

Journal of the House

Wednesday, May 2, 2012

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

Devotional Exercises

Devotional exercises were conducted by Sergeant-at-Arms, Francis Brooks of Montpelier, VT.

Joint Resolution Placed on Calendar

J.R.H. 38

Joint resolution expressing concern over the *Reader's Digest* portrayal of mental illness

Offered by: Committee on Human Services

Whereas, the *Reader's Digest* has published a series of articles on the theme "Normal or Nuts," most recently in March 2012, and

Whereas, the text of this latest article clearly intends to educate the public concerning the distinction between personal behaviors that may and may not require mental health intervention or support, and

Whereas, educating the public on mental health issues enables readers to assess episodes of personal behavior that they may find too embarrassing to discuss with others, and

Whereas, the articles' flippant references to "nuts" in contrast to "normal" seems intended to attract public attention, and

Whereas, the March 2012 article contains illustrations and text that promote a negative view of mental illness by referring to persons with a symptom of mental illness as "nuts" and using the term "certifiable," which carries the stigmatizing connotation that persons with a mental illness frequently require court-ordered involuntary treatment, and

Whereas, according to the World Health Organization, "mental illnesses (including depression, bipolar disorder, and schizophrenia) account for nearly 25% of all disability across major industrialized countries," and

Whereas, there is broad recognition by such national organizations as the National Alliance for Mental Illness that humorous references to the trauma of mental illness are detrimental to the goal of supporting those who may need psychiatric treatment, and

Whereas, the Vermont general assembly has heard testimony from groups such as the Vermont Psychiatric Survivors regarding the hurt experienced by those with a mental illness when the illness is minimized by derogatory comments, and

Whereas, as stated on the website of the federal Substance Abuse and Mental Health Services Administration (SAMHSA), “words have power to teach . . . to wound . . . to shape the way people think, feel, and act toward others . . . [and] when a stigmatized group of people, such as those with mental illnesses, is struggling for increased understanding and acceptance, attention to the language used in talking and writing about them is particularly important,” and

Whereas, SAMHSA has stated that “stigma impedes people from getting the care they need” and “is a pervasive barrier to understanding the gravity of mental illnesses,” and

Whereas, the state has striven to address the barriers preventing persons from receiving treatment through the enactment of Act 25 of 1997, which mandated that mental health treatment receive insurance coverage equal to other areas of health care, and

Whereas, in 2011, Act 24 provided for a study to “recommend guidelines for using respectful language when referring to people with disabilities” in order to eliminate in state law any negative terms used to describe individuals with a mental health condition, and

Whereas, this legislative body wishes to stand beside those persons who are hurt by negative portrayals of mental illness and to reinforce this state’s commitment as a national leader in the effort to establish equality for mental health as part of the robustness of our health care system, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly encourages the *Reader’s Digest* to consider the harm and pain that derogatory or flippant language regarding disabilities can cause to millions of Americans, and be it further

Resolved: That the General Assembly urges *Reader’s Digest* to reconsider the language used in its series titled “Are You Normal or Nuts?” in order that its public awareness efforts are not unintentionally hurtful, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Reader’s Digest Association President and Chief Executive Officer Robert E. Guth in New York.

Which was read and, in the Speaker’s discretion, placed on the Calendar for action on the next legislative day under Rule 52.

**Committee of Conference Appointed, Rules Suspended
and Bill Ordered Messaged to the Senate Forthwith**

S. 152

Senate bill, entitled

An act relating to the definition of line of duty in the workers' compensation statutes

Was taken up and because the Senate refused to concur in the House proposal of amendment, **Rep. Botzow of Pownal** moved that the House appoint a Committee of Conference, which was agreed to.

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Botzow of Pownal
Rep. Marcotte of Coventry
Rep. Shand of Weathersfield

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Rules Suspended; Joint Resolution Adopted

J.R.H. 38

On motion of **Rep. Savage of Swanton**, the rules were suspended and Joint resolution, entitled

Joint resolution expressing concern over the *Reader's Digest* portrayal of mental illness;

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

Thereupon, the resolution was adopted on the part of the House.

Joint Resolution Adopted in Concurrence

J.R.S. 58

Joint resolution, entitled

Joint resolution relating to respectful language in the Vermont Statutes Annotated

Was taken up and adopted in concurrence.

Recess

At ten o'clock and five minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

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

Message from the Senate No. 68

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

H. 784. An act relating to approval of the adoption and codification of the charter of the town of Williamstown.

H. 787. An act relating to approval of amendments to the charter of the city of Montpelier.

H. 788. An act relating to approval of amendments to the charter of the town of Richmond.

H. 790. An act relating to approval of amendments to the charter of the town of Hartford.

And has passed the same in concurrence.

The Senate has considered bills originating in the House of the following titles:

H. 78. An act relating to wages for laid-off employees.

H. 524. An act relating to the regulation of professions and occupations.

H. 699. An act relating to scrap metal processors.

H. 786. An act relating to approval of amendments to the charter of the town of Windsor.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bills of the following titles:

S. 99. An act relating to supporting mobile home ownership, strengthening mobile home parks and preserving affordable housing.

S. 106. An act relating to miscellaneous changes to municipal government law.

S. 226. An act relating to combating illegal diversion of prescription opiates and increasing treatment resources for opiate addiction.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bills of the following titles:

S. 202. An act relating to regulation of flood hazard areas, river corridors, and stream alteration.

S. 252. An act relating to the repeal or revision of reporting requirements.

And has concurred therein.

The Senate has considered House proposals of amendment to Senate proposals of amendment to House bills of the following titles:

H. 506. An act relating to vinous beverages.

H. 523. An act relating to revising the state highway condemnation law.

H. 751. An act relating to jurisdiction of delinquency proceedings.

And has concurred therein.

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bill of the following title:

H. 485. An act relating to establishing universal recycling of solid waste.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon House bill of the following title:

H. 770. An act relating to the state's transportation program.

And has accepted and adopted the same on its part.

Pursuant to the request of the House for Committees of Conference on the disagreeing votes of the two Houses on the following House bills the President announced the appointment as members of such Committees on the part of the Senate:

H. 745. An act relating to the Vermont prescription monitoring system.

Senator Sears
Senator Ayer
Senator Mullin

H. 780. An act relating to compensation for certain state employees.

Senator Flory
Senator Nitka

Senator White

The Senate has considered House proposal of amendment to joint resolution entitled:

J.R.S. 54. Joint resolution approving a land exchange in Alburgh and a lease with Camp Downer, Inc.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Hartwell
Senator Mazza
Senator Benning

The Governor has informed the Senate that on the first day of May, 2012, he approved and signed bills originating in the Senate of the following titles:

S. 122. An act relating to human trafficking and prostitution.

S. 128. An act relating to recognition of the Missisquoi, St. Francis-Sokoki Band as a Native American Indian tribe.

Action on Bill Postponed

S. 199

Senate bill, entitled

An act relating to immunization exemptions and the immunization pilot program

Was taken up and pending the question, Shall the report of the Committee of Conference be adopted? on motion of **Rep. Fisher of Lincoln**, action on the bill was postponed until the next legislative day on a Division vote: Yeas, 81. Nays, 38.

Rules Suspended; Report of Committee of Conference Adopted

H. 770

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to the state's transportation program

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill recommended that the Senate recede from its proposal of amendment and that the bill be amended by striking all after the enacting clause and by 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) Prior to expending funds other than development and evaluation funds on the portable hot mix plant project pursuant to 19 V.S.A. § 10g(h), 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.

* * * Program Development – Roadway * * *

Sec. 4. PROGRAM DEVELOPMENT – ROADWAY

(a) 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.

(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.

* * * 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

Sources of funds

State	235,000	235,000	0
Federal	140,000	165,000	25,000
Total	375,000	400,000	25,000

* * * State Aid for Federal and Nonfederal Disasters * * *

Sec. 7. STATE AID FOR NONFEDERAL DISASTERS

<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

Sources of funds

State	1,550,000	1,150,000	-400,000
Federal	3,200,000	0	-3,200,000
Total	4,750,000	1,150,000	-3,600,000

Sec. 8. STATE AID FOR FEDERAL DISASTERS

<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

Sources of funds

State	0	400,000	400,000
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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

(a) 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

(b) The secretary shall review the permissible uses of general state aid for town highways under 19 V.S.A. § 306(a), and shall report back to the house and senate committees on transportation by January 15, 2013, with any recommendations for further specifying the permissible uses, and overseeing the use, of general state aid for town highways.

* * * 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

Sources of funds

State	0	0	0
TIB	1,320,000	300,000	-1,020,000
Federal	5,280,000	1,200,000	-4,080,000
Local	0	0	0
Total	6,600,000	1,500,000	-5,100,000

(3) Spending authority for the Rutland–Burlington rail and crossings project is amended to read:

<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

Sources of funds

State	300,000	300,000	0
TIB	0	1,020,000	1,020,000
Federal	1,200,000	5,280,000	4,080,000
Local	0	0	0
Total	1,500,000	6,600,000	5,100,000

Sec. 12. RUTLAND–BURLINGTON RAIL AND CROSSINGS PROJECT

The “Rutland–Burlington rail and crossings project” is added to the fiscal year 2012 transportation program – rail program. The project includes the installation of continuously welded rail and the reconstruction of several

rail-highway grade crossings along the Vermont Railway line between Rutland and Burlington.

Sec. 13. PURCHASE OF RAIL BRIDGE INSPECTION VEHICLE

(a) A new project is added to the fiscal year 2012 and 2013 transportation program – rail programs for the purchase of a servi-lift rail bridge inspection vehicle (“inspection vehicle”).

(b) Notwithstanding the authorized program spending within the fiscal year 2012 and 2013 transportation program – rail programs, the secretary is authorized to purchase an inspection vehicle using any federal grant funds received for its purchase.

(c) If a federal grant for the purchase of the inspection vehicle is not received or is not pending, notwithstanding the authorized project or activity spending within the fiscal year 2012 and 2013 transportation program – rail programs, the secretary is authorized to use up to a total of \$500,000.00 in transportation funds appropriated to the rail program for the purchase of the inspection vehicle, provided that the purchase does not delay the work schedule of a project or activity programmed in the fiscal year 2012 or 2013 rail programs.

(d) The agency shall promptly report any action taken under the authority granted in subsection (b) or (c) of this section to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session and, when the general assembly is not in session, to the joint transportation oversight committee.

Sec. 14. ANTICIPATION OF FEDERAL RECEIPTS – RAIL PROGRAM

As authorized by 32 V.S.A. § 510, the secretary, with the prior approval of the commissioner of finance and management, may anticipate federal receipts into the transportation – rail program.

* * * Transportation Buildings * * *

Sec. 15. TRANSPORTATION BUILDINGS

The following modifications are made to the transportation buildings program:

(1) Spending authority for the Mendon District 3/Southwest Regional Construction Office Building project is amended to read:

<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

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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

Sources of funds

State	3,000	83,000	80,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0
Total	3,000	83,000	80,000

(3) Spending authority for the Middlebury – Design, Permit, and Construct 1–Bay Addition project is amended to read:

<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

Sources of funds

State	180,000	0	-180,000
TIB	0	0	0
Federal	0	0	0
Local	0	0	0

Total	180,000	0	-180,000
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Sec. 16. VTRANS TRAINING CENTER FACILITY

(a) 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.”

(b) The agency shall rename the VTrans Learning Campus program to be the VTrans Training Center program.

(c) After the effective date of this act, the agency shall:

(1) continue to pursue the acquisition or construction of a facility, not located in a flood hazard area, that is suitable to satisfy the agency’s long-term objectives for the VTrans Training Center program; and

(2) create a plan for the development of a VTrans Training Center facility that will satisfy the long-term objectives of the 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. § 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 list contract bid awards versus project estimates and a detailed report on~~ and 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~~ The report required under subdivision (1) of this subsection also shall describe the agency's actions taken or planned to cover the cost overruns and to reallocate the project savings and delayed project funds, and shall discuss the agency's plans to adjust spending to any changes in the consensus forecast for transportation fund revenues.

(3) 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:

(A) a generalized increase in bids relative to project estimates;

(B) changes in the consensus revenue forecast of the transportation fund or transportation infrastructure bond fund; or

(C) 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), 10e(c), 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 joint fiscal office and 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. COMMITTEE 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 committee. A committee on transportation funding is established, composed of the following members:

- (1) the secretary of transportation or designee, who shall serve as chair;
- (2) the commissioner of motor vehicles or designee;
- (3) one member appointed by the senate committee on committees;

(4) one member appointed by the speaker of the house;

(5) one member designated by the Vermont League of Cities and Towns;

(6) one member designated by the Vermont Association of Planning and Development Agencies, Inc.; and

(7) one member designated by the James M. Jeffords Center for Policy Research.

(c) Purpose and charge. The committee shall:

(1) estimate transportation and TIB fund revenues over the next five years, 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 next five years (the “five-year funding gap”) based on the cost of maintaining the state’s existing infrastructure, and under any other cost scenario the committee deems appropriate;

(3) evaluate potential new state revenue sources, including a vehicle miles traveled tax, and how existing state revenue sources could optimally be modified to address the five-year and longer term expected transportation funding gaps. The committee 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 secretary of transportation shall call the first meeting of the committee by June 15, 2012. The committee 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 committee shall terminate on January 15, 2013.

(e) Assistance. Upon the request of the committee, the agency may contract with consultants to provide expert assistance to the committee. Any consultant fees shall be paid out of the transportation – policy and planning appropriation. Upon request, the committee shall receive administrative support from the agency of transportation and assistance from the joint fiscal office, the office of legislative council, and any unit of the executive branch the committee deems appropriate.

(f) For attendance at a meeting when the general assembly is not in session, legislative members of the committee shall be entitled to compensation for services and reimbursement of expenses as provided under 2 V.S.A. § 406(a). Other committee members who are not otherwise compensated or reimbursed

by their employer shall be entitled to per diem compensation and reimbursement for expenses under 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.

* * * State Highway Closures * * *

Sec. 45. 19 V.S.A. § 43 is added to read:

§ 43. STATE HIGHWAY CLOSURES

(a) Before the planned closure of a state highway, the agency shall convene a regional public meeting for the purpose of listening to public concerns. The agency shall consult with other state agencies and departments, regional chambers of commerce, regional planning commissions, local legislative bodies, emergency medical service organizations, school officials, and area businesses to develop mitigation strategies to reduce the impact of the planned closure on the local and regional economies.

(b) In developing mitigation strategies, the agency shall consider the need to provide a level of safety for the traveling public comparable to that available on the segment of state highway affected by the planned closure. If the agency finds town highways unsuitable for a signed detour, the agency will advise local legislative bodies of the reasons for its determination.

* * * Plaque Honoring Richard W. Hube Jr. * * *

Sec. 46. PLAQUE ON VERMONT ROUTE 30 BRIDGE

(a) Prior to or as soon as possible after the reopening of bridge #30 on Vermont Route 30 in the town of Jamaica, the agency of transportation shall install commemorative plaques on both sides of the bridge that read:

“Richard W. Hube Jr. Memorial Bridge

Vermont State Representative, 1999–2009

In recognition of his service and dedication to the people of Vermont”

(b) The plaques and their placement shall conform to the Federal Highway Administration’s Manual on Uniform Traffic Control Devices.

* * * Approval of Acquisitions and Transfers of Property * * *

Sec. 47. 19 V.S.A. § 26 is amended to read:

§ 26. PURCHASE AND SALE OF PROPERTY

(a)(1) Subject to subsection (b) of this section:

(A) The agency may purchase or lease any land, taking conveyance in the name of the state, when land is needed in connection with the layout, construction, repair, and maintenance of any state highway, or the reconstruction of the highway.

(B) The agency may acquire or construct buildings necessary for use in connection with this work.

(C) When any of the land or the buildings acquired or the buildings constructed become no longer necessary for these purposes, the agency may sell or lease the property.

