) Nothing in this chapter or any other statute of this state shall preclude an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this subsection (a) as an unfair labor practice) to require as a condition of employment membership in such labor organization on or after the 30th day following the

beginning of such employment or the effective date of such agreement, whichever is the later (i) if such labor organization is the representative of the employees as provided in section 1583 of this chapter, in the appropriate collective bargaining unit covered by such agreement when made and (ii) unless following an election held as provided in section 1584 of this chapter within one year preceding the effective date of such agreement, the board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement. Absent such an agreement, an employee who does not become a member of the labor organization shall, in the same manner as employees who choose to join the labor organization pay membership fees, pay an agency service fee to that organization. No employer shall justify any discrimination against an employee for nonmembership in a labor organization:

(A) If the employer has reasonable grounds for believing that membership was not available to the employee on the same terms and conditions generally applicable to other members; or

(B) If the employer has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

* * *

(b) It shall be an unfair labor practice for a labor organization or its agents:

* * *

(9) To charge an agency service fee unless the employee organization has established and maintained a procedure to provide nonmembers with all the following:

(A) An audited financial statement that identifies the major categories of expenses and divides them into chargeable and nonchargeable expenses.

(B) An opportunity to object to the amount of the fee requested and to place in escrow any amount reasonably in dispute.

(C) Prompt arbitration by an arbitrator selected jointly by the objecting fee payer and the labor organization or pursuant to the rules of the American Arbitration Association to resolve any objection over the amount of the agency service fee.

* * *

* * * Municipal employees * * *

Sec. 37. 21 V.S.A. § 1726 is amended to read:

§ 1726. UNFAIR LABOR PRACTICES

(a) It shall be an unfair labor practice for an employer:

* * *

(8) Nothing in this chapter or any other statute of this state shall preclude a municipal employer from making an agreement with the exclusive bargaining agent ~~to require an agency service fee to be paid as a condition of employment, or~~ to require as a condition of employment membership in such employee organization on or after the 30th day following the beginning of such employment or the effective date of such agreement, whichever is the later. Absent such an agreement, an employee who does not become a member of the employee organization shall, in the same manner as employees who choose to join the employee organization pay membership fees, pay an agency service fee to that organization. No municipal employer shall discharge or discriminate against any employee for nonpayment of an agency service fee or for nonmembership in an employee organization:

(A) If the employer has reasonable grounds for believing that membership was not available to the employee on the same terms and conditions generally applicable to other members; or

(B) If the employer has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

(b) It shall be an unfair labor practice for an employee organization or its agents:

* * *

(6) To require employees covered by an agency service fee ~~agreement~~ requirement or other union security agreement authorized under subsection (a) of this section to pay an initiation fee which the board finds excessive or discriminatory under all the circumstances, including the practices and customs of employee organizations representing municipal employees, and the wages paid to the employees affected.

* * *

(12) To charge an agency service fee unless the employee organization has established and maintained a procedure to provide nonmembers with all the following:

(A) An audited financial statement that identifies the major categories of expenses and divides them into chargeable and nonchargeable expenses.

(B) An opportunity to object to the amount of the fee requested and to place in escrow any amount reasonably in dispute.

(C) Prompt arbitration by an arbitrator selected jointly by the objecting fee payer and the labor organization or pursuant to the rules of the American Arbitration Association to resolve any objection over the amount of the agency service fee.

* * * Miscellaneous provisions * * *

Sec. 38. WORKERS' COMPENSATION RATING ADVISORY ORGANIZATIONS

(a) The department of financial regulation is directed to reconsider its reliance on the data provided by the National Council on Compensation Insurance, Inc. (NCCI) and whether it needs a workers' compensation insurance rating advisory organization in order to assist in the calculation of insurance rates. If the department determines that it needs a workers' compensation advisory organization to assist in calculating insurance rates, it is to consider using alternatives to NCCI. The department is further directed to evaluate whether proposed insurance rates made by NCCI were in line with the actual resulting insurance rates.

(b) The department shall report its findings to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development by January 15, 2013.

Sec. 39. STUDY OF UNEMPLOYMENT COMPENSATION TRAINING PROGRAMS

The commissioner of labor shall study the benefits and feasibility of developing and implementing a job training program for persons collecting unemployment benefits in Vermont, allowing the department to place persons collecting unemployment into job sites for job training and skill development to enhance the individual's job prospects and career development. The study shall examine conformity issues with federal and state unemployment and wage and hour laws. The commissioner shall solicit public input and engage interested parties from the business and labor communities in determining the benefits of any such program. The commissioner shall report his or her findings to the chairs of the senate committees on appropriations and on economic development, housing and general affairs, and the house committees on appropriations and on commerce and economic development.

Sec. 40. FINDINGS

The general assembly finds that:

(1) Some studies have concluded that over one-third of American workers have been the targets of malicious or abusive treatment by supervisors or coworkers which is wholly unrelated to legitimate workplace goals or acceptable business practices.

(2) Those studies have concluded that 45 percent of bullied employees suffer stress-related health problems, including debilitating anxiety, panic attacks, clinical depression, and post-traumatic stress.

(3) Abusive behavior occurs even in the absence of any motive to discriminate on the basis of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, or age or against a qualified disabled individual. Such nondiscriminatory abuse is often referred to as "workplace bullying."

(4) The Vermont office of attorney general's civil rights unit reports that of the 1,200 to 1,300 requests for assistance it receives each year, a substantial number involve allegations of severe workplace bullying that cannot be addressed by current state or federal law or common law tort claims. Similarly, the Vermont human rights commission, which has jurisdiction in employment discrimination claims against the state, reports that it must refuse complaints of workplace bullying because the inappropriate behaviors are not motivated by the targeted employee's membership in a category protected by antidiscrimination laws. The Vermont department of labor reports that the wage and hour division receives up to 100 telephone calls each day, many of which involve complaints relating to workplace incivility, bullying, and retaliatory actions against employees who bring complaints.

(5) Sweden enacted the first workplace bullying law in 1993, and since then several countries have taken a variety of approaches to the problem, including the creation of private legal remedies and the prohibition of workplace bullying through occupational safety and health laws.

(6) The general assembly recognizes that there is a need to strike a balance between affording Vermont workers relief from bullying and unduly interfering with the operation of workplaces.

(7) However, given the limited duration of the legislative session, the potential impact on existing labor contracts and personnel policies, and the various options available to address this issue, a considered approach should be presented for consideration by the 2012 session of the general assembly.

Sec. 41. STUDY OF WORKPLACE BULLYING

(a) A committee is established to study the issue of workplace bullying in Vermont and to make recommendations to address the manner in which

workplace bullying should be addressed by the state, by employers, and by affected employees. The committee shall examine and report on the following:

(1) Existing programs and best practice models for workplace civility, anti-bullying, prevention of workplace violence, reporting and nonretaliation provisions that have been adopted by employers and, if available, survey results and data from those employers.

(2) A definition of "workplace bullying" or "abusive conduct" in the workplace not addressed by existing law.

(3) Whether there is a need for additional laws regarding workplace bullying.

(4) Different models for remedying workplace bullying, including:

(A) Creating a private right of action that would include the recovery of damages.

(B) Creating a mechanism for injunctive relief similar to those relating to stalking, hate crimes, or relief-from-abuse orders.

(C) State enforcement similar to the employment discrimination law.

(D) State enforcement by the Vermont occupational safety and health administration.

(E) Any other issues relevant to workplace bullying.

(b) The committee established by subsection (a) of this section shall also recommend any measures, including proposed legislation, to address bullying in the workplace.

(c) The committee established by subsection (a) of this section shall consist of the following members:

(1) The attorney general or designee.

(2) The executive director of the human rights commission or designee.

(3) The commissioner of labor or designee.

(4) The commissioner of human resources or designee.

(5) The state coordinator of the Vermont healthy workplace advocates.

(6) Two representatives from the business community, one to be appointed by the speaker of the house and one to be appointed by the committee on committees.

(7) Two representatives from labor organizations, one to be appointed by the speaker of the house and one to be appointed by the committee on committees.

(8) The executive director of the American Civil Liberties Union of Vermont or designee.

(9) The executive director of the Vermont Bar Association or designee.

(d) The committee shall convene its first meeting no later than July 15, 2012. The commissioner of labor shall be designated as the chair of the commission, and shall convene the first and subsequent meetings.

(e) The committee shall report its findings and any recommendations to the senate committee on economic development, housing and general affairs, and the house committee on commerce and economic development on or before January 15, 2013. The report shall include any recommended legislation to address the issue of workplace bullying.

(f) The committee shall cease to function upon transmitting its report.

Sec. 41a. 23 V.S.A. § 944 is added to read:

§ 944. DISPUTE RESOLUTION

All motor vehicle liability insurance policies issued in the state shall contain a requirement that claims for damages involving underinsured motor vehicles be submitted to arbitration pursuant to 12 V.S.A. chapter 192.

Sec. 42. EFFECTIVE DATES

(a) Sec. 16 (relating to nondisclosure or misrepresentation in order to receive unemployment benefits) of this act shall take effect on July 1, 2013.

(b) Secs. 27, 28, 29, 30, 31, 32, and 33 (relating to state employees) of this act shall take effect on July 2, 2012 and apply to new successor collective bargaining agreements subject to the provisions of 3 V.S.A. chapters 27 and 28.

(c) Secs. 34, 35, 36, and 37 (relating to teachers, municipal employees, and certain private employers) of this act shall take effect on June 30, 2012 and apply to employees subject to 16 V.S.A. chapter 57 and 21 V.S.A. chapters 19 and 22 on the date following the expiration date stated in the collective bargaining agreement, if any, then in effect, but in no event shall an employee be required to pay an agency fee, agency service fee, or collective bargaining service fee under this act for any period prior to July 1, 2012. In the event that no collective bargaining agreement is in effect on June 30, 2012, Secs. 34, 35, 36, and 37 of this act shall take effect on June 30, 2012 and apply to employees subject to 16 V.S.A. chapter 57 and 21 V.S.A. chapters 19 and 22 on July 1, 2012.

(d) This section shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to workforce development, workers' compensation, unemployment compensation, and workplace rights and responsibilities"

(Committee vote: 5-0-0)

Favorable with Proposal of Amendment

H. 37.

An act relating to telemedicine.

