

Senate Calendar

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ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL WEDNESDAY, APRIL 18, 2012

Second Reading

Favorable with Proposal of Amendment

H. 157.

An act relating to restrictions on tanning beds.

PENDING QUESTION: Shall the bill be read the third time?

UNFINISHED BUSINESS

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.)

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 ~~wilfully~~ 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)

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. 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

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 in 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:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	375,000	400,000	25,000
Total	375,000	400,000	25,000
<u>Sources of funds</u>			
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

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	4,750,000	1,150,000	-3,600,000
Total	4,750,000	1,150,000	-3,600,000
<u>Sources of funds</u>			
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

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	0	3,600,000	3,600,000
Total	0	3,600,000	3,600,000
<u>Sources of funds</u>			
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:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	5,833,500	6,333,500	500,000
Total	5,833,500	6,333,500	500,000
<u>Sources of funds</u>			
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:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	26,482,744	25,982,744	-500,000
Total	26,482,744	25,982,744	-500,000
<u>Sources of funds</u>			
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:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
Construction	6,600,000	1,500,000	-5,100,000
Total	6,600,000	1,500,000	-5,100,000
<u>Sources of funds</u>			
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:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
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
<u>Sources of funds</u>			
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:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	50,000	0	-50,000
Construction	150,000	0	-150,000
Total	200,000	0	-200,000
<u>Sources of funds</u>			
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:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	3,000	3,000	0
Construction	0	80,000	80,000
Total	3,000	83,000	80,000
<u>Sources of funds</u>			
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:

<u>FY13</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	5,000	0	-5,000
Construction	175,000	0	-175,000
Total	180,000	0	-180,000
<u>Sources of funds</u>			
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.

~~(e)~~(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)

(No House amendments.)

Reported favorably by Senator Kitchel for the Committee on Appropriations.

(Committee vote: 6-0-1)

**AMENDMENTS TO PROPOSAL OF AMENDMENT OF THE
COMMITTEE ON TRANSPORTATION TO H. 770 TO BE OFFERED
BY SENATOR MAZZA, ON BEHALF OF THE COMMITTEE ON
TRANSPORTATION**

Senator Mazza, on behalf of the Committee on Transportation moves to amend the proposal of amendment of the Committee on Transportation in Sec. 4, by inserting (a) before the existing sentence and by inserting a subsection (b) to read as follows:

(b) In light of the destruction caused by Tropical Storm Irene to the village of Waterbury, and the plans to reconstruct portions of the Waterbury Complex in the village, the agency of transportation shall review existing plans for the Waterbury – Reconstruct Main Street project (FEGC F 013-4(13)) as soon as is practicable:

(1) to ensure that project infrastructure will be resilient in the event of future flooding;

(2) to ensure, if feasible, that construction of the project is coordinated with Waterbury Complex reconstruction activities so as to minimize disruption to and impacts on residents and road users, and to maximize potential cost savings; and

(3) to determine whether the project plans need to be updated in light of the damage caused by Tropical Storm Irene and the planned configuration of the Waterbury Complex.

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.

NEW BUSINESS

Second Reading

H. 550.

An act relating to the Vermont administrative procedure act.

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

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. 3 V.S.A. § 844 is amended to read:

§ 844. EMERGENCY RULES

* * *

(d) Emergency rules adopted under this section shall include:

(1) as much of the information required for the filing of a proposed rule as is practicable under the circumstances; and

(2) a signed and dated statement by the adopting authority explaining the nature of the imminent peril to the public health, safety, or welfare and approving of the contents of the rules.

(e)(1) On a majority vote of the entire committee, the committee may object under this subsection if an emergency rule is:

(1)(A) beyond the authority of the agency;

(2)(B) contrary to the intent of the legislature;

(3)(C) arbitrary; or

(4)(D) not necessitated by an imminent peril to public health, safety, or welfare sufficient to justify adoption of an emergency rule.

(2) When objection is made under this subsection, on majority vote of the entire committee, the committee may file the objection in certified form with the secretary of state. The objection shall contain a concise statement of the committee's reasons for its action. The secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy

to the agency. After a committee objection is filed with the secretary under this subsection, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the legislature, is not arbitrary, and is justified by an imminent peril to the public health, safety, or welfare. If the agency fails to meet its burden of proof, the court shall declare the whole or portion of the rule objected to invalid. The failure of the committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

(3) When the committee makes an objection to an emergency rule under this subsection, the agency may withdraw the rule to which an objection was made. Prior to withdrawal, the agency shall give notice to the committee of its intent to withdraw the rule. A rule shall be withdrawn upon the filing of a notice of withdrawal with the secretary of state and the committee. If the emergency rule amended an existing rule, upon withdrawal of the emergency rule, the existing rule shall revert to its original form, as though the emergency rule had never been adopted.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(Committee vote: 4-0-1)

(For House amendments, see House Journal for March 20, 2012, page 734.)

House Proposal of Amendment

S. 179

An act relating to amending perpetual conservation easements.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 3, 10 V.S.A. § 6307 (enforcement), by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) Conservation rights. The holder of conservation rights and interests may seek injunctive relief and damages against any person who damages the holder's rights and interests, irrespective of whether the owner of the land is a party to the proceeding. This subsection shall not affect any right of the owner of the land to join or intervene in any proceeding.

Second: By striking Sec. 8 (property transfer return) in its entirety and inserting in lieu thereof the following: "Sec. 8. [~~Deleted.~~]"

Third: By striking Sec. 9 (working group) in its entirety and inserting in lieu thereof a new Sec. 9 to read:

Sec. 9. WORKING GROUP ON CONSERVATION EASEMENTS

(a) Creation of working group. There is created a working group on perpetual conservation easements to study the issues relating to the creation of a formal and transparent public process for the amendment of perpetual conservation easements, the criteria for approving such amendments, and the entity most appropriate to review and approve such amendments.

(b) Membership. The conservation easements working group (the working group) shall be composed of the following members:

(1) The secretary of agriculture, food and markets or designee.

(2) A representative of the Vermont housing and conservation board, designated by the board.

(3) The commissioner of forests, parks and recreation or designee.

(4) One member of the legal staff in the Vermont office of the attorney general, designated by the attorney general.

(5) A representative of Vermont Land Trust, designated by its board.

(6) A representative of Upper Valley Land Trust, designated by its board.

(7) A representative of the Vermont Federation of Sportsmen's Clubs, designated by its board.

(8) A representative of the Vermont Green Mountain Club, designated by its board.

(9) A representative of the Vermont chapter of The Nature Conservancy, designated by its director.

(10) A representative of a regional or local land trust in Vermont, appointed by the governor.

(11) An attorney licensed in Vermont and practicing in or knowledgeable about both federal tax law and real estate law, including land conservation, appointed by the Vermont Bar Association.

(12) A representative from a farming organization who is knowledgeable about agricultural conservation, appointed by the governor.

(13) A representative of the Vermont Association of Snow Travelers, designated by its board;

(14) A Vermont landowner owning land subject to a conservation easement, appointed by the governor.

(15) A representative of the Vermont natural resources board, appointed by the board.

(16) A land surveyor licensed in Vermont, appointed by the Vermont Society of Land Surveyors.

(c) Structure; decision-making. The working group shall elect a chair from its membership. The provisions of 1 V.S.A. § 172 (joint authority to three or more) shall apply to the meetings and decision-making of the working group.

(d) Issues. The working group shall:

(1) Investigate the options for approval of conservation easement amendments contained in S.179 and H.553 of 2012, as introduced, and during the course of consideration of those bills in the relevant standing committees of the general assembly, including the following options:

(A) creating an easement amendment panel within the natural resources board to provide administrative oversight and approval for the amendment of conservation easements;

(B) requiring the housing and conservation board, in conjunction with the agency of agriculture, food and markets, to provide administrative oversight and approval for the amendment of conservation easement amendments;

(C) requiring all qualified holders to individually run a transparent public process for the approval of conservation easement amendments and to issue a written decision. Under this option, the working group should consider whether the decision should be revocable or appealable, and if so, by whom;

(D) requiring all qualified holders to get court approval for amendments that may have a significant effect on the conservation values protected by the easement.

(2) Investigate any other options for conservation easement amendment approval that the working group believes are relevant.

(3) Consider any other issues it identifies as relevant to the amendment of perpetual conservation easements.

(4) Develop a proposal setting out a transparent process or processes for the amendment of perpetual conservation easements held by land trusts, state agencies, and other entities qualified to hold perpetual conservation easements in Vermont.

(5) Develop proposed statutory provisions setting out criteria to be used by an administrative body, a court, or an easement holder in approving proposed amendments to perpetual conservation easements, which will ensure that conservation values protected by easement are protected in perpetuity, and

that conservation easement holders in Vermont are in compliance with federal law.

(6) Study the issue and make recommendations as to whether conservation rights and interests should be excluded from the requirements of 27 V.S.A. § 603 concerning the re-recording of interests in land within a 40-year period.

(7) Investigate whether there is an existing online or other database appropriate for the storage of information about conservation easements alongside other information relevant to a specific property or parcel of land. This database should be available to an individual completing a title search.

(e) Report. On or before January 15, 2013, the working group shall submit to the general assembly its findings, recommendations, and proposed statutory revisions regarding the issues identified in subsection (d) of this section. This report shall be distributed to the house and senate committees on agriculture and on natural resources and energy.

(f) Assistance. For the purpose of its study of the issues identified in subsection (d) of this section and the preparation of its recommendations pursuant to subsection (e) of this section, the working group shall have the administrative and technical assistance of the housing and conservation board.

(g) Meetings. The member from the housing and conservation board shall convene the first meeting of the working group no later than July 15, 2012.

(h) Appointments. Within 30 days of the effective date of this section, each entity required to submit a list of names to the governor pursuant to subsection (b) of this section shall make such submission. Within 60 days of this section's effective date, the appointing or designating authority shall appoint or designate each member of the working group under subsection (b) of this section and shall report the member so appointed or designated to the housing and conservation board.

NOTICE CALENDAR

Second Reading

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 employees during the off-season, nor subsidize employees 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.

~~(e)~~(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)

AMENDMENT TO S. 137 TO BE OFFERED BY SENATOR SEARS

Senator Sears moves to amend the bill as follows

First: By adding Secs. 41b, 41c, and 41d to read:

Sec. 41b. 21 V.S.A. § 495i is added to read:

§ 495i. PRIVACY PROTECTION

(a) For purposes of this section:

(1) “Electronic communications device” means any device that uses electronic signals to create, transmit, and receive information, and includes computers, telephones, personal digital assistants, and other similar devices.

(2) “Retaliatory action” means discharge, threat, suspension, demotion, denial of promotion, discrimination, or other adverse employment action regarding the employee’s compensation, terms, conditions, location, or privileges of employment.

(3) “Social networking service” means an online service, platform, or website that enables an individual to establish a profile within a bounded system created by the service for the purpose of sharing information with other users of the service.

(b) An employer shall not:

(1) Request or require that an employee or applicant disclose any user name, password, or other means for accessing a personal account or service through an electronic communications device.

(2) Request or require that an employee or applicant take an action that permits the employer to gain access to the employee's or applicant's account or profile on a social networking service if that information is not available to the general public.

(3) Take retaliatory action against an employee for an employee's refusal to disclose any information specified in subdivision (1) or (2) of this subsection.

(4) Fail or refuse to hire any applicant as a result of the applicant's refusal to disclose any information specified in subdivision (1) or (2) of this subsection.

(c) An employer may require an employee to disclose any user name, password, or other means for accessing nonpersonal accounts or services that provide access to the employer's internal computer or information systems.

Sec. 41c. STATE OF VERMONT AS EMPLOYER

Upon passage of this act, the state of Vermont and its subdivisions shall immediately suspend any employment practices prohibited by Sec. 41b of this act.

Sec. 41d. VERMONT DEPARTMENT OF LABOR

The Vermont department of labor shall take appropriate steps to inform employers of Sec. 41b of this act.

Second: In Sec. 42, EFFECTIVE DATES by adding subsections (e) and (f) to read:

(e) Sec. 41b shall take effect on July 1, 2012.

(f) Secs. 41c and 41d shall take effect on passage.

AMENDMENT TO S. 137 TO BE OFFERED BY SENATOR MCCORMACK

Senator McCormack moves that the bill be amended by adding Secs. 43 and 44 to read:

Sec. 43. FINDINGS

The general assembly finds:

(1) Quality early childhood education and care is essential to the quality of life in Vermont and is a vital contributor to the healthy development of children. Numerous studies have demonstrated that high-quality early childhood education and care during the first five years of a child's life is crucial to brain development and increases the likelihood of a child's success in school and later in life.

(2) The early childhood education and care a child receives before school age has a profound effect on future mental, psychological, and academic success. High-quality early childhood education and care lay the vital groundwork for the success of Vermont children.

(3) The state is committed to ensuring that all Vermont children are ready to succeed in school; that Vermont families have access to high quality early childhood education and care and after school services; and that the early childhood and after school supports and services administered by the department for children and families are child-focused, family friendly, and fair to all child-care providers.

(4) Home-based child-care providers should have the opportunity to work collectively with the state to improve the standards in their profession, enhance educational training courses, increase child-care subsidy assistance, and ensure the constant improvement of early childhood education and care for the benefit of Vermont children.

Sec. 44. 33 V.S.A. chapter 36 is added to read:

CHAPTER 36. EXTENSION OF LIMITED COLLECTIVE BARGAINING RIGHTS TO CHILD-CARE PROVIDERS

§ 3601. DEFINITIONS

For purposes of this chapter:

(1) “Board” means the state labor relations board established in 3 V.S.A. § 921.

(2) “Child-care provider” shall have the same meaning as in subdivision 3511(2) of this title and includes people who provide child-care services as defined by subdivisions 3511(3) and 4902(2)–(3) of this title, except that it shall not include licensed child-care centers. For purposes of this chapter, “child-care provider” means the owner or operator of a licensed family-care home or a registered family day-care home, or a legally exempt child-care provider.

(3) “Collective bargaining” or “bargaining collectively” means the process by which the state and the exclusive representative of the child-care providers negotiate terms or conditions as defined in subsection 3603(b) of this title with the intent to arrive at an agreement which, when reached, shall be legally binding on all parties.

(4) “Exclusive representative” means a labor organization that has been elected or recognized and certified under this chapter and has the right to represent child-care providers in an appropriate bargaining unit for the purpose of collective bargaining.

(5) “Grievance” means a child-care provider’s or the exclusive representative’s formal written complaint regarding the improper application of one or more terms of the collective bargaining agreement, which has not been resolved to a satisfactory result through informal discussion with the state.

(6) “Legally exempt child-care provider” means a person who has obtained an Exempt Child Care Provider Certificate, has been approved by the department to provide legally exempt child care, and who is reimbursed for that care through the agency of human services.

(7) “Licensed family child-care home” means a home licensed by the department for children and families that provides child-care services for up to 12 children in the residence of the licensee, and the licensee is one of the primary caregivers.

(8) “Registered family day care home” means a home registered with the department for children and families that provides child-care services for up to six children at any one time, and which in addition to the six children, may provide care for up to four school-age children for not more than four hours per day.

(9) “Subsidy payment” means any payment made by the state to assist in the provision of child-care services through the state’s child-care financial assistance programs.

§ 3602. RIGHTS OF CHILD-CARE PROVIDERS

(a) Child-care providers shall have the right to:

(1) Organize, form, join, or assist a union or labor organization for the purposes of collective bargaining without interference, restraint, or coercion.

(2) Bargain collectively through their chosen representatives.

(3) Engage in concerted activities for the purpose of supporting or engaging in collective bargaining or exercising their rights under this chapter.

(4) Pursue grievances as provided in this chapter.

(5) Refrain from any or all such activities.

(b) Child-care providers shall not strike or curtail their services in recognition of a picket line of any employee or labor organization, unless otherwise permitted to do so under federal or state law, including the National Labor Relations Act (29 U.S.C. § 151 et seq.) or the Vermont state labor relations act (21 V.S.A. § 1501 et seq.).

§ 3603. ESTABLISHMENT OF LIMITED COLLECTIVE BARGAINING; SCOPE OF BARGAINING

(a) Child-care providers, through their exclusive representative, shall have the right to bargain collectively with the state, through the governor's designee, under this chapter.

(b) The scope of collective bargaining for child-care providers under this section is limited to the following:

(1) child-care subsidy payments, including rates and reimbursement practices and rate variations reflecting different provider classifications and quality incentives;

(2) professional development and training, including financial assistance for child-care providers and their staff;

(3) procedures for resolving grievances against the state; and

(4) a mechanism for the collection of dues and representation fees from the child-care providers, which shall be the financial responsibility of each individual provider and shall in no way result in a decrease in the amount of subsidy funds available to eligible families.

(c) The state, acting through the governor's designee, shall meet with the exclusive representative for the purpose of entering into a written agreement that promotes access to high-quality early childhood education and care and after-school services and care for Vermont's children and families and ensures policies and practices that are child-focused, family friendly, and fair to all child-care providers. The negotiated agreement shall legally bind the state and the exclusive representative subject to subsection 3611(a) or subdivision 3612(a)(2) of this title.

§ 3604. PETITIONS FOR ELECTION; FILING; INVESTIGATIONS; HEARINGS; DETERMINATION

(a) A petition may be filed with the board in accordance with regulations prescribed by the board:

(1) By a child-care provider or a group of child-care providers or by any individual or labor union acting on their behalf alleging:

(A) that not less than 30 percent of the child-care providers in the petitioned bargaining unit wish to be represented for collective bargaining, and that the state has declined to recognize their exclusive representative; or

(B) that the labor organization which has been certified or is being recognized by the state as the exclusive representative no longer represents a majority of child-care providers.

(2) By the state alleging that one or more individuals or labor organizations have presented the state with a claim for recognition as the exclusive representative.

(b) The board shall investigate the petition and, if it has reasonable cause to believe that a question of unit determination or representation exists, conduct an appropriate hearing. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than seven days before the hearing. If the board finds upon the record of the hearing that a question of representation exists, it shall conduct an election by secret ballot and certify to the parties the election's results.

(c) In determining whether a question of representation exists, the board shall apply the same regulations and rules of decision regardless of the identity of the persons filing the petition or the kind of relief sought.

(d) Nothing in this chapter prohibits the waiving of hearings by stipulation for a consent election in conformity with the regulations and rules of the board.

(e) For the purposes of this chapter, the state may voluntarily recognize the exclusive representative of a unit of child-care providers, if the labor organization demonstrates that it has the support of a majority of the child-care providers in the unit it seeks to represent, no rival employee organization seeks to represent the child-care providers, and the bargaining unit is appropriate under section 3606 of this chapter.

§ 3605. ELECTION; RUNOFF ELECTIONS

(a) In determining the representation of child-care providers in a collective bargaining unit, the board shall conduct a secret ballot of the providers and certify the results to the interested parties and to the state. The original ballot shall be prepared so as to permit a vote against representation by anyone named on the ballot. No exclusive representative shall be certified or remain certified with less than a majority of all votes cast. The labor organization receiving a majority of votes cast shall be certified by the board as the exclusive representative of the unit of child-care providers.

(b) A runoff election shall be conducted by the board when an election, in which the ballot provides for no less than three choices, results in no choice receiving a majority of valid votes cast. The ballot in the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of valid votes cast in the original election.

§ 3606. BARGAINING UNITS

(a) The board shall decide the unit appropriate for the purpose of collective bargaining in each case and those child-care providers to be included in the units in order to promote the purposes of this statute. The board may consider as an appropriate bargaining unit or units, but is not restricted in its discretion, any of the following units:

- (1) a unit composed of registered family day-care home providers;

- (2) a unit composed of licensed family child-care home providers;
- (3) a unit composed of legally exempt child-care providers;
- (4) a unit composed of child-care providers in subdivisions (1)–(3) of this subsection;
- (5) a unit composed of a combination of child-care providers in subdivisions (1)–(3) of this subsection.