(2) The proceeds from any sale or lease shall be deposited in the transportation fund and, unless otherwise required by federal law or regulation, shall be credited to transportation buildings to be used for transportation building projects previously authorized by the general assembly.

(b) An acquisition or transfer or the construction under this section of property or rights in property with an appraised or other estimated value of \$500,000.00 or above, or the acquisition or transfer of an option to acquire property with an appraised or other estimated value of \$500,000.00 or above, shall be made with the specific prior approval of the general assembly of the acquisition, transfer, or construction and its terms or, if the general assembly is not in session, with the specific prior approval of the joint transportation oversight committee. The requirement of this subsection shall not apply, however, if the general assembly has approved a specific project described in

the annual transportation program and the scope of the project includes the acquisition or transfer of property.

Sec. 48. 5 V.S.A. § 204 is amended to read:

§ 204. POWERS OF AGENCY GENERALLY

(a) To carry out the purposes of this part, the transportation agency shall have power, subject to subsection (b) of this section:

(1) to contract in the name of the state with individuals, firms, or corporations, with officials of a town, city, or village, with officials of a group of either or both of such governmental units, with officials of another state, or with officials or agencies of the federal government to carry out the purposes of this part;

(2) to receive, manage, use, or expend, for purposes directed by the donor, gifts, grants, or contributions of any name or nature made to the state for the promotion or development of aeronautics or for aeronautics facilities;

(3) to operate, manage, use, exchange, lease, or otherwise deal with or dispose of, in whole or in part, land and rights in land acquired in the name of the state by purchase, gift, or otherwise, under authorization of this part, and to charge reasonable fees for such use or the use of landing areas, parking areas, buildings, and other facilities, or for services rendered. Moneys received from the fees shall be paid into the state treasury and credited to the transportation fund;

(4) to acquire on behalf of the state, acting either alone or with local governmental units or the federal government, by purchase or by the exercise of the right of eminent domain, property, easements, or other rights in property needed to carry out the purposes of this part. In taking property, easements, or rights in property located in this state, the right of eminent domain shall be exercised in the manner and subject to the limitations provided for in 19 V.S.A. chapter 5, except as otherwise provided in chapter 15, subchapter 2 of this part.

(b) An acquisition or transfer under this section of property or rights in property with an appraised or other estimated value of \$500,000.00 or above, or of an option to acquire property with an appraised or other estimated value of \$500,000.00 or above, shall be made with the specific prior approval of the general assembly of the acquisition or transfer and its terms or, if the general assembly is not in session, with the specific prior approval of the joint transportation oversight committee. The requirement of this subsection shall not apply, however, if the general assembly has approved a specific project described in the annual transportation program and the scope of the project includes the acquisition or transfer of property.

Sec. 49. 5 V.S.A. § 3002 is amended to read:

§ 3002. POWERS OF AGENCY

(a) To carry out the purposes of 19 V.S.A. § 10e, the agency of transportation may, subject to subsection (b) of this section:

(1) Contract in the name of the state with federal agencies, the National Railroad Passenger Corporation (Amtrak), railroads, municipalities, adjacent states, or other responsible persons to carry out the purposes of this chapter.

(2) Receive, manage, use, or expend, for the purposes of this chapter, federal and state funds appropriated to the agency for the promotion or development of intercity rail passenger service or for intercity rail passenger service facilities.

(3) Operate, manage, use, exchange, lease, or otherwise deal with or dispose of, in whole or in part, land and rights in land acquired in the name of the state under authorization of this chapter, and to charge reasonable fees for such use or the use of land, buildings, and other facilities, or for services rendered. Moneys received from the fees shall be credited to the transportation fund.

(4) Acquire on behalf of the state, acting either alone or with municipalities or the federal government, land and rights in land needed to carry out the purposes of this chapter.

(b) An acquisition or transfer under this section of property or rights in property with an appraised or other estimated value of \$500,000.00 or above, or of an option to acquire property with an appraised or other estimated value of \$500,000.00 or above, shall be made with the specific prior approval of the general assembly of the acquisition or transfer and its terms or, if the general assembly is not in session, with the specific prior approval of the joint transportation oversight committee. The requirement of this subsection shall not apply, however, if the general assembly has approved a specific project described in the annual transportation program and the scope of the project includes the acquisition or transfer of property.

* * * Effective Dates * * *

Sec. 50. EFFECTIVE DATES

(a) This section and Secs. 3 (portable hot mix plant), 4 (program development – roadway), 12 (Rutland–Burlington rail and crossings project), 13 (purchase of rail bridge inspection vehicle), 14 (anticipation of federal receipts – rail program), 16 (VTrans training center 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 (committee 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 of this act shall take effect on July 1, 2013.

(c) Sec. 27 (tendering payment in condemnation matters) of this act shall take effect on July 2, 2012, if H.523 (introduced on January 11, 2012) as passed by the house and senate does not become law on or before July 1, 2012. If H.523 becomes law on or before July 1, 2012, Sec. 27 shall not take effect.

(d) All other sections of this act shall take effect on July 1, 2012.

*RICHARD T. MAZZA
M. JANE KITCHEL
RICHARD A. WESTMAN*

Committee on the part of the Senate

*PATRICK M. BRENNAN
DAVID E. POTTER
TIMOTHY R. CORCORAN*

Committee on the part of the House

Which was considered and adopted on the part of the House.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 577

On motion of **Rep. Savage of Milton**, the rules were suspended and House bill, entitled

An act relating to public water systems

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

The Senate proposed to the House to amend the bill by striking Sec. 5 in its entirety and inserting in lieu thereof the following:

Sec. 5. 10 V.S.A. § 1973 is amended to read:

§ 1973. PERMITS

* * *

(j)(1) When an applicant for a permit under this section proposes a water supply or wastewater system with isolation distances that extend onto property

other than the property for which the permit is sought, the permit applicant shall send ~~a copy of the complete permit application~~ by certified mail, on a form provided by the secretary, a notice of an intent to file a permit application, including ~~any plans~~ the site plan that accurately depicts all isolation distances, to any landowner affected by the proposed isolation distances ~~no later than~~ at least seven calendar days prior to the date that the permit application is submitted to the secretary.

(2) If, during the course of the secretary's review of an application for a permit under this section, the location of a water supply or wastewater system permit is revised and the isolation distances of the revised system extend onto property other than the property for which the permit is sought, the permit applicant shall ~~provide~~ send by certified mail a copy of any revised plan to any landowner affected by the isolation distances.

(3) If, after a permit has been issued under this section, a water supply or wastewater system is not installed according to the permitted plan and the record drawings submitted under subsection (e) of this section indicate that the isolation distances of the ~~as-built~~ system as constructed extend onto property other than the property on which the ~~as-built~~ system is located, the permittee shall ~~provide~~ send by certified mail a notification form provided by the secretary with a copy of the record drawings showing all isolation distances to any landowner affected by the isolation distances.

(4) A permit applicant or permittee subject to the requirements of subdivisions (1) through (3) of this subsection shall certify to the secretary that the ~~notice~~ notices and information required by this subsection have been sent to affected landowners and shall include in the certification the name and address of all affected landowners. If the secretary approves a permit application under this section, the permit shall not be issued to a permit applicant subject to the requirements of ~~subdivisions~~ subdivision (1) and (2) of this subsection until seven calendar days after the permit applicant certifies to the secretary that the notice required under this subsection has been sent to affected landowners.

Sec. 6. EFFECTIVE DATE

(a) This section and Secs. 1 (combined sewer overflows; awards), 2 (public water systems permits), 3 (repeal of temporary permits for public water systems), and 4 (awards from special environmental revolving loan fund) of this act shall take effect on July 1, 2012.

(b) Sec. 5 (notice of isolation distances) shall take effect on September 1, 2012.

and that after passage the title of the bill be amended to read: "An act relating to public water systems and potable water supply and wastewater system isolation distances"

Which proposal of amendment was considered and concurred in.

Rules Suspended; Report of Committee of Conference Adopted

S. 189

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to expanding confidentiality of cases accepted by the court diversion project

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

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses recommended that the House recede from its proposal of amendment and that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 164(c)(1) is amended to read:

(c) All adult court diversion projects receiving financial assistance from the attorney general shall adhere to the following provisions:

(1) The diversion project shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. If the prosecuting attorney refers a case to diversion, the ~~information and affidavit~~ prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

(A) the board declines to accept the case;

(B) the person declines to participate in diversion; ~~or~~

(C) the board accepts the case, but the person does not successfully complete diversion;

(D) the prosecuting attorney recalls the referral to diversion.

Sec. 2. 3 V.S.A. § 164a is added to read:

§ 164a. RESTITUTION

(a) A diversion program may refer an individual who has suffered a pecuniary loss as a direct result of a delinquent act or crime alleged to have been committed by a juvenile or adult accepted to its program to the restitution unit established by 13 V.S.A. § 5362 for the purpose of application for an advance payment pursuant to 13 V.S.A. § 5363(d)(1). The restitution unit may enter into a repayment contract with a juvenile or adult accepted into diversion and shall have the authority to bring a civil action to enforce the repayment contract in the event that the juvenile or adult defaults in performing the terms of the contract.

(b) The restitution unit and the diversion program shall develop a process for documenting victim loss, information sharing between the unit and diversion programs regarding the amount of restitution paid by the unit and diversion participants' contractual agreements to reimburse the unit, transmittal of payments from participants to the unit, and maintenance of the confidentiality of diversion information.

Sec. 3. 13 V.S.A. § 5362 is amended to read:

§ 5362. RESTITUTION UNIT

* * *

(c) The restitution unit shall have the authority to:

* * *

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a.

Sec. 4. 13 V.S.A. § 5363 is amended to read:

§ 5363. CRIME VICTIMS' RESTITUTION SPECIAL FUND

(a) There is hereby established in the state treasury a fund to be known as the crime victims' restitution special fund, to be administered by the restitution unit established by section 5362 of this title, and from which payments may be made to provide restitution to crime victims.

(b)(1) There shall be deposited into the fund:

(A) All monies collected by the restitution unit pursuant to section 7043 and subdivision 5362(c)(7) of this title.

(B) All fees imposed by the clerk of court and designated for deposit into the fund pursuant to section 7282 of this title.

(C) All monies donated to the restitution unit or the crime victims' restitution special fund.

(D) Such sums as may be appropriated to the fund by the general assembly.

* * *

(d)(1) The restitution unit is authorized to advance up to \$10,000.00 to a victim or to a deceased victim's heir or legal representative if the victim:

(A) was first ordered by the court to receive restitution on or after July 1, 2004;

(B) is a natural person or the natural person's legal representative; and

(C) has not been reimbursed under subdivision (2) of this subsection;

(D) is a natural person and has been referred to the restitution unit by a diversion program pursuant to 3 V.S.A. § 164a.

* * *

Sec. 5. 13 V.S.A. § 7043(n) is amended to read:

(n) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure of an offender aged 18 or older shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

Sec. 6. 13 V.S.A. § 5360 is added to read:

§ 5360. APPLICATION INFORMATION; CONFIDENTIALITY

(a) All documents reviewed by the victims' compensation board for purposes of approving an application for compensation shall be confidential and shall not be disclosed without the consent of the victim except as provided in this section and subsection 7043(c) of this title.

(b) For the purpose of requesting restitution, the amount of assistance provided by the victim's compensation board shall be established by copies of bills submitted to the victim's compensation board reflecting the amount paid

by the board and stating that the services for which payment was made were for uninsured pecuniary losses.

(c) The following shall be confidential and shall be redacted by the victim's compensation board for any purpose including restitution: the victim's residential address, telephone number, and other contact information and the victim's social security number. In cases involving stalking, sexual offenses, and domestic violence, the following information shall also be confidential and shall not be disclosed by the victim's compensation board for any purpose, including restitution, absent a court order:

(1) the victim's employer's name, telephone number, address, or any other contact information; and

(2) the victim's medical or mental health provider's name, telephone number, address, or any other contact information.

Sec. 7. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

* * *

(b)(1) When ordered, restitution may include:

(A) return of property wrongfully taken from the victim;

(B) cash, credit card, or installment payments paid to the restitution unit; or

(C) payments in kind, if acceptable to the victim.

(2) In the event of a victim's crime-related death, the court may, at the request of the restitution unit, direct the unit to pay up to \$10,000.00 from the restitution fund to the victim's estate to cover future uninsured material losses caused by the death.

(c) Restitution hearing.

(1) Unless the amount of restitution is agreed to by the parties at the time of sentencing, the court shall set the matter for a restitution hearing.

(2) Prior to the date of the hearing, the prosecuting attorney shall provide the defendant with a statement of the amount of restitution claimed together with copies of bills that support the claim for restitution. If any amount of the restitution claim has been paid by the victim's compensation fund, the prosecuting attorney shall provide the defendant with copies of bills submitted by the victim's compensation board pursuant to section 5360 of this title.

(3) Absent consent of the victim, medical and mental health records submitted to the victim's compensation board shall not be discoverable for the purposes of restitution except by order of the court. If the defendant files a motion to view copies of such records, the prosecuting attorney shall file the records with the court under seal. The court shall conduct an in camera review of the records to determine what records, if any, are relevant to the parties' dispute with respect to restitution. If the court orders disclosure of the documents, the court shall issue a protective order defining the extent of dissemination of the documents to any person other than the defendant, the defendant's attorney, and the prosecuting attorney.

~~(e)~~(d) In awarding restitution, the court shall make findings with respect to:

(1) The total amount of the material loss incurred by the victim. If sufficient documentation of the material loss is not available at the time of sentencing, the court shall set a hearing on the issue, and notice thereof shall be provided to the offender.

(2) The offender's current ability to pay restitution, based on all financial information available to the court, including information provided by the offender.

~~(d)~~(e)(1) An order of restitution shall establish the amount of the material loss incurred by the victim, which shall be the restitution judgment order. In the event the offender is unable to pay the restitution judgment order at the time of sentencing, the court shall establish a restitution payment schedule for the offender based upon the offender's current and reasonably foreseeable ability to pay, subject to modification under subsection (k) of this section. Notwithstanding 12 V.S.A. chapter 113 ~~of Title 12~~ or any other provision of law, interest shall not accrue on a restitution judgment.

* * *

~~(e)~~(f)(1) If not paid at the time of sentencing, restitution may be ordered as a condition of probation, supervised community sentence, furlough, preapproved furlough, or parole if the convicted person is sentenced to preapproved furlough, probation, or supervised community sentence, or is sentenced to imprisonment and later placed on parole. A person shall not be placed on probation solely for purposes of paying restitution. An offender may not be charged with a violation of probation, furlough, or parole for nonpayment of a restitution obligation incurred after July 1, 2004.

* * *

~~(f)~~(g)(1) When restitution is requested but not ordered, the court shall set forth on the record its reasons for not ordering restitution.

* * *

~~(g)~~(h) Restitution ordered under this section shall not preclude a person from pursuing an independent civil action for all claims not covered by the restitution order.

~~(h)~~(i)(1) The court shall transmit a copy of a restitution order to the restitution unit, which shall make payment to the victim in accordance with section 5363 of this title.

* * *

~~(i)~~(j) The restitution unit may bring an action, including a small claims procedure, to enforce a restitution order against an offender in the civil division of the superior court of the unit where the offender resides or in the unit where the order was issued. In an action under this subsection, a restitution order issued by the criminal division of the superior court shall be enforceable in the civil division of the superior court or in a small claims procedure in the same manner as a civil judgment. Superior and small claims filing fees shall be waived for an action under this subsection, and for an action to renew a restitution judgment.

~~(j)~~(k) All restitution payments shall be made to the restitution unit, with the exception of restitution relating to a conviction for welfare fraud ordered under this section and recouped by the economic services division. The economic services division shall provide the restitution unit with a monthly report of all restitution collected through recoupment. This subsection shall have no effect upon the collection or recoupment of restitution ordered under Title 33.

~~(k)~~(l) The sentencing court may modify the payment schedule of a restitution order if, upon motion by the restitution unit or the offender, the court finds that modification is warranted by a substantial change in circumstances.

