Journal of the Senate

FRIDAY, MAY 6, 2011

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following named pages who are completing their services today and presented them with letters of appreciation.

Zachary Akey of Williston
Rosie Boucher of Montpelier
Annik Buley of East Montpelier
Brenna Coombs of North Chittenden
Maya Gershun-Half of Hardwick
Benjamin Janis of Brattleboro
Isabelle Moody of North Ferrisburg
Colhoun Rawlings of South Burlington
August Vitzthum of Montpelier
Asah Whalen of Marshfield

Message from the House No. 71

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 78. An act relating to the advancement of cellular, broadband, and other technology infrastructure in Vermont.

S. 96. An act relating to technical corrections to the workers' compensation statutes.

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

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

H. 56. An act relating to the Vermont Energy Act of 2011.

H. 198. An act relating to a transportation policy to accommodate all users.

H. 369. An act relating to health professionals regulated by the board of medical practice.

H. 420. An act relating to the office of professional regulation.

And has severally concurred therein.

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

H. 91. An act relating to the management of fish and wildlife.

And has adopted the same on its part.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 97.

An act relating to early childhood educators.

To the Committee on Rules.

H. 460.

An act relating to amending the charter of the city of Barre.

To the Committee on Rules.

Rules Suspended; Committee Relieved of Further Consideration; Bill Committed

H. 460.

On motion of Senator Campbell, the rules were suspended, and H. 460 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to amending the charter of the city of Barre,

and the bill was committed to the Committee on Government Operations.

Recess

On motion of Senator Campbell the Senate recessed until the fall of the gavel.

Called to Order

The Senate was called to order by the President.

Rules Suspended; Third Reading Ordered; rules Suspended; Bill Passed; Bill Messaged

H. 460.

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to amending the charter of the city of Barre,

Was taken up for immediate consideration.

Senator Pollina, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was ordered messaged to the House forthwith.

Action Reconsidered; House Proposal of Amendment Concurred In

S. 104.

Assuring the Chair that he voted with the majority whereby the bill was messaged to the House, Senator Mullin moved that the Senate reconsider its action on Senate bill entitled:

An act relating to modifications to the ban on gifts by manufacturers of prescribed products.

Which was agreed to.

Thereupon, assuring the Chair he voted with the majority whereby the bill was passed in concurrence by the Senate Senator Mullin moved that the Senate reconsider its action on Senate Bill S. 104.

Which was agreed to.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, the corrected version of the House proposal of amendment was offered and is as follows:

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

Sec. 1. 18 V.S.A. § 4631a is amended to read:

§ 4631a. EXPENDITURES BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a) As used in this section:

(1) "Allowable expenditures" means:

(A) Payment to the sponsor of a significant educational, medical, scientific, or policy-making conference or seminar, provided:

(i) the payment is not made directly to a health care professional or pharmacist;

(ii) funding is used solely for bona fide educational purposes, except that the sponsor may, in the sponsor's discretion, apply some or all of the funding to provide meals and other food for all conference participants; and

(iii) all program content is objective, free from industry control, and does not promote specific products.

(B) Honoraria and payment of the expenses of a health care professional who serves on the faculty at a bona fide significant educational, medical, scientific, or policy-making conference or seminar, provided:

(i) there is an explicit contract with specific deliverables which are restricted to medical issues, not marketing activities; and

(ii) consistent with federal law, the content of the presentation, including slides and written materials, is determined by the health care professional.

(C) For a bona fide clinical trial:

(i) gross compensation for the Vermont location or locations involved;

(ii) direct salary support per principal investigator and other health care professionals per year; and

(iii) expenses paid on behalf of investigators or other health care professionals paid to review the clinical trial.

(D) For a research project that constitutes a systematic investigation, is designed to develop or contribute to general knowledge, and reasonably can be considered to be of significant interest or value to scientists or health care professionals working in the particular field of inquiry:

(i) gross compensation;

(ii) direct salary support per health care professional; and

(iii) expenses paid on behalf of each health care professional.

(E) Payment or reimbursement for the reasonable expenses, including travel and lodging-related expenses, necessary for technical training of individual health care professionals on the use of a medical device if the commitment to provide such expenses and the amounts or categories of reasonable expenses to be paid are described in a written agreement between the health care provider and the manufacturer.

(F) Royalties and licensing fees paid to health care providers in return for contractual rights to use or purchase a patented or otherwise legally recognized discovery for which the health care provider holds an ownership right.

(G) The payment of the reasonable expenses of an individual related to the interview of the individual by a manufacturer of prescribed products in connection with a bona fide employment opportunity or for health care services on behalf of an employee of the manufacturer.

(H) Other reasonable fees, payments, subsidies, or other economic benefits provided by a manufacturer of prescribed products at fair market value.

(2) "Bona fide clinical trial" means an FDA-reviewed clinical trial that constitutes "research" as that term is defined in 45 C.F.R. § 46.102 and reasonably can be considered to be of interest to scientists or health care professionals working in the particular field of inquiry.

(3) "Clinical trial" means any study assessing the safety or efficacy of prescribed products administered alone or in combination with other prescribed products or other therapies, or assessing the relative safety or efficacy of prescribed products in comparison with other prescribed products or other therapies.

(4) "Free clinic" means a health care facility operated by a nonprofit private entity that:

(A) in providing health care, does not accept reimbursement from any third-party payor, including reimbursement from any insurance policy, health plan, or federal or state health benefits program that is individually determined;

(B) in providing health care, either:

(i) does not impose charges on patients to whom service is provided; or

(ii) imposes charges on patients according to their ability to pay;

(C) may accept patients' voluntary donations for health care service provision; and

(D) is licensed or certified to provide health services in accordance with Vermont law.