(b) Child-care providers may elect an exclusive representative for the purpose of collective bargaining by using the election procedures set forth in section 3605 of this chapter.

(c) The exclusive representative of child-care providers is required to represent all of the child-care providers in the unit without regard to membership in the union.

§ 3607. POWERS OF REPRESENTATIVES

The exclusive representative certified by the board shall be the exclusive representative of all the child-care providers in the unit for the purposes of collective bargaining. However, any individual child-care provider or group of providers shall have the right at any time to present grievances to the board and have such grievances adjusted without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect, and provided that the exclusive representative has been given an opportunity to be present at such an adjustment.

§ 3608. DUTY TO BARGAIN; PROHIBITED CONDUCT

(a) The state and all child-care providers and their representatives shall make every reasonable effort to make and maintain agreements concerning matters allowed under this chapter and to settle all disputes, whether arising out of the application of those agreements or disputes concerning the agreements. All such disputes between the state and child-care providers shall, upon request of either party, be considered within 15 days of the request or at such times as may be mutually agreed to and if possible settled with all expedition in conference between representatives designated and authorized to confer by the state or the interested child-care providers. This obligation does not compel either party to make any agreements or concessions.

(b) The state shall provide within seven days of a request by a labor organization the names, home addresses, telephone numbers, and workplace names of all registered family day-care homes, licensed family-care homes, and legally exempt child-care providers.

(c) The state shall not:

(1) Interfere with, restrain, or coerce child-care providers in the exercise of their rights under this chapter or by any law, rule, or regulation.

(2) Discriminate against a child-care provider because of the provider's affiliation with a labor organization or because a provider has filed charges or complaints or given testimony under this chapter.

(3) Take negative action against a child-care provider because the provider has taken actions demonstrating the provider's support for a labor organization, including signing a petition, grievance, or affidavit.

(4) Refuse to bargain collectively in good faith with the exclusive representative or fail to abide by any agreement reached.

(5) Discriminate against a child-care provider because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, or age, or against a qualified disabled individual.

(6) Request or require a child-care provider to take an HIV-related blood test or discriminate against a child-care provider based on his or her HIV status.

(d) The exclusive representative or its agents shall not:

(1) Restrain or coerce child-care providers in the exercise of the rights guaranteed them by law, rule, or regulation. However, a labor organization may prescribe its own rules with respect to the acquisition or retention of membership, provided such rules are not discriminatory.

(2) Cause or attempt to cause the state to discriminate against a child-care provider in violation of this chapter or to discriminate against a child-care provider with respect to whom membership in the organization has been denied or terminated.

(3) Refuse to bargain collectively in good faith with the state.

(e) Complaints related to this section shall be made and resolved in accordance with the procedures set forth in 21 V.S.A. §§ 1622 and 1623.

§ 3609. MEDIATION; FACT-FINDING; LAST BEST OFFER

(a) If, after a reasonable period of negotiation, the representative of a collective bargaining unit and the state of Vermont reach an impasse, the board, upon petition of either party, may authorize the parties to submit their differences to mediation. Within five days after receipt of the petition, the board shall appoint a mediator who shall communicate with the parties and attempt to mediate an amicable settlement.

(b) If, after a minimum of 15 days after the appointment of a mediator, the impasse is not resolved, the mediator shall certify to the board that the impasse

continues.

(c) Upon the request of either party, the board shall appoint a fact finder who has been mutually agreed upon by the parties. If the parties fail to agree on a fact finder within five days, the board shall appoint a fact finder. A member of the board or any individual who has actively participated in mediation proceedings for which fact-finding has been called shall not be eligible to serve as a fact finder under this section, unless agreed upon by the parties.

(d) The fact finder shall conduct hearings pursuant to rules of the board. Upon request of either party or of the fact finder, the board may issue subpoenas of persons and documents for the hearings, and the fact finder may require that testimony be given under oath and may administer oaths.

(e) Nothing in this section shall prohibit the fact finder from mediating the dispute at any time prior to issuing recommendations.

(f) The fact finder shall consider factors related to the scope of bargaining contained in this chapter in making a recommendation.

(g) Upon completion of the hearings as provided in subsection (d) of this section, the fact finder shall file written findings and recommendations with both parties.

(h) The costs of witnesses and other expenses incurred by either party in fact-finding proceedings shall be paid directly by the parties incurring them, and the costs and expenses of the fact finder shall be paid equally by the parties. The fact finder shall be paid a rate mutually agreed upon by the parties for each day or any part of a day while performing fact-finding duties and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of his or her duties. A statement of fact-finding per diem and expenses shall be certified by the fact finder and submitted to the board for approval. The board shall provide a copy of approved fact-finding costs to each party with its order apportioning one-half of the total to each party for payment. Each party shall pay its half of the total within 15 days after receipt of the order. Approval by the board of fact-finding and the fact finder's costs and expenses and its order for payment shall be final as to the parties.

(i) If the dispute remains unresolved 15 days after transmittal of findings and recommendations, each party shall submit to the board its last best offer on all disputed issues as a single package. Each party's last best offer shall be certified to the board by the fact finder. The board may hold hearings and consider the recommendations of the fact finder. Within 30 days of the certifications, the board shall select between the last best offers of the parties, considered in their entirety without amendment, and shall determine its cost. The board shall not issue a recommendation under this subsection that is in

conflict with any law or rule or that relates to an issue that is not subject to bargaining. The board shall recommend its choice to the general assembly as the agreement which shall become effective subject to appropriations by the general assembly pursuant to subsection 3611(a) of this title.

§ 3610. GRIEVANCE PROCEDURES; BINDING ARBITRATION

The state and the exclusive representative shall negotiate a procedure for resolving complaints and grievances. A collective bargaining agreement may provide for binding arbitration as the final step of a grievance procedure.

§ 3611. COST ITEMS TO BE SUBMITTED TO GENERAL ASSEMBLY; ANTITRUST EXEMPTION

(a) Agreements reached between the parties shall be submitted to the governor who shall request sufficient funds from the general assembly to implement the agreement. If the general assembly rejects any of the cost items submitted to it, all the cost items shall be returned to the parties to the agreement for further bargaining. If the general assembly appropriates sufficient funds, the agreement shall become effective at the beginning of the next fiscal year. If the general assembly appropriates a different amount of funds, the terms of the agreement affected by that appropriation shall be renegotiated based on the amount of funds actually appropriated, and the new agreement shall become effective at the beginning of the next fiscal year.

(b) The activities of child-care providers and their exclusive representatives that are necessary for the exercise of their rights under this chapter shall be afforded state-action immunity under applicable state and federal antitrust laws. The state intends that the "State Action" exemption to federal antitrust laws be available only to the state, to child-care providers, and to their exclusive representative in connection with these necessary activities. Such exempt activities shall be actively supervised by the state.

§ 3612. RIGHTS UNALTERED

(a) This chapter does not alter or infringe upon the rights of:

(1) A parent or legal guardian to select, discontinue, or negotiate terms of child-care services.

(2) The general assembly and the judiciary to make modifications to the delivery of state services through child-care subsidy programs, including eligibility standards for families, legal guardians, and child-care providers participating in child-care subsidy programs and the nature of the services provided.

(b) Nothing in this chapter shall affect the rights and obligations of private sector employers and employees under the National Labor Relations Act

(29 U.S.C. § 151 et seq.) or the Vermont state labor relations act (21 V.S.A. § 1501 et seq.).

(c) Child-care providers shall not be eligible for participation in the Vermont state employees' retirement system or in the health insurance plans available to executive branch employees.

(d) Child-care providers bargaining under this section do not become employees of the state by virtue of such bargaining.

§ 3613. SEVERABILITY

If any of the provisions of this act or its application is held invalid as it relates to state law, federal law, or federal funding requirements, the invalidity shall not affect other provisions of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are severable.

§ 3614. EXTENDING NEGOTIATING RIGHTS TO CENTER-BASED PROVIDERS; RULEMAKING; PILOT PROJECT

(a) It is the purpose of this section to establish a pilot project to allow child-care providers at child-care centers to negotiate with the state.

(b) The commissioner for children and families through rulemaking shall establish a program and related procedures by which the staff, including program directors, at licensed child-care facilities may voluntarily participate in a group that shall select a representative organization for the purposes of negotiating a binding written agreement with the department. The agreement shall be limited to the subjects in subdivisions 3603(b)(1)–(4) of this title and shall be applicable only to the group that was formed by participating. No program and related procedures established under this section shall be conducted prior to January 1, 2014.

S. 169.

An act relating to workers' compensation liens.

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

The general assembly finds:

(1) Several recent cases involving the search and rescue of persons lost in Vermont's outdoor recreation areas, including the tragic death of Levi

Duclos on January 9, 2012 as he was hiking on the Emily Proctor Trail in Ripton, have raised questions concerning whether supervision of backcountry search and rescue operations should be maintained by the department of public safety or shared with or transferred to another governmental entity and whether regional protocols should be put into place to allow for a local or regional response utilizing a combination of qualified professional and qualified volunteer searchers and rescuers.

(2) Under current law and practice, the Vermont State Police division of the department of public safety has primary responsibility for finding lost hikers and other missing people in areas of the state which do not have municipal police departments and has the authority to call out qualified professional and qualified volunteer services. This duty was assigned when the Vermont State Police were first created in 1946 and has not changed since that time. According to Howard Paul, a public information officer and member of the board of directors of the National Association for Search and Rescue, Vermont is one of only five states that require their state police to find and rescue people who are lost or missing outdoors.

(3) In other states in which a significant amount of outdoor recreational activity occurs, such as New Hampshire and Maine, state fish and game agencies are in charge of finding lost outdoor recreationalists. Most eastern states turn to park rangers and fish and game wardens for search and rescue.

(4) Many states collaborate with nonprofit organizations to aid in search and rescue. For example, the Maine Warden Service is in charge of search and rescue throughout that state, and it relies on the Maine Association for Search and Rescue, which is composed of approximately 15 approved member organizations.

(5) Vermont has an extensive number of first responders and emergency service personnel with specific training and experience conducting outdoor search and rescue operations. The Lincoln Fire Department, for example, has significant search and rescue experience, well-established strategies for conducting such operations, and the ability to have a team on the ground in sometimes 30 minutes or less on nights and weekends. Despite these resources, only four civilian organizations are approved by the department of public safety to provide search and rescue assistance in Vermont.

(6) In light of Vermont's minority status in charging the state police with responsibility for search and rescue of lost hikers and outdoor recreationalists and in light of the department's recent challenges in fulfilling this responsibility, it is an appropriate time to consider whether some other state entity, working with Vermont's extensive volunteer community, should assume responsibility for outdoor search and rescue operations.

Sec. 2. BACKCOUNTRY SEARCH AND RESCUE STUDY COMMITTEE

(a) Creation of committee. There is created a backcountry search and rescue study committee to determine whether the department of public safety or a different state agency should have lead or coauthority for supervising search and rescue operations for missing persons in Vermont's backcountry and outdoor recreational areas and to recommend an appropriate organizational structure to manage Vermont's various search and rescue resources. As used in the section, "backcountry search and rescue" means the search for and provision of aid to people who are lost or stranded in the outdoors on Vermont's land or inland waterways.

(b) Membership. The backcountry search and rescue study committee shall be composed of six members. The members of the committee shall be as follows:

(1) Three members of the house appointed by the speaker.

(2) Three members of the senate appointed by the committee on committees.

(c) For purposes of its study, the committee shall consult with and seek testimony from interested parties, including the following individuals and entities or their designees:

(1) The commissioner of public safety.

(2) The commissioner of fish and wildlife.

(3) The Vermont League of Cities and Towns.

(4) Stowe Mountain Rescue.

(5) Colchester Technical Rescue.

(6) A certified first responder with search and rescue experience.

(7) The Professional Firefighters of Vermont.

(8) A member of a volunteer fire department with search and rescue experience designated by the president of the Vermont State Firefighters Association.

(9) A sheriff designated by the department of sheriffs and state's attorneys.

(d) Powers and duties. The committee shall study whether the department of public safety or a different state agency should be responsible for supervising search and rescue operations for missing persons in Vermont's backcountry and outdoor recreational areas. The committee's study shall include:

(1) reviewing the existing method and responsibility for conducting backcountry search and rescue operations in Vermont and identifying the advantages and disadvantages of the current system;

(2) considering models in other states for supervision of backcountry search and rescue operations, including the New Hampshire approach of providing authority to the New Hampshire fish and game department;

(3) evaluating whether backcountry search and rescue operations would be conducted in a more timely and efficient manner if the authority for conducting such operations were held by one or more state or nongovernmental entities other than the department of public safety or whether there should be a shared or regional approach depending on the location of the search;

(4) considering and evaluating different organizational structures to determine how to most effectively manage Vermont's backcountry search and rescue processes and resources;

(5) considering whether minimum qualifications should be set for participation in backcountry search and rescue operations and whether backcountry search and rescue responders who are not state employees should be provided with insurance coverage;

(6) considering the feasibility of establishing an online database of missing persons that would provide automatic notice to first responders;

(7) developing methods of financing search and rescue operations, including consideration of methods used in other states such as:

(A) establishing an outdoor recreation search and rescue card available for purchase by users of outdoor recreation resources on a voluntary basis to help reimburse the expenses of search and rescue missions;

(B) imposing fees on recreational and outdoor licenses and permits; and

(C) permitting recovery of expenses from any person whose negligent conduct required a search and rescue response and, if so, who should bring such an action and who should be reimbursed; and

(8) proposing any statutory changes that the committee identifies as necessary to improve the conduct and supervision of backcountry search and rescue activities in Vermont.

(e) Report. The committee shall report its findings and recommendations, together with draft legislation if any legislative action is recommended, to the general assembly on or before January 15, 2013.

(f) Reimbursement. Members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set forth in 32 V.S.A. § 1010.

(g) The legislative council shall provide administrative and drafting support to the committee.

After passage, the title of the bill is to be amended to read:

An act relating to a study of search and rescue operations.

(Committee vote: 5-0-0)

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

The Committee reports that it has considered the same and recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: In Sec. 2, in subsection (b) (Membership), in subdivisions (1) and (2), by striking out “Three” where it appears and inserting in lieu thereof the following: Two

Second: In Sec. 2, by striking out subsection (f) (Reimbursement) in its entirety and by relettering subsection (g) to be subsection (f)

(Committee vote: 5-0-2)

**AMENDMENT TO S. 169 TO BE OFFERED BY SENATOR ILLUZZI,
ON BEHALF OF THE COMMITTEE ON ECONOMIC
DEVELOPMENT, HOUSING AND GENERAL AFFAIRS**

Senator Illuzzi on behalf of the Committee on Economic Development, Housing and General Affairs moves that the bill be amended by adding thirteen new sections to be numbered Secs. 3 – 15 to read as follows:

Sec. 3. 18 V.S.A. § 901 is amended to read:

§ 901. POLICY

It is the policy of the state of Vermont that all persons who suffer sudden and unexpected illness or injury should have access to the emergency medical services system in order to prevent loss of life or the aggravation of the illness or injury, and to alleviate suffering. The system should include competent emergency medical care provided by adequately trained, licensed, and equipped personnel acting under appropriate medical control. Persons involved in the delivery of emergency medical care should be encouraged to maintain and advance their levels of training and certification, and to upgrade the quality of their vehicles and equipment.

Sec. 4. 18 V.S.A. § 903 is amended to read:

§ 903. AUTHORIZATION FOR PROVISION OF EMERGENCY MEDICAL SERVICES

Notwithstanding any other provision of law, including provisions of chapter 23 of Title 26, persons who are ~~certified~~ licensed to provide emergency medical care pursuant to the requirements of this chapter and implementing regulations are hereby authorized to provide such care without further certification, registration or licensing.

Sec. 5. 18 V.S.A. § 904 is amended to read:

§ 904. ADMINISTRATIVE PROVISIONS

(a) In order to carry out the purposes and responsibilities of this chapter, the department of health may contract for the provision of specific services.

(b) The secretary of human services, upon the recommendation of the ~~department~~ commissioner of health, may issue regulations to carry out the purposes and responsibilities of this chapter.

Sec. 6. 18 V.S.A. § 906 is amended to read:

§ 906. EMERGENCY MEDICAL SERVICES DIVISION; RESPONSIBILITIES

To implement the policy of section 901, the department of health shall be responsible for:

(1) Developing and implementing minimum standards for training emergency medical personnel in basic life support and advanced life support, and ~~certifying their~~ licensing emergency medical personnel according to their level of training and competence.

(2) Developing and implementing minimum standards for vehicles used in providing emergency medical care, designating the types and quantities of equipment that must be carried by these vehicles, and registering those vehicles according to appropriate classifications.

(3) Developing a statewide system of emergency medical services including but not limited to planning, organizing, coordinating, improving, expanding, monitoring and evaluating emergency medical services.

(4) Establishing by rule minimum standards for the credentialing of emergency medical personnel by their affiliated agency, which shall be required in addition to the licensing requirements of this chapter.

(5) Training, or assisting in the training of, emergency medical personnel.

~~(5)~~(6) Assisting hospitals in the development of programs which will improve the quality of in-hospital services for persons requiring emergency medical care.

~~(6)~~(7) Developing and implementing procedures to insure that emergency medical services are rendered only with appropriate medical control. For the provision of advanced life support, appropriate medical control shall include at a minimum:

(A) written protocols between the appropriate officials of receiving hospitals and ~~ambulance services~~ emergency medical services districts defining their operational procedures;

(B) where necessary and practicable, direct communication between emergency medical personnel and a physician or person acting under the direct supervision of a physician;

(C) when such communication has been established, a specific order from the physician or person acting under the direct supervision of the physician to employ a certain medical procedure;

(D) use of advanced life support, when appropriate, only by emergency medical personnel who are certified by the department of health to employ advanced life support procedures.

~~(7)~~(8) Establishing requirements for the collection of data by emergency medical personnel and hospitals as may be necessary to evaluate emergency medical care.

~~(8)~~(9) Establishing, by rule, ~~levels of individual certification and application forms for advanced emergency medical care~~ license levels for emergency medical personnel. The commissioner shall use the guidelines established by the National Highway Traffic Safety Administration (NHTSA) in the U.S. Department of Transportation as a standard or other comparable standards, except that a felony conviction shall not necessarily disqualify an applicant. The rules shall also provide that:

(A) An individual may apply for and obtain one or more additional ~~certifications~~ licenses, including ~~certification~~ licensure as an advanced emergency medical technician or as a paramedic.

(B) An individual ~~certified~~ licensed by the commissioner as an emergency medical technician, advanced emergency medical technician, or a paramedic, who is ~~affiliated with a licensed ambulance service, fire department, or rescue service~~ credentialed by an affiliated agency, shall be able to practice fully within the scope of practice for such level of ~~certification~~ licensure as defined by NHTSA's National EMS Scope of Practice Model ~~notwithstanding any law or rule to the contrary~~ consistent with the license level

of the affiliated agency, and subject to the medical direction of the commissioner or designee emergency medical services district medical advisor.

(C) Unless otherwise provided under this section, an individual seeking any level of ~~certification~~ licensure shall be required to pass an examination approved by the commissioner for that level of ~~certification~~ licensure. Written and practical examinations shall not be required for ~~recertification~~ relicensure; however, to maintain ~~certification~~ licensure, all individuals shall complete a specified number of hours of continuing education as established by rule by the commissioner.

(D) If there is a hardship imposed on any applicant for a ~~certification~~ license under this section because of unusual circumstances, the applicant may apply to the commissioner for a temporary or permanent waiver of one or more of the ~~certification~~ licensure requirements, which the commissioner may grant for good cause.