~~(l)~~(m) If the offender fails to pay restitution as ordered by the court, the restitution unit may file an action to enforce the restitution order in superior or small claims court. After an enforcement action is filed, any further proceedings related to the action shall be heard in the court where it was filed. The court shall set the matter for hearing and shall provide notice to the restitution unit, the victim, and the offender. If the court determines the offender has failed to comply with the restitution order, the court may take any action the court deems necessary to ensure the offender will make the required restitution payment, including:

* * *

~~(m)~~(n)(1) Any monies owed by the state to an offender who is under a restitution order, including lottery winnings and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the courts.

* * *

~~(n)~~(o) After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

~~(o)~~(p) An obligation to pay restitution is part of a criminal sentence and is:

* * *

~~(p)~~(q) A transfer of property made with the intent to avoid a restitution obligation shall be deemed a fraudulent conveyance for purposes of 9 V.S.A. chapter 57 of Title 9, and the restitution unit shall be entitled to the remedies of creditors provided under 9 V.S.A. § 2291.

Sec. 8. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(40) ~~Records~~ records of genealogy provided in support of an application for tribal recognition pursuant to chapter 23 of this title;

(41) documents reviewed by the victim's compensation board for purposes of approving an application for compensation pursuant to 13 V.S.A. chapter 167, except as provided by 13 V.S.A. §§ 5360 and 7043(c).

Sec. 9. EFFECTIVE DATE

(a) Sections 1, 2, 3, 4, and 5 shall take effect on July 1, 2012.

(b) Sections 6, 7, 8, and this section shall take effect on passage.

COMMITTEE ON THE PART OF
THE SENATE

COMMITTEE ON THE PART OF
THE HOUSE

SEN. ALICE W. NITKA
SEN. RICHARD W. SEARS
SEN. DIANE B. SNELLING

REP. MAXINE JO GRAD
REP. LINDA J. WAITE-SIMPSON
REP. GERALD W. REIS

Which was considered and adopted on the part of the House.

Report of Committee of Conference Adopted

S. 244

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to referral to court diversion for driving with a suspended license

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

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill recommended that the House recede from its proposal of amendment and that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE PURPOSE

(a) The Vermont general assembly established the Nonviolent Misdemeanor Review Committee (committee) in No. 41 of the Acts of 2011, an act relating to effective strategies to reduce criminal recidivism, to propose alternatives to incarceration for nonviolent, low-risk misdemeanor offenses. The committee began its work by looking at the most common nonviolent misdemeanors. Driving without a license (DLS), both criminal and civil, was cited by witnesses as a significant driver of costs to the justice system.

(b) Currently, over 38,000 motor vehicle licenses are suspended in Vermont. There are a number of reasons that a person's motor vehicle operator's license can be suspended, including failure to pay civil fines, accumulation of points for moving violations, failure to pay child support, procurement of alcohol by a minor, and automatic suspensions for serious violations such as driving while intoxicated. The majority of licenses (60 percent) are suspended for failure to pay a traffic ticket, followed by accumulation of points for moving violations (24 percent).

(c) The committee determined that many otherwise law-abiding citizens become caught in a cycle of suspensions due to an inability to meet the

financial obligations of fees, fines, and subsequent increases to insurance rates. The committee believes it is in the public interest to assist people under civil license suspension to regain their license and avoid the spiral that may eventually result in a criminal suspension.

(d) Court diversion is an existing preadjudication option for many people who have been charged with a crime. The diversion program offers willing offenders the opportunity to take responsibility for their actions and make amends to victims and the community.

Sec. 2. DIVERSION PROGRAM FOR DRIVING WITH A SUSPENDED LICENSE

(a) The court administrator, the court diversion program, and the department of motor vehicles shall work cooperatively in an effort to assist Vermonters who have a suspended motor vehicle operator's license to regain their license through participation in the DLS diversion program, as provided in this section.

(b)(1) Except as provided in subdivision (2) of this subsection, the court administrator shall notify a person who has had his or her operator's license suspended that he or she is eligible to participate in the DLS diversion program, which is intended to assist people in regaining their operator's license. A person shall be eligible to participate in the DLS diversion program if the person completes all the requirements of the underlying violation and the suspension and if, as a result, the person would otherwise be eligible to regain his or her license if not for unmet financial obligations.

(2) A person whose operator's license is suspended for a violation of 23 V.S.A. §§ 1091(b), 1094(b), 1128(b) or (c), or 1201 or 1205 shall not be eligible to participate in the DLS diversion program with respect to the suspension for such violation.

(3) The notice shall provide that:

(A) The program is designed to assist the person to get his or her driver's license reinstated prior to completion of payment of any debt related to the suspension.

(B) The person may be eligible for a reduction in the amount of the person's financial obligation to the state or may be permitted to establish a reasonable payment plan to discharge the debt.

(C) The program is voluntary but agreeing to participate would include certain requirements including:

(i) meeting with diversion staff to assess the person's risks and to identify factors that contributed to previous violations leading to license suspension.

(ii) completing all conditions related to the offense and indicated by the screening process that are imposed by the diversion program.

(4) The court administrator may charge the cost of preparing and sending the notice against revenues collected pursuant to this subsection.

(c) Upon receiving a request from a person who has been issued a notice pursuant to subsection (b) of this section, the diversion program shall register the person in the DLS diversion program. The program staff shall meet with the person to assess the person's risks and to identify factors that contributed to previous violations leading to license suspension. Based upon the assessment, the program shall develop a contract with the person that may include:

(1) Adherence to a plan to pay fines and fees required to reinstate a driver's license.

(2) Acquiring and showing proof of auto insurance.

(3) Performance of community service.

(4) Completion of a driving education program.

(5) Any other conditions related to the reasons for the violation that led to license suspension.

(d) A person with fewer than five violations of 23 V.S.A. § 676 may apply to the DLS diversion program. Upon receipt of an application and determination of eligibility, the diversion program shall send the person a notice to report to the diversion program. The notice to report shall provide that the person is required to meet with diversion staff for the purposes of assessment and to complete all conditions of the diversion contract as provided in subsection (c) of this section.

(e) The diversion program shall notify the judicial bureau of acceptance of a person into the DLS diversion program and that a contract has been agreed to by the parties. Upon approval of the contract and any related payment plan, the judicial bureau shall notify the department of motor vehicles of compliance with the contract and the person shall be eligible to have his or her license reinstated, provided the person remains in compliance with the diversion contract. The department of motor vehicles may suspend a person's license for failure to comply with the diversion contract.

(f) The DLS diversion program shall work cooperatively with the judicial bureau to establish a reasonable payment plan for fines and fees owed by a

person enrolled in the program. In addition to any remedies already provided, the judicial bureau may do the following in cases involving a person enrolled in the DLS diversion program:

(1) Reduce the amount of fines or fees owed in exchange for community service or education, or both, as provided in a diversion contract.

(2) Withdraw any debt placed for collection with a collection agency or the department of taxes.

(g) The court diversion program, in cooperation with the judiciary, shall adopt standards for operating the DLS diversion program, including determining whether a person is in compliance with conditions as set forth in this section. The standards shall specifically identify circumstances, such as additional violations or accumulation of points, which shall require additional contract conditions and circumstances that will result in dismissal from the program. Such standards shall be applicable in all county diversion programs.

(h) Each participant shall pay a fee to the local adult court diversion project. The amount of the fee shall be determined by the program using a sliding-scale fee based on financial means of the participant. The fee shall not exceed \$300.00. Notwithstanding 32 V.S.A. § 502(a), fees collected under this subsection shall be retained and used solely for the purpose of the DLS diversion program.

(i) The court administrator shall begin notification as provided in subsection (b) of this section by January 15, 2013, at which time the DLS diversion program shall be operational. Priority shall be given to persons determined to be at highest risk of acquiring a criminal DLS pursuant to 23 V.S.A. § 674 due to an accumulation of civil suspensions violation pursuant to 23 V.S.A. § 674.

(j) The department of motor vehicles and the court administrator shall coordinate a method for determining the appropriate mechanism to inform people about the DLS diversion program.

(k) The court administrator, the director of the court diversion program, and the commissioner of motor vehicles shall jointly report to the general assembly on or before December 15, 2014 on the following:

(1) implementation of the DLS diversion program;

(2) the number of people enrolled in the program;

(3) the number of people who have successfully completed the program;

(4) the number of licenses reinstated;

(5) the number of fines and amounts modified;

(6) additional money collected by the state as a result of the program;

(7) the advisability of implementing the program through roadside stops for driving without a license; and

(8) extending the program to persons who are currently prohibited from participation pursuant to subdivision (b)(2) of this section.

Sec. 3. 23 V.S.A. § 674(a)(3) is added to read:

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the driving with license suspended diversion program shall not be counted as prior offenses under subdivision (2) of this subsection.

Sec. 4. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Any person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

* * *

(4) Five points assessed for:

* * *

(D)	§ 676.	Operating after suspension, revocation or refusal—civil violation;
-----	-------------------	---

(5) Ten points assessed for:

(A)	§ 674.	Operating after suspension or revocation of license;
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* * *

Sec. 5. 23 V.S.A. § 2506 is amended to read:

§ 2506. PROCEDURE

When a sufficient number of points ~~have~~ has been acquired, the commissioner shall suspend the license of an operator or the privilege of an unlicensed person, or nonresident to operate a motor vehicle, upon not less than 10 days' notice, and upon hearing, if requested for verification of the conviction records. The suspension shall be for 10 days for an accumulation of 10 points, 30 days for 15 points, 90 days for 20 points and for a period increasing by 30 days for each additional 5 points; except the suspension

period for a conviction for first offense of sections ~~674~~, 1091, 1094, 1128, and 1133 of this title shall be 30 days; for a second conviction 90 days and for a third or subsequent six months, or the suspension period under the point values, whichever is greater. If a fatality occurs, the suspension shall be for a period of one year in addition to the suspension under the point values. For purposes of this section, a month shall be considered as 30 days and one year shall equal 365 days.

Sec. 6. DLS DIVERSION SPECIAL FUND

There is established the DLS diversion program special fund to be administered by the attorney general. The fund shall be used to fund the requirements of this act. Administrative fees collected pursuant to Sec. 2(h) of this act shall be deposited and credited to this fund. The fund shall be available to the attorney general to enter into memorandums of understanding with diversion programs to pay for contractual and operating expenses and project-related staffing related to the implementation and continuing operations of the DLS diversion program.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

COMMITTEE ON THE PART OF
THE SENATE

SEN. RICHARD SEARS
SEN. MARGARET FLORY
SEN. ALICE NITKA

COMMITTEE ON THE PART OF
THE HOUSE

REP. MAXINE GRAD
REP. LINDA WAITE-SIMPSON
REP. GERALD REIS

Which was considered and adopted on the part of the House.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 600

On motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to mandatory mediation in foreclosure proceedings

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

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

First: By adding a Sec. 4a to read follows:

Sec. 4a. 12 V.S.A. § 4633(e) is amended to read:

(e) The mediator may permit a party identified in subdivision (d)(1) of this section to participate in mediation by telephone or teleconferencing, provided that the court shall not find that the requirements of this subchapter have been met unless the following parties have been physically present at the mediation:

(1) the mortgagor, or a person with decision-making authority for the mortgagor; and

(2) the mortgagee, or a person with decision-making authority for the mortgagee.

Second: In Sec. 6, in subsection (a) and (c), by striking out the following: “December 3, 2013” where it twice appears and inserting in lieu thereof the following: December 31, 2013

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

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 1, 5, and 6 of this act shall take effect on passage.

(b) Secs. 2, 3, and 4 of this act shall take effect on July 1, 2012.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Koch of Barre Town** moved that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

First: In Sec. 2, 12 V.S.A. § 4631, in subsection (c), by striking the words “a randomized” and inserting in lieu thereof the words “an objective and neutral”

Second: By striking Sec. 4a in its entirety

Which was agreed to.

Message from the Senate No. 69

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 753. An act relating to encouraging school districts and supervisory unions to provide services cooperatively or to consolidate governance structures.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on House bill entitled:

H. 771. An act relating to making technical corrections and other miscellaneous changes to education law.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

S. 189

Senate bill, entitled

An act relating to expanding confidentiality of cases accepted by the court diversion project

S. 244

Senate bill, entitled

An act relating to referral to court diversion for driving with a suspended license

H. 600

House bill, entitled

An act relating to mandatory mediation in foreclosure proceedings

Recess

At one o'clock and fifty-five minutes in the afternoon, the Speaker declared a recess until five o'clock in the afternoon.

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

Message from the Senate No. 70

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 290. An act relating to adult protective services.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered the reports of the Committees of Conference upon the disagreeing votes of the two Houses upon House bills of the following titles:

H. 464. An act relating to a moratorium on hydraulic fracturing wells for natural gas and oil production.

H. 559. An act relating to health care reform implementation.

And has accepted and adopted the same on its part.

Action Postponed

H. 747

The Senate proposed to the House to amend House bill, entitled

An act relating to cigarette manufacturers

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”

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Donaghy of Poultney** moved that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:

By striking the third instance of amendment in its entirety.

Pending the question, Shall the House concur in the Senate proposal of amendment with a further amendment thereto? **Rep. Donaghy of Poultney** asked and was granted leave of the House to withdraw his amendment.

Thereupon, **Rep. Krowinski of Burlington** moved to postpone action for one legislative day, which was agreed to.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 699

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to scrap metal processors

The Senate proposed to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 82 is amended to read:

CHAPTER 82. SCRAP METAL PROCESSORS

§ 3021. DEFINITIONS

As used in this chapter:

(1) ~~“Authorized scrap seller” means a licensed plumber, electrician, HVAC contractor, building or construction contractor, demolition contractor, construction and demolition debris contractor, public utility, transportation company, licensed peddler or broker, an industrial and manufacturing company; marine, automobile, or aircraft salvage and wrecking company, or a government entity. [Repealed.]~~

* * *

(7) “Scrap metal processor” means:

(A) a salvage yard, as defined in 24 V.S.A. § 2241(7); or

~~(B) a person authorized to conduct a business that processes and manufactures scrap metal into prepared grades for sale as raw material to mills, foundries, and other manufacturing facilities engaged in the business of purchasing ferrous scrap, nonferrous scrap, metal articles, or proprietary articles, whether for resale or for processing into raw material products consisting of prepared grades.~~

(C) “Scrap metal processor” does not include:

(i) a salvage yard described in 24 V.S.A. § 2248(e); or

~~(ii) a salvage yard or salvage dealer that only accepts or dismantles motor vehicles and flattens or crushes the motor vehicles for transportation to a scrap metal processor.~~

§ 3022. PURCHASE OF NONFERROUS SCRAP, METAL ARTICLES, AND PROPRIETARY ARTICLES

~~(a) A scrap metal processor may purchase nonferrous scrap, metal articles, and proprietary articles directly from an authorized scrap metal seller or the seller’s authorized agent or employee. [Repealed.]~~

(b) A scrap metal processor may purchase nonferrous scrap, metal articles, and proprietary articles ~~from a person who is not an authorized scrap metal seller or the seller’s authorized agent or employee, provided~~ only if the scrap metal processor complies with all the following procedures:

(1) At the time of sale, the processor:

~~(A) requires~~ Requires the seller to provide a current government-issued photographic identification that indicates the seller’s full name, current address, and date of birth, and records in a permanent ledger the

identification information of the seller, the time and date of the transaction, the license number of the seller's vehicle, and a description of the items received from the seller. ~~This information shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.~~

~~(2)(B)~~ Requests and, if available, collects documentation from the seller of the items offered for sale, such as a bill of sale, receipt, letter of authorization, or similar evidence that establishes that the seller lawfully owns the items to be sold.