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

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

Sec. 1. 8 V.S.A. chapter 107, subchapter 14 is added to read:

Subchapter 14. Telemedicine

§ 4100k. COVERAGE FOR TELEMEDICINE SERVICES

(a) All health insurance plans in this state shall provide coverage for telemedicine services delivered to a patient in a health care facility to the same extent that the services would be covered if they were provided through in-person consultation.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service provided through telemedicine so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network and may require originating site health care providers to document the reason the services are being provided by telemedicine rather than in person.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's policy.

(e) A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means.

(f) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

(g) As used in this subchapter:

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

(2) "Health care facility" shall have the same meaning as in 18 V.S.A. § 9402.

(3) "Store and forward" means an asynchronous transmission of medical information to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty and by which the health care provider at the distant site reviews the medical information without the patient present in real time.

(4) "Telemedicine" means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

Sec. 2. 18 V.S.A. chapter 219 is redesignated to read:

CHAPTER 219. HEALTH INFORMATION TECHNOLOGY AND TELEMEDICINE

Sec. 3. STATUTORY REVISION

18 V.S.A. §§ 9351–9352 shall be recodified as subchapter 1 (Health Information Technology) of chapter 219.

Sec. 4. 18 V.S.A. chapter 219, subchapter 2 is added to read:

Subchapter 2. Telemedicine

§ 9361. HEALTH CARE PROVIDERS PROVIDING TELEMEDICINE OR STORE AND FORWARD SERVICES

(a) Subject to the limitations of the license under which the individual is practicing, a health care provider licensed in this state may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate

examination of the patient either in person or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider–patient settings. For purposes of this subchapter, "telemedicine" shall have the same meaning as in 8 V.S.A. § 4100k.

(b) Receiving teledermatology or teleophthalmology by store and forward means shall not preclude a patient from receiving real time telemedicine or face-to-face services with the distant site health care provider at a future date. Originating site health care providers involved in the store and forward process shall ensure informed consent from the patient. For purposes of this subchapter, "store and forward" shall have the same meaning as in 8 V.S.A. § 4100k.

Sec. 5. RULEMAKING

(a) The commissioner of Vermont health access may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this act.

(b) The commissioner of banking, insurance, securities, and health care administration may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this act.

Sec. 6. HEALTH CARE FACILITY; STUDY

(a) The commissioner of financial regulation or designee shall convene a workgroup comprising health care providers, health insurers, and other interested stakeholders to consider whether and to what extent Vermont should require health insurance coverage of services delivered to a patient by telemedicine outside a health care facility.

(b) No later than January 15, 2013, the commissioner of financial regulation or designee shall report the workgroup's recommendations to the house committee on health care and the senate committees on health and welfare and on finance.

Sec. 7. EFFECTIVE DATE

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

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

(Committee vote: 4-0-0)

(For House amendments, see House Journal for March 14, 2012, page 574.)

H. 157.

An act relating to restrictions on tanning beds.

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

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be numbered Sec. 3 to read as follows:

Sec. 3. FINDINGS

The general assembly finds:

(1) The state of Oregon has been implementing its Death with Dignity Act since 1998. In 14 years, Oregon has seen a total of 935 terminal patients formally request medication to hasten death and, of those, 596 patients took the medication and died pursuant to the act. Oregon's most recent annual report on the act shows that in 2011, 114 prescriptions were written by 62 different physicians. A total of 71 patients died in 2011 from ingesting medication prescribed under the law. Cancer continues to be the most common terminal condition for patients qualifying under Oregon's law, as 82.4% of the 71 patient deaths in 2011 were associated with a cancer diagnosis. Over the 14 years of implementation, 80.8% of the individuals ingesting medication had a terminal cancer diagnosis.

(2) Vermont has about one-sixth the population of Oregon. According to the 2010 census, Oregon has a population of 3,831,074 and Vermont a population of 625,741.

(3) In the past 17 years, Oregon has seen its hospice enrollment increase significantly. In 1993, only 20 percent of all dying patients were enrolled in hospice. By 2005, enrollment had increased to 54 percent. In 2009, 91.5 percent of the patients who used medication under the Death with Dignity Act were in hospice care.

(4) According to a 2000 article in the New England Journal of Medicine, Oregon health care professionals report that Oregon physicians grant approximately one in six requests for lethal medication, and one in 10 requests actually results in hastened death.

(5) Despite continuing improvements in techniques for palliative care, most medical experts agree that not all pain can be relieved. Some terminal diseases, such as bone cancer, inflict untreatable agony at the end of life. Many cancer patients report that they would have greater comfort and courage in facing their future if they were assured they could use a Death with Dignity law if their suffering became unbearable.

Second: By adding a new section to be numbered Sec. 4 to read as follows:

Sec. 4. 18 V.S.A. chapter 113 is added to read:

CHAPTER 113. RIGHTS OF QUALIFIED PATIENTS SUFFERING A TERMINAL CONDITION

§ 5280. DEFINITIONS

For purposes of this chapter:

(1) "Attending physician" means the physician whom the patient has designated to have primary responsibility for the care of the patient and who is willing to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter.

(2) "Capacity" shall have the same meaning as in subdivision 9701(4)(B) of this title.

(3) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's illness and who is willing to participate in the provision of medication to a qualified patient to hasten his or her death in accordance with this chapter.

(4) "Counseling" means a consultation between a psychiatrist, psychologist, or clinical social worker licensed in Vermont and a patient for the purpose of confirming that the patient:

(A) has capacity; and

(B) is not suffering from a mental disorder or disease, including depression that causes the patient to have impaired judgment.

(5) "Good faith" shall mean objective good faith.

(6) "Health care provider" shall have the same meaning as in subdivision 9432(8) of this title.

(7) "Informed decision" means a decision by a patient to request and obtain a prescription to hasten his or her death based on the patient's understanding and appreciation of the relevant facts and that was made after the patient was fully informed by the attending physician of all the following:

(A) The patient's medical diagnosis.

(B) The patient's prognosis.

(C) The range of possible results, including potential risks associated with taking the medication to be prescribed.

(D) The probable result of taking the medication to be prescribed.

(E) All feasible end-of-life services, including comfort care, hospice care, and pain control.

(8) "Palliative care" shall have the same meaning as in subdivision 2(6) of this title.

(9) "Patient" means a person who is 18 years of age or older, a resident of Vermont, and under the care of a physician.

(10) "Physician" means a physician licensed pursuant to chapters 23 and 33 of Title 26.

(11) "Qualified patient" means a patient with capacity who has satisfied the requirements of this chapter in order to obtain a prescription for medication to hasten his or her death. No individual shall qualify under the provisions of this chapter solely because of age or disability.

(12) "Terminal condition" means an incurable and irreversible disease which would, within reasonable medical judgment, result in death within six months.

§ 5281. REQUESTS FOR MEDICATION

(a) In order to qualify under this chapter:

(1) A patient with capacity who has been determined by the attending physician and consulting physician to be suffering from a terminal condition and who has voluntarily expressed a wish to hasten the dying process may request medication to be self-administered for the purpose of hastening his or her death in accordance with this chapter.

(2) A patient shall have made an oral request and a written request and shall have reaffirmed the oral request to his or her attending physician not less than 15 days after the initial oral request. At the time the patient makes the second oral request, the attending physician shall offer the patient an opportunity to rescind the request.

(b) Oral requests for medication by the patient under this chapter shall be made in the presence of the attending physician.

(c) A written request for medication shall be signed and dated by the patient and witnessed by at least two persons, at least 18 years of age, who, in the presence of the patient, sign and affirm that the principal appeared to understand the nature of the document and to be free from duress or undue influence at the time the request was signed. Neither witness shall be any of the following persons:

(1) The patient's attending physician, consulting physician, or any person who has provided counseling for the patient pursuant to section 5284 of this title.

(2) A person who knows that he or she is a relative of the patient by blood, marriage, civil union, or adoption.

(3) A person who at the time the request is signed knows that he or she would be entitled upon the patient's death to any portion of the estate or assets of the patient under any will or trust, by operation of law, or by contract.

(4) An owner, operator, or employee of a health care facility, nursing home, or residential care facility where the patient is receiving medical treatment or is a resident.

(d) A person who knowingly fails to comply with the requirements in subsection (c) of this section is subject to prosecution under 13 V.S.A. § 2004.

(e) The written request shall be completed after the patient has been examined by a consulting physician as required under section 5283 of this title.

(f)(1) Under no circumstances shall a guardian or conservator be permitted to act on behalf of a ward for purposes of this chapter.

(2) Under no circumstances shall an agent under an advance directive be permitted to act on behalf of a principal for purposes of this chapter.

§ 5282. ATTENDING PHYSICIAN; DUTIES

The attending physician shall perform all the following:

(1) Make the initial determination of whether a patient:

(A) is suffering a terminal condition;

(B) has capacity; and

(C) has made a voluntary request for medication to hasten his or her death.

(2) Request proof of Vermont residency, which may be shown by:

(A) a Vermont driver's license or photo identification card;

(B) proof of Vermont voter's registration;

(C) evidence of property ownership or a lease of residential premises in Vermont; or

(D) a Vermont personal income tax return for the most recent tax year.

(3) Inform the patient in person and in writing of all the following:

(A) The patient's medical diagnosis.

(B) The patient's prognosis.

(C) The range of possible results, including potential risks associated with taking the medication to be prescribed.

(D) The probable result of taking the medication to be prescribed.

(E) All feasible end-of-life services, including comfort care, hospice care, and pain control.

(4) Refer the patient to a consulting physician for medical confirmation of the diagnosis, prognosis, and a determination that the patient has capacity and is acting voluntarily.

(5) Refer the patient for counseling under section 5284 of this chapter.

(6) Refer the patient for a palliative care consultation under section 5285 of this chapter.

(7) Recommend that the patient notify the next of kin or someone with whom the patient has a significant relationship.

(8) Counsel the patient about the importance of ensuring that another individual is present when the patient takes the medication prescribed pursuant to this chapter and the importance of not taking the medication in a public place.

(9) Inform the patient that the patient has an opportunity to rescind the request at any time and in any manner and offer the patient an opportunity to rescind at the end of the 15-day waiting period.