(E) An applicant who has served as ~~an advanced emergency medical technician, such as a hospital corpsman or a medic in the United States Armed Forces, or who is licensed as a registered nurse or a physician's assistant~~ shall be granted a permanent waiver of the training requirements to become a ~~certified~~ licensed emergency medical technician, an advanced emergency medical technician, or a paramedic, provided the applicant passes the applicable examination approved by the commissioner for that level of ~~certification~~ licensure and further provided that the applicant is ~~affiliated with a rescue service, fire department, or licensed ambulance service~~ credentialed by an affiliated agency.

(F) An applicant who is ~~certified~~ registered on the National Registry of Emergency Medical Technicians as an ~~EMT basic, EMT intermediate, emergency medical technician, an advanced emergency medical technician, or a paramedic~~ shall be granted ~~certification~~ licensure as a Vermont ~~EMT basic, EMT intermediate, emergency medical technician, an advanced emergency medical technician, or a paramedic~~ without the need for further testing, provided he or she is ~~affiliated with an ambulance service, fire department, or rescue service, credentialed by an affiliated agency~~ or is serving as a medic with the Vermont National Guard.

~~(G) No advanced certification shall be required for a trainee in established advanced training programs leading to certification as an advanced emergency medical technician, provided that the trainee is supervised by an individual holding a level of certification for which the trainee is training and the student is enrolled in an approved certification program.~~

(10) The commissioner shall adopt rules related to expenditures

authorized from the special fund created in section 908 of this chapter.

Sec. 7. 18 V.S.A. § 908 is added to read:

§ 908. EMERGENCY MEDICAL SERVICES SPECIAL FUND

The emergency medical services special fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 comprising revenues received by the department from public and private sources as gifts, grants, and donations together with additions and interest accruing to the fund. The commissioner of health shall administer the fund to the extent funds are available to support training programs, injury prevention, data collection and analysis, and other activities relating to the training of emergency medical personnel and delivery of emergency medical services and ambulance services in Vermont, as determined by the commissioner. Any balance at the end of the fiscal year shall be carried forward in the fund.

Sec. 8. 18 V.S.A. § 909 is added to read:

§ 909. EMS ADVISORY COMMITTEE

(a) The commissioner shall establish an advisory committee to advise on matters relating to the delivery of emergency medical services (EMS) in Vermont.

(b) The advisory committee shall be chaired by the commissioner or his or her designee and shall include the following 14 other members:

(1) four representatives of EMS districts. The representatives shall be selected by the EMS districts in four regions of the state. Those four regions shall correspond with the geographic lines used by the public safety districts pursuant to 20 V.S.A. § 5. For purposes of this subdivision, an EMS district located in more than one public safety district shall be deemed to be located in the public safety district in which it serves the greatest number of people;

(2) a representative from the Vermont Ambulance Association;

(3) a representative from the initiative for rural emergency medical services program at the University of Vermont;

(4) a representative from the professional firefighters of Vermont;

(5) a representative from the Vermont Career Fire Chiefs Association;

(6) a representative from the Vermont State Firefighters' Association;

(7) an emergency department director of a Vermont hospital appointed by the Vermont Association of Emergency Department Directors;

(8) an emergency department nurse manager of a Vermont hospital appointed by the Vermont Association of Emergency Department Nurse

Managers:

(9) a pediatric emergency medicine specialist appointed by the American Academy of Pediatrics, Vermont Chapter;

(10) a representative from the Vermont Association of Hospitals and Health Systems; and

(11) one public member not affiliated with emergency medical services, firefighter services, or hospital services, appointed by the governor.

(c) The committee shall meet not less than quarterly in the first year, and not less than twice annually each subsequent year, and may be convened at any time by the commissioner or his or her designee or at the request of seven committee members.

(d) Beginning January 1, 2013, the committee shall report annually on the emergency medical services system to the house committees on commerce and economic development and on human services and to the senate committees on economic development, housing, and general affairs and on health and welfare. The committee's initial report shall include recommendations on the following:

(1) whether Vermont EMS districts should be consolidated such as along the geographic lines used by the four public safety districts established under 20 V.S.A. § 5; and

(2) whether every Vermont municipality should be required to have in effect an emergency medical services plan providing for timely and competent emergency responses.

Sec. 9. 24 V.S.A. § 2651 is amended to read:

§ 2651. DEFINITIONS

As used in this chapter:

(1) "Advanced emergency medical treatment" means those portions of emergency medical treatment as defined by the department of health, which may be performed by ~~certified~~ licensed emergency medical services personnel acting under the supervision of a physician within a system of medical control approved by the department of health.

* * *

(6) "Emergency medical personnel" means persons, including volunteers, ~~certified~~ licensed by the department of health to provide emergency medical treatment ~~on behalf of an organization such as an ambulance service or first responder service~~ and credentialed by an affiliated agency whose primary function is the provision of emergency medical treatment. The term does not include duly licensed or registered physicians, dentists, nurses or

physicians' assistants when practicing in their customary work setting.

* * *

(16) "Affiliated agency" means an ambulance service or first responder service licensed under this chapter, including a fire department, rescue squad, police department, ski patrol, hospital, or other agency so licensed.

Sec. 10. 24 V.S.A. § 2657 is amended to read:

§ 2657. PURPOSES AND POWERS OF EMERGENCY MEDICAL SERVICES DISTRICTS

(a) It shall be the function of each emergency medical services district to foster and coordinate emergency medical services within the district, in the interest of affording adequate ambulance services within the district. Each emergency medical services district shall have powers which include, but are not limited to, the power to:

* * *

(3) Enter into agreements and contracts for furnishing technical, educational ~~or~~, and support services and credentialing related to the provision of emergency medical treatment.

* * *

(8) Sponsor or approve programs of education approved by the department of health which lead to the ~~certification~~ licensure of emergency medical services personnel.

(9) ~~Cooperate~~ Establish medical control within the district with physicians and representatives of medical facilities to establish medical control within the district, including written protocols with the appropriate officials of receiving hospitals defining their operational procedures.

(10) Assist the department of health in a program of testing for ~~certification~~ licensure of emergency medical services personnel.

(11) Assure that each affiliated agency in the district has implemented a system for the credentialing of all its licensed emergency medical personnel.

* * *

Sec. 11. 24 V.S.A. § 2682 is amended to read:

§ 2682. POWERS OF STATE BOARD

(a) The state board shall administer this subchapter and shall have power to:

(1) Issue licenses for ambulance services and first responder services

under this subchapter.

* * *

(3) Make, adopt, amend, and revise, as it deems necessary or expedient, reasonable rules in order to promote and protect the health, safety, and welfare of members of the public using, served by, or in need of, emergency medical treatment. Any rule may be repealed within 90 days of the date of its adoption by a majority vote of all the district boards. Such rules may cover or relate to:

(A) Age, training, credentialing, and physical requirements for emergency medical services personnel.

* * *

Sec. 12. REPEAL

Sec. 20(c) of No. 142 of the Acts of the 2009 Adj. Sess. (2010) (EMS services exceeding scope of practice of affiliated agency) is repealed.

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

S. 204.

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

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

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

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

§ 993. PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

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

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

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

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

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

(2) Each public representative shall serve for a two-year term beginning February 1 or until his or her successor is appointed. The terms of the public

representatives shall be staggered so that only one member's term expires in each year.

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

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

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

(b) Committee charge.

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

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

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

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

(4) On or before December 1 of each year, the committee shall make recommendations to the emergency board on the allocation, including any amounts reserved for contingency allocations, of the state's private activity bond ceiling for the following calendar year to and among the constituted issuing authorities empowered to issue such bonds.

(5) On its own initiative, at the request of the governor, or at the request of the emergency board, the committee may make recommendations to the

governor or the emergency board concerning assignments or reallocation of any unused portion of the ceiling subsequent to the emergency board's initial allocation in a given year.

Sec. 2. TRANSITION OF PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

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

* * * Bonding Obligation Authority * * *

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

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

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

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

(5) The principal obligation of the authority's mortgage does not exceed ~~\$1,300,000.00~~ \$1,500,000.00 which may be secured by land and buildings or by machinery and equipment, or both; unless an integral element of the project consists of the generation of heat or electricity employing biomass, geothermal, methane, solar, or wind energy resources to be primarily

consumed at the project, in which case the principal obligation of the authority's mortgage does not exceed \$2,000,000.00, which may be secured by land and by buildings, or machinery and equipment, or both; such principal obligation does not exceed 40 percent of the cost of the project; and the mortgagor is able to obtain financing for the balance of the cost of the project from other sources as provided in the following section;

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

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

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

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

* * *

Sec. 7. COMPREHENSIVE CAPITAL GAPS STUDY COMMITTEE

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

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

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

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

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

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

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

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

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

(c) Powers and duties.

(1) The committee shall identify:

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

(B) Public and quasi-public agencies that provide a combination of direct lending, bond financing, loan guarantees, and grant programs for the subject areas referenced in subdivision (1)(A) of this subsection (c). The committee shall receive testimony and reports for the purpose of completing an inventory of current capital sources and related services, missions, and goals, and the extent to which the results are consistent with expected volumes.

These institutions may include: the Vermont economic development authority; the Vermont Housing Finance Agency; the Vermont Student Assistance Corporation; the Vermont municipal bond bank; the Vermont community loan fund; and the state treasurer's banking and investment services;

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

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

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

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

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

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

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

(C) Identify and recommend options for combined activity, tools, policies, strategies, and funding options for strengthening the stated goals of various public and quasi-public agencies, the treasurer's office, financial institutions, and nonprofits that help to fill capital gaps in the marketplace;

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

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

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

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

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

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

(Committee vote: 7-0-0)

Reported favorably by Senator Kitchel for the Committee on Appropriations.

(Committee vote: 5-0-2)

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. 627.

An act relating to an opioid addiction treatment system.

Reported favorably with recommendation of proposal of amendment by Senator Pollina 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. 18 V.S.A. chapter 93 is added to read:

CHAPTER 93. TREATMENT OF OPIOID ADDICTION

§ 4751. PURPOSE

It is the purpose of this chapter to authorize the department of health to establish a regional system of opioid addiction treatment.

§ 4752. OPIOID ADDICTION TREATMENT SYSTEM

(a) The department of health shall establish by rule a regional system of opioid addiction treatment.

(b) The rules shall include the following requirements:

(1) Patients shall receive appropriate, comprehensive assessment and therapy from a physician or advanced practice registered nurse and from a licensed clinical professional with clinical experience in addiction treatment, including a psychiatrist, master's- or doctorate-level psychologist, mental health counselor, clinical social worker, or drug and alcohol abuse counselor.

(2) A medical assessment shall be conducted to determine whether pharmacological treatment, which may include methadone, buprenorphine, and other federally approved medications to treat opioid addiction, is medically appropriate.

(3) A routine medical assessment of the appropriateness for the patient of continued pharmacological treatment based on protocols designed to encourage cessation of pharmacological treatment as medically appropriate for the individual treatment needs of the patient.

(4) Controlled substances for use in federally approved pharmacological treatments for opioid addiction shall be dispensed only by:

(A) a treatment program authorized by the department of health; or

(B) a physician or advanced practice registered nurse who is not affiliated with an authorized treatment program but who meets federal requirements for use of controlled substances in the pharmacological treatment of opioid addiction.

(5) Comprehensive education and training requirements shall apply for health care providers, pharmacists, and the licensed clinical professionals listed in subdivision (1) of this subsection, including relevant aspects of therapy and pharmacological treatment.

(6) Patients shall abide by rules of conduct, violation of which may result in discharge from the treatment program, including:

(A) provisions requiring urinalysis at such times as the program may direct;

(B) restrictions on medication dispensing designed to prevent diversion of medications and to diminish the potential for patient relapse; and

(C) such other rules of conduct as a provider authorized to provide treatment under subdivision (4) of this subsection may require.

(c) No later than January 15 of each year from 2013 through 2016, inclusive, the commissioner shall report to the house committees on human services and on health care and the senate committee on health and welfare regarding the regional system of opioid addiction treatment, including the system's effectiveness.

Sec. 2. REPEAL

Sec. 132 of No. 66 of the Acts of 2003 (Opiate addiction treatment) is repealed on passage of this act.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

(For House amendments, see House Journal for March 20, 2012, page 731.)

H. 747.

An act relating to cigarette manufacturers.

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

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

First: In Sec. 1, 7 V.S.A. § 1003, by striking out subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read:

(g) As used in this section, “little cigars” means any rolls of tobacco wrapped in leaf tobacco or any substance containing tobacco, other than any roll of tobacco which is a cigarette within the meaning of 32 V.S.A. § 7202(1) and as to which 1,000 units weigh not more than three pounds.

Second: By striking out Sec. 5 and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. 33 V.S.A. § 1920 is amended to read:

§ 1920. AGENT FOR SERVICE OF PROCESS

(a) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or other business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of this subchapter or subchapter 1A of this chapter, or both, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, telephone number, and satisfactory proof of the appointment and availability of such agent to the attorney general. The secretary of state shall be designated as agent for service of process for importers of nonparticipating manufacturers located outside the United States. Service shall be made upon the secretary of state in accordance with the provisions of 12 V.S.A. §§ 851 and 852.

* * *

Third: By adding Secs. 9 and 10 to read:

Sec. 9. 6 V.S.A. § 561 is amended to read:

§ 561. INTENT

The intent of this act is to establish policy and procedures for growing industrial hemp in Vermont so that farmers and other businesses in the

Vermont agricultural industry can take advantage of this market opportunity ~~when federal regulations permit.~~

Sec. 10. REPEAL

Sec. 3 of No. 212 of the Acts of the 2007 Adj. Sess. (2008) (delayed effective date of industrial hemp cultivation program) is repealed.

and that after passage the title of the bill be amended to read: “An act relating to cigarette manufacturers, commercial cigarette rolling machines, and industrial hemp”

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 20, 2012, page 670.)

H. 771.

An act relating to making technical corrections and other miscellaneous changes to education law.

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

* * * Technical Corrections * * *

Sec. 1. 16 V.S.A. § 212 is amended to read:

§ 212. COMMISSIONER’S DUTIES GENERALLY

The commissioner shall execute those policies adopted by the state board in the legal exercise of its powers and shall:

* * *

(12) Distribute at his or her discretion upon request to approved independent schools appropriate forms and materials relating to the ~~Vermont state basic competency program~~ school quality standards for elementary and secondary pupils.

* * *

Sec. 2. 16 V.S.A. § 261a(a) is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

(a) Duties. The board of each supervisory union shall:

* * *

(7) employ a person or persons qualified to provide financial and student data management services for the supervisory union and the member districts;

* * *

Sec. 3. 16 V.S.A. § 429 is amended to read:

§ 429. LOANS

~~The Notwithstanding subsection 4029(b) of this title, a school board may draw orders for loans without interest to the town town's general fund and the board of selectmen town selectboard may draw orders for loans without interest to the town school district fund, the loans to be secured by notes signed by the board of selectmen or the school directors as the case may be and stipulating the terms agreed upon between the board of school directors and the board of selectmen. The notes shall be payable on demand or mature within three months from date of issue a note signed by both the selectboard and the school board that stipulates mutually agreeable terms and conditions. A note shall be payable not more than 90 days after its issuance and shall be payable on demand anytime within the 90-day term. The school board shall report all loans to the department pursuant to subsection 4029(f) of this title. For purposes of this section, "town" and "selectboard" shall have the same meaning as they have in 1 V.S.A. § 139.~~

Sec. 4. 16 V.S.A. § 821 is amended to read:

§ 821. SCHOOL DISTRICT TO MAINTAIN PUBLIC ELEMENTARY SCHOOLS OR PAY TUITION

(a) Elementary school. Each school district shall ~~provide, furnish, and~~ maintain one or more approved schools within the district in which elementary education for its resident pupils in kindergarten through grade six is provided unless:

(1) ~~The the~~ electorate authorizes the school board to provide for the elementary education of the pupils ~~residing in the district~~ by paying tuition in accordance with law to one or more public elementary schools in one or more school districts;

(2) ~~The the~~ school district is organized to provide only high school education for its pupils; or

(3) ~~Otherwise provided for by the general assembly~~ provides otherwise.

(b) ~~Kindergarten program. Each school district shall provide public kindergarten education within the district. However, a school district may pay tuition for the kindergarten education of its pupils:~~

~~(1) at one or more public schools under subdivision (a)(1) of this section; or~~

~~(2) if the electorate authorizes the school board to pay tuition to one or more approved independent schools or independent schools meeting school quality standards, but only if the school district did not operate a kindergarten on September 1, 1984, and has not done so afterward. [Repealed.]~~

(c) Notwithstanding subsection (a) of this section, without previous authorization by the electorate, a school board ~~without previous authorization by the electorate~~ in a district that operates an elementary school may pay tuition for elementary pupils who reside near a public elementary school in an adjacent district upon request of the pupil's parent or guardian, if in the board's judgment the pupil's education can be more conveniently furnished there due to geographic considerations. Within 30 days of the board's decision, a parent or guardian who is dissatisfied with the decision of the board under this subsection may request a determination by the commissioner, who shall have authority to direct the school board to pay all, some, or none of the pupil's tuition and whose decision shall be final.

(d) Notwithstanding ~~subsection (a)~~ subdivision (a)(1) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary pupil at an approved independent elementary school or an independent school meeting school quality standards pursuant to sections 823 and 828 of this chapter upon notice given by the pupil's parent or legal guardian before April 15 for the next academic year.

Sec. 5. REPEAL

16 V.S.A. §§ 1381–1385 (appointment of medical inspectors; appropriation to state board of education) are repealed.

* * * Joint Contract Schools; Technical Corrections * * *

Sec. 6. 16 V.S.A. § 3447 is amended to read:

§ 3447. SCHOOL BUILDING CONSTRUCTION-STATE BONDS; CITY AS SCHOOL DISTRICT

The state treasurer may issue bonds under 32 V.S.A. chapter 13 ~~of Title 32~~ in such amount as may from time to time be appropriated to assist incorporated school districts, joint contract ~~school districts~~ schools, town school districts, union school districts, regional technical center school districts, and independent schools meeting school quality standards which serve as the public high school for one or more towns or cities, or combination thereof, and which both receive their principal support from public funds and are conducted within the state under the authority and supervision of a board of trustees, not less than two-thirds of whose membership is appointed by the selectboard of a town or by the city council of a city or in part by such selectboard and the

remaining part by such council under the conditions and for the purpose set forth in sections 3447-3456 of this title. A city shall be deemed to be an incorporated school district within the meaning of sections 3447-3456 of this title.

Sec. 7. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

* * *

(6) “School district” means a town, city, incorporated, interstate, or union school district or a joint contract school ~~district~~ established under subchapter 1 of chapter 11 of this title.

* * *

Sec. 8. 16 V.S.A. § 572(d) is amended to read:

(d) Unless the school districts ~~which~~ that are parties to the contract have agreed upon a different method of allocating board members that is consistent with law, the allocation of the board members shall be as ~~follows~~ provided in this subsection. The school district ~~having~~ with the largest number of pupils attending the joint, contract, or consolidated school shall have three members on the joint board. Each other school district shall have at least one member on the joint board, and its total membership shall be determined by dividing the number of pupils from the school district with the largest enrollment by three, rounding off the quotient to the nearest whole number, which shall be called the “factor” and by then dividing the pupil enrollment of each of the other school districts by the “factor,” rounding off this quotient to the nearest whole number, this number being the number of school directors on the joint board from each of the other school districts. Pupil enrollment for the purpose of determining the number of members on the joint board to which each school district is entitled shall be taken from the school registers on January 1 of the calendar year in which the school year starts. ~~Such~~ The joint board shall annually select from among ~~the its~~ members ~~thereof~~ a chairman a chair and a clerk and shall also select a treasurer from among the treasurers of the contracting districts.