~~(3)(2)~~ After purchasing an item from a person who fails to provide documentation pursuant to subdivision ~~(2)(1)(B)~~ of this subsection ~~(b) of this section, the processor:~~

~~(A) submits~~ Submits to the ~~local law enforcement agency~~ department of public safety no later than the close of the following business day a report that describes the item and the seller's identifying information required in subdivision ~~(1)(A)~~ of this subsection, ~~and,~~

~~(B) holds~~ Holds the ~~proprietary article~~ item for at least ~~15~~ 10 days following purchase.

(c) The information collected by a scrap metal processor pursuant to this section shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.

* * *

Sec. 2. REPORTING SCRAP METAL SALES

The department of public safety, in collaboration with the department of environmental conservation, shall develop:

(1) a uniform form for the report required for purchases pursuant to 9 V.S.A. § 3022(b)(2)(A);

(2) an electronic form and reporting system through which scrap metal processors may submit to the department of public safety the report required for purchases pursuant to 9 V.S.A. § 3022(b)(2)(A); and

(3) an implementation and public outreach process to inform scrap metal processors that the electronic form and reporting system are available for use.

Sec. 3. POSSESSION OF STOLEN PROPERTY; STUDY; NONVIOLENT MISDEMEANOR SENTENCE REVIEW COMMITTEE

The nonviolent misdemeanor sentence review committee created by Sec. 4 of No. 41 of the Acts of 2011 shall study the feasibility and advisability of broadening the scope of Vermont's possession and receipt of stolen property statute, 13 V.S.A. § 2561. The study shall consider the practical and policy implications of amending 13 V.S.A. § 2561 to apply to reckless conduct or of otherwise amending state stolen property law to limit the likelihood that stolen property will be purchased and resold by pawnbrokers and other persons engaged in the business of reselling property.

Sec. 4. 9 V.S.A. § 3865 is amended to read:

§ 3865. ~~PAWNBROKER'S RECORD BOOK~~ RECORDS OF A PAWNBROKER OR SECONDHAND DEALER

(a) A pawnbroker shall keep a book in which shall be fairly written in the English language, at the time of making a loan, an account and description of the goods, articles or things pawned or pledged, the amount of money loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan, and the name and residence of the person pawning or pledging such property. In each year a pawnbroker or secondhand dealer resells over \$500.00 of items pawned, pledged, or sold to the pawnbroker or secondhand dealer, he or she shall maintain the following records for each transaction in that year:

(1) a legible statement written at the time of the transaction stating the amount of money lent or paid for the items pawned, pledged, or sold, the time of the transaction, and the rate of interest to be paid on the loan, as applicable;

(2) a legible statement of the name, current address, telephone number, and vehicle license number of the person pawning, pledging, or selling the items;

(3) a legible written description and photograph, or alternatively a video, of the items pawned, pledged, or sold;

(4) a photocopy of a government-issued identification card issued to the person pawning, pledging, or selling the items, if available.

(b) At all reasonable times, such ~~book~~ the records required under subsection (a) of this section shall be open to the inspection of the town or city authorities, all courts, the chief of police, or of any person who is duly authorized in writing for that purpose by such authority, court, or chief of

~~police and who exhibits such written authority to such pawnbroker law enforcement.~~

(c) In this section:

(1) "Precious metal" means gold, silver, platinum, or palladium.

(2) "Secondhand dealer" means a person engaged in the business of purchasing used or estate precious metal, coins, antiques, furniture, jewelry, or similar items for the purpose of resale.

Sec. 5. 9 V.S.A. § 3872 is added to read:

§ 3872. SECONDHAND DEALERS; RETENTION OF GOODS

A pawnbroker or secondhand dealer, as defined in section 3865 of this title, shall retain purchased property for no fewer than 10 days before offering it for sale or for scrap.

and that after passage the title of the bill be amended to read: "An act relating to scrap metal processors, pawnbrokers, and secondhand dealers"

Which proposal of amendment was considered and concurred in.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 786

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to approval of amendments to the charter of the town of Windsor

Was taken up for immediate consideration.

The Senate proposed to the House to the bill by striking Sec. 3 (effective date) and inserting in lieu thereof the following:

Sec. 3. 16 App. V.S.A. chapter 15 is amended to read:

**CHAPTER 15. NORTH BENNINGTON GRADED
SCHOOL DISTRICT**

* * *

§ 15-2. PRUDENTIAL COMMITTEE

The prudential committee shall consist of ~~three~~ five persons, and at the annual meeting of the district, vacancies occasioned by the expiration of the term of office of members of the committee shall be filled by the election of members for the term of three years each; and ~~that~~ all vacancies on the committee caused by resignation, death, removal from the district, or other

cause shall be filled at an annual or special meeting warned for that purpose for the unexpired term of such members only.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to approval of amendments to the charter of the town of Windsor and to an amendment to the charter of the North Bennington graded school district.

Which proposal of amendment was considered and concurred in.

Committee of Conference Appointed

J.R.S. 54

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Joint resolution, entitled

Joint resolution approving a land exchange in Alburgh and a lease with Camp Downer, Inc

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Macaig of Williston
Rep. Emmons of Springfield
Rep. Myers of Essex

**Rules Suspended; Senate Proposal of Amendment Concurred in
with a Further Amendment Thereto; Rules Suspended
and Bill Messaged to Senate Forthwith**

H. 524

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to the regulation of professions and occupations

Was taken up for immediate consideration.

The Senate proposed to the House to the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * General Provisions * * *

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An office of professional regulation is created within the office of the secretary of state. The office shall have a director who shall be appointed by the secretary of state and shall be an exempt employee. The following boards or professions are attached to the office of professional regulation:

* * *

(41) Audiologists and speech-language pathologists

(42) Landscape architects.

Sec. 2. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

(a) ~~Upon request, the~~ The office shall provide administrative, secretarial, financial, investigatory, inspection, and legal services to the boards. The administrative services provided by the office shall include:

* * *

(12) With the assistance of the boards, establishing a schedule of license renewal and termination dates so as to distribute the renewal work in the office as effectively as possible. Licenses may be issued and renewed according to that schedule for periods of up to two years with an appropriate pro rata adjustment of fees. A person whose initial license is issued within 90 days prior to the set renewal date shall not be required to renew the license until the end of the first full biennial licensing period following initial licensure.

* * *

Sec. 3. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

(a) In addition to the fees otherwise authorized by law, a board may charge the following fees:

* * *

(6) ~~Licenses granted under rules adopted pursuant to subdivision 129(a)(10) of this title, \$20.00.~~

* * *

Sec. 4. 3 V.S.A. § 129 is amended to read:

§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board may exercise the following powers:

* * *

(10) Issue temporary licenses ~~to health care providers and veterinarians~~ during a declared state of emergency. The ~~health care provider or veterinarian~~ person to be issued a temporary license must be currently licensed, in good standing, and not subject to disciplinary proceedings in any other jurisdiction. The temporary license shall authorize the holder to practice in Vermont until the termination of the declared state of emergency or 90 days, whichever occurs first, as long as the licensee remains in good standing. Fees shall be waived when a license is required to provide services under this subdivision.

* * *

Sec. 5. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items, or any combination of items, whether or not the conduct at issue was committed within or outside the state, shall constitute unprofessional conduct:

* * *

(8) Failing to make available promptly to a person using professional health care services, that person's representative, or succeeding health care professionals or institutions, upon written request and direction of the person using professional health care services, copies of that person's records in the possession or under the control of the licensed practitioner, or failing to notify patients or clients how to obtain their records when a practice closes.

* * *

Sec. 6. Sec. F4 of No. 146 of the Acts of 2009 (2010) Adj. Sess. is amended to read:

Sec. F4. SECRETARY OF STATE; PUBLICATION OF PROPOSED RULES

(a) The secretary of state shall arrange for one formal publication, in a consolidated advertisement in newspapers having general circulation in different parts of the state as newspapers of record approved by the secretary of state, of information relating to all proposed rules that includes the following information:

- (1) the name of the agency and its Internet address;
- (2) the title or subject and a concise summary of the rule; and

(3) the office name, office telephone number, and office mailing address of an agency official able to answer questions and receive comments on the proposal.

(b) The secretary of state shall be reimbursed by agencies making publication so that all costs are prorated among agencies publishing at the same time.

Sec. 7. LEGISLATIVE COUNCIL; STATUTORY REVIEW AND CATALOG; "PHYSICIAN" AND "DOCTOR"

The legislative council is directed to prepare a catalog of the use of the words "physician" and "doctor" in the Vermont Statutes Annotated and to deliver the catalog to the general assembly no later than November 1, 2012.

* * * Chiropractic * * *

Sec. 8. 26 V.S.A. § 528 is amended to read:

§ 528. BOARD PROCEDURES

(a) Annually the board shall elect from among its members a chair ~~and a~~ vice chair, and secretary, each to serve for one year. No person shall serve as chair or vice chair for more than three consecutive years.

~~(b) The board shall meet at least semiannually for the purpose of examining applicants, if applications are pending. Meetings may be called by the chair or upon the request of three other members. [Repealed.]~~

~~(c) Meetings shall be warned and conducted in accordance with the provisions of chapter 5 of Title 1. [Repealed.]~~

(d) A majority of the members of the board constitutes a quorum for transacting business and all action shall be taken upon a majority vote of the members present and voting.

Sec. 9. 26 V.S.A. § 532 is amended to read:

§ 532. EXAMINATIONS

(a) The board, or an examination service selected by the board, shall examine applicants for licensure. The examinations may include the following subjects: anatomy, physiology, physiotherapy, diagnosis, hygiene, orthopedics, histology, pathology, neurology, chemistry, bacteriology, x-ray interpretation, x-ray technic and radiation protection, and principles of chiropractic. The board may use a standardized national examination.

* * *

Sec. 10. 26 V.S.A. § 534 is amended to read:

 § 534. LICENSE RENEWAL ~~AND REINSTATEMENT~~

(a) Licenses shall be renewed every two years upon application and payment of the required fee. Failure to comply with the provisions of this section shall result in suspension of all privileges granted by the license beginning on the expiration date of the license. A license which has lapsed shall be ~~reinstated~~ renewed upon payment of the biennial renewal fee and the late renewal penalty.

(b) The board may adopt rules necessary for the protection of the public to assure the board that an applicant whose license has lapsed for more than three years is professionally qualified before the license is ~~reinstated~~ renewed. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

(c) In addition to the provisions of subsection (a) of this section, an applicant for renewal shall have satisfactorily completed continuing education as required by the board. For purposes of this subsection, the board may require, by rule, not more than 24 hours of approved continuing education as a condition of renewal.

Sec. 11. 26 V.S.A. § 541 is amended to read:

§ 541. DISCIPLINARY PROCEEDINGS; UNPROFESSIONAL CONDUCT

~~(a) A person licensed or registered under this chapter or a person applying for a license or reinstatement of a license shall not engage in unprofessional conduct.~~

~~(b) Unprofessional conduct means the following conduct and the conduct set forth in section 129a of Title 3 V.S.A. § 129a:~~

* * *

~~(14) Notwithstanding the provisions of 3 V.S.A. § 129a(a)(10), in the course of practice, failure to use and exercise that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent chiropractor engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred. [Repealed.]~~

(15) Failing to inform a patient verbally and to obtain signed written consent from a patient before proceeding from advertised chiropractic services for which no payment is required to chiropractic services for which payment is required.

~~(c) In connection with a disciplinary action, the board may refuse to accept the return of a license or registration tendered by the subject of a disciplinary investigation.~~

~~(d) The burden of proof in a disciplinary action shall be on the state to show by a preponderance of the evidence that the person has engaged in unprofessional conduct.~~

~~(e) After hearing and upon a finding of unprofessional conduct, or upon approval of a negotiated agreement, the board may take disciplinary action against the licensee, registrant or applicant. That action may include any of the following conditions or restrictions which may be in addition to or in lieu of suspension:~~

~~(1) A requirement that the person submit to care or counseling.~~

~~(2) A restriction that a licensee practice only under supervision of a named individual or an individual with specified credentials.~~

~~(3) A requirement that a licensee participate in continuing education as defined by the board, in order to overcome specified deficiencies.~~

~~(4) A requirement that the licensee's scope of practice be restricted to a specified extent.~~

~~(f) The board may reinstate a revoked license on terms and conditions it deems proper.~~

* * * Dental * * *

Sec. 12. REPEAL

26 V.S.A. chapter 13 (dentists and dental hygienists) is repealed.

Sec. 13. 26 V.S.A. chapter 12 is added to read:

CHAPTER 12. DENTISTS, DENTAL HYGIENISTS, AND
DENTAL ASSISTANTS

Subchapter 1. General Provisions

§ 561. DEFINITIONS

As used in this chapter:

(1) "Board" means the board of dental examiners.

(2) "Director" means the director of the office of professional regulation.

(3) "Practicing dentistry" means an activity in which a person:

(A) undertakes by any means or method to diagnose or profess to diagnose or to treat or profess to treat or to prescribe for or profess to prescribe for any lesions, diseases, disorders, for deficiencies of the human oral cavity, teeth, gingiva, maxilla, or mandible or adjacent associated structures;

(B) extracts human teeth or corrects malpositions of the teeth or jaws;

(C) furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances, or other structures to be used or worn as substitutes for natural teeth or adjusts those structures, except on the written prescription of a duly licensed dentist and by the use of impressions or casts made by a duly licensed and practicing dentist;

(D) administers general dental anesthetics;

(E) administers local dental anesthetics, except dental hygienists as authorized by board rule; or

(F) engages in any of the practices included in the curricula of recognized dental colleges.

(4) "Dental hygienist" means an individual licensed under this chapter.

(5) "Dental assistant" means an individual registered under this chapter.

(6) "Direct supervision" means supervision by a licensed dentist who is readily available at the dental facility for consultation or intervention.

§ 562. PROHIBITIONS

(a) No person may use in connection with a name any words, including "Doctor of Dental Surgery" or "Doctor of Dental Medicine," or any letters, signs, or figures, including the letters "D.D.S." or "D.M.D.," which imply that a person is a licensed dentist when not authorized under this chapter;

(b) No person may practice as a dentist or dental hygienist unless currently licensed to do so under the provisions of this chapter.

(c) No person may practice as a dental assistant unless currently registered under the provisions of this chapter.

(d) A person who violates this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 563. EXEMPTIONS

The provisions of this chapter shall not apply to the following:

(1) the rights and privileges of physicians licensed under the laws of this state.

(2) an unlicensed person from performing merely mechanical work upon inert matter in a dental office or laboratory.

(3) a dental student currently enrolled in a dental school or college accredited by the Commission on Dental Accreditation of the American Dental Association who:

(A) provides dental treatment under the supervision of a licensed dentist at a state hospital or under licensed instructors within a dental school, college, or dental department of a university recognized by the board;

(B) serves as an intern in any hospital approved by the board; or

(C) participates in a supervised externship program authorized by a dental school recognized by the board in order to provide dental treatment under the direct supervision of a dentist licensed under the provisions of this chapter.

(4) upon prior application and approval by the board, a student of a dental school or college accredited by the Commission on Dental Accreditation of the American Dental Association who provides dental treatment for purposes of clinical study under the direct supervision and instruction and in the office of a licensed dentist.

(5) a dentist licensed in another state from consulting with a dentist licensed under the provisions of this chapter.

§ 564. OWNERSHIP AND OPERATION OF A DENTAL OFFICE OR BUSINESS

(a) A dental practice may be owned and operated by the following individuals or entities, either alone or in a combination thereof:

(1) a dentist licensed under the provisions of this chapter;

(2) a health department or clinic of this state or of a local government agency;

(3) a federally qualified health center or community health center designated by the United States department of health and human services to provide dental services;

(4) a 501(c)(3) nonprofit or charitable dental organization;

(5) a hospital licensed under the laws of this state;

(6) an institution or program accredited by the Commission on Dental Accreditation of the American Dental Association to provide education and training.

(b) The surviving spouse, the executor, or the administrator of the estate of a licensed dentist or the spouse of an incapacitated licensed dentist may employ a dentist licensed under the provisions of this chapter to terminate the practice of the deceased or incapacitated dentist within a reasonable length of time.