(5) "Gift" means:

(A) Anything of value provided for free to a health care provider ~~for free~~ or to a member of the Green Mountain Care board established in chapter 220 of this title; or

(B) Except as otherwise provided in subdivision (a)(1)(A)(ii) of this section, any payment, food, entertainment, travel, subscription, advance, service, or anything else of value provided to a health care provider or to a member of the Green Mountain Care board established in chapter 220 of this title, unless:

(i) it is an allowable expenditure as defined in subdivision (a)(1) of this section; or

(ii) the health care provider or board member reimburses the cost at fair market value.

(6) "Health benefit plan administrator" means the person or entity who sets formularies on behalf of an employer or health insurer.

(7)(A) "Health care professional" means:

(i) a person who is authorized by law to prescribe or to recommend prescribed products, who regularly practices in this state, and who either is licensed by this state to provide or is otherwise lawfully providing health care in this state; or

(ii) a partnership or corporation made up of the persons described in subdivision (i) of this subdivision (7)(A); or

(iii) an officer, employee, agent, or contractor of a person described in subdivision (i) of this subdivision (7)(A) who is acting in the

course and scope of employment, of an agency, or of a contract related to or supportive of the provision of health care to individuals.

(B) The term shall not include a person described in subdivision (A) of this subdivision (7) who is employed solely by a manufacturer.

(8) "Health care provider" means a health care professional, hospital, nursing home, pharmacist, health benefit plan administrator, or any other person authorized to dispense or purchase for distribution prescribed products in this state. The term does not include a hospital foundation that is organized as a nonprofit entity separate from a hospital.

(9) "Manufacturer" means a pharmaceutical, biological product, or medical device manufacturer or any other person who is engaged in the production, preparation, propagation, compounding, processing, marketing, packaging, repacking, distributing, or labeling of prescribed products. The term does not include a wholesale distributor of biological products, a retailer, or a pharmacist licensed under chapter 36 of Title 26. The term also does not include a manufacturer whose only prescribed products are classified as Class I by the U.S. Food and Drug Administration, are exempt from pre-market notification under Section 510(k) of the federal Food, Drug and Cosmetic Act, and are sold over-the-counter without a prescription.

(10) "Marketing" shall include promotion, detailing, or any activity that is intended to be used or is used to influence sales or market share or to evaluate the effectiveness of a professional sales force.

(11) "Pharmaceutical manufacturer" means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drugs, whether directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drugs. The term does not include a wholesale distributor of prescription drugs, a retailer, or a pharmacist licensed under chapter 36 of Title 26.

(12) "Prescribed product" means a drug or device as defined in section 201 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. § 321, a compound drug or drugs, or a biological product as defined in section 351 of the Public Health Service Act, 42 U.S.C. § 262, for human use.

(13) "Sample" means a unit of a prescription drug, biological product, or medical device that is not intended to be sold and is intended to promote the sale of the drug, product, or device. The term includes starter packs and coupons or other vouchers that enable an individual to receive a prescribed

product free of charge or at a discounted price. The term does not include prescribed products distributed free of charge or at a discounted price pursuant to a manufacturer-sponsored or manufacturer-funded patient assistance program.

(14) "Significant educational, scientific, or policy-making conference or seminar" means an educational, scientific, or policy-making conference or seminar that:

(A) is accredited by the Accreditation Council for Continuing Medical Education or a comparable organization or is presented by an approved sponsor of continuing education, provided that the sponsor is not a manufacturer of prescribed products; and

(B) offers continuing education credit, features multiple presenters on scientific research, or is authorized by the sponsor to recommend or make policy.

(b)(1) It is unlawful for any manufacturer of a prescribed product or any wholesale distributor of medical devices, or any agent thereof, to offer or give any gift to a health care provider or to a member of the Green Mountain Care board established in chapter 220 of this title.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to any of the following:

(A) Samples of a prescribed product or reasonable quantities of an over-the-counter drug, nonprescription medical device, or item of nonprescription durable medical equipment, provided to a health care provider for free distribution to patients.

(B) The loan of a medical device for a short-term trial period, not to exceed ~~90~~ 120 days, to permit evaluation of a medical device by a health care provider or patient.

(C) The provision of reasonable quantities of medical device demonstration or evaluation units to a health care provider to assess the appropriate use and function of the product and determine whether and when to use or recommend the product in the future.

(D) The provision, distribution, dissemination, or receipt of peer-reviewed academic, scientific, or clinical articles or journals and other items that serve a genuine educational function provided to a health care provider for the benefit of patients.

(E) Scholarship or other support for medical students, residents, and fellows to attend a significant educational, scientific, or policy-making conference or seminar of a national, regional, or specialty medical or other

professional association if the recipient of the scholarship or other support is selected by the association.

(F) Rebates and discounts for prescribed products provided in the normal course of business.

(G) Labels approved by the federal Food and Drug Administration for prescribed products.

(H) The provision of free prescription drugs or over-the-counter drugs, medical devices, biological products, medical equipment or supplies, or financial donations to a free clinic.

(I) ~~The provision of free prescription drugs to or on behalf of an individual through a prescription drug manufacturer's patient assistance program.~~ Prescribed products distributed free of charge or at a discounted price pursuant to a manufacturer-sponsored or manufacturer-funded patient assistance program.

(J) Fellowship salary support provided to fellows through grants from manufacturers of prescribed products, provided:

(i) such grants are applied for by an academic institution or hospital;

(ii) the institution or hospital selects the recipient fellows;

(iii) the manufacturer imposes no further demands or limits on the institution's, hospital's, or fellow's use of the funds; and

(iv) fellowships are not named for a manufacturer and no individual recipient's fellowship is attributed to a particular manufacturer of prescribed products.