* * * Prekindergarten Rules * * *

Sec. 9. 16 V.S.A. § 829(1) is amended to read:

(1) To ensure that, before a school district begins or expands a prekindergarten education program that intends to enroll students who are included in its average daily membership, the district engage the community in a collaborative process that includes an assessment of the need for the program

in the community and an inventory of the existing service providers; provided, however, if a district needs to expand a prekindergarten education program in order to satisfy federal law relating to the ratio of special needs children to children without special needs and if the law cannot be satisfied by any one or more qualified service providers with which the district may already contract, then the district may expand an existing school-based program without engaging in a community needs assessment.

Sec. 10. PREKINDERGARTEN EDUCATION; RULES

The state board of education shall amend its rules before January 1, 2013 to reflect the requirements of Sec. 10 of this act.

* * * Harassment, Hazing, and Bullying * * *

Sec. 11. REPEAL

16 V.S.A. 565 (harassment and hazing prevention policies) is repealed.

Sec. 12. 16 V.S.A. chapter 9, subchapter 5 is added to read:

Subchapter 5. Harassment, Hazing, and Bullying

§ 570. HARASSMENT, HAZING, AND BULLYING PREVENTION POLICIES

(a) State policy. It is the policy of the state of Vermont that all Vermont educational institutions provide safe, orderly, civil, and positive learning environments. Harassment, hazing, and bullying have no place and will not be tolerated in Vermont schools. No Vermont student should feel threatened or be discriminated against while enrolled in a Vermont school.

(b) Prevention policies. Each school board shall develop, adopt, ensure the enforcement of and make available in the manner described under subdivision 563(1) of this title harassment, hazing, and bullying prevention policies that shall be at least as stringent as model policies developed by the commissioner. Any school board that fails to adopt one or more of these policies shall be presumed to have adopted the most current model policy or policies published by the commissioner.

(c) Notice. Annually, prior to the commencement of curricular and cocurricular activities, the school board shall provide notice of the policy and procedures developed under this subchapter to students, custodial parents or guardians of students, and staff members, including reference to the consequences of misbehavior contained in the plan required by section 1161a of this title. Notice to students shall be in age-appropriate language and should include examples of harassment, hazing, and bullying. At a minimum, this notice shall appear in any publication that sets forth the comprehensive rules, procedures, and standards of conduct for the school. The school board shall

use its discretion in developing and initiating age-appropriate programs to inform students about the substance of the policy and procedures in order to help prevent harassment, hazing, and bullying. School boards are encouraged to foster opportunities for conversations between and among students regarding tolerance and respect.

(d) Duties of the commissioner. The commissioner shall:

(1) develop and, from time to time, update model harassment, hazing, and bullying prevention policies; and

(2) establish an advisory council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The council shall report annually in January to the state board and the house and senate committees on education. The council shall include:

(A) the executive director of the Vermont Principals' Association or designee;

(B) the executive director of the Vermont School Boards Association or designee;

(C) the executive director of the Vermont Superintendents Association or designee;

(D) the president of the Vermont-National Education Association or designee;

(E) the executive director of the Vermont Human Rights Commission or designee;

(F) the executive director of the Vermont Independent Schools Association or designee; and

(G) other members selected by the commissioner.

(e) Definitions. In this subchapter:

(1) "Educational institution" and "school" mean a public school or an approved or recognized independent school as defined in section 11 of this title.

(2) "Organization," "pledging," and "student" have the same meanings as in subdivisions 140a(2), (3), and (4) of this title.

(3) "Harassment," "hazing," and "bullying" have the same meanings as in subdivisions 11(a)(26), (30), and (32) of this title.

(4) "School board" means the board of directors or other governing body of an educational institution when referring to an independent school.

§ 570a. HARASSMENT

(a) Policies and plan. The harassment prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that harassment, as defined in subdivision 11(a)(26) of this title, is prohibited and may constitute a violation of the public accommodations act as more fully described in section 14 of this title.

(2) Consequences and appropriate remedial action for staff or students who commit harassment. At all stages of the investigation and determination process, school officials are encouraged to make available to complainants alternative dispute resolution methods, such as mediation, for resolving complaints.

(3) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(4) A description of the circumstances under which harassment may be reported to a law enforcement agency.

(5) A procedure for investigating reports of violations and complaints. The procedure shall provide that, unless special circumstances are present and documented by the school officials, an investigation is initiated no later than one school day from the filing of a complaint and the investigation and determination by school officials are concluded no later than five school days from the filing of the complaint with a person designated to receive complaints under subdivision (7) of this section. All internal reviews of the school's initial determination, including the issuance of a final decision, shall, unless special circumstances are present and documented by the school officials, be completed within 30 days after the review is requested.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to harassment.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure for publicizing those people's availability.

(8) A procedure for publicizing the availability of the Vermont human rights commission and the federal Department of Education's Office of Civil Rights and other appropriate state and federal agencies to receive complaints of harassment.

(9) A statement that acts of retaliation for the reporting of harassment or for cooperating in an investigation of harassment are unlawful pursuant to 9 V.S.A. § 4503.

(b) Independent review.

(1) A student who desires independent review under this subsection because the student is either dissatisfied with the final determination of the school officials as to whether harassment occurred or believes that, although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem shall make such request in writing to the headmaster or superintendent of schools. Upon such request, the headmaster or superintendent shall initiate an independent review by a neutral person selected from a list developed jointly by the commissioner of education and the human rights commission and maintained by the commissioner. Individuals shall be placed on the list on the basis of their objectivity, knowledge of harassment issues, and relevant experience.

(2) The independent review shall proceed expeditiously and shall consist of an interview of the student and the relevant school officials and review of written materials involving the complaint maintained by the school or others.

(3) Upon the conclusion of the review, the reviewer shall advise the student and the school officials as to the sufficiency of the school's investigation, its determination, the steps taken by the school to correct any harassment found to have occurred, and any future steps the school should take. The reviewer shall advise the student of other remedies that may be available if the student remains dissatisfied and, if appropriate, may recommend mediation or other alternative dispute resolution.

(4) The independent reviewer shall be considered an agent of the school for the purpose of being able to review confidential student records.

(5) The costs of the independent review shall be borne by the public school district or independent school.

(6) Nothing in this subsection shall prohibit the school board from requesting an independent review at any stage of the process.

(7) Evidence of conduct or statements made in connection with an independent review shall not be admissible in any court proceeding. This subdivision shall not require exclusion of any evidence otherwise obtainable from independent sources merely because it is presented in the course of an independent review.

(8) The commissioner may adopt rules implementing this subsection.

§ 570b. HAZING

The hazing prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that hazing, as defined in subdivision 11(a)(30) of this title, is prohibited and may be subject to civil penalties pursuant to subchapter 9 of chapter 1 of this title.

(2) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(3) A procedure for investigating reports of violations and complaints.

(4) A description of the circumstances under which hazing may be reported to a law enforcement agency.

(5) Appropriate penalties or sanctions or both for organizations that or individuals who engage in hazing and revocation or suspension of an organization's permission to operate or exist within the institution's purview if that organization knowingly permits, authorizes, or condones hazing.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to hazing.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure for publicizing those people's availability.

§ 570c. BULLYING

The bullying prevention policy required by section 570 of this title and its plan for implementation shall include:

(1) A statement that bullying, as defined in subdivision 11(a)(32) of this title, is prohibited.

(2) A procedure that directs students, staff, parents, and guardians how to report violations and file complaints.

(3) A procedure for investigating reports of violations and complaints.

(4) A description of the circumstances under which bullying may be reported to a law enforcement agency.

(5) Consequences and appropriate remedial action for students who commit bullying.

(6) A description of how the school board will ensure that teachers and other staff members receive training in preventing, recognizing, and responding to bullying.

(7) Annual designation of two or more people at each school campus to receive complaints and a procedure both for publicizing the availability of those people and clarifying that their designation does not preclude a student from bringing a complaint to any adult in the building.

Sec. 13. IMPLEMENTATION

School boards shall adopt and implement bullying prevention policies as required by Sec. 12 of this act no later than January 1, 2013.

* * * Special Education Advisory Council * * *

Sec. 14. 16 V.S.A. § 2945(a) is amended to read:

(a) There is created an advisory council on special education that shall consist of ~~47~~ 19 members. All members of the council shall serve for a term of three years or until their successors are appointed. Terms shall begin on April 1 of the year of appointment. A majority of the members shall be either individuals with disabilities or parents of children with disabilities.

(1) ~~Fifteen~~ Seventeen of the members shall be appointed by the governor with the advice of the commissioner of education. Among the gubernatorial appointees shall be:

* * *

(J) a representative from the state child welfare department responsible for foster care; ~~and~~

(K) special education administrators; and

(L) two at-large members.

(2) In addition, two members of the general assembly shall be appointed, one from the house of representatives and one from the senate. The speaker shall appoint the house member and the committee on committees shall appoint the senate member.

Sec. 15. IMPLEMENTATION

The governor shall appoint the two at-large members required by Sec. 14, 16 V.S.A. § 2945(a)(1)(L), of this act on or before July 1, 2012, provided that the initial term of one member shall end on March 31, 2014 and the initial term of the other member shall end on March 31, 2015.

* * * Prekindergarten-16 Council; Afterschool Programs * * *

Sec. 16. 16 V.S.A. § 2905(b) is amended to read:

(b) The council shall be composed of:

* * *

(15) a member of the senate, who shall be selected by the committee on committees and shall serve until the beginning of the biennium immediately after the one in which the member is appointed; ~~and~~

(16) a member of the faculty of the Vermont State Colleges, the University of Vermont, or a Vermont independent college selected by United Professions AFT Vermont, Inc.; and

(17) a representative of after-school, summer, and expanded learning programs selected by the Vermont Center for Afterschool Excellence.

* * * Regional Technical Center School Districts;
Unorganized Towns, Grants, and Gores * * *

Sec. 17. 16 V.S.A. § 1572(b)(1) is amended to read:

(1) The makeup of the governing board. At least 60 percent of the board members shall be elected by direct vote of the voters, or chosen from member school district boards by the member school district boards, or a combination of the two. If the board is to have additional members, who may constitute up to 40 percent of the board, the additional members shall be appointed by the elected and chosen members from member school district boards for the purpose of acquiring expertise in areas they consider desirable. The appointed members may be selected from nominations submitted by the regional workforce investment board or other workforce organizations, or may be chosen without nomination by an organization. Notwithstanding any provision of law to the contrary, a resident of an unorganized town, grant, or gore that sits within the regional technical center school district who is otherwise eligible to vote under 17 V.S.A. § 2121 may vote for the board members and may be elected to or appointed as a member of the governing board;

* * * Audits * * *

Sec. 18. 16 V.S.A. § 261a(a) is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

(a) Duties. The board of each supervisory union shall:

* * *

(10) ~~submit to the town auditors or to the person authorized to perform the duties of an auditor for the school district, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall not apply to a supervisory district. For each school year, the report shall show the actual or estimated amount expended by the supervisory union for special education-related services, including:~~
board of each member school district

(A) ~~A~~ a breakdown of that figure showing the amount paid by each school district within the supervisory union; and

(B) ~~A~~ a summary of the services provided by the supervisory union's use of the expended funds;

* * *

Sec. 19. 16 V.S.A. § 323 is amended to read:

§ 323. AUDIT BY PUBLIC ACCOUNTANT

Annually, the supervisory union board shall employ a one or more public accountant accountants to audit the financial ~~statement~~ statements of the supervisory union and its member districts. The ~~audit~~ audits shall be conducted in accordance with generally accepted government auditing standards, including the issuance of a report of internal controls over financial reporting ~~that shall~~ to be provided to recipients of the financial statements. Any annual report of the supervisory union to member districts shall include notice that ~~an audit has~~ the audits have been performed and the time and place where the full report of the public accountant will be available for inspection and for copying at cost.

Sec. 20. 16 V.S.A. § 425 is amended to read:

§ 425. OTHER TOWN SCHOOL DISTRICT OFFICERS

Unless otherwise voted, the town clerk ~~and town auditors~~ shall by virtue of ~~their offices~~ the office perform the same duties for the town school district in addition to other duties assigned by this title.

Sec. 21. 16 V.S.A. § 491 is amended to read:

§ 491. ELECTION; NOTICE TO CLERK

At each annual meeting, an incorporated school district shall elect from among the legal voters of such district a moderator, collector, and treasurer, ~~one or three auditors~~ and may elect a clerk. All school officers shall enter upon their duties on July 1, following their election or appointment, ~~and~~. If a clerk is elected or appointed, then the clerk shall, within ten days after his election or appointment, give notice thereof to notify the town clerk within ten days of the election or appointment.

Sec. 22. 16 V.S.A. § 492(a) is amended to read:

(a) The powers, duties, and liabilities of the collector, treasurer, ~~auditors~~, prudential committee, and clerk shall be like those of a town collector, treasurer, ~~auditors~~, ~~and~~ board of school directors, and the school board clerk of ~~same~~, respectively.

Sec. 23. 16 V.S.A. § 563(10) is amended to read:

(10) Shall prepare and distribute to the electorate, not less than ten days prior to the district's annual meeting, a report of the conditions and needs of the district school system, including the superintendent's, supervisory union treasurer's, and school district treasurer's annual report for the previous school

year, and the balance of any reserve funds established pursuant to 24 V.S.A. § 2804, ~~a summary of the town auditor's report as to fiscal years which are audited by town auditors as required by 24 V.S.A. § 1681, a summary of the public accountant's report as to fiscal years which are audited by a public accountant, and a notice of the time and place where the full report of the town auditor or the public accountant will be available for inspection and copying at cost. Each town auditor's and public accountant's report shall comply with 24 V.S.A. § 1683(a).~~ At a school district's annual meeting, the electorate may vote to provide notice of availability of the report required by this subdivision to the electorate in lieu of distributing the report. If the electorate of the school district votes to provide notice of availability, it must specify how notice of availability shall be given, and such notice of availability shall be provided to the electorate at least 30 days before the district's annual or special meeting.

Sec. 24. REPEAL

16 V.S.A. § 563(17) (responsibility of school boards for audits of school district finances) is repealed.

Sec. 25. 16 V.S.A. § 706m is amended to read:

§ 706m. ~~TERMS OF OFFICE; ELIMINATION OF OFFICE OF AUDITOR~~

~~(a) The terms of office of directors and auditors shall be three years after the first term and of all other officers shall be one year. ~~At the first annual meeting, one auditor shall be elected for a term of one year, one auditor for a term of two years, and one for a term of three years, or until their successors are chosen and qualified.~~~~

~~(b) At any annual or special meeting warned for the purpose, the electorate may vote to eliminate the office of auditor and to employ instead a public accountant annually to audit the financial statements of the union school district.~~

Sec. 26. 16 V.S.A. § 706q(a) is amended to read:

(a) The powers, duties, and liabilities of the treasurer, ~~auditor,~~ board of directors, and clerk shall be like those of a treasurer, ~~auditor,~~ board of school directors, and clerk of a town school district.

Sec. 27. 16 V.S.A. § 706q(c) is amended to read:

(c) The board of directors shall prepare an annual report concerning the affairs of the union district and have it printed and distributed to the legal voters of the union at least ten days prior to the annual union district meeting. The report shall be filed with the clerk of the union district, and the town clerk of each member district. It shall include:

- (1) A statement of the board concerning the affairs of the union district;

- (2) The budget proposed for the next year;
- (3) A statement of the superintendent of schools for the union district concerning the affairs of the union;
- (4) A treasurer's report;
- (5) ~~A summary of an auditor's report prepared pursuant to subchapter 5 of chapter 51 of Title 24. The summary shall include a list of the fiscal years which are audited by the auditors and a notice of the time when and the place where the full report of the auditor will be available for inspection and copying at cost. The union district clerk shall distribute copies of the annual report as provided by 24 V.S.A. § 1173. [Repealed.]~~

Sec. 28. 17 V.S.A. § 2651b(a) is amended to read:

(a) A town may vote by ballot at an annual meeting to eliminate the office of town auditor. If a town votes to eliminate the office of town auditor, the selectboard shall contract with a public accountant, licensed in this state, to perform an annual financial audit of all funds of the town except the funds audited pursuant to 16 V.S.A. § 323. Unless otherwise provided by law, the selectboard shall provide for all other auditor duties to be performed. A vote to eliminate the office of town auditor shall remain in effect until rescinded by majority vote of the legal voters present and voting, by ballot, at an annual meeting duly warned for that purpose.

Sec. 29. 24 V.S.A. § 1681 is amended to read:

§ 1681. AUDITORS; DUTIES; MEETING

Town auditors shall meet at least ~~twenty-five~~ 25 days before each annual town meeting; to examine and adjust the accounts of all town ~~and town school district~~ officers and all other persons authorized by law to draw orders on the town treasurer. Such auditing shall include the account ~~which~~ that the treasurer is required to keep with the collector, the tax accounts of the collector, trust accounts where the town or any town officer, as such officer, is trustee or where the town is sole beneficiary, accounts relating to the town ~~and town school district~~ indebtedness, and accounts of any special funds in the care of any town ~~or town school district~~ official. Notice of such meeting shall be given by posting or publication ten days in advance of such meeting. ~~However, if the town has not elected to eliminate the office of auditor, and town auditors and the school board concur, the town auditors need not conduct an audit of school district accounts as to school district fiscal years which are audited by a public accountant.~~

Sec. 30. 24 V.S.A. § 1683 is amended to read:

§ 1683. CONTENTS OF REPORT

(a) The report shall show a detailed statement of the financial condition of such town ~~and school district~~ for ~~their~~ its fiscal year, a classified summary of receipts and expenditures, a list of all outstanding orders and payables more than 30 days past due, and show deficit, if any, pursuant to section 1523 of this title and such other information as the municipality shall direct. Individuals who are exempt from penalty, fees and interest by virtue of 32 V.S.A. § 4609 shall not be listed or identified in any such report, provided that they notify or cause to be notified in writing the municipal or district treasurer that they should not be so listed or identified.

(b) The fiscal year of all school districts, charter provisions notwithstanding, shall end on June 30.

(c) The fiscal year of other municipalities shall end on December 31, unless the municipality votes at an annual or special meeting duly warned for that purpose to have a different fiscal year, in which case the fiscal year so voted shall remain in effect until amended.

(d) ~~The annual report of the town auditors or the selectboard, if the town has voted to eliminate the office of auditor, shall include the report and budget of the supervisory union as required by 16 V.S.A. § 261a(10). [Repealed.]~~

Sec. 31. 24 V.S.A. § 1686 is amended to read:

§ 1686. PENALTY

(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive money belonging to the town.

(b) If the town has voted to eliminate the office of auditor, the public accountant employed by the selectboard shall perform the duties of the town auditors under subsection (a) of this section upon request of the selectboard.

(c) Any town officer who wilfully refuses or neglects to submit his or her books, accounts, vouchers, or tax bills to the auditors or the public accountant upon request, or to furnish all necessary information in relation thereto, shall be ineligible to reelection for the year ensuing and be subject to the penalties otherwise prescribed by law.

(d) As used in this section, the term "town officer" shall not include an officer subject to the provisions of 16 V.S.A. § 323.

* * * Definitions * * *

Sec. 32. 16 V.S.A. § 11(a)(7), (10), and (18) are amended to read:

(7) "Public school" means an elementary school or secondary school ~~for which the governing board is publicly elected~~ operated by a school district. A

public school may maintain evening or summer schools for its pupils and it shall be considered a public school.

(10) "School district" means town school districts, union school districts, interstate school districts, city school districts, unified union districts, and incorporated school districts, each of which is governed by a publicly elected board.