§ 565. DISPLAY OF LICENSE OR REGISTRATION

Every dentist, dental hygienist, and dental assistant shall display a copy of his or her current license or registration at each place of practice and in such a manner so as to be easily seen and read.

§ 566. NONDENTAL ANESTHESIA

(a) A dentist may administer nondental anesthesia if he or she meets the following requirements:

(1) The administration of anesthesia occurs only in a hospital where the dentist is credentialed to perform nondental anesthesiology;

(2) The dentist holds an academic appointment in anesthesiology at an accredited medical school;

(3) The dentist has successfully completed a full anesthesiology residency in a program approved by the Accreditation Council for Graduate Medical Education;

(4) The dentist has a diploma from the National Board of Anesthesiology; and

(5) The dentist practicing nondental anesthesia is held to the same standard of care as a physician administering anesthesia under the same or similar circumstances.

(b) The board shall refer a complaint or disciplinary proceeding about a dentist arising from his or her administration of nondental anesthesiology to the board of medical practice, which shall have jurisdiction to investigate and sanction and limit or revoke the dentist's license to the same extent that it may for physicians licensed under chapter 23 of this title.

Subchapter 2. Board of Dental Examiners

§ 581. CREATION; QUALIFICATIONS

(a) The state board of dental examiners is created and shall consist of six licensed dentists in good standing who have practiced in this state for a period of five years or more and are in active practice; two licensed dental hygienists who have practiced in this state for a period of at least three years immediately preceding the appointment and are in active practice; one registered dental assistant who has practiced in this state for a period of at least three years immediately preceding the appointment and is in active practice; and two members of the public who are not associated with the practice of dentistry.

(b) Board members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004.

(c) No member of the board may be an officer or serve on a committee of his or her respective state or local professional dental, dental hygiene, or dental

assisting organization, nor shall any member of the board be on the faculty of a school of dentistry, dental hygiene, or dental assisting.

§ 582. AUTHORITY OF THE BOARD

In addition to any other provisions of law, the board shall have the authority to:

- (1) provide general information to applicants;
- (2) explain complaint and appeal procedures to applicants, licensees, registrants, and the public;
- (3) adopt rules pursuant to the Vermont Administrative Procedure Act as set forth in 3 V.S.A. chapter 25:
 - (A) as necessary to carry out the provisions of this chapter;
 - (B) relating to qualifications of applicants, examinations, and granting and renewal of licenses and registrations;
 - (C) relating to the granting or renewal of a license to those who do not meet active practice requirements;
 - (D) setting standards for the continuing education of persons licensed or registered under this chapter;
 - (E) establishing requirements for licensing dental hygienists with five years of regulated practice experience;
 - (F) setting educational standards and standards of practice for the administration of anesthetics in the dental office;
 - (G) for the administration of local anesthetics by dental hygienists, including minimum education requirements and procedures for administration of local anesthetics;
 - (H) setting guidelines for general supervision of dental hygienists with no less than three years of experience by dentists with no less than three years of experience to perform tasks in public or private schools or institutions; and
 - (I) prescribing minimum educational, training, experience, and supervision requirements and professional standards necessary for practice pursuant to this chapter as a dental assistant; and
- (4) undertake any other actions or procedures specified in, required by, or appropriate to carry out the provisions of this chapter.

§ 583. MEETINGS

The board shall meet at least annually on the call of the chair or two members.

§ 584. UNPROFESSIONAL CONDUCT

The board may refuse to give an examination or issue a license to practice dentistry or dental hygiene or to register an applicant to be a dental assistant and may suspend or revoke any such license or registration or otherwise discipline an applicant, licensee, or registrant for unprofessional conduct. Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a by an applicant or person licensed or registered under this chapter:

- (1) abandonment of a patient;
- (2) rendering professional services to a patient if the dentist, dental hygienist, or dental assistant is intoxicated or under the influence of drugs;
- (3) promotion of the sale of drugs, devices, appliances, goods, or services provided for a patient in a manner to exploit the patient for financial gain or selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes;
- (4) division of or agreeing to divide with any person for bringing or referring a patient the fees received for providing professional services to the patient;
- (5) willful misrepresentation in treatments;
- (6) practicing a profession regulated under this chapter with a dentist, dental hygienist, or dental assistant who is not legally practicing within the state or aiding or abetting such practice;
- (7) gross and deceptive overcharging for professional services on single or multiple occasions, including filing of false statements for collection of fees for which services are not rendered;
- (8) permitting one's name, license, or registration to be used by a person, group, or corporation when not actually in charge of or responsible for the treatment given;
- (9) practicing dentistry or maintaining a dental office in a manner so as to endanger the health or safety of the public; or
- (10) holding out to the public as being specially qualified or announcing specialization in any branch of dentistry by using terms such as "specialist in" or "practice limited to" unless:
 - (A) the American Dental Association has formally recognized the specialty and an appropriate certifying board for the specialty;

(B) the dentist has met the educational requirements and standards set forth by the Commission on Dental Accreditation for the specialty; or

(C) the dentist is a diplomate of the specialty certifying board recognized by the American Dental Association.

Subchapter 3. Dentists

§ 601. LICENSE BY EXAMINATION

To be eligible for licensure as a dentist, an applicant shall:

(1) have attained the age of majority;

(2) be a graduate of a dental college accredited by the Commission on Dental Accreditation of the American Dental Association; and

(3) meet the certificate, examination, and training requirements established by the board by rule.

§ 602. LICENSE BY ENDORSEMENT

(a) The board may grant a license to practice dentistry to an applicant who is a graduate of a dental college accredited by the Commission on Dental Accreditation of the American Dental Association and who:

(1) is currently licensed in good standing to practice dentistry in any jurisdiction of the United States or Canada which has licensing requirements deemed by the board to be substantially equivalent to those of this state;

(2) has successfully completed an approved emergency office procedures course;

(3) has successfully completed the dentist jurisprudence examination; and

(4) has met active practice requirements and any other requirements established by the board by rule.

(b) The board may grant a license to an applicant who is a graduate of a dental college accredited by the Commission on Dental Accreditation of the American Dental Association and who is licensed and in good standing to practice dentistry in a jurisdiction of the United States or Canada which has licensing requirements deemed by the board to be not substantially equivalent to those of this state if:

(1) the board has determined that the applicant's practice experience or education overcomes any lesser licensing requirement of the other jurisdiction in which the applicant is licensed; and

(2) the applicant:

(A) has been in full-time licensed practice of at least 1,200 hours per year for a minimum of five years preceding the application;

(B) is in good standing in all jurisdictions in which licensed;

(C) has successfully completed an approved emergency office procedures course;

(D) has successfully completed the dentist jurisprudence examination; and

(E) has met active practice requirements and any other requirements established by the board by rule.

Subchapter 4. Dental Hygienists

§ 621. LICENSE BY EXAMINATION

To be eligible for licensure as a dental hygienist, an applicant shall:

(1) have attained the age of majority;

(2) be a graduate of a program of dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association;

(3) present to the board a certificate of the National Board of Dental Examiners;

(4) have completed an approved emergency office procedure course;

(5) have passed the American Board of Dental Examiners (ADEX) examination or other examination approved by the board; and

(6) have passed the dental hygienist jurisprudence examination.

§ 622. LICENSURE BY ENDORSEMENT

The board may grant a license to practice dental hygiene to an applicant who is a graduate of a program of dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association and who:

(1) is currently licensed in good standing to practice dental hygiene in any jurisdiction of the United States or Canada which has licensing requirements deemed by the board to be substantially equivalent to those of this state;

(2) has successfully completed an approved emergency office procedures course;

(3) has successfully completed the dental hygienist jurisprudence examination; and

(4) has met active practice and any other requirements established by the board by rule.

§ 623. LICENSURE BY ENDORSEMENT BASED ON TRAINING AND EXPERIENCE

The board may grant a license to an applicant who has met the training and experience requirements established by the board by rule under its authority provided in this chapter.

§ 624. PRACTICE

(a) A dental hygienist may perform duties for which the dental hygienist has been qualified by successful completion of the normal curriculum offered by programs of dental hygiene accredited by the American Dental Association or in continuing education courses approved by the board. A dental hygienist may perform tasks in the office of any licensed dentist consistent with the rules adopted by the board.

(b) In public or private schools or institutions, a dental hygienist with no less than three years of experience may perform tasks under the general supervision of a licensed dentist with no less than three years of experience as prescribed in guidelines adopted by the board by rule.

(c)(1) A dental hygienist, when authorized by the board by rule, may administer for dental hygiene purposes local anesthetics under the direct supervision and by the prescription of a licensed dentist.

(2) The license of a dental hygienist authorized by board rule to administer local anesthetics shall have a special endorsement to that effect.

Subchapter 5. Dental Assistants

§ 641. REGISTRATION

(a) No person shall practice as a dental assistant in this state unless registered for that purpose by the board.

(b) On a form prepared and provided by the board, each applicant shall state, under oath, that the dental assistant shall practice only under the supervision of a dentist.

(c) The supervising dentist shall be responsible for the professional acts of dental assistants under his or her supervision.

§ 642. PRACTICE

(a) Except as provided in subsection (b) of this section, a dental assistant may perform duties in the office of any licensed dentist consistent with rules adopted by the board and in public or private schools or institutions under the

supervision of a licensed dentist or other dentist approved for the purpose by the board. The performance of any intraoral tasks shall be under the direct supervision of a dentist.

(b) The following tasks may not be assigned to a dental assistant:

(1) Diagnosis, treatment planning, and prescribing, including for drugs and medicaments or authorization for restorative, prosthodontic, or orthodontic appliances; or

(2) Surgical procedures on hard or soft tissues within the oral cavity or any other intraoral procedure that contributes to or results in an irremediable alteration of the oral anatomy.

Subchapter 6. Renewals, Continuing Education, and Fees

§ 661. RENEWAL OF LICENSE

(a) Licenses and registrations shall be renewed every two years on a schedule determined by the office of professional regulation.

(b) No continuing education reporting is required at the first biennial license renewal date following licensure.

(c) The board may waive continuing education requirements for licensees who are on active duty in the armed forces of the United States.

(d) Dentists.

(1) To renew a license, a dentist shall meet active practice requirements established by the board by rule and document completion of no fewer than 30 hours of board-approved continuing professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

(2) Any dentist who has not been in active practice for a period of five years or more shall be required to meet the renewal requirements established by the board by rule.

(e) Dental hygienists. To renew a license, a dental hygienist shall meet active practice requirements established by the board by rule and document completion of no fewer than 18 hours of board-approved continuing professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

(f) Dental assistants. To renew a registration, a dental assistant shall meet the requirements established by the board by rule.

§ 662. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application

<u>(A) Dentist</u>	<u>\$ 225.00</u>
<u>(B) Dental hygienist</u>	<u>\$ 150.00</u>
<u>(C) Dental assistant</u>	<u>\$ 60.00</u>

(2) Biennial renewal

<u>(A) Dentist</u>	<u>\$ 355.00</u>
<u>(B) Dental hygienist</u>	<u>\$ 125.00</u>
<u>(C) Dental assistant</u>	<u>\$ 75.00</u>

(b) The licensing fee for a dentist or dental hygienist or the registration fee for a dental assistant who is otherwise eligible for licensure or registration and whose practice in this state will be limited to providing pro bono services at a free or reduced-fee clinic or similar setting approved by the board shall be waived.

§ 663. LAPSED LICENSES OR REGISTRATIONS

(a) Failure to renew a license by the renewal date shall result in a lapsed license subject to late renewal penalties pursuant to 3 V.S.A. § 125(a)(1).

(b) A person whose license or registration has lapsed may not practice and may be subject to disciplinary action.

(c) Notwithstanding the provisions of subsection (a) of this section, a person shall not be required to pay renewal fees or late renewal penalties for years spent on active duty in the armed forces of the United States. A person who returns from active duty shall be required to pay only the most current biennial renewal fee.

* * * Nursing * * *

Sec. 14. 26 V.S.A. § 1591 is amended to read:

§ 1591. REGISTRY

The board of nursing shall establish, implement, and maintain a registry of nursing assistants and medication nursing assistants.

Sec. 15. 26 V.S.A. § 1592 is amended to read:

§ 1592. DEFINITIONS

As used in this subchapter:

(1) "Nursing assistant" means an individual, regardless of title, who performs nursing or nursing related functions under the supervision of a licensed nurse.

(2) "Nursing and nursing related functions" means nursing related activities as defined by rule which include basic nursing and restorative duties for which the nursing assistant is prepared by education and supervised practice.

(3) "Medication nursing assistant" means a licensed nursing assistant holding a currently valid endorsement authorizing the delegation to the nursing assistant of tasks of medication administration performed in a nursing home.

Sec. 16. 26 V.S.A. § 1592a is added to read:

§ 1592a. ENDORSEMENT OF MEDICATION ADMINISTRATION FOR LICENSED NURSING ASSISTANTS

(a) The board may issue an endorsement of medication administration to a current licensed nursing assistant who:

(1) has participated in and completed a board-approved medication administration education and competency evaluation program;

(2) has passed an examination approved by the board; and

(3) has paid the application fee.

(b) The endorsement shall be renewed by the medication nursing assistant according to a schedule established by the board and pursuant to any other requirements as the board may establish by rule.

Sec. 17. 26 V.S.A. § 1595 is amended to read:

§ 1595. ~~GROUND FOR DISCIPLINE~~ REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

The board may deny an application for licensure or renewal or revoke, suspend, discipline, or otherwise condition the license of a nursing assistant who engages in the following conduct or the conduct set forth in ~~section 129a~~ of Title 3 V.S.A. § 129a:

(1) has been convicted of a crime that evinces an unfitness to act as a nursing assistant; ~~or~~

(2) has been disciplined as a registered or licensed practical nurse or nursing assistant by competent authority in any jurisdiction; ~~or~~

(3) has been fraudulent or deceitful in procuring or attempting to procure a license, in filing or completing patient records, in signing reports or records or in submitting any information or records to the board; ~~or~~

(4) has abused or neglected a patient or misappropriated patient property; ~~or~~

(5) is unfit or incompetent to function as a nursing assistant by reason of any cause; ~~or~~

(6) has diverted or attempted to divert drugs for unauthorized use; ~~or~~

(7) is habitually intemperate or is addicted to the use of habit-forming substances; or

(8) has failed to report to the board any violation of this chapter or of the board's rules; ~~or~~

~~(9) has engaged in any act which before it was committed had been determined to be beyond the approved scope of practice of the nursing assistant.~~

Sec. 18. 26 V.S.A. § 1596 is amended to read:

§ 1596. APPROVAL OF PROGRAMS

(a) The board shall adopt standards for nursing assistant and medication nursing assistant education and competency evaluation programs and shall survey and approve those programs which meet the standards.

(b) After an opportunity for a hearing, the board may deny or withdraw approval or take lesser action when a program fails to meet the standards.

(c) A program whose approval has been denied or withdrawn may be reinstated upon satisfying the board that deficiencies have been remedied and the standards have been met.

Sec. 19. 26 V.S.A. § 1601 is amended to read:

§ 1601. EXEMPTIONS

* * *

(d) Nothing in this subchapter shall be construed to conflict with the administration of medication by nonlicensees pursuant to the residential care home licensing regulations promulgated by the department of disabilities, aging, and independent living.

Sec. 20. NURSING SUPERVISION LIMITATION; MEDICATION NURSING ASSISTANTS

No provision in 26 V.S.A. chapter 28 shall prohibit the refusal by a nurse practicing nursing in a nursing home on the effective date of this act to supervise a medication nursing assistant, as that term is defined in 26 V.S.A.

§ 1592, in that nursing home until the earliest date on which the nurse ceases to be employed by the nursing home.

Sec. 21. 26 V.S.A. § 1612 is amended to read:

§ 1612. PRACTICE GUIDELINES

(a) APRN licensees shall submit for review individual practice guidelines and receive board approval of the practice guidelines. Practice guidelines shall reflect current standards of advanced nursing practice specific to the APRN's role, population focus, and specialty.