(10) Verify, immediately prior to writing the prescription for medication under this chapter, that the patient is making an informed decision.

(11) Fulfill the medical record documentation requirements of section 5290 of this title.

(12) Ensure that all required steps are carried out in accordance with this chapter prior to writing a prescription for medication to hasten death.

(13)(A) Dispense medication directly, including ancillary medication intended to facilitate the desired effect to minimize the patient's discomfort, provided the attending physician is licensed to dispense medication in Vermont, has a current Drug Enforcement Administration certificate, and complies with any applicable administrative rules; or

(B) With the patient's written consent:

(i) contact a pharmacist and inform the pharmacist of the prescription; and

(ii) deliver the written prescription to the pharmacist, who will dispense the medication to the patient, the attending physician, or an expressly identified agent of the patient.

(14) Notwithstanding any other provision of law, the attending physician may sign the patient's death certificate.

§ 5283. MEDICAL CONSULTATION REQUIRED

Before a patient is qualified in accordance with this chapter, a consulting physician shall physically examine the patient, review the patient's relevant medical records, and confirm in writing the attending physician's diagnosis that the patient is suffering from a terminal condition and verification that the patient has capacity, is acting voluntarily, and has made an informed decision.

§ 5284. COUNSELING REFERRAL

If, in the opinion of the attending physician or the consulting physician, a patient may be suffering from a mental disorder or disease, including depression, causing impaired judgment, either physician shall refer the patient for counseling. No medication to end the patient's life shall be prescribed until the person performing the counseling determines that the patient is not suffering from a mental disorder or disease, including depression, that causes the patient to have impaired judgment.

§ 5285. PALLIATIVE CARE CONSULTATION

If a patient is not receiving hospice services at the time the written request for medication is made pursuant to this chapter, his or her attending physician shall refer the patient for a palliative care consultation and shall attest to its completion pursuant to subdivision 5290(a)(5) of this title.

§ 5286. INFORMED DECISION

No person shall receive a prescription for medication to hasten his or her death unless the patient has made an informed decision. Immediately prior to writing a prescription for medication in accordance with this chapter, the attending physician shall verify that the patient is making an informed decision.

§ 5287. RECOMMENDED NOTIFICATION

The attending physician shall recommend that the patient notify the patient's next of kin or someone with whom the patient has a significant relationship of the patient's request for medication in accordance with this chapter. A patient who declines or is unable to notify the next of kin or the person with whom the patient has a significant relationship shall not be refused medication in accordance with this chapter.

§ 5288. RIGHT TO RESCIND

A patient may rescind the request for medication in accordance with this chapter at any time and in any manner regardless of the patient's mental state. No prescription for medication under this chapter may be written without the attending physician's offering the patient an opportunity to rescind the request.

§ 5289. WAITING PERIOD

The attending physician shall write a prescription no less than 48 hours after the last to occur of the following events:

(1) the patient's written request for medication to hasten his or her death;

(2) the patient's second oral request; and

(3) the attending physician's offering the patient an opportunity to rescind the request.

§ 5290. MEDICAL RECORD DOCUMENTATION

(a) The following shall be documented and filed in the patient's medical record:

(1) The date, time, and wording of all oral requests of the patient for medication to hasten his or her death.

(2) All written requests by a patient for medication to hasten his or her death.

(3) The attending physician's diagnosis, prognosis, and basis for the determination that the patient has capacity, is acting voluntarily, and has made an informed decision.

(4) The consulting physician's diagnosis, prognosis, and verification, pursuant to section 5283 of this title, that the patient has capacity, is acting voluntarily, and has made an informed decision.

(5) If the patient was not receiving hospice services at the time of the written request for medication, the attending physician's attestation that the patient received a palliative care consultation.

(6) A report of the outcome and determinations made during any counseling which the patient may have received.

(7) The date, time, and wording of the attending physician's offer to the patient to rescind the request for medication at the time of the patient's second oral request.

(8) A note by the attending physician indicating that all requirements under this chapter have been satisfied and describing all of the steps taken to carry out the request, including a notation of the medication prescribed.

(b) Medical records compiled pursuant to this chapter shall be subject to discovery only if the court finds that the records are necessary to resolve issues of compliance with or immunity under this chapter.

§ 5291. REPORTING REQUIREMENT

(a) The department of health shall require that any physician who writes a prescription pursuant to this chapter file a report with the department covering all the prerequisites for writing a prescription under this chapter. In addition, physicians shall report the number of written requests for medication that were received, regardless of whether a prescription was actually written in each instance.

(b) The department of health shall review annually the medical records of qualified patients who have hastened their deaths in accordance with this chapter.

(c) The department of health shall adopt rules pursuant to chapter 25 of Title 3 to facilitate the collection of information regarding compliance with this chapter. Individual medical information collected and reports filed pursuant to subsection (a) of this section shall not be public record and shall not be made available for inspection by the public.

(d) The department of health shall generate and make available to the public an annual statistical report of information collected under subsections (a) and (b) of this section. The report shall include the number of instances in which medication was taken by a qualified patient to hasten death but failed to have the intended effect.

§ 5292. SAFE DISPOSAL OF UNUSED MEDICATIONS

(a) The department of health shall adopt rules providing for the safe disposal of unused medications prescribed under this chapter.

(b) Expedited rulemaking. Notwithstanding the provisions of chapter 25 of Title 3, the department of health may adopt rules under this section pursuant to the following expedited rulemaking process:

(1) Within 90 days after the date this act is passed, the department shall file proposed rules with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841 after publication in three daily newspapers with the highest average circulation in the state of a notice that lists the rules to be adopted pursuant to this process and a seven-day public comment period following publication.

(2) The department shall file final proposed rules with the legislative committee on administrative rules 14 days after the public comment period.

(3) The legislative committee on administrative rules shall review and may approve or object to the final proposed rules under 3 V.S.A. § 842, except that its action shall be completed no later than 14 days after the final proposed rules are filed with the committee.

(4) The department may adopt a properly filed final proposed rule after the passage of 14 days from the date of filing final proposed rules with the legislative committee on administrative rules or after receiving notice of approval from the committee, provided the department:

(A) has not received a notice of objection from the legislative committee on administrative rules; or

(B) after having received a notice of objection from the committee, has responded pursuant to 3 V.S.A. § 842.

(5) Rules adopted under this section shall be effective upon being filed with the secretary of state and shall have the full force and effect of rules adopted pursuant to chapter 25 of Title 3. Rules filed with the secretary of state pursuant to this section shall be deemed to be in full compliance with 3 V.S.A. § 843 and shall be accepted by the secretary of state if filed with a certification by the secretary of human services that a rule is required to meet the purposes of this section.

§ 5293. PROHIBITIONS; CONTRACT CONSTRUCTION

(a) No provision in a contract, will, trust, or other agreement, whether written or oral, shall be valid to the extent the provision would affect whether a person may make or rescind a request for medication to hasten his or her death in accordance with this chapter.

(b) The sale, procurement, or issue of any life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the making or rescinding of a request by a person for medication to hasten his or her death in accordance with this chapter or the act by a qualified patient to hasten his or her death pursuant to this chapter. Neither shall a qualified patient's act of ingesting medication to hasten his or her death have an effect on a life, health, or accident insurance or annuity policy.

§ 5294. IMMUNITIES

(a) No person shall be subject to civil or criminal liability or professional disciplinary action for actions taken in good faith reliance on the provisions of this chapter. This includes being present when a qualified patient takes the prescribed medication to hasten his or her death in accordance with this chapter.

(b) No professional organization or association or health care provider shall subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for actions taken in good faith reliance on the provisions of this chapter or refusals to act under this chapter.

(c) No provision by an attending physician of medication in good faith reliance on the provisions of this chapter shall constitute patient neglect for any purpose of law.

(d) No request by a patient for medication under this chapter shall provide the sole basis for the appointment of a guardian or conservator.

(e) No health care provider shall be under any duty, whether by contract, by statute, or by any other legal requirement, to participate in the provision to a qualified patient of medication to hasten his or her death in accordance with this chapter. If a health care provider is unable or unwilling to carry out a patient's request in accordance with this chapter and the patient transfers his or her care to a new health care provider, the previous health care provider, upon request, shall transfer a copy of the patient's relevant medical records to the new health care provider. A decision by a health care provider not to participate in the provision of medication to a qualified patient shall not constitute the abandonment of the patient or unprofessional conduct under 26 V.S.A. § 1354.

§ 5295. HEALTH CARE FACILITY EXCEPTION

Notwithstanding any other provision of law, a health care facility may prohibit an attending physician from writing a prescription for medication under this chapter for a patient who is a resident in its facility and intends to use the medication on the facility's premises, provided the facility has notified the attending physician in writing of its policy with regard to such prescriptions. Notwithstanding subsection 5294(b) of this title, any health care provider who violates a policy established by a health care facility under this section may be subject to sanctions otherwise allowable under law or contract.

§ 5296. LIABILITIES AND PENALTIES

(a) With the exception of the immunities established by section 5294 of this title and with the exception of the provisions of section 5298 of this title, nothing in this chapter shall be construed to limit liability for civil damages resulting from negligent conduct or intentional misconduct by any person.

(b) With the exception of the immunities established by section 5294 of this title and with the exception of the provisions of section 5298 of this title, nothing in this chapter or in 13 V.S.A. § 2312 shall be construed to limit criminal prosecution under any other provision of law.

(c) A health care provider is subject to review and disciplinary action by the appropriate licensing entity for failing to act in accordance with this chapter, provided such failure is not in good faith.

§ 5297. FORM OF THE WRITTEN REQUEST

A written request for medication as authorized by this chapter shall be substantially in the following form:

REQUEST FOR MEDICATION TO HASTEN MY DEATH

I, _____, am an adult of sound mind.

I am suffering from _____, which my attending physician has determined is a terminal disease and which has been confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible end-of-life services, including comfort care, hospice care, and pain control.

I request that my attending physician prescribe medication that will hasten my death.

INITIAL ONE:

_____ I have informed my family or others with whom I have a significant relationship of my decision and taken their opinions into consideration.

_____ I have decided not to inform my family or others with whom I have a significant relationship of my decision.

_____ I have no family or others with whom I have a significant relationship to inform of my decision.

I understand that I have the right to change my mind at any time.