(K) The provision of coffee or other snacks or refreshments at a booth at a conference or seminar.

(c) Except as described in subdivisions (a)(1)(B) and (C) of this section, no manufacturer or other entity on behalf of a manufacturer shall provide any fee, payment, subsidy, or other economic benefit to a health care provider in connection with the provider's participation in research.

(d) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and attorney's fees and may impose on a manufacturer that violates this section a civil penalty of no more than $10,000.00 per violation. Each unlawful gift shall constitute a separate violation.

Sec. 2. 18 V.S.A. § 4632 is amended to read:

§ 4632. DISCLOSURE OF ALLOWABLE EXPENDITURES AND GIFTS BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a)(1)(A) Annually on or before ~~October~~ April 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general for the ~~fiscal~~ preceding calendar year ~~ending the previous June 30th~~ the value, nature, purpose, and recipient information of~~:~~

~~(A)~~ any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to any health care provider or to a member of the Green Mountain Care board established in chapter 220 of this title, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided to health care providers in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title;

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration for the use for which the clinical trial is being conducted or ~~two~~ four calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry;

(iv) interview or health care expenses as described in subdivision 4631a(a)(1)(G) of this title; ~~and~~

(v) coffee or other snacks or refreshments at a booth at a conference or seminar;

(vi) loans of medical devices for short-term trial periods pursuant to subdivision 4631a(b)(2)(B) of this title, provided the loan results in the purchase, lease, or other comparable arrangement of the medical device after issuance of a certificate of need pursuant to chapter 221, subchapter 5 of this title, and

(vii) prescribed products distributed free of charge or at a discounted price pursuant to a manufacturer-sponsored or manufacturer-funded patient assistance program

(B) Annually on or before April 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general for the preceding calendar year if the manufacturer is reporting other allowable expenditures or permitted gifts pursuant to subdivision (a)(1)(A) of this section, the product, dosage, number of units, and recipient information of over-the-counter drugs, nonprescription medical devices, and items of nonprescription durable medical equipment provided to a health care provider for free distribution to patients pursuant to subdivision 4631a(b)(2)(A) of this title; provided that any public reporting of such information shall not include information that allows for the identification of individual recipients of samples or connects individual recipients with the monetary value of the samples provided.

(C) Annually on or before April 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general for the preceding calendar year the value, nature, purpose, and recipient information of any allowable expenditure or gift to an academic institution, to a nonprofit hospital foundation, or to a professional, educational, or patient organization representing or serving health care providers or consumers located in or providing services in Vermont, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title; and

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration for the use for which the clinical trial is being conducted or ~~two~~ four calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry.

(2)(A)(i) Subject to the provisions of subdivision (B) of this subdivision (a)(2) and to the extent allowed under federal law, annually on or before April 1 of each year beginning in 2012, each manufacturer of prescribed products shall disclose to the office of the attorney general all ~~free~~ samples of prescribed products provided to health care providers during the preceding calendar year, identifying for each sample the product, recipient, number of units, and dosage.

(ii) The office of the attorney general may contract with academic researchers to release to such researchers data relating to manufacturer distribution of ~~free~~ samples, subject to confidentiality provisions and without including the names or license numbers of individual recipients, for analysis and aggregated public reporting.

(iii) Any public reporting of manufacturer distribution of ~~free~~ samples shall not include information that allows for the identification of individual recipients of samples or connects individual recipients with the monetary value of the samples provided.

(B) Subdivision (A) of this subdivision (a)(2) shall not apply to samples of prescription drugs required to be reported under Sec. 6004 of the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, if ~~as of January 1, 2011,~~ the office of the attorney general ~~has determined~~ determines that the U.S. Department of Health and Human Services will collect and report state- and recipient-specific information regarding manufacturer distribution of ~~free~~ samples of such prescription drugs.

(3) Annually on ~~July~~ January 1, each manufacturer of prescribed products also shall disclose to the office of the attorney general the name and address of the individual responsible for the manufacturer's compliance with the provisions of this section.

(4) Disclosure shall be made on a form and in a manner prescribed by the office of the attorney general and shall require manufacturers of prescribed products to report each allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title including:

(A) except as otherwise provided in ~~subdivision~~ subdivisions (a)(1)(B) and (a)(2) of this section, the value, nature, and purpose of each allowable expenditure, and gift permitted under subdivision 4631a(b)(2) of this title according to specific categories identified by the office of the attorney general;

(B) the name of the recipient;

(C) the recipient's address;

(D) the recipient's institutional affiliation;

(E) prescribed product or products being marketed, if any; and

(F) the recipient's state board number or, in the case of an institution, foundation, or organization, the federal tax identification number or the identification number assigned by the attorney general.

(5) The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before ~~April 1~~ October 1. The report shall include:

(A) Information on allowable expenditures and permitted gifts required to be disclosed under this section, which shall ~~be presented in both~~ present information in aggregate form ~~and~~ by selected types of health care providers or individual health care providers, as prioritized each year by the office; and showing the amounts expended on the Green Mountain Care board established in chapter 220 of this title. In accordance with subdivisions (1)(B) and (2)(A) of this subsection, information on samples of prescribed products and of over-the-counter drugs, nonprescription medical devices, and items of nonprescription durable medical equipment shall be presented in aggregate form.

(B) Information on violations and enforcement actions brought pursuant to this section and section 4631a of this title.

(6) After issuance of the report required by subdivision (5) of this subsection and except as otherwise provided in ~~subdivision~~ subdivisions (1)(B) and (2)(A)~~(i)~~ of this subsection, the office of the attorney general shall make all disclosed data used for the report publicly available and searchable through an Internet website.