(18) "~~Approved public school~~" means a public school which is approved under section 165 of this title. [~~Repealed.~~]

* * * Public High School Choice * * *

Sec. 33. 16 V.S.A. § 822 is amended to read:

§ 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR ~~PAY TUITION; TUITION~~

(a) Each school district shall ~~provide, furnish, and~~ maintain one or more approved ~~high~~ schools in which it provides high school education ~~is provided~~ for its resident pupils unless:

(1) ~~The~~ the electorate authorizes the school board to ~~close an existing high school and to~~ provide for the high school education of its resident pupils solely by paying tuition ~~in accordance with law. Tuition for its pupils shall be paid pursuant to this chapter~~ to a public high school, an approved independent high school, or an independent school meeting school quality standards, to be selected by the parents or guardians of the pupil, within or ~~without~~ outside the state; or

(2) ~~The~~ the school district is organized to provide only elementary education for its pupils.

(b) ~~For purposes of this section, a school district which provides, furnishes and maintains a program of education for the first eight years of compulsory school attendance shall be obligated to pay tuition for its pupils for at least four additional years.~~ [~~Repealed.~~]

(c) ~~The school board may both maintain a high school and furnish high school education by paying tuition to a public school as in the judgment of the board may best serve the interests of the pupils, or~~ A district that maintains a high school may pay tuition pursuant to this chapter to an approved independent school or an independent school meeting school quality standards on behalf of one or more pupils if the school board judges that a pupil has unique educational needs that cannot be served within the district or at a nearby another public school. Its judgment shall be final in regard to the institution the pupils may attend at public cost.

Sec. 34. 16 V.S.A. § 822a is added to read:

§ 822a. PUBLIC HIGH SCHOOL CHOICE

(a) Definitions. In this section:

(1) "High school" means a public school or that portion of a public school that offers grades 7 through 12 or some subset of those grades.

(2) "Student" means a student's parent or guardian if the student is a minor or under guardianship and means a student himself or herself if the student is not a minor.

(b) Limits on transferring students. A sending high school board may limit the number of resident students who transfer to another high school under this section in each year; provided that in no case shall it limit the potential number of new transferring students to fewer than five percent of the resident students enrolled in the sending high school as of October 1 of the academic year in which the calculation is made or 10 students, whichever is fewer; and further provided that in no case shall the total number of transferring students in any year exceed 10 percent of all resident high school students or 40 students, whichever is fewer.

(c) Capacity. On or before February 1 each year, the board of a high school district shall define and announce its capacity to accept students under this section. The commissioner shall develop, review, and update guidelines to assist high school district boards to define capacity limits. Guidelines may include limits based on the capacity of the program, class, grade, school building, measurable adverse financial impact, or other factors, but shall not be based on the need to provide special education services.

(d) Lottery.

(1) Subject to the provisions of subsection (f) of this section, if more than the allowable number of students wish to transfer to a school under this section, then the board of the receiving high school district shall devise a nondiscriminatory lottery system for determining which students may transfer.

(2) Subject to the provisions of subsection (f) of this section, if more than the allowable number of students wish to transfer from a school under this section, then the board of the sending high school district shall devise a nondiscriminatory lottery system for determining which students may transfer; provided, however:

(A) a board shall give preference to the transfer request of a student whose request to transfer from the school was denied in a prior year; and

(B) a board that has established limits under subsection (b) of this section may choose to waive those limits in any year.

(e) Application and notification.

(1) A high school district shall accept applications for enrollment until March 1 of the school year preceding the school year for which the student is applying.

(2) A high school district shall notify each student of acceptance or rejection of the application by April 1 of the school year preceding the school year for which the student is applying.

(3) An accepted student shall notify both the sending and the receiving high schools of his or her decision to enroll or not to enroll in the receiving high school by April 15 of the school year preceding the school year for which the student has applied.

(4) After sending notification of enrollment, a student may enroll in a school other than the receiving high school only if the student, the receiving high school, and the high school in which the student wishes to enroll agree. If the student becomes a resident of a different school district, the student may enroll in the high school maintained by the new district of residence.

(5) If a student who is enrolled in a high school other than in the school district of residence notifies the school district of residence by July 15 of the intent to return to that school for the following school year, the student shall be permitted to return to the high school in the school district of residence without requiring agreement of the receiving district or the sending district.

(f) Continued enrollment. An enrolled nonresident student shall be permitted to remain enrolled in the receiving high school without renewed applications in subsequent years unless:

(1) the student graduates;

(2) the student is no longer a Vermont resident; or

(3) the student is expelled from school in accordance with adopted school policy.

(g) Tuition and other costs.

(1) Unless the sending and receiving schools agree to a different arrangement, no tuition or other cost shall be charged by the receiving district or paid by the sending district for a student transferring to a different high school under this section; provided, however, a sending high school district shall pay special education and technical education costs for resident students pursuant to the provisions of this title.

(2) A student transferring to a different high school under this section shall pay no tuition, fee, or other cost that is not also paid by students residing in the receiving district.

(3) A district of residence shall include within its average daily membership any student who transfers to another high school under this section; a receiving school district shall not include any student who transfers to it under this section.

(h) Special education. If a student who is eligible for and receiving special education services chooses to enroll in a high school other than in the high school district of residence, then the receiving high school shall carry out the individualized education plan, including placement, developed by the sending high school district. If the receiving high school believes that a student not on an individualized education plan may be eligible for special education services or that an existing individualized education plan should be altered, it shall notify the sending high school district. When a sending high school district considers eligibility, development of an individualized education plan, or changes to a plan, it shall give notice of meetings to the receiving high school district and provide an opportunity for representatives of that district to attend the meetings and participate in making decisions.

(i) Suspension and expulsion. A sending high school district is not required to provide services to a resident student during a period of suspension or expulsion imposed by another high school district.

(j) Transportation. Jointly, the superintendent of each supervisory union shall establish and update a statewide clearinghouse providing information to students about transportation options among the high school districts.

(k) Nonapplicability of other laws. The provisions of subsections 824(b) and (c) (amount of tuition), 825(b) and (c) (maximum tuition rate), and 826(a) (notice of tuition change) and section 836 (tuition overcharge and undercharge) of this chapter shall not apply to enrollment in a high school pursuant to this section.

(l) Waiver. If a high school board determines that participation under this section would adversely affect students in its high school, then it may petition the commissioner for an exemption. The commissioner's decision shall be final.

(m) Report. Annually, on or before January 15, the commissioner shall report to the senate and house committees on education on the implementation of public high school choice as provided in this section, including a quantitative and qualitative evaluation of the program's impact on the quality of educational services available to students and the expansion of educational opportunities.

Sec. 35. 16 V.S.A. § 4001(1) is amended to read:

(1) “Average daily membership” of a school district, or if needed in order to calculate the appropriate homestead tax rate, of the municipality as defined in 32 V.S.A. § 5401(9), in any year means:

(A) The full-time equivalent enrollment of pupils, as defined by the state board by rule, who are legal residents of the district or municipality attending a school owned and operated by the district, attending a public school outside the district under ~~an interdistrict agreement~~ section 822a of this title, or for whom the district pays tuition to one or more approved independent schools or public schools outside the district during the annual census period. The census period consists of the 11th day through the 30th day of the school year in which school is actually in session.

* * *

Sec. 36. REPEAL

16 V.S.A. §§ 1621 and 1622 (public high school choice regions) are repealed.

Sec. 37. REPORT

On or before January 15, 2013, the department of education shall evaluate the funding system set forth in Sec. 34 of this act at 16 V.S.A. § 822a(g) and present to the senate and house committees on education its recommendations for changes, if any.

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

Secs. 18–31 (audits) shall take effect on July 1, 2013. This section and all other sections of this act shall take effect on passage; provided, however, that Secs. 33–37 (school choice) of this act shall apply to enrollment in academic year 2013–2014 and after.

(Committee vote: 5-0-0)

(No House amendments.)

H. 785.

An act relating to capital construction and state bonding budget adjustment.

Reported favorably with recommendation of proposal of amendment by Senator Hartwell for the Committee on Institutions.

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. FINDINGS

(a) Damage to state-owned assets and infrastructure caused by Tropical Storm Irene on August 28, 2012 made necessary some of the reallocations and appropriations contained in this act.

(b) During the next biennium, much of the state's capital budget will be dedicated to the renovation and replacement of state-owned assets and infrastructure damaged by Tropical Storm Irene.

Sec. 2. Sec. 1 of No. 40 of the Acts of 2011 is amended to read:

Sec. 1. LEGISLATIVE INTENT

(a) Notwithstanding any other provision of law, this act, unlike previous acts relating to capital construction and state bonding, appropriates capital funds for the next two years. This ~~temporary~~ move to a biennial capital budgeting cycle is designed to accelerate the construction dates of larger projects and thus create jobs for Vermonters sooner than would be possible under a one-year capital budgeting cycle.

(b) It is the intent of the general assembly that:

~~(1) this move to a biennial capital budgeting cycle shall apply only to FY 2012 and FY 2013. [Repealed.]~~

~~(2) any decision to move permanently to a biennial capital budgeting cycle shall receive study and consideration at a later date prior to implementation. [Repealed.]~~

(3) of the ~~\$154,739,399~~ \$158,027,602 million authorized by this act, no more than ~~\$92,249,757~~ \$87,952,312 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

* * *

Sec. 3. Sec. 2 of No. 40 of the Acts of 2011 is amended to read:

Sec. 2. STATE BUILDINGS

* * *

(b) The following sums are appropriated in FY 2012:

* * *

(4) Statewide, major maintenance. Of this amount, up to \$360,000 may be used for window sills and frames in coordination with the ARRA-funded window replacement project in Waterbury and up to \$270,000 may be used for Vergennes (the former Weeks School) Stormwater Runoff. For the purposes of this act, major maintenance shall mean deferred maintenance, planned capital renewal, and routine maintenance as these terms are defined in the

memorandum of explanation of terminology dated April 14, 2011 from BGS to the chairs of the institutions committees: 8,000,000

* * *

(12) ~~Montpelier, 120 State St., planning and design for building renovations:~~ ~~250,000~~ [Repealed]

* * *

(20) ~~Waterbury, wood chip fired boiler facility planning:~~ 500,000
[Repealed.]

* * *

(c) The following sums are appropriated in FY 2013:

* * *

(3) Statewide, major maintenance, as that term is defined in subdivision (b)(4) of this section: 7,900,000 6,700,000

* * *

(4) Statewide, BGS engineering, project management, and architectural project costs: 2,428,802 2,433,490

* * *

(7) Vermont Veterans' Memorial Cemetery Master Plan: 250,000

(8) Montpelier, state house, renovate and refurnish house committee rooms, for completion of the third floor rooms, to continue to make better use of existing space and for upgrading the state house sound system. The speaker of the house shall be the ultimate point of contact and decision-maker for ensuring timely completion of this project. By January 1, 2013, the Ethan Allen room shall be restored to public use:
380,960

(9)(A) For planning, design, demolition, flood mitigation, permitting, and architectural and engineering costs for design development for a version of the partial reuse of the Waterbury Complex and new construction as described in the consultants' feasibility study dated March 9, 2012 and subsection (f) of this section: 11,975,000

(B)(i) For planning, design, site acquisition, leasing, including land leasing and lease purchasing, and architectural and engineering costs for design development or renovation related to the relocation or replacement of services previously provided at Vermont State Hospital, including the establishment of a 14-bed unit and a six-bed unit, respectively, at a hospital in southeastern Vermont and a hospital in southwestern Vermont; a new 25-bed hospital

owned and operated by the state in central Vermont and proximate to an existing hospital; a secure seven-bed residential facility owned and operated by the state; or the provision of acute inpatient services at temporary locations:
4,975,000

(ii) Notwithstanding 29 V.S.A. § 820, the commissioner of buildings and general services shall present three potential names for the new 25-bed hospital to the general assembly on or before January 15, 2013. The commissioner shall give preference to Vermonters integral to the advancement of mental health care in the state.

(C) To renovate and equip the National Life building in Montpelier to accommodate state offices as described in Sec. 20 of the 2012 capital budget adjustment act:
1,000,000

(D) Notwithstanding subsection (a) of this section, allocations in this subdivision shall be used only to fund the projects described in this subdivision (9). However, if costs associated with these projects exceed the amount allocated in this subdivision, the commissioner may transfer funds from other projects in this section.

(E) For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work on the Waterbury Complex and the mental health system of care as soon as possible, it is the intent that more funds will be appropriated for these projects in future acts relating to capital construction and state bonding.

* * *

(f)(1) Option B of the of the Freeman, French, Freeman report published on March 9, 2012 aligns closely with the general assembly's vision for the Waterbury Complex. However, the general assembly believes that Option B could be modified to achieve a cost savings to Vermonters. On or before June 1, 2012, the department of buildings and general services shall present a modified design proposal, including proposals under subdivision (4) of this subsection (f) to the house committee on corrections and institutions, the senate committee on institutions, and the special committee described in this subsection.

(A) The general assembly envisions that the modified design proposal would meet the dual goals of achieving a cost savings for the state and delivering state services in the most efficient manner possible while still utilizing quality Vermont materials for the new building.

(B) Because the quality and efficiency of state services are as important as achieving a cost savings, the size of the new building and the size of the future complex in general should be determined only after the following

assessments, which shall also consider outcomes such as reduced operating expenses; judicious consumption of energy; increased use of telecommuting or hoteling; an awareness of modern workplace space standards; and minimized use of leased space:

(i) a program assessment to determine the amount of space necessary to house the agency of human services with room for projected future growth or any other state agency deemed appropriate by the commissioner of buildings and general services.

(ii) an assessment of the feasibility of moving the department of education to the complex, including a 20-year cost comparison to other options in central Vermont.

(2) A special committee consisting of the joint fiscal committee, the chairs of the house committee on corrections and institutions, and the senate committee on institutions (“special committee”) is hereby established.

(A) The special committee shall meet to review, approve, or recommend alterations to the design described in this subsection at the next regularly scheduled meeting of the joint fiscal committee or at an emergency meeting called by the chairs of the house committee on corrections and institutions, the senate committee on institutions, and the joint fiscal committee.

(B) In making its decision, the special committee shall consider how the design impacts the ability of the state to provide services to citizens, programming, the financial consequences to the state of approval or disapproval of the proposal, and potential alternatives available. The special committee shall be entitled to per diem and expenses as provided in 2 V.S.A. § 406.

(3) The commissioner of buildings and general services shall notify the house committee on corrections and institutions and the senate committee on institutions at least monthly of updates to the planning process for the projects described in subdivision (c)(9) of this section. With approval of the speaker of the house and the president pro tempore, as appropriate, the house committee on corrections and institutions and the senate committee on institutions may meet up to six times when the general assembly is not in session to discuss any significant updates to the planning process for the Waterbury Complex and make recommendations to the special committee described in this subsection. The committees shall notify the commissioner of buildings and general services prior to holding a meeting pursuant to this subdivision. Committee members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

(4) The commissioner of buildings and general services is authorized to take certain actions before formal approval of the design. Therefore, notwithstanding 29 V.S.A. § 152(a)(6), 165, or 166 or any other provision of law, in addition to producing a design, permitting, and applying for federal aid, upon passage of this act, the commissioner of buildings and general services may:

(A) lease, sell, lease purchase, subdivide, or donate the following buildings within the Waterbury Complex in their current condition: Wasson, 121 South Main Street, 123 South Main Street, 5 Park Row, 43 Randall Street, and their improvements.

(B) consider retaining the Ladd building or the Weeks building for state use. If the commissioner determines that retaining Ladd or Weeks is not in the best interest of the state, the commissioner may divest the state of these properties by any manner described in subdivision (4)(A) of this subsection (f) subject to the requirements of subdivision (2)(A) of this subsection (f).

(C) consider whether the Hanks building should be demolished to facilitate flood mitigation efforts and, if the commissioner so determines, demolish the building in accordance with the requirements of subdivision (4)(E) of this subsection (f). Otherwise, the commissioner may divest the state of Hanks by any manner described in subdivision (4)(A) of this subsection (f) subject to the requirements of subdivision (2)(A) of this subsection (f).

(D) consider whether the Stanley building should be retained for state use, or in the alternative, demolished in accordance with the requirements of subdivision (4)(E) of this subsection (f) and the site transferred to the town of Waterbury following negotiations between the town and the department of buildings and general services as to who shall be responsible for any demolition costs, subject to the requirements of subdivision (2)(A) of this subsection (f).

(E) assuming any required permits are attained, demolish any building in the Waterbury Complex except those named in subdivisions (f)(4)(A), (B), (C), or (D) of this section; the 1889–1896 early construction buildings, sometimes referred to as the historic bone or spine; the smokestack; and the public safety headquarters and forensics laboratory and their improvements.

(F) before selecting a heating system for the Waterbury Complex, investigate further and consider options to assure the personnel operating costs as well as other life cycle costs have been analyzed. The department or designee shall also conduct a comparative cost effectiveness analysis of producing heat and electricity.

(5) To the extent that amounts of potential funding from various sources are not clear upon passage of this act, the legislative intent for funding the capital costs of subdivisions (c)(9) and (f) of this section to the extent practicable is first through insurance funds that may be available for these purposes; second through the Federal Emergency Management Agency (FEMA) funds that may be available for these purposes and any required state match; third, in the case of the 14-bed unit and the six-bed unit described in H.630 of the 2011 Adj. Sess. (2012), through a rate payment with clearly defined terms of services; and last with state capital or general funds. Notwithstanding 32 V.S.A. §§ 134 and 135, any capital funds expended for projects described in this act that are reimbursed at a later date by insurance or FEMA shall be reallocated to fund capital projects in a future act relating to capital construction and state bonding.

Appropriation – FY 2012	\$26,928,802	\$26,178,802
Appropriation – FY2013	\$11,878,802	\$29,264,450
Total Appropriation – Section 2	\$38,807,604	\$55,443,252

Sec. 4. Sec. 4 of No. 40 of the Acts of 2011 is amended to read:

Sec. 4. HUMAN SERVICES

(a) The following sums are appropriated in FY 2012 to the department of buildings and general services for the agency of human services for the projects described in this subsection:

* * *

(2) Vermont state hospital, ongoing safety renovations: ~~100,000~~ 2,555

* * *

(d) The following sums are appropriated in FY 2013 to the department of buildings and general services for the agency of human services for the projects described in this subsection:

(1) ~~Corrections, rehabilitate VCI print shop: 143,920~~ [Repealed]

* * *

(e)(1) The sum of ~~\$14,000,000~~ \$9,000,000 is appropriated in FY 2013 to the department of buildings and general services for the agency of human services to continue the project described in subdivision (a)(1) of this section (co-location of department of health laboratory with the UVM Colchester research facility). For the purpose the purposes of completing a project approved for FY 2012 but delayed following Tropical Storm Irene and of allowing the department of buildings and general services to enter into contractual agreements and complete work on the health laboratory project as

soon as possible, it is the intent of the general assembly that ~~these are committed funds not subject to budget adjustment~~ the balance needed to complete this project will be funded in FY 2014.

(2) Notwithstanding 29 V.S.A. § 820 and 10 V.S.A. chapter nine, the commissioner of buildings and general services shall present three potential names for the new health laboratory to the general assembly on or before January 15, 2013. The commissioner shall give preference to Vermonters who have made significant advancements in the field of public health.

(f) The commissioners of buildings and general services and of corrections shall study the feasibility of creating an industry at the Southern State Correctional Facility and any construction that would be required. The study shall include information regarding recidivism rates for participants in Vermont offender works programs and shall be presented to the house committee on corrections and institutions and the senate committees on judiciary and on institutions on or before January 15, 2013.