I understand the full import of this request, and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer, and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: _____ Dated: _____

AFFIRMATION OF WITNESSES

We affirm that, to the best of our knowledge and belief:

(1) the person signing this request:

(A) is personally known to us or has provided proof of identity;

(B) signed this request in our presence;

(C) appears to understand the nature of the document and to be free from duress or undue influence at the time the request was signed; and

(2) that neither of us:

(A) is under 18 years of age;

(B) is a relative (by blood, marriage, civil union, or adoption) of the person signing this request;

(C) is the patient's attending physician, consulting physician, or a person who has provided counseling for the patient pursuant to section 5284 of this title;

(D) is entitled to any portion of the person's assets or estate upon death; or

(E) owns, operates, or is employed at a health care facility where the person is a patient or resident.

Witness 1/Date _____

Witness 2/Date _____

NOTE: A knowingly false affirmation by a witness may result in criminal penalties.

§ 5298. STATUTORY CONSTRUCTION

Nothing in this chapter shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Action taken in accordance with this chapter shall not be considered tortious under law and shall not be construed for any purpose to constitute suicide, assisted suicide, mercy killing, or homicide under the law.

Third: By adding a new section to be numbered Sec. 5. to read as follows:

Sec. 5. 13 V.S.A. § 2312 is added to read:

§ 2312. VIOLATION OF PATIENT CHOICE AND CONTROL AT END OF LIFE ACT

A person who violates chapter 113 of Title 18 with the intent to cause the death of a patient as defined in subdivision 5280(8) of that title shall be prosecuted under chapter 53 of this title (homicide).

Fourth: By adding a new section to be numbered Sec. 6 to read as follows:

Sec. 6. 13 V.S.A. § 2004 is added to read:

§ 2004. FALSE WITNESSING

A person who knowingly violates the requirements of 18 V.S.A. § 5281(c) shall be imprisoned for not more than 10 years or fined not more than $2,000.00 or both.

Fifth: By adding a new section to be numbered Sec. 7 to read as follows:

Sec. 7. EFFECTIVE DATES

(a) Secs. 1 and 2 of this act and this section shall take effect on July 1, 2012.

(b) The remaining sections of this act shall take effect on September 1, 2012.

After passage, the title of the bill is to be amended to read:

An act relating to death with dignity and to restrictions on tanning beds.

(Committee vote: 3-2-0)

(For House amendments, see House Journal for March 20, 2012, page 666.)

H. 496.

An act relating to preserving Vermont's working landscape.

Reported favorably with recommendation of proposal of amendment by Senator Starr for the Committee on Agriculture.

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

Sec. 1. 6 V.S.A. § 2966 (Vermont agricultural development board) is repealed in its entirety and new §§ 2966 is added to read:

§ 2966. ESTABLISHMENT OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) Board Established. The Vermont working lands enterprise board is hereby established as the successor in interest to the Vermont agricultural development board.

(b) Goals. The Vermont working lands enterprise board shall perform its duties pursuant to sections 2967 and 2968 of this title:

(1) to promote job creation and the economic viability, growth, and sustainability of the working landscape;

(2) to attract a new generation of entrepreneurs to agriculture and forestry, food and forest systems, and value-added production as a foundation for rural job creation and working lands conservation;

(3) to increase the value and sales of the products of the working landscape by means which reward sound farm and forest management, including appropriate increases in the proportion of value-added farm and forest products relative to raw material exports; and

(4) to build Vermont's reputation as the national leader in food systems development, environmental quality, land stewardship, access to outdoor recreation, and working lands entrepreneurism.

(c) Board Composition. The board shall be composed of the following 24 members:

(1) six members appointed by the governor:

(A) a person with expertise in rural economic development issues;

(B) an employee of a Vermont postsecondary institution experienced in researching issues related to agriculture or forestry;

(C) a person familiar with the agricultural or forest tourism industry;

(D) a member of the Northeast Organic Farming Association of Vermont;

(E) a member of the Vermont Forest Products Association; and

(F) a member of the Vermont Wood Manufacturers Association;

(2) six members appointed by the speaker of the house of representatives:

(A) a person who produces an agricultural commodity other than dairy products;

(B) a person who creates a value-added product using ingredients substantially produced on Vermont farms or from Vermont forests;

(C) a person with expertise in sales and marketing;

(D) a person representing the feed, seed, fertilizer, or equipment enterprises;

(E) a member of the Vermont Woodlands Association; and

(F) a member of the Vermont Forest Stewardship Committee;

(3) six members appointed by the committee on committees of the senate:

(A) a representative of Vermont's dairy industry who is also a dairy farmer;

(B) a person with expertise in land planning and conservation efforts that support Vermont's working landscape;

(C) a representative from a Vermont agricultural or forestry advocacy organization;

(D) a person with experience in providing youth with educational opportunities enhancing understanding of agriculture or forestry;

(E) a member of the Green Mountain Division, Society of American Foresters; and

(F) a member of the Forest Guild who is a resident of Vermont.

(4) the following three members from the executive branch:

(A) the secretary of agriculture, food and markets;

(B) the secretary of commerce and community development; and

(C) the commissioner of forest, parks and recreation; and

(5) the following three members who shall serve as ex officio, non-voting members:

(A) the manager of the Vermont economic development authority;

(B) the executive director of the Vermont sustainable jobs fund; and

(C) the executive director of the Vermont housing conservation board.

(d) Governance.

(1) Eleven voting members of the board shall constitute a quorum, and an action of the board shall be taken by a majority of those members present and voting at a meeting of the members at which a quorum is present.

(2)(A) The chair of the board shall be elected by the board from its membership at the first meeting. The chair shall serve for the duration of his or her member term, until his or her earlier resignation, or until his or her unanimous removal by the governor, the speaker of the house, and the president pro tempore of the senate. A chair may be reappointed, provided that no individual may serve more than two consecutive three-year terms as chair.

(3) Each member of the board shall serve a term of three years, or until his or her earlier resignation. A member shall not serve more than two consecutive three-year terms. Any vacancy occurring among the members shall be filled by the respective appointing authority, and shall be filled for the balance of the unexpired term.

(e) Compensation. Members who are not state employees or whose membership is not supported by their employer or association may receive reimbursement for actual and necessary expenses incurred in the performance of their duties pursuant to 32 V.S.A. § 1010.

Sec. 2. 6 V.S.A. § 2967 is added to read:

§ 2967. POWERS AND DUTIES OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) The Vermont working lands enterprise board shall have the authority to promote job creation and the economic viability, growth, and sustainability of the working landscape through three mechanisms:

(1) Direct grants and investments in agricultural and forestry enterprises;

(2) Services and assistance to agricultural and forestry enterprises, both through direct coordination with public and private partners, and through performance contracts with one or more persons, including:

(A) technical assistance and product research services;

(B) marketing assistance, market development, and business and financial planning;

(C) local, statewide, regional, national, or international marketing of the Vermont working landscape, its entrepreneurs and sectors, and the public and private programs and partners supporting the working landscape;

(D) organizational, regulatory, and development assistance; and

(E) feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies.

(3) Direct grants and investments in food and forest systems infrastructure.

(b) The board shall have the additional authority:

(1) to pursue, receive, and accept any type of funding from public or private funding sources for the performance of its work;

(2) to use the services and staff of the agency of agriculture, food and markets to assist in the performance of the board's duties, with the concurrence of the secretary of agriculture, food and markets;

(3) to contract for support, technical, or other professional services necessary to complete its work; and

(4) to advise and make recommendations to the secretary of agriculture, food and markets and to the commissioner of forests, parks and recreation on the adoption and amendment of laws, regulations, and governmental policies that affect agriculture and forestry.

Sec. 3. 6 V.S.A. § 2968 is added to read:

§ 2968. VERMONT WORKING LANDS ENTERPRISE FUND

There is created a special fund in the state treasury to be known as the "Vermont working lands enterprise fund." Notwithstanding any contrary provisions of 32 V.S.A. Chapter 7, subchapter 5:

(1) the fund shall be administered, and the monies of the funds shall be expended, by the Vermont working lands enterprise board created in section 2966 of this title;

(2) the fund shall be composed of moneys from time to time appropriated to the fund by the general assembly or received from any other source, private or public, approved by the board, and unexpended balances and any earnings shall remain in the fund from year to year; and

(3) the board shall make expenditures from the fund consistent with the duties and authority of the board to promote job creation and the economic viability, growth, and sustainability of the working landscape consistent with section 2967 of this title.

Sec. 4. TRANSITION

Notwithstanding any provision of Sec. 1. of this act to the contrary, upon the effective date of this act, each member of the Vermont agricultural development board shall become a member of the Vermont working lands enterprise board and shall serve the remainder of his or her current term, upon the expiration of which a member may be reappointed or replaced as provided in 6 V.S.A. § 2966, as amended by this act.

Sec. 5. 10 V.S.A. chapter 15 is amended to read:

CHAPTER 15. VERMONT HOUSING AND CONSERVATION TRUST FUND

* * *

§ 302. POLICY, FINDINGS, AND PURPOSE

(a) The dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont's agricultural ~~land~~ and forest land, historic properties, important natural areas, and recreational lands are of primary importance to the economic vitality and quality of life of the state.

(b) In the best interests of all of its citizens and in order to improve the quality of life for Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, Vermont should encourage and assist in creating affordable housing and in preserving the state's agricultural ~~land~~ and forest land, historic properties, important natural areas, and recreational lands.

(c) It is the purpose of this chapter to create the Vermont housing and conservation trust fund to be administered by the Vermont housing and

conservation board to further the policies established by subsections (a) and (b) of this section.

§ 303. DEFINITIONS

As used in this chapter:

(1) "Board" means the Vermont housing and conservation board established by this chapter.

(2) "Fund" means the Vermont housing and conservation trust fund established by this chapter.

(3) "Eligible activity" means any activity which will carry out either or both of the dual purposes of creating affordable housing and conserving and protecting important Vermont lands, including activities which will encourage or assist:

(A) the preservation, rehabilitation or development of residential dwelling units which are affordable to lower income Vermonters;

(B) the retention of agricultural land for agricultural use, and of forest land for forestry use;

(C) the protection of important wildlife habitat and important natural areas;

(D) the preservation of historic properties or resources;

(E) the protection of areas suited for outdoor public recreational activity;

(F) the development of capacity on the part of an eligible applicant to engage in an eligible activity.