(7) The department of Vermont health access shall examine the data available from the office of the attorney general for relevant expenditures and determine whether and to what extent prescribing patterns by health care providers of prescribed products reimbursed by Medicaid, VHAP, Dr. Dynasaur, VermontRx, and VPharm may reflect manufacturer influence. The department may select the data most relevant to its analysis. The department shall report its analysis annually to the general assembly and the governor on or before ~~October 1~~ March 1.

(b)(1) ~~Annually on July 1~~ Beginning January 1, 2013 and annually thereafter, the office of the attorney general shall collect a $500.00 fee from each manufacturer of prescribed products filing annual disclosures of expenditures greater than zero described in subsection (a) of this section.

(2) Fees collected under this section shall fund collection and analysis of information on activities related to the marketing of prescribed products under section 4631a of this title and under this section. The fees shall be collected in a special fund assigned to the office.

(c) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and attorney's fees, and to impose on a manufacturer of prescribed products that fails to disclose as required by

subsection (a) of this section a civil penalty of no more than $10,000.00 per violation. Each unlawful failure to disclose shall constitute a separate violation.

(d) The terms used in this section shall have the same meanings as they do in section 4631a of this title.

Sec. 3. REPORTING FEES

(a) Notwithstanding the provisions of 18 V.S.A. § 4632(b)(1), on July 1, 2011, the office of the attorney general shall collect a $500.00 fee from each manufacturer of prescribed products filing annual disclosures of expenditures greater than zero described in 18 V.S.A. § 4632(a) for the fiscal year ending June 30, 2011.

(b) Notwithstanding the provisions of 18 V.S.A. § 4632(b)(1), on January 1, 2012, the office of the attorney general shall collect a $250.00 fee from each manufacturer of prescribed products filing disclosures of expenditures greater than zero described in 18 V.S.A. § 4632(a) for the six-month period from July 1, 2011 through December 31, 2011.

Sec. 4. ELECTRONIC PRIOR AUTHORIZATION

The commissioner of Vermont health access and the Vermont information technology leaders (VITL), in collaboration with health insurers, prescribers, representatives of the independent pharmacy community, and other interested parties, shall evaluate the use of electronic means for requesting and granting prior authorization for prescription drugs. No later than January 15, 2012, the commissioner and VITL shall report their findings to the senate committee on health and welfare and the house committee on health care and make recommendations for processes to develop standards for electronic prior authorizations.

Sec. 5. SPECIALTY TIER DRUGS

(a) Prior to July 1, 2012, no health insurer or pharmacy benefit manager shall utilize a cost-sharing structure for prescription drugs that imposes on a consumer for any drug a greater co-payment, deductible, coinsurance, or other cost-sharing requirement than that which applies for a nonpreferred brand-name drug.

(b) The commissioner of banking, insurance, securities, and health care administration shall not approve any form for a health insurance policy prior to July 1, 2012 that imposes on a consumer for any prescription drug a greater co-payment, deductible, coinsurance, or other cost-sharing requirement than that which applies for a nonpreferred brand-name drug.

Sec. 6. EFFECTIVE DATES

(a) Secs. 1, 2, and 3 of this act shall take effect on July 1, 2011, except that, in Sec. 2, the amendments to 18 V.S.A. § 4632(a)(1)(B) shall take effect on January 1, 2012.

(b) Sec. 4 of this act and this section shall take effect on passage.

(c) Sec. 5 of this act shall take effect on passage and shall apply to all forms that have previously been approved by the department of banking, insurance, securities, and health care administration or that may be approved by the department after passage of this act.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Appointment Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator Mazza, the following Gubernatorial appointment was confirmed together as a group by the Senate, without report given by the Committee to which they were referred and without debate:

Shems, Ron of Duxbury - Chair, of the Natural Resources Board – April 1, 2011, to January 31, 2013.

Rules Suspended; House Proposal of Amendment; Consideration Postponed

S. 96.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to bill entitled:

An act relating to technical corrections to the workers' compensation statutes.

Was taken up for immediate consideration.

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

Sec. 1. FINDINGS

The general assembly finds that it is important to ensure that an injured worker's medical records and personal information are kept secure and that health care providers, workers' compensation insurers, and the department of labor adopt practices that are consistent with relevant state and federal statutes regarding medical and personal privacy.

Sec. 2. 21 V.S.A. § 641 is amended to read:

§ 641. VOCATIONAL REHABILITATION

* * *

(c) Any vocational rehabilitation plan for a claimant presented to the employer shall be deemed valid if the employer was provided an opportunity to participate in the development of the plan and has made no objections or changes within 21 days after submission. A vocational rehabilitation counselor shall provide the employer with a written invitation to participate in plan development, including the date, time, and place to provide an opportunity to participate in the development of the plan, with a copy to the department. The participation in the development of the plan may be conducted by telephone. The written notice shall be evidence of the opportunity to participate in plan development and shall be appended to the proposed plan.

* * *

Sec. 3. 21 V.S.A. § 640b is added to read:

§ 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF PROPOSED TREATMENT IS NECESSARY

(a) Within 14 days of receiving a request for preauthorization for a proposed medical treatment and medical evidence supporting the requested treatment, a workers' compensation insurer shall:

(1) authorize the treatment and notify the health care provider, the injured worker, and the department; or

(2)(A) deny the treatment because the entire claim is disputed and the commissioner has not issued an interim order to pay benefits; or

(B) deny the treatment if, based on a preponderance of credible medical evidence specifically addressing the proposed treatment, it is unreasonable or unnecessary. The insurer shall notify the health care provider, the injured worker, and the department of the decision to deny treatment; or

(3) notify the health care provider, the injured worker, and the department that the insurer has scheduled an examination of the employee or ordered a medical record review pursuant to section 655 of this title. Based on the examination or review, the insurer shall authorize or deny the treatment and notify the department and the injured worker of the decision within 45 days of a request for preauthorization. The commissioner may in his or her sole discretion grant a 10-day extension to the insurer to authorize or deny treatment, and such an extension shall not be subject to appeal.