Appropriation – FY 2012	\$17,800,000	<u>\$17,702,555</u>
Appropriation – FY 2013	\$15,843,920	<u>\$10,700,000</u>
Total Appropriation – Section 4	\$33,643,920	<u>\$28,402,555</u>

Sec. 5. Sec. 5 of No. 40 of the Acts of 2011 is amended to read:

Sec. 5. JUDICIARY

* * *

(c) Hyde Park, Lamoille County Courthouse, planning and design for building renovations and addition: 250,000

Total Appropriation – Section 5	\$400,000	<u>\$650,000</u>
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Sec. 6. Sec. 7 of No. 40 of the Acts of 2011 is amended to read:

Sec. 7. BUILDING COMMUNITIES GRANTS

(a) The following sums are appropriated in FY 2012 for building communities grants established in 24 V.S.A. chapter 137 ~~of Title 24~~:

(6) ~~For~~ To the agency of agriculture, food and markets for the agricultural fairs capital projects competitive grant program: 225,000

* * *

(b) The following sums are appropriated in FY 2013 for building communities grants established in 24 V.S.A. chapter 137 ~~of Title 24~~:

* * *

(3) To the Vermont council on the arts for the cultural facilities grant program, the sum of which may be used to match funds which may be made available from the National Endowment of the Arts, provided all capital funds are made available to the cultural facilities grant program: 225,000

* * *

(6) ~~For~~ To the agency of agriculture, food and markets for the agricultural fairs capital projects competitive grant program: 225,000

(7) To the department of buildings and general services, for the regional economic development grant program: 225,000

Appropriation – FY 2012	\$1,350,000
Appropriation – FY 2013	\$1,350,000 <u>\$1,575,000</u>
Total Appropriation – Section 7	\$2,700,000 <u>\$2,925,000</u>

Sec. 6a. Sec. 8 of No. 40 of the Acts of 2011 is amended to read:

Sec. 8. EDUCATION

* * *

(b) ~~\$7,425,000~~ \$7,375,000 is appropriated in FY 2013 pursuant to 16 V.S.A. § 3448. ~~It is the intent of the general assembly that these are committed funds not subject to capital budget adjustment.~~

Total Appropriation – Section 8	\$14,850,000 <u>\$7,375,000</u>
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Sec. 7. Sec. 10 of No. 40 of the Acts of 2011 is amended to read:

Sec. 10. UNIVERSITY OF VERMONT

* * *

(b) ~~\$1,800,000 is appropriated in FY 2013 for the project described in subsection (a) of this section~~ The University of Vermont requested that any capital funding it was to receive in FY 13 be appropriated for Tropical Storm Irene recovery efforts.

* * *

Total Appropriation – Section 10	\$3,600,000 <u>\$1,800,000</u>
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Sec. 7a. Sec. 10 of No. 40 of the Acts of 2011 is amended by adding a new subsection (c) to read:

(c) To the extent the \$153,160,000 of general obligation bonds authorized by Sec. 25 of this act can be reduced by the use of bond premiums, up to \$2,000,000 of the authorized amount that is no longer required to fund appropriations of this act as amended by capital budget adjustment shall be

appropriated to the Vermont State Colleges to offset part of the construction costs of a community college facility in Brattleboro.

Sec. 8. Sec. 12 of No. 40 of the Acts of 2011 is amended to read:

Sec. 12. NATURAL RESOURCES

(a) The following sums are appropriated to the agency of natural resources in FY 2012 for:

* * *

(3) the following water pollution control TMDL and wetland protection projects:

(A) Ecosystem restoration and protection: 2,500,000

(B) Waterbury waste treatment facility phosphorous removal:

~~2,700,000~~ 2,000,000

* * *

(b) The following sums are appropriated to the agency of natural resources in FY 2013 for:

(1) the water pollution control fund for the following projects:

(A) Clean water state/EPA revolving loan fund (CWSRF) match: ~~2,000,400~~ 1,480,720

* * *

(E) Administrative support – engineering, oversight, and program management: 300,000

(2) the following projects:

(A) the drinking water state revolving fund for balance of match to federal FY 2011 EPA grant: ~~2,433,140~~ 1,733,140

(B) Engineering oversight and project management: 300,000

(C) the Vermont drinking water revolving loan fund: 200,000

* * *

(5) the following department of fish and wildlife projects:

* * *

(D) purchase of a training trailer, safety ramps, metal detectors, and game cameras: 58,600

(E) for the Vermont Youth Conservation Corps to perform stabilization, restoration, and cleanup of environmental damage to waterways.

forests, and public access lands caused by Tropical Storm Irene, including projects such as controlling the spread of invasive species, stabilizing flood-eroded river and stream banks; restoring vital aquatic and wildlife habitats, removing toxic materials from fragile natural areas, and remediating recognized viewsheds: 200,000

Appropriation – FY 2012	\$14,221,713	<u>\$13,521,713</u>
Appropriation – FY 2013	\$11,683,540	<u>\$10,922,460</u>
Total Appropriation – Section 12	\$25,905,253	<u>\$24,444,173</u>

Sec. 9. Sec. 14 of No. 40 of the Acts of 2011 is amended to read:

Sec. 14. PUBLIC SAFETY

* * *

~~(c) \$2,500,000 is appropriated in FY 2012 to the department of buildings and general services for the department of public safety for the design, construction, and fit up of a new public safety field station to consolidate the Brattleboro and Rockingham barracks. [Repealed.]~~

~~(d) \$2,500,000 is appropriated in FY 2013 for the project described in subsection (c) of this section. For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work on this project as soon as possible For the purpose of completing a project approved for FY 2012 but canceled following Tropical Storm Irene, it is the intent of the general assembly that these are committed funds not subject to budget adjustment to appropriate \$5,000,000 over FY 2014–2015 to the department of buildings and general services for the department of public safety for the design, construction, and fit up of a new public safety field station to consolidate the Brattleboro and Rockingham barracks.~~

* * *

~~(f) The \$50,000 is appropriated for the commissioners of the departments of public safety and of buildings and general services shall study the feasibility of consolidating to conduct a comprehensive review of the Vermont State Police facilities currently located in Bradford and St. Johnsbury into one location needs. At a minimum, the review shall engage communities and prioritize needs for the following projects: consolidating the existing St. Johnsbury and Bradford offices and determining whether the Middlesex, Rutland, or Williston facility should be expanded, renovated, replaced, consolidated, or moved to a new location better situated within the service area. The ultimate goal of the review shall be determining how best to support the capacity of the Vermont State Police to provide services to Vermonters.~~

Appropriation – FY 2012	\$2,560,000	<u>\$60,000</u>
Appropriation – FY 2013	\$2,550,000	<u>\$100,000</u>
Total Appropriation – Section 14	\$5,110,000	<u>\$160,000</u>

Sec. 10. Sec. 15 of No. 40 of the Acts of 2011 is amended to read:

Sec. 15. CRIMINAL JUSTICE TRAINING COUNCIL; DEPARTMENT OF PUBLIC SAFETY

No capital funds other than those to be used for major maintenance shall be appropriated for the criminal justice training council or the ~~fire training council~~ department of public safety until the two entities enter into a memorandum of understanding regarding the use of facilities and a strategic plan to avoid duplication of facilities and services.

Sec. 11. Sec. 16 of No. 40 of the Acts of 2011 is amended to read:

Sec. 16. AGRICULTURE, FOOD AND MARKETS

(a) ~~\$1,300,000~~ \$1,050,000 is appropriated in FY 2012 to the agency of agriculture, food and markets for the best management practice implementation and Capital Equipment Assistance ~~cost share program programs~~, to continue to reduce nonpoint source pollution in Vermont. Cost share funds shall not exceed 90 percent of the total cost of a best management practices project or 50 percent for a Capital Equipment Assistance project. Whenever possible, state funds shall be combined with federal funds to complete projects.

(b) \$1,200,000 is appropriated in FY 2013 for the program described in subsection (a) of this section.

Total Appropriation – Section 16	\$2,500,000	<u>\$2,250,000</u>
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Sec. 12. [Repealed.]

Sec. 12a. Sec. 21 of No. 40 of the Acts of 2011 is amended to read:

Sec. 21. INFORMATION AND INNOVATION

~~\$5,334,139~~ \$5,284,139 is appropriated in FY 2013 to the department of information and innovation for the upgrade of the financial and human resources computer system. The department shall report back to the general assembly on or before January 15, 2012 regarding how the appropriations granted in Sec. C.100 of No. 63 of 2011 (~~H.441; the appropriations bill~~) have been used for this project.

Total Appropriation – Section 21	\$5,334,139	<u>\$5,284,139</u>
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Sec. 12b. Sec. 23 of No. 40 of the Acts of 2011 is amended to read:

<u>(19) of the amount appropriated by Sec. 1 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Bennington State Office Building):</u>	<u>750,000.00</u>
<u>(20) of the amount appropriated by Sec. 3 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (CRCF grease trap):</u>	<u>171,675.62</u>
<u>(21) of the amount appropriated by Sec. 15 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Pittsford firing range):</u>	<u>416,904.16</u>
<u>(22) of the amount appropriated by Sec. 19 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Vermont Veterans' Home, gas line replacement):</u>	<u>9,912.95</u>
<u>(23) of the amount realized from the sale of property authorized by Sec. 32 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (Hartford property):</u>	<u>5,300.00</u>
<u>(24) of the amount realized from the sale of property authorized by Sec. 25 of No. 43 of the Acts of 2009 (Vergennes, relinquishment of right-of-way):</u>	<u>2.00</u>
<u>(25) of the amount realized from the sale of property authorized by Sec. 26 of No. 52 of the Acts of 2007 (Brandon Training School):</u>	<u>202,157.45</u>
<u>(26) of the amount realized from the sale of property authorized by Sec. 25 of No. 43 of the Acts of 2009 (Dummerston Library):</u>	<u>44,000.00</u>
<u>(27) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (water pollution control):</u>	<u>1,734.88</u>
<u>(28) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (potable water supply construction):</u>	<u>43,608.59</u>
<u>(29) of the amount appropriated by Sec. 10 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) (water pollution control construction):</u>	<u>34,806.04</u>
<u>(30) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water pollution):</u>	<u>25,674.00</u>
<u>(31) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water pollution planning):</u>	<u>316.45</u>
<u>(32) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water supply planning):</u>	<u>3,187.30</u>
<u>(33) of the amount appropriated by Sec. 11 of No. 93 of the Acts of 1991 (water supply wastewater):</u>	<u>6,896.28</u>
<u>(34) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water pollution):</u>	<u>207,433.00</u>

<u>(35) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water pollution planning):</u>	<u>18,374.13</u>
<u>(36) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water supply):</u>	<u>909.76</u>
<u>(37) of the amount appropriated by Sec. 11 of No. 256 of the Acts of the 1991 Adj. Sess. (1992) (water supply planning):</u>	<u>7,709.44</u>
<u>(38) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (pollution control):</u>	<u>19,637.00</u>
<u>(39) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (pollution control planning):</u>	<u>7,919.79</u>
<u>(40) of the amount appropriated by Sec. 11 of No. 59 of the Acts of 1993 (water supply):</u>	<u>27,840.43</u>
<u>(41) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (zebra mussel control):</u>	<u>61,613.96</u>
<u>(42) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (water supply):</u>	<u>17,697.03</u>
<u>(43) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (municipal grants):</u>	<u>8,508.92</u>
<u>(44) of the amount appropriated by Sec. 19 of No. 233 of the Acts of the 1993 Adj. Sess. (1994) (water pollution):</u>	<u>4,920.00</u>
<u>(45) of the amount appropriated by Sec. 10 of No. 185 of the Acts of the 1995 Adj. Sess. (1996) (Hinesburg project):</u>	<u>35,420.36</u>
<u>(46) of the amount appropriated by Sec. 18 of No. 62 of the Acts of 1997 (pollution control):</u>	<u>12,329.93</u>
<u>(47) of the amount appropriated by Sec. 18 of No. 62 of the Acts of 1997 (pollution control planning):</u>	<u>4,745.48</u>
<u>(48) of the amount appropriated by Sec. 13 of No. 29 of the Acts of 1999 (pollution control):</u>	<u>18,208.13</u>
<u>(49) of the amount appropriated by Sec. 13 of No. 29 of the Acts of 1999 (Shoreham project):</u>	<u>7,435.25</u>
<u>(50) of the amount appropriated by Sec. 15 of No 148 of the Acts of the 1999 Adj. Sess. (2000) (Bennington sewer project):</u>	<u>5,000.00</u>
<u>(51) of the amount appropriated by Sec. 10 of No. 121 of the Acts of the 2003 Adj. Sess. (2004)(state-owned dams):</u>	<u>7.70</u>

<u>(52) of the amount appropriated by Sec. 11 of No. 52 of the Acts of 2007 (phase II Bennington fish station):</u>	<u>95.93</u>
<u>(53) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (Historic Preservation Grant Program):</u>	<u>9,959.00</u>
<u>(54) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (Historic Barns Preservation Grant Program):</u>	<u>9,750.00</u>
<u>(55) of the amount appropriated by Sec. 20 of No. 43 of the Acts of 2009 (Vermont council on the arts cultural facility grant):</u>	<u>3,516.00</u>
<u>(56) of the amount appropriated by Sec. 6 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (Vermont council on the arts cultural facility grant):</u>	<u>2,033.00</u>
<u>(57) of the amount appropriated by Sec. 7 of No. 40 of the Acts of 2011 (Vermont council on the arts cultural facility grant):</u>	<u>10,662.00</u>
<u>(58) of the amount appropriated by Sec. 11 of No. 161 of the Acts of the 2009 Adj. Session (2010) (Vermont Interactive TV Equipment):</u>	<u>0.32</u>
<u>(59) of the amount appropriated by Sec. 10 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (VSC - major maintenance):</u>	<u>0.28</u>
<u>(60) of the amount appropriated by Sec. 6 of No. 52 of the Acts of 2007 (broadband development grant program):</u>	<u>50,000.00</u>
<u>(61) of the amount realized from the sale authorized by Sec. 25 of No. 43 of the Acts of 2009 (Former Tree Farm Property):</u>	<u>184,200.00</u>
<u>(62) of the amount appropriated by Sec. 1 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (ADA improvements):</u>	<u>47,020.92</u>
<u>(63) of the amount appropriated by Sec. 20 of the Acts of 2009 (human services and educational facilities competitive grant program):</u>	<u>10,904.00</u>
<u>(64) of the amount appropriated by Sec. 9 of No. 61 of the Acts of 2001 (pollution control and drinking water):</u>	<u>9,286.25</u>
<u>(65) of the amount appropriated by Sec. 10 of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (pollution control and drinking water):</u>	<u>31,070.58</u>
<u>(66) of the amount appropriated by Sec. 12 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (pollution control):</u>	<u>46,502.29</u>
<u>(67) of the amount appropriated by Sec. 9 of No. 43 of the Acts of 2009 (pollution control):</u>	<u>129,544.42</u>
<u>(68) of the amount appropriated by Sec. 12 of No. 161 of the Acts of the 2009 Adj. Sess. (2010) (pollution control):</u>	<u>33,596.46</u>

Reallocations and Transfers – FY 2012	\$1,579,398.51
Reallocations and Transfers – FY 2013	<u>\$3,288,203.36</u>
Total Reallocations and Transfers	<u>\$4,867,601.87</u>

Sec. 14. Sec. 26 of No. 40 of the Acts of 2011 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

~~(a)(1) On or before October 1, 2011, the City of Rutland shall present to the commissioner of buildings and general services a plan for the Rutland Multi Modal Transit Center (parking garage) that satisfies the city's interest in the parking garage, reduces the costs to the state of maintaining and operating the parking garage, protects the state's assets, and is designed to result ultimately in the sale of the parking garage and the Asa Bloomer State Office Building. Upon receiving the plan, the commissioner may accept, reject, or modify it.~~

~~(2) Upon receiving the plan referred to in subdivision (1) of this subsection or on or after October 2, 2011, the commissioner may petition the chair and vice chair of the house committee on corrections and institutions and the chair and vice chair of the senate committee on institutions for permission to sell the Asa Bloomer State Office Building and parking garage. Notwithstanding any law, the chairs and vice chairs may authorize the sale to be conducted in accordance with 29 V.S.A. § 166 as long as the general assembly is not convened. The commissioner of buildings and general services may sell the Asa Bloomer State Office Building and the Rutland Multi-Modal Transit Center in accordance with the requirements of 29 V.S.A. § 166(d) and following negotiations with the City of Rutland. If negotiations with the city result in the city's management of the Transit Center, the commissioner may use \$81,0000 in unexpended capital funds previously appropriated to the department to purchase a flexible parking machine for the Transit Center. It is the intent of the general assembly that state offices remain downtown.~~

* * *

(f) The commissioner of buildings and general services may evaluate plans to sell, lease, subdivide, enter into long-term lease, or any combination thereof of the St. Albans State Office Building located at 20 Houghton Street to support expanding the Vermont Service Center or other employers. It is the intent of the general assembly that state offices remain downtown.

(g) The secretary of agriculture, food and markets, the secretary of natural resources, the secretary of transportation, or the commissioner of buildings and general services, in consultation with the agency of commerce and community development, may sell, enter into a long-term lease of, and utilize surplus properties. The emergency board, the chair of the house committee on corrections and institutions, and the chair of the senate committee on

institutions shall determine what land or facilities are surplus for the purpose of this subsection when the general assembly is not in session. When the general assembly is in session, requests shall be made to the house committee on corrections and institutions and the senate committee on institutions.

Sec. 15. Sec. 25(f) of No. 161 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 29 of No. 40 of the Acts of 2011, is further amended to read:

(f) Following consultation with the state advisory council on historic preservation as required by 22 V.S.A. § 742(7) and pursuant to 29 V.S.A. § 166, the commissioner of buildings and general services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans. Net proceeds of the sale shall be deposited in the historic property stabilization and rehabilitation fund established in ~~Sec. 30 of this act~~ 29 V.S.A. § 155.

Sec. 15a. Sec 34a of No. 40 of the Acts of 2011 is amended to read:

Sec. 34a. 29 V.S.A. § 152 is amended to read:

§ 152. DUTIES OF COMMISSIONER

(a) The commissioner of buildings and general services, in addition to the duties expressly set forth elsewhere by law, shall have the authority to:

* * *

(36) enter into agreements with local information service providers allowing those providers to offer local and regional tourism information under guidelines established by the commissioner.

(37) enter into agreements with, and grant funds to, local or regional chambers of commerce to provide staffing and operations of state-owned welcome centers, rest areas, and information centers under guidelines established and enforced by the commissioner.

Sec. 16. Sec. 47(c) of No. 40 of the Acts of 2011 is amended to read:

(c) The secretary of administration is charged with coordinating this initiative. The secretary or designee shall track the state's progress in meeting these goals and, for the purpose of encouraging success, shall have the authority to implement incentive programs, to consult with public and nonpublic entities about strategies, and to require the relevant subdivisions of state government to take necessary actions. ~~The secretary may use incentives received by the state from an electric energy efficiency entity to cover the costs associated with tracking or encouraging success in meeting these goals.~~

* * * Miscellaneous Reallocations and Property Transfers New to
Capital Budget Adjustment * * *

Sec. 17. Sec. 32 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 32. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

(d) Pursuant to 29 V.S.A. § 166, the commissioner of buildings and general services, with the approval of the secretary of administration, and following a report to the joint fiscal committee on the implications for operating and fee-for-space costs to the department of motor vehicles, shall sell, lease, subdivide, convert into condominiums, or any combination thereof, the Thayer School building located at 1193 North Avenue in Burlington. After payment of any costs and fees associated with the transaction, proceeds from a sale or lease shall be deposited into a capital fund pursuant to 29 V.S.A. § 166(d), and proceeds from a lease shall be deposited into a property management fund pursuant to 29 V.S.A. § 160 reallocated in a future act relating to capital construction and state bonding.