(b) Licensees shall submit for review individual practice guidelines and receive board approval of the practice guidelines:

(1) prior to initial employment;

(2) if employed or practicing as an APRN, upon application for renewal of an APRN's registered nurse license; and

(3) prior to a change in the APRN's employment or clinical role, population focus, or specialty.

Sec. 22. Sec. 41 of No. 35 of the Acts of 2009 is amended to read:

Sec. 41. REPEAL

* * *

(c) ~~Sec. 26a~~ Sec. 26 (nursing education programs; faculty; educational experience) of this act shall be repealed on July 1, 2013.

* * * Optometry * * *

Sec. 23. 26 V.S.A. § 1703 is amended to read:

§ 1703. DEFINITIONS

As used in this chapter:

* * *

(5) "Contact lenses" means those lenses ~~with prescription power and those lenses without prescription power which~~ that are worn for cosmetic, therapeutic, or refractive purposes.

Sec. 24. 26 V.S.A. § 1719 is amended to read:

§ 1719. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a, whether or not taken by a license holder.

(b) Unprofessional conduct means:

* * *

(3) Any of the following with regard to the buyer's prescription or purchase of ophthalmic goods:

(A) ~~Failure to give to the buyer a copy of the buyer's spectacle lens prescription immediately after the eye examination is completed. Provided, an optometrist may refuse to give the buyer a copy of the buyer's prescription until the buyer has paid for the eye examination but only if that optometrist would have required immediate payment from that buyer had the examination revealed that no ophthalmic goods were required. If the buyer requests his or her contact lens prescription before the prescription is complete, the optometrist shall furnish a copy of the buyer's contact lens prescription to the buyer, clearly marked to indicate that it is not a complete contact lens prescription. [Repealed.]~~

* * *

(E) Failure to comply with prescription-released requirements established in the Federal Ophthalmic Practice Rule (~~CFR 16 C.F.R.~~ Part 456) or the Fairness to Contact Lens Consumers Act (~~USCA 15 U.S.C.A.~~ §§ 7601-7610).

(c) After hearing, the board may take disciplinary action against a licensee or applicant found guilty of unprofessional conduct.

Sec. 25. 26 V.S.A. § 1727 is amended to read:

§ 1727. EXPIRATION DATE

An optometrist shall state the expiration date on the face of every prescription written by that optometrist for contact lenses. The expiration date shall be ~~no earlier than~~ one year after the examination date unless a medical or refractive problem affecting vision requires an earlier expiration date. An optometrist may not refuse to give the buyer a copy of the buyer's prescription after the expiration date; however, the copy shall be clearly marked to indicate that it is an expired prescription.

Sec. 26. 26 V.S.A. § 1728d is redesignated to read:

§ 1728d. DURATION OF GLAUCOMA TREATMENT WITHOUT REFERRAL

Sec. 27. 26 V.S.A. § 1729a is amended to read:

§ 1729a. PREREQUISITES TO TREATING GLAUCOMA

A licensee who is already certified to use therapeutic pharmaceutical agents and who graduated from a school of optometry prior to 2003 and is not certified in another jurisdiction having substantially similar prerequisites to

treating glaucoma shall, in addition to being certified to use therapeutic pharmaceutical agents, provide to the board verification of successful completion of an 18-hour course and examination offered by the State University of New York State College of Optometry or similar accredited institution. Successful completion shall include passing an examination substantially equivalent to the relevant portions on glaucoma and orals of the examination given to current graduates of optometry school and shall require the same passing grade. The course shall cover the diagnosis and treatment of glaucoma and the use of oral medications and shall be taught by both optometrists and ophthalmologists. In addition, the licensee shall collaborate with an optometrist who has been licensed to treat glaucoma for at least two years or an ophthalmologist regarding his or her current glaucoma patients for six months and at least five new glaucoma patients before treating glaucoma patients independently. These five new glaucoma patients shall be seen at least once by the collaborating glaucoma-licensed optometrist or ophthalmologist.

* * * Pharmacy * * *

Sec. 28. 26 V.S.A. § 2044 is amended to read:

§ 2044. RENEWAL OF LICENSES

Each ~~pharmacist and pharmacy technician~~ person or entity licensed or regulated under the provisions of this chapter shall apply for renewal biennially by a date established by the director of the office of professional regulation. ~~The board shall renew the license or registration of each pharmacist and pharmacy technician who is qualified.~~

* * * Veterinary * * *

Sec. 29. 26 V.S.A. § 2414 is amended to read:

§ 2414. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application	\$ 100.00
(2) Biennial renewal	\$ 250.00
(3) Temporary license	\$ 25.00

* * * Land Surveying * * *

Sec. 30. 26 V.S.A. § 2543 is amended to read:

§ 2543. BOARD MEETINGS

(a) The board shall meet, at least two times each year, at the call of the chairperson or upon the request of any other two members.

~~(b) Meetings shall be warned and conducted in accordance with chapter 5 of Title 1. [Repealed.]~~

(c) A majority of the members of the board shall be a quorum for transacting business, and all action shall be taken upon a majority vote of the members present and voting.

(d) The provisions of the Vermont Administrative Procedure Act, 3 V.S.A. chapter 25, relating to contested cases, shall apply to proceedings under this chapter.

(e) Fees for the service of process and attendance before the board shall be the same as the fees paid sheriffs and witnesses in superior court.

Sec. 31. 26 V.S.A. § 2592 is amended to read:

§ 2592. QUALIFICATIONS LICENSURE BY EXAMINATION

(a) Any person shall be eligible for licensure as a land surveyor if the person qualifies under one of the following provisions, as established by the board by rule:

~~(1) Comity or endorsement.—A person holding a certificate of registration or a license to engage in the practice of land surveying issued on the basis of an examination, satisfactory to the board, by proper authority of a state, territory or possession of the United States, the District of Columbia, or another country, based on requirements and qualifications shown by the application to be equal to or greater than the requirements of this chapter, in the opinion of the board, may be examined relative to land surveying matters peculiar to Vermont and granted a license at the direction of the board~~
Bachelor's degree in land surveying, internship, portfolio, and examination. A person who has graduated with a bachelor's degree in land surveying from a program accredited by the Accreditation Board for Engineering and Technology (ABET), completed a 24-month internship, successfully completed a portfolio, and successfully completed the examinations required by the board may be granted a license.

~~(2) Graduation and examination.—An applicant who has graduated from a surveying curriculum of four years or more approved by the Accreditation Board for Engineering and Technology (ABET), followed by at least 24 months of experience in land surveying, under the supervision of a land surveyor, and who has passed an examination satisfactory to the board, may be granted a license~~
Associate's degree in land surveying, internship, portfolio, and examination. A person who has graduated with an associate's degree in land surveying from a program accredited by the ABET, completed a 36-month internship, successfully completed a portfolio, and successfully completed the examinations required by the board may be granted a license.

~~(3) Education and examination. An applicant, who has attended an accredited college or school of higher education, approved by the board, who has satisfactorily completed 30 credit hours of formal instruction in land surveying, followed by at least 36 months of experience in land surveying, under the supervision of a land surveyor, and who has passed an examination satisfactory to the board, may be granted a license.~~

~~(4) Experience Internship, portfolio, and examination examinations. An applicant who has completed four or more years of experience in land surveying, under the supervision of a land surveyor, and who has a 72-month internship, successfully completed a portfolio, and passed an examination which is satisfactory to the examinations required by the board, may be granted a license.~~

~~(b) The fundamentals of land surveying examination may be taken with board approval after an applicant for licensure submits the initial application.~~

~~(c) The principles and practice of land surveying examination may be taken before the applicant completes the educational and experience requirements established by this chapter, provided that the applicant has completed all but the final year of required practical experience. Notification of the results of such examinations shall be mailed to each candidate within 30 days of the day the results of any national examination are received by the board. A candidate failing to pass the examinations may apply for reexamination under the rules of the board and may sit for reexamination as many times as the candidate chooses to do so. If an applicant does not pass the entire examination, the applicant need not take again any portion of an examination which the applicant previously passed.~~

~~(d)(1) A person who has undertaken work in the office of a land surveyor shall notify the board:~~

~~(A) within six months of commencing work;~~

~~(B) within 30 days of making any change in the person supervising that work; and~~

~~(C) upon 30 days of completing the experience requirements for licensure.~~

~~(e) [Deleted.]~~

~~(f) License examinations may consist of a national surveying examination selected by the board plus a Vermont portion. The Vermont portion shall be limited to those subjects and skills necessary to perform land surveying.~~

~~(g) The board may conduct a personal interview of an applicant. A personal interview shall be for the limited purposes of assisting the applicant to~~

~~obtain licensure and to verify the applicant's educational qualifications and that the applicant completed the experience requirements for licensure. A personal interview shall not serve directly or indirectly as an oral examination of the applicant's substantive knowledge of surveying. An interview conducted under this section shall be taped and, at the request of the applicant, shall be transcribed. An applicant who is denied licensure shall be informed in writing of his or her right to have the interview transcribed free of charge. At least one of the public members of the board shall be present at any personal interview.~~

~~(h) When the board intends to deny an application for license, the director of the office of professional regulation shall send the applicant written notice of the decision by certified mail, return receipt requested. The notice shall include a specific statement of the reasons for the action. Within 30 days of the date that an applicant receives such notice, the applicant may file a petition with the board for review of its preliminary decision. At the hearing to review the preliminary decision, the burden shall be on the applicant to show that a license should be issued. After the hearing, the board shall affirm or reverse the preliminary denial. The applicant may appeal a final denial by the board to the appellate officer.~~

Sec. 32. 26 V.S.A. § 2592a is added to read:

§ 2592a. LICENSURE BY ENDORSEMENT

Upon an applicant's successful completion of the Vermont portion of the licensing examination, the board may issue a license to an applicant who is licensed or registered and currently in good standing in a United States or Canadian jurisdiction having licensing requirements which are substantially equivalent to the requirements of this chapter. The absence of a portfolio requirement in another jurisdiction shall not prevent the board from finding substantial equivalence.

Sec. 33. REPEAL

26 V.S.A. § 2594 (licenses generally) is repealed.

Sec. 34. 26 V.S.A. § 2595 is amended to read:

§ 2595. EXCEPTIONS

(a) The work of an employee or subordinate of a person having a license under this chapter is exempted from the licensing provisions of this chapter if such work is done under the supervision of and is verified by a licensee.

* * *

Sec. 35. 26 V.S.A. § 2598 is amended to read:

§ 2598. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a.

(b) Unprofessional conduct includes the following actions by a licensee:

* * *

~~(4) agreeing with any other person or organization, or subscribing to any code of ethics or organizational bylaws, when the intent or primary effect of that agreement, code or bylaw is to restrict or limit the flow of information concerning alleged or suspected unprofessional conduct to the board; [Repealed.]~~

(5) ~~wilfully~~ willfully acting, while serving as a board member, in any way to contravene the provisions of this chapter and thereby artificially restrict the entry of qualified persons into the profession;

(6) using the licensee's seal on documents prepared by others not in the licensee's direct ~~employ~~ supervision, or use the seal of another.

~~(7) [Deleted.]~~

Sec. 36. REPEAL

26 V.S.A. § 2599 (discipline of licensees) is repealed.

Sec. 37. 26 V.S.A. § 2601 is amended to read:

§ 2601. RENEWALS

(a) Licenses shall be renewed every two years upon payment of the renewal fee following the procedure established by the office of professional regulation.

~~(b) Biennially, the board shall forward a renewal form to each licensee. Upon receipt of the completed form and the renewal fee, the board shall issue a new license. [Repealed.]~~

(c) A license which has lapsed for a period of three years or less may be renewed upon application and payment of the renewal fee and the late penalty fee.

(d) As a condition of renewal, the board shall require that a licensee establish that he or she has completed continuing education, as approved by the board not to exceed 15 hours for each year of renewal.

(e) The board may renew the license of an individual whose license has lapsed for more than three years upon payment of the required fee, and the late

renewal penalty, provided the individual has satisfied all the requirements for renewal, ~~including continuing education established by the board by rule.~~

* * * Radiologic Technology * * *

Sec. 38. 26 V.S.A. § 2801 is amended to read:

§ 2801. DEFINITIONS

As used in this chapter:

* * *

(3) “Practice of radiography” means the direct application of ionizing radiation to human beings ~~for diagnostic purposes.~~

(4) “Practice of nuclear medicine technology” means the act of giving a radioactive substance to a human being ~~for diagnostic purposes,~~ or the act of performing associated imaging procedures, or both.

(5) “Practice of radiation therapy” means the direct application of ionizing radiation to human beings for therapeutic purposes or the act of performing associated imaging procedures, or both.

* * *

(11) “ARRT” means the American Registry of Radiologic Technologists.

(12) “NMTCB” means the Nuclear Medicine Technologist Certification Board.

Sec. 39. 26 V.S.A. § 2802 is amended to read:

§ 2802. PROHIBITIONS

~~(a) For purposes of this section, the word “license” includes temporary permits under section 2825 of this title. [Repealed.]~~

(b) No person shall practice radiologic technology unless he or she is licensed in accordance with the provisions of this chapter.

(c) No person shall practice radiography without a license for radiography from the board unless exempt under section 2803 of this title.

~~(d) No person who holds a limited radiography license from the board shall apply ionizing radiation to human beings for diagnostic or therapeutic purposes or take radiographs, except as follows:~~

~~(1) A person who holds an endorsement for chest radiography may radiograph the thorax for the purpose of demonstrating the heart or lungs; and~~

~~(2) A person who holds an endorsement for extremities radiography may radiograph the hands and arms, including the shoulder girdle, the feet, and the legs up to the mid point of the femur. [Repealed.]~~

(e) No person shall practice nuclear medicine technology without a license for that purpose from the board unless exempt under section 2803 of this title.

(f) No person shall practice radiation therapy technology without a license for that purpose from the board unless exempt under section 2803 of this title.

Sec. 40. 26 V.S.A. § 2803 is amended to read:

§ 2803. EXEMPTIONS

The prohibitions in section 2802 of this ~~title~~ chapter shall not apply to dentists licensed under chapter ~~13~~ 12 of this title and actions within their scope of practice nor to:

* * *

~~(6) Individuals who are completing a course of training for limited radiographic licensure as required in subsection 2821(e) of this title and who work under direct personal supervision of a licensed practitioner. The exemption authorized by this subdivision shall be for one time only and for no more than six months. The licensed practitioner is professionally and legally responsible for work performed by the person completing the course of training~~ Licensees certified in one of the three primary modalities set forth in section 2821a of this chapter preparing for postprimary certification in accordance with ARRT or NMTCB under the direct personal supervision of a licensee already certified in the specific postprimary modality at issue.

(7) Researchers operating bone densitometry equipment for body composition upon successful completion of courses on body composition and radiation safety approved by the board. The board shall not require this coursework to exceed eight hours. The board may consider other exemptions from licensure for bona fide research projects subject to course and examination requirements as deemed necessary for public protection.

Sec. 41. 26 V.S.A. § 2804 is amended to read:

§ 2804. COMPETENCY REQUIREMENTS OF CERTAIN LICENSED PRACTITIONERS

Unless the requirements of subdivision 2803(1) of this title have been satisfied, no physician, as defined in chapter 23 of this title, podiatrist, as defined in chapter 7 of this title, osteopathic physician, as defined in chapter 33 of this title, naturopathic physician as defined in chapter 81 of this title, or chiropractor, as defined in chapter ~~9~~ 10 of this title, shall apply ionizing

radiation to human beings ~~for diagnostic purposes~~, without first having satisfied the board of his or her competency to do so. The board shall consult with the appropriate licensing boards concerning suitable performance standards. The board shall, by rule, provide for periodic recertification of competency. A person subject to the provisions of this section shall be subject to the fees established under subdivisions 2814(4) and (5) of this title. This section does not apply to radiologists who are certified or eligible for certification by the American Board of Radiology.