(b) If the insurer fails to authorize or deny the treatment pursuant to subsection (a) of this section within 14 days of receiving a request, the claimant or health care provider may request that the department issue an order authorizing treatment. After receipt of the request, the department shall issue an interim order within five days after notice to the insurer, and five days in which to respond, absent evidence that the entire claim is disputed. Upon request of a party, the commissioner shall notify the parties that the treatment has been authorized by operation of law.

(c) If the insurer denies the preauthorization of the treatment pursuant to subdivision (a)(2) or (3) of this section, the commissioner may on his or her own initiative or upon a request by the claimant issue an order authorizing the treatment if he or she finds that the evidence shows that the treatment is reasonable, necessary, and related to the work injury.

Sec. 4. 21 V.S.A. § 655a is added to read:

§ 655a. RELEASE OF RELEVANT MEDICAL RECORDS BY HEALTH CARE PROVIDERS; DEPARTMENT TO OVERSEE RELEASE AND USE OF RELEVANT MEDICAL INFORMATION

(a) Health care providers examining or attending the examination of an injured worker pursuant to this chapter shall provide relevant medical records and reports as requested by the injured worker, the employer, or the department regarding the diagnosis, condition, or treatment of the worker, permanent impairment, or any restrictions or limitations on the worker's ability to work upon receiving a written medical release authorization from the injured worker. The authorization shall be on a form approved by the department. If the relevance of any medical information is disputed, the department shall determine whether the requested medical information is relevant.

(b) Medical information relevant to the specific claim includes a past history of complaints or treatment of a condition similar to that presented in the claim or other conditions related to the same body part. Information that may be requested includes:

(1) Minimum data to justify services and payment, including that on the standard paper 1500 form or electronic 837 form.

(2) Office notes of the examination relating to the injury diagnosis or treatment.

(3) Any other relevant provider records contained in the file.

(c) An injured worker shall only be obligated to sign a medical record release authorization approved by the department.

(d) Any medical information received by the employer or the insurance carrier that is found not to be relevant to the claim may not be used to deny or limit a claim. The commissioner may order that specific disclosure requests be denied or rescinded and may make such other interim orders as are appropriate.

(e) Any medical information received in conjunction with a claim shall be used only for the purpose of advancing or defending a claim relating to the injury or of investigating a claim of false representation or of ensuring compliance with the workers' compensation statutes and rules.

Sec. 5. 21 V.S.A. § 692 is amended to read:

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

(a) Failure to insure. If after a hearing under section 688 of this title, the commissioner determines that an employer has failed to comply with the provisions of section 687 of this title, the employer shall be assessed an administrative penalty of not more than $100.00 for every day for the first seven days the employer neglected to secure liability and not more than $150.00 for every day thereafter.

* * *

Sec. 6. Sec. 32 of No. 54 of the Acts of 2009 is amended to read:

Sec. 32. WORKERS' COMPENSATION; STATE CONTRACTS; COMPLIANCE WITH DAVIS-BACON

(a) The agencies of administration and transportation shall establish procedures to assure that state contracting procedures and contracts are designed to minimize the incidents of miscoding of employees in NCCI job codes and misclassification of the status of workers as independent contractors rather than employees by state contractors on projects with a total project cost of more than $250,000.00 by requiring those contractors to provide, at a minimum, all the following:

* * *

(3) For construction and transportation projects over $250,000.00, a payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite, and a daily census of the jobsite. This information, including confirmation that contractors, subcontractors, and independent contractors have the appropriate workers' compensation coverage for all workers at the job site, and similar information for the subcontractors regarding their subcontractors shall also be provided to the department of labor and to the

department of banking, insurance, securities, and health care administration, upon request, and shall be available to the public.

* * *

(c) The agencies shall assure that any state contract funded in whole or in part with American Recovery and Reinvestment Act of 2009 (ARRA) monies or any project for which the state granted, allocated, or awarded ARRA monies shall comply with the payment of Davis-Bacon wages when required by ARRA. However, in the event the applicable Davis-Bacon wages in any county have not been updated in the previous three years, the minimum state required wage for a state contract subject to Davis-Bacon wages under ARRA shall be that of the Vermont county that has most recently updated its applicable Davis-Bacon wages, provided this provision does not result in the loss of ARRA funds and is not otherwise contrary to federal law. In the event that the most recently updated Davis-Bacon wages cannot be determined due to the simultaneous updating by two or more counties, the agencies may select the minimum state-required wage for a state contract subject to Davis-Bacon wages under ARRA from among those counties.

Sec. 7. 21 V.S.A. § 1314 is amended to read:

§ 1314. REPORTS AND RECORDS; SEPARATION INFORMATION; DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT EMPLOYMENT INFORMATION; DISCLOSURE OF INFORMATION TO OTHER STATE AGENCIES TO INVESTIGATE MISCLASSIFICATION OR MISCODING

* * *

(d)(1) Except as otherwise provided in this chapter, information obtained from any employing unit or individual in the administration of this chapter, and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or open to public inspection in any manner revealing the individual's or employing unit's identity, nor be admissible in evidence in any action or proceeding other than one arising out of this chapter, or to support or facilitate an investigation by a public agency identified in subdivision (e)(1) of this section.

(2) An individual or his or her duly authorized agent may be supplied with information from those records to the extent necessary for the proper presentation of his or her claims for benefits or to inform him or her of his or her existing or prospective rights to benefits; an employing unit may be furnished with such information as may be deemed proper, within the discretion of the commissioner, to enable it to fully discharge its obligations and safeguard its rights under this chapter.