(e) Notwithstanding 29 V.S.A. § 166(b), the commissioner of buildings and general services may sell or lease land, mineral rights, or both, as follows:

* * *

(5) after payment of any costs and fees associated with the transaction, proceeds from a sale or lease shall be deposited into a capital fund pursuant to 29 V.S.A. § 166(d), and proceeds from a lease shall be deposited into a property management fund pursuant to 29 V.S.A. § 160 reallocated in a future act relating to capital construction and state bonding.

* * *

* * * Transcription Errors * * *

Sec. 18. CORRECTION OF TRANSCRIPTION ERRORS

(a) Where it appears in Sec. 23(18) of No. 161 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 78 of No. 3 of the Acts of 2011, the number 1,922.00 shall be 11,922.00.

(b) Where it appears in Sec. 48 of No. 40 of the Acts of 2011, amending 29 V.S.A. § 168(b)(2)(B), the word “Moneys” shall be “Money”.

Sec. 19. Sec. 1(b) of No. 28 of the Acts of 2011 (Maidstone Lake Road) is amended to read:

(b) Of the funds appropriated to the agency of natural resources in Sec. 20(b)(9) of No. 43 of the Acts of ~~the 2009 Adj. Sess. (2010)~~, for the purpose of

upgrading and maintaining the road, the balance remaining as of January 1, 2011 shall be transferred to the town of Maidstone and shall be used by the town for that purpose.

* * * Policy New to Capital Budget Adjustment * * *

* * * Buildings and General Services * * *

Sec. 20. LOCATION OF STATE EMPLOYEES

The general assembly believes that it is in the best interest of the state and its employees for state offices displaced by Tropical Storm Irene to be relocated to permanent locations as soon as possible. It is the intent of the general assembly therefore that the agency of natural resources be relocated to the National Life building in Montpelier. The integration of the agencies of transportation, of natural resources, and of commerce and community development at the National Life building is designed to provide increased efficiencies and quality of services. Notwithstanding this particular relocation, it remains the intent of the general assembly to continue to make prudent investments in building space to meet the facility needs of the state and to shift away from state reliance on leased space in accordance with 29 V.S.A. § 165(b).

Sec. 20a. LEASING PROPERTY

The commissioner of buildings and general services shall evaluate and report on or before January 15, 2013 whether and under what circumstances leasing property not owned by the state to accommodate space needs of an agency may be preferable to using state-owned property for the same purpose.

Sec. 21. 29 V.S.A. § 165 is amended to read:

§ 165. SPACE ALLOCATION, INVENTORY, AND USE; LEASING PROPERTY; COMMISSIONER'S PREAPPROVAL REQUIRED

* * *

(c)(1) Notwithstanding any provision of law to the contrary, the commissioner of buildings and general services shall have sole jurisdiction, sole authority and sole responsibility for making space allocations and designating uses in any portions of any building or structure for which the department of buildings and general services leases or pays for operation and maintenance expenses, or for which construction or fit-up was financed through an appropriation to the department of buildings and general services.

(2) On or before each January 15 and in accordance with this section, the commissioner shall present to the general assembly a report indicating which divisions have been moved over the past year and their former and present locations.

Sec. 22. [Repealed.]

Sec. 23. RESTROOMS IN STATE BUILDINGS

By September 15, 2012, all single-occupancy restrooms with an outer door that can be locked by the occupant that are located in any building owned by the state shall be available for use regardless of the gender of the user.

Sec. 24. 29 V.S.A. § 157 is added to read:

§ 157. FACILITIES CONDITION ANALYSIS

(a) The commissioner of buildings and general services shall:

(1) maintain the condition of buildings and infrastructure under the commissioner's jurisdiction to provide a safe and healthy environment through sustainable practices and judicious capital renewal;

(2) conduct a facilities condition analysis each year of 20 percent of the building area and infrastructure under the commissioner's jurisdiction so that within five years all property is assessed. At the end of the five years, the process shall begin again.

(3) The analysis conducted pursuant to this subsection shall include the thermal envelope of buildings and a report on the annual energy consumption and energy costs and recommendations for reducing energy consumption.

(b) The commissioner may use up to two percent of the funds appropriated to the department of buildings and general services for major maintenance and planning for the purpose described in subsection (a) of this section.

Sec. 25. EMPLOYEE SERVICE MEMORIAL

(a) The commissioner of buildings and general services, in consultation with the commissioner of human resources and an association representing Vermont state employees, shall develop a plan to honor the services of past, present, and future Vermont state employees with an appropriate memorial. On or before January 15, 2013, the commissioner of buildings and general services shall recommend a future location for an employee service memorial and provide estimated costs to the general assembly.

(b) The commissioner of buildings and general services may accept donations for the administration, materials, creation, and maintenance of the service memorial.

Sec. 26. PARKING IN THE CAPITOL COMPLEX

(a) To reduce parking pressures for state employees in Montpelier and to meet Vermont's energy plan goals of reducing energy use in the transportation sector, the commissioner of buildings and general services shall review existing plans and reports including the Governor's Comprehensive Energy

Plan and, in consultation with the agency of transportation and the department of human resources, create a parking management program. Any capital improvements shall be presented to the general assembly for approval.

(b) The program shall include an assessment of legislative parking with proposals to terminate use of legislative parking by nonlegislative personnel and to assure availability of up to 240 parking spaces for legislators and staff assigned to a work station in the state house or at 1 Baldwin Street, including preferred parking for legislative leaders and those with special needs without specific assignments of parking spaces with minimal use of signage and in close proximity to the state house. The program shall include a report on the creation of preferred legislative parking areas for compact cars.

(c) The commissioner shall present the plan, including any associated capital requests or changes in operating costs, to the general assembly and the sergeant at arms on or before November 15, 2012.

Sec. 26a. CIVIL WAR MONUMENTS STUDY

The commissioner of buildings and general services, in collaboration with the Vermont Historical Society, shall study the feasibility of placing a Civil War monument at the Cedar Creek Battlefield in Middletown, Virginia in memory of the Vermont Brigade and of moving an existing Civil War monument in Winchester, Virginia to its original location in the Third Winchester Battlefield. The commissioner shall report its findings, including a request for any necessary appropriations, to the house committee on corrections and institutions and the senate committee on institutions.

Sec. 26b. RENAMING THE STATE ARCHIVES BUILDING

The Vermont state archives and record administration building in Middlesex shall be renamed the "D. Gregory Sanford, Jr. State Archives and Records Building."

* * * Commerce and Community Development * * *

Sec. 27. 29 V.S.A. § 155 is amended to read:

§ 155. HISTORIC PROPERTY STABILIZATION AND REHABILITATION SPECIAL FUND

(a) There is established a special fund managed by and under the authority and control of the commissioner, comprising net revenue from the sale or lease of underutilized state-owned historic property to be used for the purposes set forth in this section. Any remaining balance at the end of the fiscal year shall be carried forward in the fund; provided, however, that if the fund balance exceeds \$250,000.00 as of November 15 in any year, then the general assembly shall reallocate ~~the excess~~ the excess funds not subject to encumbrances for other purposes in the next enacted capital appropriations bill.

(b) ~~Monies in the fund shall be available to the department for the stabilization or rehabilitation of state-owned historic property pursuant to a program created jointly by the department of buildings and general services and the division for historic preservation of the agency of commerce and community development~~ rehabilitation or stabilization of state-owned historic properties that are authorized by the general assembly to be in the fund program, for payment of costs of historic resource evaluations and archeological investigations, for building assessments related to a potential sale or lease, for one-time fees for easement stewardship and monitoring, and for related one-time expenses.

(c) On or before January 15 of each year, the department shall report to the house committee on corrections and institutions and the senate committee on institutions concerning deposits into and disbursements from the fund occurring in the previous calendar year, the properties sold, ~~and leased,~~ stabilized, or rehabilitated during that period, and the department's plans for future stabilization or rehabilitation of state-owned historic properties.

* * *

Sec. 27a. 24 V.S.A. § 5607 is added to read:

§ 5607. REGIONAL ECONOMIC DEVELOPMENT GRANT PROGRAM

(a) Creation of program. There is created a regional economic development grant program to provide competitive grants to regional economic development corporations for capital costs associated with the major maintenance, renovation, or planning related to the development of facilities reasonably expected to create job opportunities in Vermont communities. The program is authorized to award matching grants of up to \$25,000.00 per project. The required match shall be met through dollars raised and not through in-kind services. State investments made under this program shall be consistent with the goals found in section 4302 of this title and local and regional plans adopted pursuant to this title.

(b) Creation of committee. There is established a regional economic development grant advisory committee to administer and coordinate the regional economic development grant program. The committee shall include the secretary of administration or designee; the commissioner of buildings and general services or designee; and two members of the Vermont general assembly, one appointed by the speaker of the house of representatives and one appointed by the senate committee on committees. The members of the committee shall select a chair.

Sec. 28. 24 V.S.A. § 5601 is amended to read:

§ 5601. BUILDING COMMUNITIES GRANTS

(a) The purpose of this chapter is to establish one-for-one matching grants to help communities, nonprofit organizations, or, as applicable under section 5603 of this chapter, barn owners preserve important historic buildings and enhance community facilities. Therefore, in order to make it easy for communities, nonprofit organizations, or barn owners to apply, the ~~board or department~~ entity which administers a grant program under this chapter shall work with other administrators of building communities grants to develop a standard application form which:

(1) describes the application process and includes clear instructions and examples to help applicants complete the form;

(2) includes an opportunity for a community, nonprofit organization, or barn owner to demonstrate its ability to generate one-for-one matching funds from local fundraising or other efforts;

(3) includes a summary of each of the other grants, their deadlines, and a statement that no community, nonprofit organization, or barn owner shall apply for more than one grant under this chapter for the same project in the same calendar year; and

(4) may include supplements specific to an individual grant.

(b) Each ~~board or department~~ entity which administers a grants program under this chapter shall establish a selection process which ensures equitable selection of grant recipients; and ensures accountability by grant recipients.

(c) Before it notifies an applicant of an award under this chapter, the ~~board or department~~ entity which administers the grant shall provide notice of the award and time and location of any award presentation to the chairs of the senate committee on institutions and the house committee on corrections and institutions, and those members of the general assembly who represent the area in which a successful applicant resides.

(d) Notwithstanding 32 V.S.A. § 701a, if, after an entity awards grant funds under this chapter, the funds remain unexpended and not subject to a grant agreement, the entity may reallocate the unexpended funds within its grant program within three years of the original award date. Any unexpended funds remaining after this three-year period that are not subject to a grant agreement shall be reallocated in future acts relating to capital construction and state bonding.

* * * Agriculture * * *

Sec. 28a. 10 V.S.A. § 54 is amended to read:

§ 54. RENTAL OF BUILDING; DISPOSITION OF FUNDS

The secretary may rent the building or parts thereof for exhibition purposes to available exhibitors with reasonable preference being given to exhibitors from this state and, with the approval of the governor, may rent or lease any part or all of the building to such parties and upon such terms and conditions and for such purposes as they shall determine to be in the best interests of the state, and the income therefrom shall be paid to the state treasurer and held by him or her in a separate fund for the purposes of this ~~section and sections 51 and 53 of this title~~ chapter. The commissioner of finance and management shall issue his or her warrant for the payment from such fund of all sums expended or due for the purposes herein authorized.

Sec. 28b. 6 V.S.A. § 4824(a) is amended to read:

(a) State grant. State financial assistance awarded under this subchapter shall be in the form of a grant. When a state grant is intended to match federal financial assistance for the same on-farm improvement project, the state grant shall be awarded only when the federal financial assistance has also been approved or awarded. An applicant for a state grant shall pay at least ~~15~~ 10 percent of the total eligible project cost. The dollar amount of a state grant shall be equal to the total eligible project cost, less ~~15~~ 10 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded, except that a state grant shall not exceed ~~80~~ 90 percent of the total eligible project cost.

Sec. 28c. 6 V.S.A. § 4826(a) is amended to read:

(a) The owner or operator of a farm required under section 4815 of this title to design, construct, or modify a waste storage facility may apply in writing to the secretary of agriculture, food and markets for cost assistance. Using state or federal funds or both, a state assistance grant shall be awarded, subject to the availability of funds, to applicants. Such grants shall not exceed ~~85~~ 90 percent of the cost of an adequately sized and designed waste storage facility and the equipment eligible for Natural Resources Conservation Service cost share assistance. Application for a state assistance grant shall be made in the manner prescribed by the secretary. For purposes of this section, “waste storage facility” means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an in-ground or above-ground structure, or any combination thereof. This section ~~does not~~ shall apply to concrete slabs used for agricultural waste management.

Sec. 28d. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative

~~manure-injection~~ equipment that will aid in the reduction of surface runoff of agricultural wastes to state waters, improve water quality of state waters, reduce odors from manure application, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the agency of agriculture, food and markets to provide farms, nonprofit organizations, and custom applicators in Vermont with state financial assistance for the purchase of new or innovative ~~manure-injection~~ equipment to improve manure application or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by rule by the secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators and nonprofit organizations and that are located in descending order within the boundaries of:

* * *

(d) ~~On or before January 15, 2009, and annually thereafter, the~~ The secretary of agriculture, food and markets shall report annually to the house and senate committees on agriculture and the house committee on fish, wildlife and water resources regarding the performance of and results achieved by providing capital assistance to custom applicators, nonprofit organizations, and farms for new or innovative ~~manure-injection~~ equipment.

* * * Natural Resources * * *

Sec. 28e. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

* * *

(9) The Vermont drinking water revolving loan fund which shall be used to provide loans to a municipality for the design, land acquisition, if necessary, and construction of a potable water supply when a household in the municipality has been disconnected involuntarily from a public water supply system for reasons other than nonpayment of fees.

* * *

Sec. 28f. 24 V.S.A. § 4763a is added to read:

§ 4763a. LOANS FOR POTABLE WATER SUPPLIES

When a household has been involuntarily disconnected from a public water supply system and that disconnection did not occur as a result of nonpayment of fees, a loan may be made to a municipality from the Vermont drinking water revolving loan fund, established in section 4753 of this title, for the design, land acquisition if necessary, and construction of a potable water supply, as that term is defined in 10 V.S.A. chapter 64. In such cases, the following conditions shall apply:

(1) Guaranteed repayment of the loan will be based on a municipal bond, but actual repayment may be made with funds from the owner of the potable water supply, as set forth in an agreement between the owner and the municipality.

(2) All conditions and limitations of section 4755 of this title shall apply to loans made under this section.

(3) No loan shall be made to a municipality under this section nor shall any part of any revolving loan made under this section be expended until both of the following take place:

(A) The secretary certifies to the bond bank that the wastewater system and potable water supply permit necessary for the design and construction of the proposed potable water supply to be financed by the loan have been issued to the owner of the supply.

(B) The applicant municipality certifies to the bond bank that the owner of the proposed potable water supply has secured all state and federal permits, licenses, and approvals necessary to construct and operate the improvements to be financed by the loan.

* * * Capital Planning and Finance * * *

Sec. 29. 29 V.S.A. § 168 is amended to read:

§ 168. STATE RESOURCE MANAGEMENT; REVOLVING FUND

* * *

(b) Revolving fund.

* * *

(2) The fund shall consist of:

* * *

~~(D) Monies associated with all incentives received by the state of Vermont from an entity appointed under 30 V.S.A. § 209(d)(2) (electric energy efficiency entities).~~

* * *

Sec. 30. 24 V.S.A. § 4345 is amended to read:

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

(6) Undertake studies and make recommendations on land development, urban renewal, transportation, economic, industrial, commercial, and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources, state capital investment plans, and wetland protection.

* * *

(11) Undertake comprehensive planning, including related preliminary planning, state capital investment plans, and engineering studies.

* * *

Sec. 31. 32 V.S.A. § 309 is amended to read:

§ 309. CAPITAL BUDGET REPORT

(a) Consolidated capital budget request. In addition to the general operating budget request to be submitted by the governor to the general assembly pursuant to this chapter, the governor shall submit to the general assembly, not later than the third Tuesday of every annual session, a consolidated capital budget request ~~for the following fiscal year, which encompasses. In the first year of the biennium the budget shall relate to the next two fiscal years. In the second year of the biennium the budget shall relate primarily to the next fiscal year but may request amendments to the current or to previous fiscal years or refer to requests for future fiscal years. The request shall encompass~~ all undertakings that may require state general obligation debt financing, including transportation projects as follows:

(1) Activities proposed for funding by general obligation debt financing shall be restricted to tangible capital investments, but may include the ~~planning; and design and engineering~~ directly associated with a tangible capital investment.

(2) Proposed activities shall be further restricted to those capital expenses allowed under federal laws governing the use of state bond proceeds.

(3) The capital budget request shall be segmented by the expected functional life of proposed activities, and thus by a corresponding prudent use of either long-term bond issues with a customary 20-year payback period, or shorter-term bond issues with a lesser payback period.

(4) The capital budget shall not include requests for debt financing of state agency operating expenses not directly related to a capital investment as required hereinabove. The latter operating expenses shall be accounted for in the governor's annual general operating budget request.

(b) Affordable bond authorization proposal. ~~The~~ In the first year of the biennium, the annual capital budget request of the governor shall include a statement of the total amount of new state tax supported general obligation debt the governor considers advisable for the general assembly to authorize for the ~~following next two~~ following next two fiscal year years, after having considered the maximum amount recommended for the following fiscal year by the capital debt affordability advisory committee as provided by subchapter 8 of chapter 13 of this title.

* * *

Sec. 32. 32 V.S.A. § 310 is amended to read:

§ 310. FORM OF ANNUAL CAPITAL BUDGET AND ~~LONG-RANGE SIX-YEAR~~ CAPITAL PROGRAM PLAN

(a) Each ~~annual~~ biennial capital budget request submitted to the general assembly shall be accompanied by, and placed in the context of, a ~~long-range six-year~~ state capital program plan to be prepared, and revised annually, by the governor and approved by the general assembly. The six-year plan shall include a list of all projects which will be recommended for funding in the current and ensuing five fiscal years. The list shall be prioritized based on need.

(b) The ~~annual~~ capital budget request for the following fiscal year shall be presented as the next ~~one-year~~ increment of the ~~long-range~~ six-year plan. Elements of the plan shall include:

(1) Assessment and projection of need.

(A) Capital needs and projections shall be based upon current and projected statistics on capital inventories and upon state demographic and economic conditions.

(B) Capital ~~inventories~~ funding shall ~~encompass all state financed capital programs, including~~ be categorized as follows:

- (i) state buildings, facilities, and land acquisitions;
- (ii) higher education;
- (iii) aid to municipalities for education, environmental conservation, including water, sewer, and solid waste projects, and other purposes; and
- (iv) transportation facilities.

(C) The capital needs and projections shall be for ~~each of the next~~ the current and the next five fiscal years, with longer-term projections presented for programs with reasonably predictable longer-term needs.

(D) Capital needs and projections shall be presented independently of financing requirements or opportunities.

(2) Comprehensive cost and financing assessment.

(A) Amounts appropriated and expended for the current fiscal year and for the preceding fiscal year shall be indicated for capital programs and for individual projects. The assessment shall indicate further the source of funds for any project which required additional funding and a description of any authorized projects which were delayed.

(B) Amounts proposed to be appropriated for the following fiscal year and each of the ~~four~~ five years thereafter shall be indicated for capital programs and for individual projects and shall be revised annually to reflect revised cost estimates and changes made in allocations due to project delays.

(C) The capital costs of programs and of individual projects, including funds for the development and evaluation of each project, shall be presented in full, for the entire period of their development.

(D) The operating costs, both actual and prospective, of capital programs and of individual projects shall be presented in full, for the entire period of their development and expected useful life.

(E) The financial burden and funding opportunities of programs and of individual projects shall be presented in full, including federal, state, and local government shares, and any private participation.