* * *

§ 311. CREATION OF THE VERMONT HOUSING AND CONSERVATION BOARD

(a) There is created and established a body politic and corporate to be known as the "Vermont housing and conservation board" to carry out the provisions of this chapter. The board is constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the state. The board is exempt from licensure under 8 V.S.A. chapter 73 ~~of Title 8~~.

(b) The board shall consist of the following 11 members:

(1) The secretary of agriculture, food and markets or his or her designee.

(2) The secretary of human services or his or her designee.

(3) The secretary of natural resources or his or her designee.

(4) The executive director of the Vermont housing finance agency or his or her designee.

(5) Three public members appointed by the governor with the advice and consent of the senate, who shall be residents of the state and who shall be experienced in creating affordable housing or conserving and protecting Vermont's agricultural ~~land~~ and forest land, historic properties, important natural areas, or recreational lands, one of whom shall be a representative of lower income Vermonters and one of whom shall be a farmer as defined in 32 V.S.A. § 3752(7).

(6) One public member appointed by the speaker of the house, who shall not be a member of the general assembly at the time of appointment.

(7) One public member appointed by the senate committee on committees, who shall not be a member of the general assembly at the time of appointment.

(8) Two public members appointed jointly by the speaker of the house and the president pro tempore of the senate as follows:

(A) One member from the nonprofit affordable housing organizations that qualify as eligible applicants under subdivision 303(4) of this title who shall not be an employee or board member of any of those organizations at the time of appointment.

(B) One member from the nonprofit conservation organizations whose activities are eligible under subdivision 303(3) of this title who shall not be an employee or member of the board of any of those organizations at the time of appointment.

* * *

§ 321. GENERAL POWERS AND DUTIES

* * *

(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection and forestland conservation funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use and forestland for future forestry use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection and forestland conservation funds under this subsection, the board shall seek to maximize state participation in the federal wetlands reserve program ~~in order~~ and such other programs as is appropriate to allow for increased or additional

implementation of conservation practices on farmland and forestland protected or preserved under this chapter.

* * *

§ 324. STEWARDSHIP

If an activity funded by the board involves acquisition by the state of an interest in real property for the purpose of conserving and protecting agricultural ~~land~~ or forest land, important natural areas, or recreation lands, the board, in its discretion, may make a one-time grant to the appropriate state agency or municipality. The grant shall not exceed ten percent of the current appraised value of that property interest and shall be used to support its proper management or maintenance or both.

* * *

Sec. 6. APPROPRIATIONS

(a) The amount of $1,500,000.00 is appropriated from the general fund to the Vermont working lands enterprise fund in the amounts and for the purposes as follows:

(1) $500,000.00 for direct grants and investments in agricultural or forestry enterprises pursuant to 6 V.S.A. § 2966(a)(1).

(2) $375,000.00 to provide services and assistance to agricultural and forestry enterprises pursuant to 6 V.S.A. § 2966(a)(2).

(3) $500,000.00 for direct grants and investments in food and forest systems infrastructure pursuant to 6 V.S.A. § 2966(a)(3).

(b) The amount of $125,000.00 is appropriated from the general fund to the agency of agriculture, food and markets to provide funding for one full-time position of "Vermont working landscape development director," support staff, and for fiscal management and operations costs.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 29, 2012, page 878 and March 30, 2012, page 884.)

H. 759.

An act relating to permitting the use of secure residential recovery facilities for continued involuntary treatment.

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

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 175 is amended to read:

CHAPTER 175. THE BOARD OF MENTAL HEALTH

* * *

§ 7304. PERSONS NOT HOSPITALIZED OR RESIDING IN A SECURE RESIDENTIAL RECOVERY FACILITY

The board shall have general jurisdiction of the mentally retarded and the mentally ill who have been discharged from a hospital, secure residential recovery facility, or training school by authority of the board. It shall also have jurisdiction of the mentally ill and mentally retarded of the state ~~not,~~ who are neither hospitalized nor residing in a secure residential recovery facility so far as concerns their physical and mental condition and their care, management, and medical treatment and shall make such orders therein as each case duly brought to its attention requires.

§ 7305. POWERS OF BOARD

The board may administer oaths, summon witnesses before it in a case under investigation, and discharge by its order, in writing, any person confined as a patient in a hospital or in a secure residential recovery facility whom it finds on investigation to be wrongfully hospitalized or residing in a secure residential recovery facility or in a condition to warrant discharge. The board shall discharge patients, not criminals, who have eloped from a hospital or secure residential recovery facility and have not been apprehended at the expiration of six months from the time of their elopement. The board shall not order the discharge of a patient without giving the superintendent of the hospital or secure residential recovery facility an opportunity to be heard.

§ 7309. REFERRALS FROM GOVERNOR

The governor may refer the case of a patient in a hospital or secure residential recovery facility to the board for its investigation. The board shall investigate the case and by its order grant such relief as each case requires. If the board is without power to grant the necessary relief it shall cause proceedings to be commenced in a court of competent jurisdiction at the expense of the state, in order to obtain the necessary relief and promote the ends of justice and humanity.

§ 7310. PETITION FOR INQUIRY

The attorney or guardian of a patient or any other interested party may apply to the board to inquire into the treatment and hospitalization or placement at a secure residential recovery facility of a patient, and the board shall take appropriate action upon the application.

§ 7311. INVESTIGATION

If, in the judgment of the board, an investigation is necessary, it shall appoint a time and place for hearing and give the patient's attorney, guardian and spouse, parent or adult child or interested party, if any, in that order, and the head of the hospital or secure residential recovery facility reasonable notice thereof. At the time appointed it shall conduct a hearing and make any lawful order the case requires.

* * *

§ 7313. BOARD SHALL VISIT INSTITUTION

The board shall ascertain by examination and inquiry whether the laws relating to individuals in custody or control are properly observed and may use all necessary means to collect all desired information. It shall carefully inspect every part of the hospital, secure residential recovery facility, or training school visited with reference to its cleanliness and sanitary condition, determine the number of patients or students in seclusion or restraint, the diet of the patients or students and any other matters which it considers material. It shall offer to every patient or student an opportunity for an interview with its visiting members or agents, and shall investigate those cases which in its judgment require special investigation, and particularly shall ascertain whether any individuals are retained at any hospital, secure residential recovery facility, or training school who ought to be discharged.

* * *

§ 7315. DEFINITION

As used is this chapter, the term "secure residential recovery facility" shall be defined as in subsection 7620(e) of this title.

Second: In Sec. 3, 18 V.S.A. § 7620, subsection (e), by striking out "§ 7102(11)" and inserting in lieu thereof § 7102

(Committee vote: 3-0-2)

(For House amendments, see House Journal for March 20, 2012, page 761.)

H. 770.

An act relating to the state's transportation program.

Reported favorably with recommendation of proposal of amendment by Senator Mazza for the Committee on Transportation.

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

Sec. 1. TRANSPORTATION PROGRAM

(a) The state's proposed fiscal year 2013 transportation program appended to the agency of transportation's proposed fiscal year 2013 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) "Agency" means the agency of transportation.

(2) "Secretary" means the secretary of transportation.

(3) The table heading "As Proposed" means the transportation program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading.

(4) "TIB funds" or "TIB" refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f.

* * * Program Development Funding Sources * * *

Sec. 2. PROGRAM DEVELOPMENT – FUNDING

Spending authority in program development is modified as follows:

(1) Among eligible projects selected in the secretary's discretion, the secretary shall reduce project spending authority in the total amount of $502,437.00 in transportation funds and $25,000.00 in federal funds, and increase project spending authority in the total amount of $484,745.00 in TIB funds.

* * * Program Development – Paving * * *

Sec. 3. PORTABLE HOT MIX PLANT

(a) A new project is added to the development and evaluation list of the program development – paving program within the fiscal year 2013 transportation program for the acquisition of a portable hot mix plant.

(b) As soon as practicable, the secretary shall study the feasibility and evaluate the costs and benefits of acquiring a portable hot mix plant, and necessary associated equipment, for use on paving projects throughout the state.

(c) If the secretary determines that use of a portable hot mix plant for paving projects is feasible and that the cost savings expected to result from its acquisition are projected to exceed the capital and operating costs of the plant, the secretary may spend transportation funds and, if eligible for federal funding, federal funds, totaling up to $4,000,000.00 from within the fiscal year 2013 program development appropriation (8100001100) for acquisition of the portable hot mix plant and necessary associated equipment, provided that such expenditure does not delay other programmed expenditures.

(d) Prior to any acquisition under the authority of subsection (c) of this section, the secretary shall notify the house and senate committees on transportation if the general assembly is in session, and if not in session, the joint transportation oversight committee, of his or her intention to take such action.

* * * Program Development – Roadway * * *

Sec. 4. PROGRAM DEVELOPMENT – ROADWAY

The following project is added to the development and evaluation list of the program development – roadway program within the fiscal year 2012 transportation program:

CIRC Alternatives – Phase 1 Alternative Projects.

* * * Program Development – State Highway Bridge * * *

Sec. 5. PROGRAM DEVELOPMENT – STATE HIGHWAY BRIDGE

(a) The STP SCTT(1) – Townshend – State-owned Historic Sites – Scott Covered Bridge project is added to the fiscal year 2013 transportation program – program development – state highway bridge development and evaluation (D&E) list.

(b) Funds may be expended on the project as necessary from authorized statewide – state highway bridges D&E spending, provided the expenditure does not delay other programmed D&E expenditures.