~~(2)~~(3) Automatic data processing services and systems and programming services within the department of labor shall be the responsibility and under the direct control of the commissioner in the administration of this chapter and chapter 15 of this title.

~~(3)~~(4) Notwithstanding the provisions in subdivision (2) of this section, the department of labor shall, at the request of the agency of administration, perform such services for other departments and agencies of the state as are within the capacity of its data processing equipment and personnel, provided that such services can be accomplished without undue interference with the designated work of the department of labor

(e)(1) Subject to such restrictions as the board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, misclassification or miscoding of workers, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The commissioner may also make information available to colleges, universities, and public agencies of the state for use in connection with research projects of a public service nature, and to the Vermont economic progress council with regard to the administration of subchapter 11E of chapter 151 of Title 32; but no person associated with those institutions or agencies may disclose that information in any manner which would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commissioner.

* * *

Sec. 8. 21 V.S.A. § 1453 is amended to read:

§ 1453. APPROVAL OR REJECTION; RESUBMISSION

The commissioner shall approve or reject a plan in writing within ~~15~~ 30 days of its receipt, and in the case of rejection shall state the reasons therefor. The reasons for rejection shall be final and nonappealable, but the employer shall be allowed to submit another plan for approval.

Sec. 9. REPORT

The department of labor shall review and assess information relating to workers' compensation medical information and records to determine whether the scope of information contained in the medical records exceeds that relating only to a work-related injury and whether nonrelevant medical information is being sent to the department without redaction. The department shall report its

findings and any recommendations to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs by January 15, 2012.

Sec. 10. EFFECTIVE DATES

This section and Secs. 5, 6, 7, 8, and 9 of this act shall take effect on passage. The remaining sections shall take effect on July 1, 2011.

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

An act relating to the workers' compensation and unemployment compensation statutes.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, consideration was postponed.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

H. 264.

Pending entry on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to driving while intoxicated and to forfeiture and registration of motor vehicles .

Was taken up for immediate consideration.

Senator Nitka, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 264. An act relating to driving while intoxicated and to forfeiture and registration of motor vehicles.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

This act is intended to help prevent the harm caused to Vermonters and their families and friends by chronic DUI offenders who operate motor vehicles while under the influence of alcohol or other drugs.

* * * Registration, licensing, and insurance * * *

* * * Permitting Unlicensed or Impaired Person to Operate * * *

Sec. 2. 23 V.S.A. § 1130 is amended to read:

§ 1130. PERMITTING UNLICENSED OR IMPAIRED PERSON TO OPERATE

(a) No person shall ~~knowingly~~ employ~~, as operator of a motor vehicle, a~~ another person as an operator of a motor vehicle knowing that the other person is not licensed as provided in this title.

(b) No person shall ~~knowingly~~ permit a motor vehicle owned by him or her or under his or her control to be operated by ~~a~~ another person ~~who~~ if the person who owns or controls the vehicle knows that the other person has no legal right to ~~do so, or in violation of a provision of this title~~ operate the vehicle.

(c)(1) No person who owns or is in control of a vehicle shall intentionally create a direct and immediate opportunity for another person to operate the motor vehicle if the person who owns or controls the vehicle has actual knowledge that the operator is:

(A) under the influence of intoxicating liquor; or

(B) under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of driving safely.

(2) This subsection shall not apply if the defendant was placed under duress or subjected to coercion by the other person at the time the defendant enabled the other person to operate the motor vehicle.

(d)(1) A person who violates subsection (c) of this section shall be fined not more than $1,000.00 or imprisoned for not more than six months, or both.

(2) If death or if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of subsection (c) of this section, the person convicted of the violation shall be fined not more than $5,000.00 or imprisoned not more than two years, or both. The provisions of this subdivision do not limit or restrict prosecutions for manslaughter.

* * * DUI penalties, alternative sanctions, and innovative responses * * *

Sec. 3. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person's alcohol concentration is 0.08 or more, or 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(2) when the person is under the influence of intoxicating liquor; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug to a degree which renders the person incapable of driving safely; or

(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.

* * *

(d)(1) A person who is convicted of a second or subsequent violation of subsection (a), (b), or (c) of this section when the person's alcohol concentration is proven to be 0.16 or more shall not, for three years from the date of the conviction for which the person's alcohol concentration is 0.16 or more, operate, attempt to operate, or be in actual physical control of any vehicle on a highway when the person's alcohol concentration is 0.02 or more. The prohibition imposed by this subsection shall be in addition to any other penalties imposed by law.

(2) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway when the person's alcohol concentration is 0.02 or more if the person has previously been convicted of a second or subsequent violation of subsection (a), (b), or (c) of this section within the preceding three years and the person's alcohol concentration for the second or subsequent violation was proven to be 0.16 or greater. A violation of this subsection shall be considered a third or subsequent violation of this section and shall be subject to the penalties of subsection 1210(d) of this title.

~~(d)~~(e) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against any charge of violating this section.

~~(e)~~(f) A person may not be convicted of more than one violation of subsection (a) of this section arising out of the same incident.

~~(f)~~(g) For purposes of this section and section 1205 of this title, the defendant may assert as an affirmative defense that the person was not operating, attempting to operate, or in actual physical control of the vehicle because the person:

(1) had no intention of placing the vehicle in motion; and

(2) had not placed the vehicle in motion while under the influence.

Sec. 4. 23 V.S.A. § 1205(a)(3) is added to read:

(3) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201(d)(2) of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.02 or more at the time of operating, attempting to operate or being in actual physical control, the commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for life. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another.