(F) Alternative methods of financing capital programs and projects should be described and assessed, including debt financing and use of current revenues.

Sec. 33. 32 V.S.A. § 701a is amended to read:

§ 701a. CAPITAL CONSTRUCTION BILL

(a) When the capital budget has been submitted by the governor to the general assembly, it shall immediately be referred to the committee on corrections and institutions which shall proceed to consider the budget request in the context of the ~~long-range~~ six-year capital program plan also submitted by the governor pursuant to sections 309 and 310 of this title. The committee shall also propose to the general assembly a prudent amount of total general obligation bonding for the following fiscal year, for support of the capital budget, in consideration of the recommendation of the capital debt affordability advisory committee pursuant to subchapter 8 of chapter 13 of this title.

(b) As soon as possible the committee shall prepare a bill to be known as the “capital construction bill,” which shall be introduced for action by the general assembly.

(c) ~~The sums appropriated and~~ spending authority authorized by a capital construction act shall ~~be continuing and shall not revert at the end of the fiscal year~~ carry forward until expended, unless otherwise provided. Any unencumbered funds remaining after a two-year period shall be reported to the general assembly and may be reallocated in future capital construction acts.

(d) On or before October 15, each entity to which spending authority is authorized by a capital construction act shall submit to the department of buildings and general services a report on the status of each project authorized. The report shall follow the form provided by the department of buildings and general services and shall include details regarding how much of the appropriation has been spent, how much of the appropriation is unencumbered, actual progress in meeting the goals of the project, and any impediments to completing the project on time and on budget. The department may request additional or clarifying information regarding each project. On or before January 15, the department shall present the information collected to the house committee on corrections and institutions and the senate committee on institutions.

Sec. 34. 32 V.S.A. § 954 is amended to read:

§ 954. PROCEEDS

(a) The proceeds arising from the sale of such bonds, ~~except~~ inclusive of any premiums, shall be applied to the purposes for which they were authorized and such purposes shall be considered to include the expenses of preparing, issuing, and marketing such bonds and any notes issued under section 955 of this title, and amounts for reserves, but no purchasers of such bonds shall be in

any way bound to see to the proper application of the proceeds thereof. The state treasurer shall pay the interest on, principal of, investment return on, and maturity value of such bonds and notes as the same fall due or accrue without further order or authority. ~~Any premium received upon the sale of such bonds or notes shall be applied to the payment of the first principal or interest to come due thereon.~~ The state treasurer with the approval of the governor, may establish sinking funds, reserve funds, or other special funds of the state as he or she may deem for the best interest of the state. To the extent not otherwise provided, the amount necessary each year to fulfill the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on all such bonds then outstanding shall be included in and made a part of the annual appropriation bill for the expense of state government, and such principal and interest on, investment return and maturity value of, and sinking fund installments on the bonds as may come due before appropriations for the fulfillment thereof have been made shall be fulfilled from the applicable debt service fund.

* * *

Sec. 35. 32 V.S.A. § 962 is added to read:

§ 962. PRIVATE USE COMPLIANCE, NOTICE AND APPROVAL

Any entity receiving an appropriation financed with proceeds of tax-exempt bonds of the state shall notify and receive approval from the state treasurer and the secretary of administration at least 90 days prior to finalizing an agreement with a nonpublic or for-profit entity to rent, lease, sell, or otherwise dispose of property financed with those proceeds and also shall pay any cost related to compliance with the Internal Revenue Code of 1986, as amended, resulting from disposal of the property. This notification requirement shall not apply if the proceeds were provided, or the property was disposed of, as a grant, or otherwise with no payment or repayment made or required to be made to the state or to the entity.

Sec. 36. 32 V.S.A. § 993 is added to read:

§ 993. PUBLIC APPROVAL, OUT-OF-STATE ISSUERS

Notwithstanding any provision to the contrary in Title 9, the governor, in consultation with the state treasurer, shall have exclusive authority to grant any public approval required under Section 147(f)(2) of the Internal Revenue Code of 1986, as amended, pertaining to the proposed issuance of qualified private activity bonds when the purpose of the bonds is to finance or refinance purposes to be located within the state and the bonds are proposed by any issuers of qualified private activity bonds organized under the laws of a jurisdiction other than the state of Vermont. Approval shall not be withheld

unless the governor, in consultation with the state treasurer, determines in good faith that the issuance is not financially sound.

* * * Judiciary and Corrections * * *

Sec. 37. JOINT COMMITTEE ON CORRECTIONS OVERSIGHT

During the 2012 interim, the joint committee on corrections oversight shall:

(1) explore how criminal justice services are being delivered currently in the Northwest quadrant of the state. The committee's work shall include a review of the current facilities in the Northwest quadrant of the state, a determination of whether those facilities have sufficient space for their current populations and provide sufficient supports related to housing, parenting, mental health, substance abuse, trauma, education, and job training, and a recommendation for further action regarding current and future facilities in the Northwest quadrant of the state. In addition to facilities, the committee shall also consider how criminal justice services generally are being delivered in the Northwest quadrant and whether there are any opportunities for improvement or collaboration to reduce the total number of individuals incarcerated. On or before January 15, 2013, the committee shall present its analysis together with any related proposals for legislation to the house and senate committees on judiciary and the house committee on corrections and institutions.

(2) monitor the progress of construction and improvements to existing programming at the Chittenden Regional Correctional Facility and determine whether the changes that have been made or any proposed changes to the facility or to programming are sufficient to ensure inmate health, safety, and human dignity.

Sec. 37a. SUSTAINABLE PRISONS

The commissioner of corrections, in collaboration with the department of buildings and general services, shall train corrections staff and inmates in sustainable practices for the reduction of energy usage, water consumption, and waste disposal at correctional facilities and to provide educational and green job training to inmates. The commissioners of buildings and general services and of corrections shall report to the general assembly on the progress of this training on or before January 15, 2013.

Sec. 37b. OUT-OF-STATE CORRECTIONAL FACILITIES

On or before January 15, 2013, the commissioner of corrections shall present to the general assembly a plan for eliminating the utilization of out-of-state correctional facilities. The plan shall include a time line for action and any requests for appropriations or statutory language.

Sec. 38. Sec. 22(a) of No. 179 of the Acts of the 2007 Adj. Sess. (2008), as amended by Sec. 14 of No. 157 of the Acts of the 2009 Adj. Sess. (2010), is amended further to read:

(a) Secs. 11 and 12 of this act shall take effect on July 1, ~~2012~~ 2013.

* * * Information Technology * * *

Sec. 39. INFORMATION TECHNOLOGY INFRASTRUCTURE NEEDS

In order for state government operations to be effective and efficient, timely and reasonable replacement and upgrading of information technology systems are appropriate and necessary. Over the last decade, capital funds have been used increasingly to pay for these important projects. However, there is not enough capital funding available to meet the existing uses of this fund. Therefore, the secretary of administration, working in collaboration with the state treasurer, shall review the options for funding these projects described in the administration's report titled "Information Technology Infrastructure Needs: A Study of Financing Options" published on January 13, 2011, including a base line appropriation or revolving loan fund. The secretary and treasurer shall present a recommendation of any required statutory changes to the house committee on corrections and institutions and the senate committee on institutions on or before January 15, 2013.

* * * Capital Bill Definitions * * *

Sec. 40. DEFINITIONS

For purposes of this act:

(1) "Allocation" means the portion of an appropriation that is designated to fund a particular project.

(2) "Appropriation" means the spending authority granted to an entity to fund a group of projects.

(3) "Encumbrance" means a portion of an allocation reserved for the subsequent payment of existing purchase orders or contracts made in furtherance of completing a project, the total of which may not exceed the amount of the original allocation. The commissioner of finance and management shall make final decisions on the appropriateness of encumbrances.

Sec. 41. ENGINEERING COSTS

The joint fiscal office shall study during the 2012 interim how best to allocate engineering costs between the capital and general funds.

* * * Effective Dates and Statutory Revision * * *

Sec. 42. Sec. 57(a) of No. 40 of the Acts of 2011 is amended to read:

(a) This act shall take effect on passage, except:

(1) Sec. 36 (liability of the state) shall take effect July 1, 2011;

~~(2) Secs. 2(e) (BGS, FY 2013), 3(a)(2) (maps, FY 2013), 4(d) and (e) (human services, FY 2013), 5(b) (judiciary, FY 2013), 6(b) (BGS for commerce and community development, FY 2013), 6(d) (commerce and community development, FY 2013), 7(b) (building communities grants, FY 2013), 8(b) (education, FY 2013), 10(b) (University of Vermont, FY 2013), 11(b) (Vermont State Colleges, FY 2013), 12(b) (natural resources, FY 2013), 13(b) (military, FY 2013), 14(b) and (d) (public safety, FY 2013), 16(b) (agriculture, FY 2013), 17(b) (Vermont Public Television, FY 2013), 18(b) (rural fire protection, FY 2013), 20(b) (Vermont Center for Crime Victim Services, FY 2013), 21 (department of information and innovation), and 23(b) (Vermont Interactive Television, FY 2013) shall take effect on June 1, 2012.~~

Sec. 43. EFFECTIVE DATE AND STATUTORY REVISION

(a) This act shall take effect on passage.

(b) Pursuant to the statutory revision authority provided in 2 V.S.A. chapter 13, after enactment of this act and of H.630 of this session (mental health system of care), the office of legislative council shall revise Sec. 3 of this act to refer to H.630 as enacted.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 27, 2012, page 814.)

H. 789.

An act relating to reapportioning the final representative districts of the House of Representatives.

Reported favorably with recommendation of proposal of amendment by Senator White for the Committee on Reapportionment.

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

First: In Sec. 1, by striking out districts BENNINGTON-3-1 and BENNINGTON-3-2 in their entirety and inserting in lieu thereof the following:

BENNINGTON-3-1 Glastenbury and Shaftsbury

1

BENNINGTON-3-2 Arlington, Sandgate, Sunderland, and that portion of the town of Rupert encompassed within a boundary beginning at the point where the boundary line of Rupert and the state of New York intersects with VT Route 153; then northeasterly along the southern side of the centerline of VT 153 to the intersection of East Street; then easterly along the southern side of the centerline of East Street to the intersection of Kent Hollow Road; then easterly along the southern side and southerly along the western side of the centerline of Kent Hollow Road to the boundary of Sandgate; then westerly along the Sandgate town line to the boundary of New York; then northerly along the New York state line to the point of beginning 1

Second: By striking out districts CHITTENDEN-4-1 and CHITTENDEN-4-2 in their entirety and inserting in lieu thereof the following:

CHITTENDEN-4-1 Charlotte 1

CHITTENDEN-4-2 Hinesburg 1

Third: By striking out Sec. 3 (effective date) in its entirety and inserting in lieu thereof the following:

Sec. 3. 17 V.S.A. § 1881 is amended to read:

§ 1881. NUMBER TO BE ELECTED

Senatorial districts and the number of senators to be elected from each are as follows:

(1) Addison senatorial district, composed of the towns of Addison, ~~Brandon~~, Bridport, Bristol, Buel's Gore, Cornwall, Ferrisburgh, Goshen, Granville, Hancock, Huntington, Leicester, Lincoln, Middlebury, Monkton, New Haven, Orwell, Panton, Ripton, Salisbury, Shoreham, Starksboro, Vergennes, Waltham, ~~Whiting and Weybridge, and Whiting~~..... two;

(2) Bennington senatorial district, composed of the towns of Arlington, Bennington, Dorset, Glastenbury, Landgrove, Manchester, Peru, Pownal, Readsboro, Rupert, Sandgate, Searsburg, Shaftsbury, Somerset, Stamford, Sunderland, Wilmington, Winhall, and Woodford..... two;

(3) Caledonia senatorial district, composed of the towns of Barnet, Bradford, Burke, Danville, Fairlee, Groton, Hardwick, Kirby, Lyndon, Newark, Newbury, Orange, Peacham, Ryegate, St. Johnsbury, Sheffield, Stannard, Sutton, Topsham, Walden, Waterford, West Fairlee, and Wheelock..... two;

(4) Chittenden senatorial district, composed of the towns of Bolton, ~~Buel's Gore~~, Burlington, Charlotte, Essex, Hinesburg, ~~Huntington~~, Jericho, Milton, Richmond, St. George, Shelburne, South Burlington, Underhill, Westford, Williston, and Winooski..... six;

(5) Essex-Orleans senatorial district, composed of the towns of Albany, Averill, Avery's Gore, Barton, Bloomfield, Brighton, Brownington, Brunswick, Canaan, Charleston, Concord, Coventry, Craftsbury, Derby, East Haven, Eden, Ferdinand, Glover, Granby, Greensboro, Guildhall, Holland, Irasburg, Jay, Lemington, Lewis, Lowell, Lunenburg, Maidstone, Montgomery, Morgan, Newport City, Newport Town, Norton, Richford, Troy, Victory, Warner's Grant, ~~Warren's~~ Warren Gore, Westfield, Westmore, and Wolcott..... two;

(6) Franklin senatorial district, composed of the towns of ~~Alburg~~ Alburgh, Bakersfield, Berkshire, ~~Enosburg~~ Enosburgh, Fairfax, Fairfield, Fletcher, Franklin, Georgia, Highgate, St. Albans City, St. Albans Town, Sheldon, and Swanton..... two;

(7) Grand Isle senatorial district, composed of the towns of Colchester, Grand Isle, Isle La Motte, North Hero, and South Hero..... one;

(8) Lamoille senatorial district, composed of the towns of Belvidere, Cambridge, Elmore, Hyde Park, Johnson, Morristown, Stowe, and Waterville..... one;

(9) Orange senatorial district, composed of the towns of Braintree, Brookfield, Chelsea, Corinth, Randolph, Strafford, Thetford, Tunbridge, Vershire, Washington, and Williamstown..... one;

(10) Rutland senatorial district, composed of the towns of Benson, Brandon, Castleton, Chittenden, Clarendon, Danby, Fair Haven, Hubbardton, Ira, Killington, Mendon, Middletown Springs, ~~Mt. Holly~~, Mt. Tabor, Pawlet, Pittsfield, Pittsford, Poultney, Proctor, Rutland City, Rutland Town, Shrewsbury, Sudbury, Tinmouth, Wallingford, Wells, West Haven, and West Rutland..... three;

(11) Washington senatorial district, composed of the towns of Barre City, Barre Town, Berlin, Cabot, Calais, Duxbury, East Montpelier, Fayston, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Plainfield, Roxbury, Waitsfield, Warren, Waterbury, Woodbury, and Worcester..... three;

(12) Windham senatorial district, composed of the towns of Athens, Brattleboro, Brookline, Dover, Dummerston, Grafton, Guilford, Halifax, Jamaica, Londonderry, Marlboro, Newfane, Putney, Rockingham, ~~Somerset~~,

Stratton, Townshend, Vernon, Wardsboro, Westminster, Whitingham, and Windham..... two;

(13) Windsor senatorial district, composed of the towns of Andover, Baltimore, Barnard, Bethel, Bridgewater, Cavendish, Chester, Hartford, Hartland, Ludlow, Mt. Holly, Norwich, Plymouth, Pomfret, Reading, Rochester, Royalton, Sharon, Springfield, Stockbridge, Weathersfield, Weston, West Windsor, Windsor, and Woodstock..... three.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage and shall apply to representative and senatorial districts for the 2012 election cycle and thereafter.

and that after passage the title of the bill be amended to read: “An act relating to reapportioning the final representative districts of the House of Representatives and the senatorial districts of the Senate”

(Committee vote: 7-0-0)

(For House amendments, see House Journal for April 5, 2012, page 902.)

ORDERED TO LIE

H. 412.

An act relating to harassment and bullying in educational settings.

PENDING ACTION: Shall the amendment of the Committee on Education be adopted?

CONCURRENT RESOLUTIONS FOR ACTION

S.C.R. 43-44 (For text of Resolutions, see Addendum to House Calendar for April 12, 2012)

H.C.R. 337-352 (For text of Resolutions, see Addendum to House Calendar for April 12, 2012)

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. Snelli8ng 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)

FOR INFORMATION ONLY

S.C.R. 44

By Senator Mullin,

By Representatives Mock of Bennington and Lewis of Derby,

S.C.R. 43. Senate concurrent resolution designating May 2012 as Lupus Awareness Month in Vermont.

Whereas, the Lupus Foundation of America designates May as National Lupus Awareness Month to show support for the estimated 1.5 million Americans who have lupus, and

Whereas, lupus is an acute and chronic autoimmune disease in which the immune system is unbalanced, causing inflammation and tissue damage to virtually every organ system in the body, and

Whereas, lupus can affect any part of the body, including the skin, lungs, heart, kidneys, and brain and can cause seizures, strokes, heart attacks, miscarriages, and organ failure, and

Whereas, although lupus strikes mostly women of childbearing age, no one is immune from lupus, and African Americans, Hispanics, Asians, and Native

Americans are two to three times more likely to develop lupus, a disparity that remains unexplained, and

Whereas, lupus can be particularly difficult to diagnose because its symptoms are similar to those of many other illnesses, and major gaps exist in understanding the causes and consequences of lupus; more than one-half of all people with lupus take four or more years and visit three or more doctors before obtaining a correct diagnosis, and

Whereas, the U.S. Food and Drug Administration has not approved a new drug for lupus in 50 years, and current treatments for the disease can have damaging side-effects, and

Whereas, roughly 3,090 Vermonters are affected by lupus, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly designates May 2012 as Lupus Awareness Month in Vermont, *and be it further*

Resolved: That the General Assembly recognizes the importance of lupus education and research, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Chapter of the Lupus Foundation of America.

S.C.R. 45

By Senators Kitchel and Benning,

By Representatives Crawford of Burke, Larocque of Barnet, Lawrence of Lyndon, Reis of St. Johnsbury and Toll of Danville.

S.C.R. 44. Senate concurrent resolution congratulating Robert Swartz on being named the 2012 Northeast Kingdom Chamber Citizen of the Year.

Whereas, the Northeast Kingdom Chamber of Commerce proudly presents its annual Citizen of the Year award “to a Northeast Kingdom resident who has demonstrated outstanding leadership and extensive community involvement beyond the candidate’s normal occupation,” and

Whereas, the 2012 winner of this accolade is Robert Swartz, who for 27 years was a faculty member at St. Johnsbury Academy, taught English, assisted in the establishment of the academy’s English as a second language program and its international club, and was a leader in the creation of a technical writing curriculum, and

Whereas, since 1997, he has served as the education resource coordinator for the Northeastern Vermont Area Health Education Center, and

Whereas, during his more than four decades of residence in the Northeast Kingdom, Bob Swartz has been associated with many civic and community institutions, including the Danville school board; Green Mountain United Way; North Congregational Church, where he has served as moderator, deacon, executive council member, and founding member of its archives committee; the Northeast Vermont Regional Hospital, where he has served as a corporator; the Osher Lifelong Learning Lecture Series; and several St. Johnsbury town committees, especially those focused on design and planning, and

Whereas, he chaired the Northern Counties Health Care Board as it decided to merge with Caledonia Home Health Care, and

Whereas, above all of these praiseworthy endeavors, Bob Swartz is perhaps most closely associated with the Catamount Arts Center, where his dedication and leadership have been critical to the organization's growth, and

Whereas, Bob Swartz presided over the center's board during the organization's move to a building on Eastern Avenue in St. Johnsbury and during the subsequent capital fundraising campaign to properly outfit and support this new arts facility, and

Whereas, 16 of his fellow Catamount Arts Center board members enthusiastically endorsed the nomination of Bob Swartz for the 2012 Citizen of the Year Award, a recommendation with which the award's selection committee concurred, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly congratulates Robert Swartz on being named the 2012 Northeast Kingdom Chamber Citizen of the Year, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Bob Swartz in St. Johnsbury.