Sec. 42. 26 V.S.A. § 2811 is amended to read:

§ 2811. BOARD OF RADIOLOGIC TECHNOLOGY

(a) A board of radiologic technology is created, consisting of ~~five~~ six members. The board shall be attached to the office of professional regulation.

(b) One member of the board shall be a member of the public who has no financial interest in radiologic technology other than as a consumer or possible consumer of its services. The public member shall have no financial interest personally or through a spouse.

(c) One member of the board shall be a radiologist certified by the American Board of Radiology.

(d) ~~Two~~ Three members of the board shall be licensed under this chapter, one representing each of the three following primary modalities: radiography; nuclear medicine technology; and radiation therapy.

(e) One member of the board shall be a representative from the radiological health program of the Vermont department of health.

(f) Board members shall be appointed by the governor.

Sec. 43. 26 V.S.A. § 2812 is amended to read:

§ 2812. POWERS AND DUTIES

(a) The board shall adopt rules necessary for the performance of its duties, including:

(1) a definition of the practice of radiologic technology, interpreting section 2801 of this title;

(2) qualifications for obtaining licensure, interpreting section 2821 of this ~~title~~ chapter;

(3) explanations of appeal and other significant rights given to applicants and the public;

(4) procedures for disciplinary and reinstatement cases;

(5) ~~procedures for certifying persons using special equipment;~~
~~[Repealed.]~~

(6) procedures for mandatory reporting of unsafe radiologic conditions or practices;

(7) procedures for continued competency evaluation;

(8) procedures for radiation safety;

(9) procedures for competency standards for license applications and renewals.

(b) The board shall:

(1) ~~If applications for licensure by examination are pending, offer examinations at least twice each year and pass upon the qualifications of applicants for licensing.~~ ~~[Repealed.]~~

(2) Use the administrative and legal services provided by the office of professional regulation under 3 V.S.A. chapter 5.

(3) Investigate suspected unprofessional conduct.

(4) Periodically determine whether a sufficient supply of good quality radiologic technology services is available in Vermont at a competitive and reasonable price; and take suitable action, within the scope of its powers, to solve or bring public and professional attention to any problem which it finds in this area.

(5) As a condition of renewal require that a licensee establish that he or she has completed a minimum of 24 hours of continuing education as approved by the board ~~not to exceed 24 hours in a two-year renewal.~~

* * *

Sec. 44. 26 V.S.A. § 2814 is amended to read:

§ 2814. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- | | |
|--|-----------|
| (1) Application for temporary permit and <u>primary</u> licensure | \$ 100.00 |
| (2) Biennial renewal | |
| (A) renewal of a single <u>primary</u> license | \$ 110.00 |
| (B) renewal of each additional <u>primary</u> license | \$ 15.00 |
| (3) Initial competency endorsement under section 2804 of this title | \$ 100.00 |

-
- | | |
|---|-----------|
| (4) Biennial renewal of competency endorsement under section 2804 of this title | \$ 110.00 |
| (5) Evaluation | \$ 125.00 |

Sec. 45. REPEAL

26 V.S.A. § 2821 (licensing) is repealed.

Sec. 46. TRANSITIONAL PROVISION

A person granted a limited radiography license by the board of radiologic technology under 26 V.S.A. § 2821 prior to the effective date of this act may continue to practice as permitted by that license and board rules.

Sec. 47. 26 V.S.A. § 2821a is added to read:

§ 2821a. LICENSE FOR PRIMARY MODALITIES

Common Requirements. The board shall recognize and follow the ARRT and the NMTCB primary certification process. The board shall issue a license to practice in one of the following three primary modalities to any person who in addition to the other requirements of this section, has reached the age of majority and has completed preliminary education equivalent to at least four years of high school:

(1) Radiography. The board shall issue a radiography license to any person who, in addition to meeting the general requirements of this section:

(A) has graduated from a radiologic technology training program offered by a school of radiologic technology approved by ARRT; and

(B) has obtained primary certification in radiography from ARRT.

(2) Nuclear medicine technology. The board shall issue a nuclear medicine technology license to any person who, in addition to meeting the general requirements of this section:

(A) has graduated from a nuclear medicine technology program offered by a school of nuclear medicine technology approved by ARRT or NMTCB; and

(B) has obtained primary certification in nuclear medicine technology from ARRT or NMTCB.

(3) Radiation therapy. The board shall issue a radiation therapy license to any person who, in addition to meeting the general requirements of this section:

(A) has graduated from a radiation therapy training program offered by a school of radiologic technology approved by ARRT; and

(B) has obtained primary certification in radiation therapy from the ARRT.

Sec. 48. 26 V.S.A. § 2821b is added to read:

§ 2821b. LICENSE FOR POSTPRIMARY MODALITIES

(a) The board recognizes and follows the ARRT postprimary certification process for the following postprimary practice categories: mammography, computed tomography (“CT”), cardiac-interventional radiography, and vascular-interventional radiography.

(b) In order for a licensee who has obtained one of the three primary ARRT or NMTCB certifications set forth in section 2821a of this subchapter to practice in one of the postprimary modalities set forth in subsection (a) of this section, the licensee must first obtain postprimary certification from ARRT for that category, except:

(1) a person with a primary license in radiation therapy may perform CT for treatment simulation; and

(2) a person with a primary license in nuclear medicine technology may perform CT for attenuation correction on hybrid imaging equipment, such as PET/CT and SPECT/CT scanners.

(c) In order to practice bone densitometry or apply ionizing radiation using bone densitometry equipment, a primary certification and license in radiography is required, with the exception that individuals who perform quantitative computed tomography (“QCT”) bone densitometry must obtain postprimary certification in CT in addition to primary certification.

Sec. 49. 26 V.S.A. § 2823 is amended to read:

§ 2823. RENEWAL AND PROCEDURE FOR NONRENEWAL

(a) Licenses shall be renewed every two years without examination and on payment of the required fees. Each radiographer, nuclear medicine technologist, and radiation therapist licensed to practice by the board shall apply biennially for the renewal of a license. One month prior to the renewal date, the office of professional regulation shall send to each of those licensees a license renewal application form and a notice of the date on which the existing license will expire. The licensee shall file the application for license renewal and pay a renewal fee. In order to be eligible for renewal, an applicant shall document completion of no fewer than 24 hours of board-approved continuing education. Required accumulation of continuing education hours shall begin on the first day of the first full biennial licensing period following initial licensure.

~~(b) A license which has expired because a licensee has not sought renewal may be reinstated on payment of a renewal fee and a late renewal penalty. The licensee shall not be required to pay renewal fees during periods when the license was expired. However, if such a license remains expired for a period of ten years, the board shall send notice under this section to the former licensee at his last known address. Thirty days after the notice is sent, the right to renew the license without examination is suspended. Once the right to renew is suspended, it may be reinstated only by decision of the board acting on petition of the former licensee. During that proceeding, the board may require re-examination of the licensee, as well as payment of a renewal fee, late renewal penalty and a reinstatement fee. A person who practices radiography, nuclear medicine technology, or radiation therapy and who fails to renew a license or registration or fails to pay the fees required by this chapter shall be an illegal practitioner and shall forfeit the right to practice until reinstated by the board.~~

(c) The board shall adopt rules setting forth qualifications for reinstating lapsed licenses.

Sec. 50. REPEAL

26 V.S.A. § 2825 (temporary permits) is repealed.

Sec. 51. 26 V.S.A. § 2825a is added to read:

§ 2825a. LICENSURE BY ENDORSEMENT

The board may grant a license to an applicant who possesses a license in good standing in another state and possesses the applicable ARRT or NMTCB primary and postprimary certifications as set forth in sections 2821a and 2821b of this subchapter, respectively.

* * * Psychology * * *

Sec. 52. 26 V.S.A. § 3011a is amended to read:

§ 3011a. APPLICATIONS

(a) Any person desiring to obtain a license as a psychologist shall make application therefor to the board upon such form and in such manner as the board prescribes and shall furnish evidence satisfactory to the board that he or she:

(1) is at least 18 years of age;

(2)(A) has had two years of experience, or their equivalent, in the practice of clinical psychology under the supervision of a person who is licensed or who is qualified to be licensed under this chapter; possesses a doctoral degree in psychology and has completed 4,000 hours of supervised

practice as defined by the board by rule, of which no fewer than 2,000 hours were completed after the doctoral degree in psychology was received; or

~~(3) has successfully completed each examination that is required pursuant to section 3013 of this title; and~~

~~(A) possesses a doctoral degree in psychology obtained through a professional psychology training program awarded by an institution of higher education;~~

~~(B) possesses a master's degree in psychology obtained through a professional psychology training program awarded by an institution of higher education; and has completed 4,000 hours of supervised practice as defined by the board by rule of which no fewer than 2,000 hours were completed after the master's degree in psychology was received; and~~

~~(C) possesses a master's degree in psychology awarded by an institution of higher education provided the person was enrolled as a candidate for the master's degree no later than December 31, 1993; or~~

~~(D) possesses a degree in psychology awarded by an institution of higher education based on a program that the board determines to be equivalent to that required in subdivisions (A) and (B) of this subdivision (3)~~

(3) has successfully completed the examinations designated by the board.

(b) In exceptional cases, the board may waive any requirement of this section if in its judgment the applicant demonstrates appropriate qualifications.

* * * Clinical Social Work * * *

Sec. 53. 26 V.S.A. § 3201 is amended to read:

§ 3201. DEFINITIONS

As used in this chapter:

(1) "Clinical social work" is defined as providing a service, for a consideration, which is primarily drawn from the academic discipline of social work theory, in which a special knowledge of social resources, human capabilities, and the part that motivation plays in determining behavior, is directed at helping people to achieve a more adequate, satisfying, and productive psychosocial adjustment. The application of social work principles and methods includes, but is not restricted to assessment, diagnosis, prevention and amelioration of adjustment problems and emotional and mental disorders of individuals, families and groups. The scope of practice for licensed clinical social workers includes the provision of psychotherapy.

* * *

Sec. 54. 26 V.S.A. § 3205 is amended to read:

§ 3205. ELIGIBILITY

To be eligible for licensing as a clinical social worker an applicant must have:

(1) received a master's degree or doctorate from an accredited social work education program;

(2) [Deleted.]

(3) ~~had two years of post master's experience in the practice of clinical social work or the equivalent in part time experience~~ completed 3,000 hours of supervised practice of clinical social work as defined by rule under the supervision of a licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry, a licensed psychologist, a licensed clinical mental health counselor, a person licensed or certified under this chapter, or a person licensed or certified in another state or Canada in one of these professions or their substantial equivalent. Persons engaged in post masters supervised practice in Vermont shall be entered on the roster of nonlicensed, noncertified psychotherapists;

(4) submitted the names and addresses of three persons who can attest to the applicant's professional competence. Such person shall be a licensed physician or a licensed osteopathic physician who has completed a residency in psychiatry, a licensed psychologist, a licensed clinical mental health counselor, a person licensed or certified under this chapter, or a person licensed in another state or Canada in one of these professions; and

(5) passed an examination to the satisfaction of the director of the office of professional regulation.

* * * Dietetics * * *

Sec. 55. 26 V.S.A. § 3381 is amended to read:

§ 3381. DEFINITIONS

As used in this chapter:

(1) "~~American Dietetic Association~~ Academy of Nutrition and Dietetics" means the national professional organization of dietitians that provides direction and leadership for quality dietetic practice, education and research.

* * *

Sec. 56. 26 V.S.A. § 3385 is amended to read:

§ 3385. ELIGIBILITY

To be eligible for certification as a dietitian, an applicant:

(1) shall not be in violation of any of the provisions of this chapter or rule adopted in accordance with the provisions of the chapter; and

(2)(A) shall have proof of registration as a registered dietitian by the Commission on Dietetic Registration; or

(B) shall have:

(i) received a bachelor of arts or science or a higher degree in dietetics from an accredited college or university; and

(ii) satisfactorily completed a minimum of 900 practicum hours of supervision under an ~~American Dietetic Association~~ Academy of Nutrition and Dietetics dietitian registered by the Commission on Dietetic Registration; and

(iii) passed an examination to the satisfaction of the director.

* * * Naturopathic Medicine * * *

Sec. 57. 26 V.S.A. § 4121 is amended to read:

§ 4121. DEFINITIONS

As used in this chapter:

* * *

(7) ~~“Naturopathic formulary examination” means an examination, administered by the director or the director’s designee, which tests an applicant’s knowledge of the pharmacology, clinical use, side effects, and drug interactions of agents in the naturopathic formulary. [Repealed.]~~

(8) “Naturopathic medicine” or “the practice of naturopathic medicine” means a system of health care that utilizes education, natural medicines, and natural therapies to support and stimulate a patient’s intrinsic self-healing processes and to prevent, diagnose, and treat human health conditions, injuries, and pain. In connection with such system of health care, an individual licensed under this chapter may:

(A) Administer or provide for preventative and therapeutic purposes nonprescription medicines, topical medicines, botanical medicines, homeopathic medicines, counseling, hypnotherapy, nutritional and dietary therapy, naturopathic physical medicine, naturopathic childbirth, therapeutic devices, barrier devices for contraception, and prescription medicines authorized by this chapter ~~or by the formulary established under subsection 4125(c) of this title.~~

(B) Use diagnostic procedures commonly used by physicians in general practice, including physical and orificial examinations,

electrocardiograms, diagnostic imaging techniques, phlebotomy, clinical laboratory tests and examinations, and physiological function tests.

* * *

(13) “Naturopathic pharmacology examination” means a test administered by the director or the director’s designee, the passage of which is required to obtain the special license endorsement under subsection 4125(d) of this chapter.

Sec. 58. 26 V.S.A. § 4122 is amended to read:

§ 4122. PROHIBITIONS AND PENALTIES

(a) No person shall perform any of the following acts:

(1) Practice naturopathic medicine in this state without a valid license issued in accordance with this chapter except as provided in section 4123 of this title.

(2) Use, in connection with the person’s name any letters, words, or insignia indicating or implying that the person is a naturopathic physician unless the person is licensed in accordance with this chapter. A person licensed under this chapter may use the designations “N.D.,” “doctor of naturopathic medicine,” “naturopathic doctor,” “doctor of naturopathy,” or “naturopathic physician.”

(b) A person licensed under this chapter shall not perform any of the following acts:

(1) Prescribe, dispense, or administer any prescription medicines ~~except those medicines authorized by this chapter~~ without obtaining from the director the special license endorsement under subsection 4125(d) of this chapter.

(2) Perform surgical procedures, except for episiotomy and perineal repair associated with naturopathic childbirth.

(3) Use for therapeutic purposes, any device regulated by the United States Food and Drug Administration (FDA) that has not been approved by the FDA.

(4) Perform naturopathic childbirth without obtaining ~~an endorsement~~ from the director the special license endorsement under subsection 4125(b) of this chapter.

(c) A person who violates any of the provisions of this section shall be subject to the penalties provided in 3 V.S.A. § 127(c).

Sec. 59. 26 V.S.A. § 4123 is amended to read:

§ 4123. EXEMPTIONS

(a) Nothing in this chapter shall be construed to prohibit any of the following:

(1) The practice of a profession by a person who is licensed, certified, or registered under other laws of this state and is performing services within the authorized scope of practice of that profession.

(2) The practice of naturopathic medicine by a person duly licensed to engage in the practice of naturopathic medicine in another state, territory, or the District of Columbia who is called into this state for consultation with a naturopathic physician licensed under this chapter.

(3) The practice of naturopathic medicine by a student enrolled in an approved naturopathic medical college. The performance of services shall be pursuant to a course of instruction and under the supervision of an instructor, who shall be a naturopathic physician licensed in accordance with this chapter.