Sec. 5. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

* * *

(d) Third ~~or subsequent~~ offense. A person convicted of violating section 1201 of this title who has ~~twice~~ previously been convicted two times of a violation of that section shall be fined not more than $2,500.00 or imprisoned not more than five years, or both. At least ~~400 hours of community service shall be performed, or~~ ~~100~~ 96 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The court may impose a sentence that does not include a term of imprisonment or that does not require that the 96 hours of imprisonment be served consecutively only if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three times of a violation of that section shall be fined not more than $5,000.00 or imprisoned not more than ten years, or both. At least 192 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol treatment facility pursuant to sentence if the program is successfully completed. The court shall not impose a sentence that does not include a term of imprisonment unless the court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.

(2) The department of corrections shall provide alcohol and substance abuse treatment, when appropriate, to any person convicted of a violation of this subsection.

~~(e)(1)~~(f)(1) Death resulting. If the death of any person results from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than $10,000.00 or imprisoned not less than one year nor more than 15 years, or both. The provisions of this subsection do not limit or restrict prosecutions for manslaughter.

(2) If the death of more than one person results from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each decedent.

(3)(A) Death resulting; third or subsequent offense. If the death of any person results from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of that section, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if the death of any person results from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of that section, the court may impose a sentence that does not include a term of imprisonment or which includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

~~(f)(1)~~(g)(1) Injury resulting. If serious bodily injury, as defined in 13 V.S.A. § 1021(2), results to any person other than the operator from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than $5,000.00, or imprisoned not more than 15 years, or both.

(2) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to more than one person other than the operator from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each person injured.

(3)(A) Injury resulting; third or subsequent offense. If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of section 1201, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of section 1201, the court may impose a sentence that does not include a term of imprisonment or which includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

~~(g)~~(h) Determination of fines. In determining appropriate fines under this section, the court may take into account the total cost to a defendant of alcohol screening, participation in the alcohol and driving education program and therapy, and the income of the defendant.

~~(h)~~(i) A person convicted of violating section 1201 of this title shall be assessed a surcharge of $60.00, which shall be added to any fine imposed by the court. The court shall collect and transfer such surcharge to the department of health for deposit in the health department's laboratory services special fund.

~~(i)~~(j) A person convicted of violating section 1201 of this title shall be assessed a surcharge of $50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge

assessed under this subsection to the office of defender general for deposit in the public defender special fund specifying the source of the monies being deposited. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.

~~(j)~~(k) A person convicted of violating section 1201 of this title shall be assessed a surcharge of $50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to be credited to the DUI enforcement fund. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.

Sec. 6. 23 V.S.A. § 1220a is amended to read:

§ 1220a. DUI ENFORCEMENT SPECIAL FUND

(a) There is created a DUI enforcement special fund which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5. The DUI enforcement special fund shall be a continuation of and successor to the DUI enforcement special fund established under subsection 1205(r) of this title.

(b) The DUI enforcement special fund shall consist of:

(1) receipts from the surcharges assessed under section 206 and subsections 674(i), 1091(d), 1094(f), 1128(d), 1133(d), 1205(r), and ~~1210(j)~~ 1210(k) of this title;

(2) beginning in fiscal year 2000 and thereafter, the first $150,000.00 of revenues collected from fines imposed under subchapter 13 of chapter 13 of this title pertaining to DUI related offenses;

(3) beginning in fiscal year 2000 and thereafter, two percent of the revenues raised by the motor fuel tax on gasoline imposed by chapter 28 of this title; and

(4) any additional funds transferred or appropriated by the general assembly.

(c) The DUI enforcement special fund shall be used for the implementation and enforcement of this subchapter for purposes specified and in amounts appropriated by the general assembly. Effort shall be given to awarding grants to municipalities or law enforcement agencies for innovative programs designed to reduce DUI offenses, and priority shall be given to grants requested jointly by more than one law enforcement agency or municipality.

Sec. 7. DUI ENFORCEMENT SPECIAL FUND REPORT

On or before December 1, 2011, the joint fiscal office, in consultation with the department of public safety, shall report to the house and senate committees on judiciary and on appropriations on the funding and expenditures of the DUI enforcement special fund established by 23 V.S.A. § 1220a. The report shall include:

(1) the amount and sources of the fund's revenues and the amount and recipients of the fund's expenditures and grants with respect to each year from the time of the fund's inception through fiscal year 2011, to the extent that such data is available;

(2) particular detail regarding grants provided by the fund to support local law enforcement agencies and dedicated state DUI troopers with respect to each year from the time of the fund's inception through fiscal year 2011, to the extent that such data is available; and

(3) the amount and sources of the fund's projected future revenues and the fund's projected future expenditures and grants.

Sec. 8. 13 V.S.A. § 5239 is amended to read:

§ 5239. PUBLIC DEFENDER SPECIAL FUND

(a) The public defender special fund is hereby created. All co-payments, reimbursements, and assignment fees paid by persons receiving representation under this chapter, as well as all amounts recovered pursuant to section 5255 of this title and ~~23 V.S.A. § 1210(i)~~ 23 V.S.A. § 1210(j), shall be deposited in the fund.

* * *

Sec. 9. DEDICATED BEDS FOR CHRONIC REPEAT DUI OFFENDERS

The department of corrections shall report to the joint committee on corrections oversight on or before November 15, 2011 on the feasibility of dedicating 25 beds at the southeast state correctional facility exclusively for chronic repeat DUI offenders. As used in this section, "chronic repeat DUI offender" means a person convicted three or more times of a violation of 23 V.S.A. § 1201.