* * * Vermont Local Roads * * *

Sec. 6. TOWN HIGHWAY VERMONT LOCAL ROADS

Authorized spending on the Vermont local roads program is amended to read:

FY13	As Proposed	As Amended	Change
Grants	375,000	400,000	25,000
Total	375,000	400,000	25,000
Sources of funds			
State	235,000	235,000	0
Federal	140,000	165,000	25,000
Total	375,000	400,000	25,000

* * * State Aid for Federal and Nonfederal Disasters * * *

Sec. 7. STATE AID FOR NONFEDERAL DISASTERS

FY13	As Proposed	As Amended	Change
Grants	4,750,000	1,150,000	-3,600,000
Total	4,750,000	1,150,000	-3,600,000
Sources of funds			
State	1,550,000	1,150,000	-400,000
Federal	3,200,000	0	-3,200,000
Total	4,750,000	1,150,000	-3,600,000

Sec. 8. STATE AID FOR FEDERAL DISASTERS

FY13	As Proposed	As Amended	Change
Grants	0	3,600,000	3,600,000
Total	0	3,600,000	3,600,000
Sources of funds			
State	0	400,000	400,000
Federal	0	3,200,000	3,200,000
Total	0	3,600,000	3,600,000

Sec. 9. TOWN HIGHWAY STRUCTURES

Authorized spending on the town highway structures program is amended to read:

FY13	As Proposed	As Amended	Change
Grants	5,833,500	6,333,500	500,000
Total	5,833,500	6,333,500	500,000
Sources of funds			
State	5,833,500	6,333,500	500,000

Federal	0	0	0
Total	5,833,500	6,333,500	500,000

Sec. 10. TOWN HIGHWAY AID

Authorized spending on the town highway aid program is amended to read:

FY13	As Proposed	As Amended	Change
Grants	26,482,744	25,982,744	-500,000
Total	26,482,744	25,982,744	-500,000
Sources of funds			
State	26,482,744	25,982,744	-500,000
Federal	0	0	0
Total	26,482,744	25,982,744	-500,000

* * * Rail * * *

Sec. 11. RAIL

The following modifications are made to the rail program:

(1) The "Rutland–Burlington crossings project" is renamed the "Rutland–Burlington rail and crossings project," and the scope of the project is amended to include the installation of continuously welded rail.

(2) Spending authority for the Pittsford Bridge 219 project (HPP ABRB(9)) is amended to read:

FY13	As Proposed	As Amended	Change
PE	0	0	0
Construction	6,600,000	1,500,000	-5,100,000
Total	6,600,000	1,500,000	-5,100,000
Sources of funds			
State	0	0	0
TIB	1,320,000	300,000	-1,020,000
Federal	5,280,000	1,200,000	-4,080,000
Local	0	0	0
Total	6,600,000	1,500,000	-5,100,000

(3) Spending authority for the Rutland–Burlington rail and crossings project is amended to read:

FY13	As Proposed	As Amended	Change
PE	600,000	600,000	0
Construction	900,000	6,000,000	5,100,000
Total	1,500,000	6,600,000	5,100,000
Sources of funds			
State	300,000	300,000	0

TIB	0	1,020,000	1,020,000
Federal	1,200,000	5,280,000	4,080,000
Local	0	0	0
Total	1,500,000	6,600,000	5,100,000

Sec. 12. RUTLAND–BURLINGTON RAIL AND CROSSINGS PROJECT

The "Rutland–Burlington rail and crossings project" is added to the fiscal year 2012 transportation program – rail program. The project includes the installation of continuously welded rail and the reconstruction of several rail-highway grade crossings along the Vermont Railway line between Rutland and Burlington.

Sec. 13. PURCHASE OF RAIL BRIDGE INSPECTION VEHICLE

(a) A new project is added to the fiscal year 2012 and 2013 transportation program – rail programs for the purchase of a servi-lift rail bridge inspection vehicle ("inspection vehicle").

(b) Notwithstanding the authorized program spending within the fiscal year 2012 and 2013 transportation program – rail programs, the secretary is authorized to purchase an inspection vehicle using any federal grant funds received for its purchase.

(c) If a federal grant for the purchase of the inspection vehicle is not received or is not pending, notwithstanding the authorized project or activity spending within the fiscal year 2012 and 2013 transportation program – rail programs, the secretary is authorized to use up to a total of $500,000.00 in transportation funds appropriated to the rail program for the purchase of the inspection vehicle, provided that the purchase does not delay the work schedule of a project or activity programmed in the fiscal year 2012 or 2013 rail programs.

(d) The agency shall promptly report any action taken under the authority granted in subsection (b) or (c) of this section to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, to the joint transportation oversight committee.

Sec. 14. ANTICIPATION OF FEDERAL RECEIPTS – RAIL PROGRAM

As authorized by 32 V.S.A. § 510, the secretary, with the prior approval of the commissioner of finance and management, may anticipate federal receipts into the transportation – rail program.

* * * Transportation Buildings * * *

Sec. 15. TRANSPORTATION BUILDINGS

The following modifications are made to the transportation buildings program:

(1) Spending authority for the Mendon District 3/Southwest Regional Construction Office Building project is amended to read:

FY13	As Proposed	As Amended	Change
PE	50,000	0	-50,000
Construction	150,000	0	-150,000
Total	200,000	0	-200,000
Sources of funds			
State	200,000	0	-200,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	200,000	0	-200,000

(2) Spending authority for the Statewide – Brine-Making Facilities project is amended to read:

FY13	As Proposed	As Amended	Change
PE	3,000	3,000	0
Construction	0	80,000	80,000
Total	3,000	83,000	80,000
Sources of funds			
State	3,000	83,000	80,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	3,000	83,000	80,000

(3) Spending authority for the Middlebury – Design, Permit, and Construct 1–Bay Addition project is amended to read:

FY13	As Proposed	As Amended	Change
PE	5,000	0	-5,000
Construction	175,000	0	-175,000
Total	180,000	0	-180,000
Sources of funds			
State	180,000	0	-180,000
TIB	0	0	0
Federal	0	0	0

Local	0	0	0
Total	180,000	0	-180,000

Sec. 16. VTRANS TRAINING CENTER FACILITY; PROGRAM NAME

(1) The "VTrans Learning Campus" project within the fiscal year 2013 transportation buildings program is renamed the "VTrans Training Center" project, and the scope of the project is amended to read, "Renovation of existing materials & research building for use by the VTrans Training Center and the traffic research section."

(2) The agency shall rename the VTrans Learning Campus program to be the VTrans Training Center program.

* * * Public Transit * * *

Sec. 17. PUBLIC TRANSIT

The scope of the Public Transit – Statewide Capital project is amended to include the construction of transit facilities.

Sec. 18. 24 V.S.A. § 5094 is added to read:

§ 5094. POWERS OF SECRETARY OF TRANSPORTATION

On behalf of the state and to carry out the purposes of this chapter and 19 V.S.A. § 10f, the secretary of transportation may:

(1) Execute and file an application with the Federal Transit Administration for federal assistance authorized by Titles 23 and 49 of the United States Code or other federal law.

(2) Execute and file certifications, assurances, or other documents the Federal Transit Administration may require before awarding a federal assistance grant or cooperative agreement.

(3) Execute grant and cooperative agreements with the Federal Transit Administration.

* * * Fiscal Year 2013 Transportation Infrastructure Bonds * * *

Sec. 19. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

Pursuant to 32 V.S.A. § 972, the state treasurer is authorized to issue transportation infrastructure bonds up to a total amount of $11,500,000.00 for the purpose of funding:

(1) the spending authorized in Sec. 20 of this act;

(2) a debt service reserve to support the successful issuance of transportation infrastructure bonds; and

(3) the cost of preparing, issuing, and marketing the bonds as authorized under 32 V.S.A. § 975.

Sec. 20. TRANSPORTATION INFRASTRUCTURE BONDS; SPENDING AUTHORITY

The amount of $10,000,000.00 from the issuance of transportation infrastructure bonds is authorized for expenditure in fiscal year 2013 on eligible projects as defined in 32 V.S.A. § 972(d) in the state's fiscal year 2013 transportation program as follows:

(1) $9,000,000.00 on projects in program development.

(2) $1,000,000.00 on projects in the town highway bridge program.

* * * Agency of Transportation Positions * * *

Sec. 21. AGENCY OF TRANSPORTATION POSITIONS

(a) The agency may establish 17 new limited service positions related to the response to Tropical Storm Irene and the spring 2011 flooding. This authority shall expire on June 30, 2014, and the positions shall terminate by June 30, 2014.

(b) The establishment of three new permanent classified positions is authorized in the agency of transportation – rail program.

(c) The establishment of three new permanent classified positions is authorized in the agency of transportation – program development program.

(d) The positions authorized in this section are not subject to the restriction in Sec. A.108 of No. 63 of the Acts of 2011, and are in addition to the positions authorized in Sec. 87(e) of No. 75 of the Acts of the 2011 Adj. Sess. (2012).

* * * Central Garage * * *

Sec. 22. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2013, the amount of $1,120,000.00 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

* * * Relinquishment of State Highway Segment to Municipal Control * * *

Sec. 23. RELINQUISHMENT OF VERMONT ROUTE 207 EXTENSION IN THE TOWN OF ST. ALBANS

(a) Pursuant to 19 V.S.A. § 15(2), the general assembly approves the secretary of transportation to enter into an agreement with the town of St. Albans to relinquish to the town's jurisdiction a segment of state highway right-of-way in the town of St. Albans which has not been constructed to be a

traveled road, and which was to be known as the Vermont Route 207 Extension. This authority shall expire on June 30, 2022. The segment authorized to be relinquished measures approximately 1.7 acres, is approximately 160 feet in width, and starts at a point 200 feet west of the intersection of the U.S. Route 7/Vermont Route 207 centerline of highway project S0297(2), and continues westerly for 463 feet.

(b) Following relinquishment, the former state highway segment shall become a town highway and shall retain its limited access designation under 19 V.S.A. chapter 17 (limited access facilities).

(c) Following relinquishment, the state of Vermont shall retain ownership of the underlying fee interest in the former state highway segment. The town of St. Albans shall not sell or abandon any portion of the relinquishment area or allow any encroachments within the relinquishment area without the written permission of the agency of transportation.

* * * Enhancement Grant Program Priorities * * *

Sec. 24. ENHANCEMENT GRANT PROGRAM PRIORITIES

In addition to the priorities for salt and sand shed projects and bicycle or pedestrian facility projects specified in 19 V.S.A. § 38(g), in evaluating applications for enhancement grants in fiscal years 2013, 2014, and 2015, the transportation enhancement grant committee shall give preferential weighting to projects involving a municipality implementing eligible environmental mitigation projects under a river corridor plan that has been adopted by the agency of natural resources as part of a basin plan, under a municipal plan adopted pursuant to 24 V.S.A. § 4385, or under a mitigation plan adopted by the municipality and approved by the Federal Emergency Management Agency. The degree of preferential weighting afforded shall be in the complete discretion of the transportation enhancement grant committee.