(4) The use or administration of over-the-counter medicines or other nonprescription agents, ~~regardless of whether the over-the-counter medicine or agent is on the naturopathic formulary.~~

(b) The provisions of subdivision 4122(a)(1) of this ~~title~~ chapter, relating to the practice of naturopathic medicine, shall not be construed to limit or restrict in any manner the right of a practitioner of another health care profession from carrying on in the usual manner any of the functions related to that profession.

Sec. 60. 26 V.S.A. § 4125 is amended to read:

§ 4125. DIRECTOR; DUTIES

(a) The director, with the advice of the advisor appointees, shall:

(1) Provide general information to applicants for licensure as naturopathic physicians.

(2) Administer fees collected under this chapter.

(3) Administer examinations.

(4) Explain appeal procedures to naturopathic physicians and applicants for licensure and complaint procedures to the public.

(5) Receive applications for licensure under this chapter; issue and renew licenses; and revoke, suspend, reinstate, or condition licenses as ordered by an administrative law officer.

(6) Refer all disciplinary matters to an administrative law officer.

(b) The director, with the advice of the advisor appointees, shall adopt rules necessary to perform the director's duties under this section, which shall include rules regulating ~~the naturopathic formulary, the naturopathic formulary~~

~~examination, and a special license endorsement to practice naturopathic childbirth.~~

~~(c) At least annually, in consultation with the commissioner of health and in accordance with consultation procedures adopted by the director by rule, the director with the advice of the advisor appointees, shall review and update the formulary of prescription medicines naturopathic physicians may use consistent with their scope of practice and training. Nonnatural substances found to be substantially safer in treatment or without which a patient's primary care would be compromised may be added to the formulary. The formulary shall include prescription medicines necessary for naturopathic practice and naturopathic childbirth. [Repealed.]~~

(d) The director, in consultation with the commissioner of health, shall adopt rules consistent with the commissioner's recommendations regulating a special license endorsement which shall authorize a naturopathic physician to prescribe, dispense, and administer prescription medicines. These rules shall require a naturopathic physician to pass a naturopathic pharmacology examination in order to obtain this special license endorsement. The naturopathic pharmacology examination shall be administered by the director or the director's designee and shall test an applicant's knowledge of the pharmacology, clinical use, side effects, and drug interactions of prescription medicines, including substances in the Vermont department of health's regulated drugs rule.

Sec. 60a. NATUROPATHIC PHYSICIANS; PRESCRIPTION MEDICINES; SPECIAL LICENSE ENDORSEMENT; RULES

The rules adopted pursuant to Sec. 60, 26 V.S.A. § 4125(d) of this act, regarding the regulation of a special license endorsement which shall authorize a naturopathic physician to prescribe, dispense, and administer prescription medicines, shall be consistent with the findings of the report on the education and clinical training of naturopathic physicians set forth in Sec. 64(a) of this act.

Sec. 61. 26 V.S.A. § 4127 is amended to read:

§ 4127. ELIGIBILITY FOR LICENSURE

To be eligible for licensure as a naturopathic physician, an applicant shall satisfy all the following:

- (1) Have been granted a degree of doctor of naturopathic medicine, or a degree determined by the director to be essentially equivalent to such degree, from an approved naturopathic medical college.
- (2) Be physically and mentally fit to practice naturopathic medicine.

(3) Pass a licensing examination approved by the director ~~pursuant to subsection 4129(a) of this title~~ by rule, unless the applicant is exempt from examination pursuant to ~~subsection 4129(b)~~ section 4129 of this ~~title~~ chapter.

(4) ~~Pass the naturopathic formulary examination administered by the director or the director's designee, unless the applicant is exempt from examination pursuant to the standards set forth in subsection 4129(b) of this title. [Repealed.]~~

Sec. 62. 26 V.S.A. § 4129 is amended to read:

§ 4129. WAIVER OF LICENSING EXAMINATION REQUIREMENT

~~(a) The director, or designee, shall administer the licensing examination to applicants at least twice each year if applications are pending. Examinations administered by the director and the procedures of administration shall be fair and reasonable and shall be designed and implemented to ensure that all applicants are granted a license if they demonstrate that they possess minimal professional qualifications which are consistent with the public health, safety and welfare. The examination shall not be designed or implemented for the purpose of limiting the number of licenses issued.~~

~~(b) The director shall waive the examination requirement if the applicant is a naturopathic physician regulated under the laws of another jurisdiction who is in good standing to practice naturopathic medicine in that jurisdiction and, in the opinion of the director, the standards and qualifications required for regulation in that jurisdiction are at least equal to those required by this chapter.~~

Sec. 63. 26 V.S.A. § 4130 is amended to read:

§ 4130. BIENNIAL LICENSE RENEWAL; CONTINUING EDUCATION

(a) The license to practice naturopathic medicine shall be renewed every two years by filing a renewal application on a form provided by the director. The application shall be accompanied by the required fee and evidence of compliance with subsection (b) of this section. ~~The director may require licensees who have not previously passed the naturopathic physician formulary examination to pass the examination as a condition of license renewal.~~

(b) As a condition of renewal, a naturopathic physician shall complete a program of continuing education, approved by the director, during the preceding two years. The director shall not require more than 30 hours of continuing education biennially.

Sec. 64. TRANSITIONAL PROVISIONS

(a)(1) By January 31, 2013 and prior to the adoption of the rules required by Sec. 60, 26 V.S.A. § 4125(d) of this act, regarding the regulation of a special license endorsement which shall authorize a naturopathic physician to prescribe, dispense, and administer prescription medicines, the director of the office of professional regulation, in consultation with the commissioner of health, pharmacologists, and clinical pharmacists, shall review and prepare a report on the education and clinical training of naturopathic physicians in order to determine whether naturopathic physicians receive sufficient academic training in pharmacology and clinical training in using all prescription drugs to safely:

(A) prescribe and administer without limitation all prescription drugs;

(B) prescribe all controlled substances on schedules II through IV;

(C) prescribe all prescription drugs for both FDA-approved label indications and for off-label uses; and

(D) administer all prescription drugs by all routes of administration, including oral, topical, transdermal, transmucosal, intravenous, and intramuscular.

(2) Representatives of the University of Vermont College of Medicine and naturopathic physician medical colleges shall have an opportunity to review and comment on the draft report.

(3) The report shall recommend any limitations or conditions on the authority of naturopathic physicians to prescribe and administer prescription drugs that are found to be necessary to ensure consistency with the scope of the naturopathic physicians' education and clinical training.

(b) Naturopathic pharmacology examination establishment. The naturopathic pharmacology examination set forth in 26 V.S.A. § 4125(d) shall be established and made available by July 1, 2013.

(c) Formulary authorization. Notwithstanding the provisions of 26 V.S.A. § 4122(b)(1) and except as provided in subsection (d) of this section, any naturopathic physician licensed under 26 V.S.A. chapter 81 who is authorized to prescribe, dispense, and administer any prescription medicines pursuant to the 2009 naturopathic physician formulary prior to the establishment of the naturopathic pharmacology examination set forth in 26 V.S.A. § 4125(d) may continue to prescribe, dispense, and administer those medicines consistent with his or her scope of practice and training and without obtaining from the director of the office of professional regulation the special license endorsement required under 26 V.S.A. § 4125(d).

(d) Formulary review. In consultation with the commissioner of health and with the advice of the advisor appointees appointed pursuant to 26 V.S.A. § 4126, the director may review and eliminate or add prescription medicines on the 2009 naturopathic physician formulary that authorized naturopathic physicians are permitted to prescribe, dispense, and administer if it is determined that such a change is necessary for patient health and safety.

(e) Formulary sunset; transition to examination.

(1) Subsection (c) of this section (formulary authorization) shall be repealed on July 1, 2015.

(2) Any naturopathic physician who is authorized to prescribe, dispense, and administer any prescription medicines under subsection (c) of this section shall have until July 1, 2015 to successfully complete the naturopathic pharmacology examination set forth in 26 V.S.A. § 4125(d) in order to be able to continue to prescribe, dispense, and administer any prescription medicines.

* * * Boxing * * *

Sec. 65. 31 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter:

(1) “Boxer” means an individual who participates in a boxing match.

(2) “Boxing match” or “match” means a contest or training exhibition for a prize or purse where an admission fee is charged and where individuals score points by striking the head and upper torso of an opponent with padded fists. An amateur ~~boxing~~ match is a match held under the supervision of a school, college, or university ~~or~~; under the supervision of United States Amateur Boxing, Inc. or its successor as the ~~nationally designated~~ nationally designated governing body for amateur boxing; or, for any other amateur match, under the supervision of a nationally designated governing body. All other matches shall be considered professional ~~boxing~~ matches. Kickboxing, martial arts, and mixed martial arts, as defined in this section, shall be considered “matches” for the purposes of this chapter.

(3) “Director” means the director of the office of professional regulation.

(4) “Disciplinary action” includes any action by the administrative law officer appointed under ~~section 129 of Title 3 V.S.A. § 129~~, premised upon a finding of wrongdoing. It includes all sanctions of any kind, including denying, suspending, or revoking; a registration and issuing warnings and other sanctions.

(5) “Health care provider” means a health care practitioner licensed in Vermont who is permitted under his or her statutory or regulatory scope of practice to conduct the types of examinations set forth in this chapter.

(6) “Kickboxing” means unarmed combat involving the use of striking techniques delivered with the upper and lower body and in which the competitors remain standing while striking;

(7) “Martial arts” means any form of unarmed combative sport or unarmed combative entertainment that allows contact striking, except boxing or wrestling;

(8) “Mixed martial arts” means unarmed combat involving the use of a combination of techniques from different disciplines of the martial arts, including grappling, submission holds, and strikes with the upper and lower body.

(9) “Manager” means a person who receives compensation for service as an agent or representative of a professional boxer.

~~(6)~~(10) “National boxer registry” means an entity certified by the Association of Boxing Commissions for the purpose of maintaining records for the identification of professional boxers and for tracking their records and suspensions.

~~(7)~~(11) “Participant” means managers, seconds, referees, and judges in a professional boxing match.

~~(8)~~(12) “Promoter” means a person that organizes, holds, advertises, or otherwise conducts a professional boxing match.

Sec. 66. 31 V.S.A. § 1102 is amended to read:

§ 1102. DIRECTOR; POWERS; DUTIES

(a) The director shall have jurisdiction over professional boxing matches. The director’s power to supervise professional boxing matches includes the power to suspend a match immediately if there is a serious and immediate danger to the public, boxers, promoters, or participants.

~~(b)~~(1) Except as provided in this subsection, the director shall not have jurisdiction over amateur boxing matches. Amateur boxing matches shall be conducted according to the rules of United States Amateur Boxing, Inc., the national governing body for amateur boxing of the United States Olympic Committee or its successor as the nationally-designated governing body for amateur boxing. However, upon a finding that the health and safety of the boxers and participants in an amateur match are not being sufficiently safeguarded, the director shall assume jurisdiction over and supervisory

responsibility for the match. The director's decision may be appealed to the administrative law officer appointed under ~~section 129 of Title 3~~ V.S.A. § 129 within 10 days of the date the finding is issued. If the director assumes jurisdiction under this subsection, the match shall continue to be conducted in accordance with the rules of United States Amateur Boxing, Inc.

(2) For the purposes of this subsection, an "amateur boxing match" means a match held under the supervision of a school, college, or university or under the supervision of United States Amateur Boxing, Inc. or its successor as the nationally designated governing body for amateur boxing.

(c) The director shall:

- (1) provide information to applicants for registration;
- (2) administer fees collected under this chapter;
- (3) explain appeal procedures to registrants and applicants and complaint procedures to the public;
- (4) receive applications for registration, grant registration under this chapter, renew registrations and deny, revoke, suspend, reinstate, or condition registrations as directed by an administrative law officer;
- (5) refer all complaints and disciplinary matters to an administrative law officer appointed under ~~section 129 of Title 3~~ V.S.A. § 129.

(d) The director may adopt rules necessary to perform his or her duties under this chapter. The uniform rules of the Association of Boxing Commissions as adopted on June 6, 1998, and as amended from time to time, shall apply to professional boxing matches conducted under this chapter to the extent those rules address matters not covered by rules adopted by the director.

Sec. 67. 31 V.S.A. § 1107 is amended to read:

§ 1107. MATCHES; MEDICAL SUSPENSIONS

Medical suspensions of professional boxers shall be determined by following the guidelines issued by the Association of Boxing Commissions as adopted and as may be amended from time to time. A boxer may be suspended for a recent knockout, a series of losses, a required medical procedure, a ~~physician's~~ health care provider's denial of certification, the failure of a drug test, or for other reasons outlined in this chapter or rules adopted under this chapter.

Sec. 68. 31 V.S.A. § 1108 is amended to read:

§ 1108. MATCHES; SPECIAL PROVISIONS

* * *

(b) Before a professional match, the promoter shall insure that each boxer is examined by a ~~physician licensed in this state~~ health care provider for the purpose of certifying that the boxer is physically fit to compete safely. Copies of the ~~physician's~~ health care provider's certificate shall be filed with the director prior to the match. In addition, at any time prior to a professional match, the director may require that a boxer undergo a physical examination, which may include neurological tests and procedures.

(c) A ~~physician~~ health care provider approved by the director must be continuously present at ringside during every professional boxing match to observe the physical condition of the boxers. The ~~physician~~ health care provider shall advise the referee on the condition of the boxers.

* * *

(e) A person under the age of 18 shall not participate in any professional match, as that term is described in subdivision 1101(2) of this chapter.

Sec. 66. EFFECTIVE DATES

This act shall take effect on July 1, 2012 except that:

(1) this section and Sec. 62(c) (transitional provision; formulary review) of this act shall take effect on passage; and

(2) Sec. 46, 26 V.S.A. § 2821b(b) (practice in postprimary modalities), of this act shall take effect on May 31, 2015.

* * * Funeral Service * * *

Sec. 69. STUDY OF LIMITED LICENSES FOR LIMITED PRACTICES OF FUNERAL SERVICE

(a)(1) The board of funeral service shall study whether it should issue limited licenses for limited practices of funeral services, including whether the board should issue limited licenses for the following limited practices of funeral service:

(A) removal or transportation;

(B) refrigeration;

(C) embalming;

(D) cremation;

(E) disposition;

(F) monument sales; and

(G) cemetery operation.

(2) During its study, the board shall consider the evolving nature of the funeral industry; changes in consumer demand; and the continuing need to track deaths and protect the public.

(b) By November 1, 2012, the committee shall report to the house committees on general, housing and military affairs and on government operations and the senate committees on economic development, housing and general affairs and on government operations its findings and any recommendations for legislative action.

* * * Director of the Office of Professional Regulation; Preliminary Assessments * * *

Sec. 70. DIRECTOR OF THE OFFICE OF PROFESSIONAL REGULATION; PRELIMINARY ASSESSMENTS

Pursuant to 26 V.S.A. § 3105, the director of the office of professional regulation shall make a preliminary assessment of whether the following professions should be regulated:

- (1) home inspection;
- (2) roofing; and
- (3) solar equipment installation.

And that after passage the title of the bill be amended to read:

An act relating to the secretary of state and to the regulation of professions and occupations.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Evans of Essex**, moved to concur in the Senate proposal of amendment with a further amendment thereto, as follows:

First: By striking Sec. 70 (director of the office of professional regulation; preliminary assessments) in its entirety and inserting in lieu thereof the following:

Sec. 70. DIRECTOR OF THE OFFICE OF PROFESSIONAL REGULATION; PRELIMINARY ASSESSMENT

Pursuant to 26 V.S.A. § 3105, the director of the office of professional regulation shall make a preliminary assessment of whether the profession of home inspection should be regulated.

Second: By striking Sec. 66 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 71. EFFECTIVE DATES

This act shall take effect on July 1, 2012 except that:

(1) this section and Sec. 64(d) (transitional provisions; formulary review) of this act shall take effect on passage; and

(2) Sec. 48, 26 V.S.A. § 2821b(b) (practice in postprimary modalities), of this act shall take effect on May 31, 2015.

Which was agreed to.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Adjournment

At six o'clock and ten minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.