* * * State Aid for Town Highways * * *

Sec. 25. 19 V.S.A. § 306(e) and (f) are amended to read:

(e) State aid for town highway structures.

(1) There shall be an annual appropriation for grants to municipalities for maintenance~~,~~ (including actions to extend life expectancy~~,~~) and for construction of bridges~~,~~ and culverts~~, and~~; for maintenance and construction of other structures, including causeways and retaining walls, intended to preserve the integrity of the traveled portion of class 1, 2, and 3 town highways; and for alternatives that eliminate the need for a bridge, culvert, or other structure, such as the construction or reconstruction of a highway, the purchase of parcels of land that would be landlocked by closure of a bridge, the payment of

damages for loss of highway access, and the substitution of other means of access.

(2) Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of $5,833,500.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway structures program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects.

(3) Funds received as grants for state aid for town highway structures may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

(f) ~~[Deleted.]~~ State aid for federal disasters.

(1) Towns receiving assistance under the Federal Highway Administration's emergency relief program for federal-aid highways shall be eligible for state aid when a nonfederal match is required. Eligibility for aid under this subsection shall be subject to the following criteria:

(A) Towns shall be responsible for up to 10 percent of the total eligible project costs.

(B) For towns that have adopted road and bridge standards, eligibility for reimbursement for repair or replacement of infrastructure shall be to those standards. For towns that have not adopted these standards, eligibility for reimbursement for repair or replacement of infrastructure shall be limited to the specifications of the infrastructure that preexisted the emergency event; however, the repair or replacement shall be to standards approved by the agency.

(C) Such additional criteria as may be adopted by the agency through rulemaking under 3 V.S.A. chapter 25.

(2) Notwithstanding 32 V.S.A. § 706 and the limits on authorized program spending in an approved transportation program, the secretary may transfer appropriations between the program created in this subsection and the state aid for nonfederal disasters program created in subsection (d) of this section.

* * * Town Highway Bridges; Local Match * * *

Sec. 26. 19 V.S.A. § 309a is amended to read:

§ 309a. LOCAL HIGHWAY WORK; UNIFORM LOCAL SHARE; EXCEPTIONS

(a) Except as provided in subsection (b) or (c) of this section or in sections 309b and 309c of this title, in any case of highway or bridge construction in which a federal/state/local or state/local funding match is authorized, the municipality's share shall be ten percent of the project costs.

(b) This section shall not apply to:

(1) ~~any project phase, preliminary engineering, right-of-way acquisition or construction, which was included in the transportation construction program submitted by the agency in February 1987 and approved by the general assembly in Act No. 91 of the Acts of 1987~~ any bridge replacement project in the town highway bridge program during the construction of which the municipality closes the bridge and does not construct a temporary bridge for the duration of the project, in which event the local match shall cover five percent of the project costs; ~~or~~

(2) any project phase for which a municipality already has provided for payment of its share by issuing bonds or funding a reserve established under a capital improvement plan; ~~or~~

(3) any project on a town highway for which the general assembly has authorized a different federal/state/local funding match; and any project which serves an "economic growth center" as defined in 23 U.S.C. § 143, and for which the general assembly has authorized a different federal/state/local funding match;

(4) any project involving a bridge, including the approaches to a bridge, that extends between this state and an adjacent state;

(5) any bridge or roadway project involving a local financial share in which the municipality, after its review of the conceptual project plans, chooses not to proceed with the proposed project; in such circumstances, the agency shall pay 100 percent of the project costs incurred through the date it receives such notification from the municipality;

(6) any project where, by the mutual agreement of the municipality and agency, rehabilitation of an existing bridge is the preferred alternative, in which case the agency shall use the appropriate combination of state and federal funding to pay either 95 percent of the cost of rehabilitation, or 97.5 percent if the municipality closes the bridge and does not construct a temporary bridge for the duration of the project; or

(7) any project or portion of a project involving a structure that is part of the historic bridge program, where the agency shall use the appropriate combination of state and federal funding to pay 100 percent of the cost of rehabilitation.

* * *

* * * Tendering Payment in Condemnation Matters * * *

Sec. 27. 19 V.S.A. § 512 is amended to read:

§ 512. ORDER FIXING COMPENSATION; INVERSE CONDEMNATION; RELOCATION ASSISTANCE

(a) Within 30 days after the compensation hearing, the board shall by its order fix the compensation to be paid to each person from whom land or rights are taken. Within 30 days of the board's order, the agency shall file and record the order in the office of the clerk of the town where the land is situated, deliver to each person a copy of that portion of the order directly affecting the person, and pay or tender the award to each person entitled. If an interested person has not provided the agency identification information necessary to process payment of the award, or if an interested person refuses an offer of payment, payment shall be deemed to be tendered for the purposes of this subsection when the agency pays the award into an escrow account that is accessible by the interested person upon his or her providing any necessary identification information. A person to whom a compensation award is paid or tendered under this subsection may accept, retain, and dispose of the award to his or her own use without prejudice to the person's right of appeal, as provided in section 513 of this title. Upon the payment or tender of the award as above provided, the agency may proceed with the work for which the land is taken.

* * *

* * * Van Pool Program within State Infrastructure Bank * * *

Sec. 28. REPEAL

10 V.S.A. § 280g(a)(10) and (d) (state infrastructure bank van pool loan program) are repealed.

* * * Elimination, Modification, and Retention of Reports * * *

Sec. 29. ELIMINATION OF REPORTS

10 V.S.A. § 445(b) (report regarding expenditures and income relating to Vermont trails system); 19 V.S.A. § 10e(c) (rail report); 19 V.S.A. § 10g(d)(1) (analysis of state's commitment to transportation projects); 19 V.S.A. § 10g(d)(2) (agency's plan to bring resources and cost into balance); 19 V.S.A. § 317(f) (report regarding the classification, number, and location of historic

bridges); 32 V.S.A. § 706(4) (report of transfers of appropriations to cover federally reimbursable construction projects); and Sec. 50 of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 61 of No. 164 of the Acts of the 2007 Adj. Sess. (2008) (report on general condition of town assets in the bridge and culvert database), are repealed.

Sec. 30. 19 V.S.A. § 12b(d) is amended to read:

(d)~~(1) In coordination with the regular meetings of the joint fiscal committee in mid-July, mid-September, and mid-November, the secretary shall prepare a report on the status of the state's transportation finances and transportation programs. If a meeting of the committee is not convened on the scheduled dates of the joint fiscal committee meetings, the secretary in advance shall transmit the report electronically to the joint fiscal office for distribution to committee members. The report shall include a report on contract bid awards versus project estimates and a detailed report on all known or projected cost overruns, project savings, and funding availability from delayed projects; and the agency's actions taken or planned to cover the cost overruns and to reallocate the project savings and delayed project funds with respect to:~~

~~(A) all paving projects other than statewide maintenance programs; and~~

~~(B) all projects in the roadway, state bridge, interstate bridge, or town bridge programs with authorized spending in the fiscal year of $500,000.00 or more with a cost overrun equal to 20 percent or more of the authorized spending or generating project savings or delayed project available funding equal to 20 percent or more of the authorized spending.~~

~~(2) In addition, with respect to the July meeting of the joint fiscal committee, the secretary's report shall discuss the agency's plans to adjust spending to any changes in the consensus forecast for transportation fund revenues.~~ If and when applicable, the secretary shall submit electronically to the joint fiscal office for distribution to members of the joint transportation oversight committee a report summarizing any plans or actions taken to delay project schedules as a result of:

(1) a generalized increase in bids relative to project estimates;

(2) changes in the consensus revenue forecast of the transportation fund or transportation infrastructure bond fund; or

(3) changes in the availability of federal funds.

Sec. 31. 23 V.S.A. § 304b(a) is amended to read:

(a) The commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate

~~and~~, on trucks registered for less than 26,001 pounds, and on vehicles registered to state agencies under section 376 of this title ~~and~~, but excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles and the commissioner of fish and wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the state's interest in restoring and protecting its wildlife and major watershed areas. The commissioner of motor vehicles and the commissioner of fish and wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the commissioner and shall pay an initial fee of $23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of $23.00. The commissioner ~~shall~~ may adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection. ~~The commissioner of motor vehicles and the commissioner of fish and wildlife shall annually submit to the members of the house committees on transportation and fish, wildlife and water resources, and the members of the senate committees on transportation and natural resources and energy a report detailing, over a three-year period, the revenue generated, the number of new conservation plates sold and the number of renewals, and recommendations for program enhancements.~~

Sec. 32. 24 V.S.A. § 5083(b) is amended to read:

(b) The ~~public transit advisory council~~ agency of transportation shall ~~annually~~ evaluate ~~existing services based on the goals established in subsection (a) of this section. Proposals~~ proposals for new public transit service ~~shall be evaluated~~ submitted by providers in response to a notice of funding availability, by examining feasibility studies submitted by providers. ~~These~~ The feasibility studies shall address criteria set forth in the most recent public transit policy plan ~~of January 15, 2000~~.

Sec. 33. 19 V.S.A. § 42 is added to read:

§ 42. REPORTS PRESERVED

Notwithstanding 2 V.S.A. § 20(d), the reports or reporting requirements of sections 7(k), 10b(d), 10c(k), 10c(l), 10g, 11f(i), 12a, 12b(d), and 38(e)(2) of this title shall be preserved absent specific action by the general assembly repealing the reports or reporting requirements.

Sec. 34. 24 V.S.A. § 5092 is amended to read:

§ 5092. REPORTS

The agency of transportation, in cooperation with the public transit advisory council, shall develop an annual report of financial and performance data of all public transit systems that receive operating subsidies in any form from the state or federal government, including but not limited to subsidies related to the elders and persons with disabilities transportation program for service and capital equipment. Financial and performance data on the elders and persons with disabilities transportation program shall be a separate category in the report. The report shall be modeled on the Federal Transit Administration's national transit database program with such modifications as appropriate for the various services and guidance found in the most current state policy plan. The report shall describe any action taken by the agency pursuant to contractual authority to terminate funding for routes or to request service changes for failure to meet performance standards. The ~~report~~ agency shall ~~be available~~ deliver the report to the general assembly by January 15 of each year. Notwithstanding 2 V.S.A. § 20(d), this annual report shall be produced indefinitely absent specific action by the general assembly repealing the report.

* * * Technical Corrections * * *

Sec. 35. 5 V.S.A. § 3403 is amended to read:

§ 3403. ACQUISITION AND MODERNIZATION

(a) The agency of transportation, as agent for the state, and with the specific prior approval of the general assembly, is authorized to acquire by purchase or condemnation, after the approval of the ~~Interstate Commerce Commission~~ Surface Transportation Board, if necessary, any portion or portions of the line of any railroad directly affecting the state, including rails and ties, rights-of-way, land, buildings, appurtenances, and other facilities required for the operation of the line or to facilitate its sale or lease for continued operation. This action may be taken in concert with another state or states as necessary to insure continued railroad service in this state.

* * *

Sec. 36. 5 V.S.A. § 3404 is amended to read:

§ 3404. RIGHT OF FIRST REFUSAL

(a) All railroad operating properties within the state offered for sale by a railroad, other than to another railroad for continued operation, shall also be offered to the state of Vermont. The offer shall be made in writing and shall be sent by certified mail to the agency. The offer shall include a map and a description of the property, the price, if available, a description of the present and past railroad use of the property, and any terms, reservations, or conditions

the railroad proposes to include as part of the sale. Within 365 days, less any period of time that has elapsed because of the pendency of abandonment proceedings before the ~~Interstate Commerce Commission~~ Surface Transportation Board or the imposition of public use conditions under 49 U.S.C. § 10905, the agency shall accept or reject the offer. If the agency either rejects or fails to accept the offer in a timely manner, the state's preferential right under this section shall terminate, but in no event shall the railroad offer to sell the property, or any portion of it, to any other person on terms more favorable than the final terms offered to the agency.

* * *

* * * Copies of Municipal Reports* * *

Sec. 37. 24 V.S.A. § 1173 is amended to read:

§ 1173. TOWN OR VILLAGE REPORTS

The clerk of a municipality shall supply annually each library in such municipality with two copies of the municipal report, upon its publication. The clerk shall also mail to the state library two copies thereof, and one copy each to the secretary of state, commissioner of taxes, ~~highway board,~~ state board of health, commissioner for children and families, commissioner of Vermont health access, auditor of accounts, and board of education. Officers making these reports shall supply the clerk of the municipality with the printed copies necessary for him or her to comply with the provisions of this section and section 1174 of this title.

* * * Transportation Funding and Expenditures * * *

Sec. 38. TRAFFIC SAFETY ENFORCEMENT COSTS

The joint fiscal office, in consultation with the commissioner of public safety or designee, shall analyze and estimate the costs incurred by the state in enforcing the state's traffic safety laws, and study how these state police costs could be apportioned between the general fund and the transportation fund. The joint fiscal office shall submit a report of its findings to the joint transportation oversight committee and the joint fiscal committee prior to the joint fiscal committee's November 2012 meeting.

Sec. 39. ALTERNATIVE FUEL VEHICLES; USER PAY PRINCIPLE

The secretary of transportation or designee, in consultation with the commissioner of motor vehicles, commissioner of taxes, and commissioner of public service or their designees, shall analyze options for user fees and fee collection mechanisms for motor vehicles that use energy sources not currently taxed so as to contribute to the transportation fund. The secretary shall submit a report of his or her findings, and of options for user fees and fee collection

mechanisms, to the joint transportation oversight committee and the joint fiscal committee prior to the joint fiscal committee's November 2012 meeting.

Sec. 40. COMMISSION ON TRANSPORTATION FUNDING

(a) Findings.

(1) Annual gasoline and diesel tax revenues are currently at the same level generated in 1999–2000, while vehicle miles traveled and consequent wear and tear on the state's highway system has increased by 13.2 percent.

(2) As fuel efficiency continues to improve and vehicles using fuel sources not taxed so as to contribute to the transportation fund become more common, the gap between the payments collected from system users and the wear and tear users impose on the system will continue to grow.

(3) New revenue sources and consistent revenue streams will be needed to sustain Vermont's transportation infrastructure and support economic prosperity.

(b) Composition of commission. A commission composed of three members is established. The speaker of the house, the senate committee on committees, and the governor shall each appoint one member as soon as possible after the effective date of this act. The commission members shall promptly elect a chair.

(c) Purpose and charge. The commission shall:

(1) estimate transportation and TIB fund revenues over a five-year time horizon starting in fiscal year 2014, taking into account motor vehicle fuel efficiency mandates and trends, and identify and analyze factors likely to impact transportation and TIB fund revenues and transportation infrastructure spending in the future;

(2) estimate the gap between costs and projected revenues over the five-year time horizon (the "five-year funding gap") based on the cost of maintaining the state's existing infrastructure, and under any other cost scenario the commission deems appropriate;

(3) evaluate potential new state revenue sources and how existing state revenue sources could optimally be modified to address the five-year and longer term expected transportation funding gaps. The commission shall estimate the amount of funds that would be generated from each new and modified revenue source, and identify implementation structures, requirements, and challenges.

(d) The commission shall deliver a written report of its findings, and of any legislative options for consideration, to the house and senate committees on

transportation by January 15, 2013. The commission shall terminate on January 15, 2013.

(e) Assistance. Upon the request of the commission, the agency may contract with consultants to provide expert assistance to the commission. Any consultant fees shall be paid out of the transportation – policy and planning appropriation. Upon request, the commission shall receive administrative support from the agency of transportation and assistance from the joint fiscal office and any unit of the executive branch the commission deems appropriate.

(f) Any commission member who is not a full-time state employee shall be entitled to compensation and reimbursement of expenses as provided in 32 V.S.A. § 1010. Funds disbursed under this subsection shall be paid out of the transportation – policy and planning appropriation.

* * * Vermont Strong Motor Vehicle Plates * * *

Sec. 41. VERMONT STRONG MOTOR VEHICLE PLATES

The agency is authorized to expend up to $12,000.00 from the central garage appropriation for the purchase of Vermont Strong motor vehicle plates for installation on agency vehicles in conformance with No. 71 of the Acts of the 2011 Adj. Sess. (2012).

* * * Natural Gas-Powered Motor Vehicles; Tax Proceeds * * *

Sec. 42. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(7) Sales of motor fuels taxed or exempted under 23 V.S.A. chapter 28 ~~of Title 23,~~; provided, however, that aviation jet fuel and natural gas used to propel a motor vehicle shall be taxed under this chapter with the proceeds to be allocated to the transportation fund in accordance with 19 V.S.A. § 11.

* * *

Sec. 43. 19 V.S.A. § 11 is amended to read:

§ 11. TRANSPORTATION FUND

The transportation fund shall be comprised of the following:

* * *

(4) moneys received from the sales and use tax on aviation jet fuel and on natural gas used to propel a motor vehicle under 32 V.S.A. chapter 233;

* * *

Sec. 44. 23 V.S.A. § 3101 is amended to read:

§ 3101. DEFINITIONS

(a) The term "distributor" as used in this subchapter shall mean a person, firm, or corporation who imports or causes to be imported gasoline or other motor fuel for use, distribution, or sale within the state, or any person, firm, or corporation who produces, refines, manufactures, or compounds gasoline or other motor fuel within the state for use, distribution, or sale. ~~Kerosene, diesel oil, and aircraft jet fuel shall not be considered to be motor fuel under this subchapter.~~

~~(b)~~ When a person receives motor fuel in circumstances which preclude the collection of the tax from the distributor by reason of the provisions of the constitution and laws of the United States, and ~~shall~~ thereafter ~~sell~~ sells or ~~use~~ uses the motor fuel in the state in a manner and under circumstances as may subject the sale to the taxing power of the state, the person shall be considered a distributor and shall make the same reports, pay the same taxes, and be subject to all provisions of this subchapter relating to distributors of motor fuel.

~~(c)~~(b) "Dealer" means any person who sells or delivers motor fuel into the fuel supply tanks of motor vehicles owned or operated by others.

(c) As used in this subchapter, "gasoline or other motor fuel" or "motor fuel" shall not include kerosene, diesel oil, aircraft jet fuel, or natural gas in any form.

(d) "Motor vehicle" means any self-propelled vehicle using motor fuel on the public highways and registered or required to be registered for operation on these highways.

* * * Effective Dates * * *

Sec. 45. EFFECTIVE DATES

(a) This section and Secs. 3 (portable hot mix plant), 4 (program development – roadway – CIRC alternatives), 11 (Rutland–Burlington rail and crossings project), 13 (purchase of rail bridge inspection vehicle), 14 (anticipation of federal receipts – rail program), 16 (VTrans learning campus facility), 18 (powers of secretary of transportation), 19 (authority to issue transportation infrastructure bonds), 21 (agency of transportation positions), 25 (state aid for town highways), 37 (copies of municipal reports), 38 (traffic safety enforcement cost study), 39 (alternative fuel vehicles; user pay study),

40 (commission on transportation funding), and 41 (Vermont Strong plates) of this act shall take effect on passage. The authority granted by Sec. 25(f) of this act (state aid for federal disasters) shall be retroactive to March 1, 2011.

(b) Secs. 42–44 shall take effect on July 1, 2013.

(c) All other sections of this act shall take effect on July 1, 2012.

(Committee vote: 5-0-0)

Reported favorably by Senator Kitchel for the Committee on Appropriations.

(Committee vote: 6-0-1)

(No House amendments.)

House Proposal of Amendment

S. 181

An act relating to school resource officers.

The House proposes to the Senate to amend the bill as follows:

In Sec. 1, 16 V.S.A. § 1167, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read:

(b) A school board or its designee may enter into a memorandum of understanding with a law enforcement agency to define the nature and scope of assistance that a school resource officer will provide to the school system.

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)

PUBLIC HEARINGS

Wednesday, April 11, 2012 – Room 10 – 9 A.M. – 12:00 Noon (11:00 A.M. – Noon for the public) Re: Increasing the price of milk paid to Vermont dairy farmers – Senate Committee on Agriculture.

Thursday, **April 12, 2012** – Room 11 – 6:30-8:30 P.M. – Re: H. 722 - Labeling of Food Produced with Genetic Engineering – House Committee on Agriculture.