Sec. 10. COMPREHENSIVE SYSTEM TO REDUCE REPEAT DUI OFFENSES

On or before January 15, 2012, the director of the Governor's highway safety program, in consultation with the defender general and the departments of motor vehicles, of public safety, of health, and of corrections shall report to the house and senate committees on judiciary on a plan for implementation of a

comprehensive system of penalties, alternative sanctions, and treatment to reduce the number of persons with repeat offenses of operating motor vehicles while under the influence of alcohol or other drugs. The system may include, among other measures, the following:

(1) a mandatory sobriety program for repeat DUI offenders similar to South Dakota's "24/7 Sobriety Program";

(2) increased penalties for operating a vehicle with an alcohol concentration substantially greater than the legal limit;

(3) methods of responding to DUI offenders who fail to complete the alcohol and driving education program (CRASH) required by 23 V.S.A. § 1209a(a)(1);

(4) enhanced use of ignition interlock devices, with respect to which the ignition interlock effectiveness study required by Sec. 14 of No. 126 of the Acts of the 2009 Adj. Sess. (2010) shall be considered;

(5) mandatory alcohol and drug counseling and treatment for persons convicted of operating a motor vehicle while under the influence of alcohol or other drugs;

(6) establishment of a secure facility for housing and treatment of persons convicted of operating a motor vehicle while under the influence of alcohol or drugs;

(7) the circumstances under which the operator of a motor vehicle may be required to submit to a blood test to determine whether he or she has been operating the vehicle while under the influence of a drug other than alcohol;

(8) revisions that may be appropriate to the DUI statutes when the circumstances involve operating a motor vehicle under the influence of a drug that has been legally prescribed to the operator; and

(9) a proposal to permit conditional operator's licenses, which may be issued to a person who has been convicted of DUI for travel to limited places such as work, drug or alcohol treatment, school, or a doctor's office.

* * * Detention of operator; forfeiture and immobilization of vehicle * * *

Sec. 11. 23 V.S.A. § 1212 is amended to read:

§ 1212. CONDITIONS OF RELEASE AND PAROLE; ARREST UPON VIOLATION

* * *

(d) A law enforcement officer who observes a person violating a condition of parole requiring that the person not operate a motor vehicle may promptly

arrest the person for violating the condition and may detain the person pursuant to 28 V.S.A. § 551. The officer may immobilize the vehicle and shall immediately notify the parole board of the suspected violation. If the parole board determines pursuant to 28 V.S.A. § 552 that a parole violation has occurred, the board shall notify the state's attorney in the county where the violation occurred, who may institute forfeiture proceedings against the vehicle under section 1213c of this title.

Sec. 12. 23 V.S.A. § 1213b is amended to read:

§ 1213b. FORFEITURE OF VEHICLE

At the time of sentencing after a third or subsequent conviction under section 1201 of this title or after a conviction under subdivision 1130(c)(2) of this title, or upon a determination by the parole board that a person has violated a condition of parole requiring that the person not operate a motor vehicle, the court may, upon motion of the state and in addition to any penalty imposed by law and after notice and hearing, order the motor vehicle operated by the defendant or parolee at the time of the offense forfeited and sold as provided in section 1213c of this title.

* * * Miscellaneous * * *

Sec. 13. REPORTS; STUDIES

(a) The court administrator shall report to the senate and house committees on judiciary on or before January 15, 2012 on the number of persons convicted of violating 23 V.S.A. § 1130(c) (permitting impaired person to operate motor vehicle) since the passage of this act.

(b) Notwithstanding any other provision of law, the court administrator shall conduct a weighted caseload study and analysis or equivalent compensation study within the probate division of the superior court for use by the senate and house committees on appropriations during development of the fiscal year 2013 budget. The results of the study shall be reported to the senate and house committees on judiciary and on appropriations on or before January 15, 2012. The study may be used to review and consider adjustments to the compensation of probate judges.

(c)(1) A committee is established to study modifying the number of interested parties who must be served with notice when a probate proceeding is commenced involving a decedent's estate and reducing the amount of time notice by publication is required to be published in newspapers. The committee shall consider whether reducing the number of interested parties would reduce costs to the estate without unduly prejudicing the rights of potential beneficiaries, and whether constitutional issues would be raised if such changes were made. The committee shall report its findings, together

with any recommendations for legislative action, to the senate and house committees on judiciary no later than December 15, 2011.

(2) The committee established by this subsection shall consist of the following members:

(A) one probate judge appointed by the chief justice;

(B) one member with experience in probate practice appointed by the Vermont Bar Association; and

(C) one member appointed by the Committee on Vermont Elders.

(3) Members of the committee who are not employees of the state of Vermont shall be entitled to reimbursement at the per diem rate set in 32 V.S.A. § 1010.

Sec. 14. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND VIDEOTAPE

* * *

(c) When a breath test which is intended to be introduced in evidence is taken with a crimper device or when blood is withdrawn at an officer's request, a sufficient amount of breath or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample, and shall be held for at least 45 days from the date the sample was taken. At any time during that period the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The department of ~~health~~ public safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath test administered using an infrared breath testing instrument, the test shall be analyzed in compliance with rules adopted by the department of ~~health~~ public safety. The analyses shall be retained by the state. A sample is adequate if the infrared breath testing instrument analyzes the sample and does not indicate the sample is deficient. Analysis of the person's breath or blood which is available to that person for independent analysis shall be considered valid when performed according to methods approved by the department of ~~health~~ public safety. The analysis performed by the state shall be considered valid when performed according to a method or methods

selected by the department of ~~health~~ public safety. The department of ~~health~~ public safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath for a preliminary screening test using a device approved by the commissioner of ~~health~~ public safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary breath alcohol screening test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening test additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

* * *

(i) The commissioner of ~~health~~ public safety shall adopt emergency rules relating to the operation, maintenance and use of preliminary alcohol screening devices for use by law enforcement officers in enforcing the provisions of this title. The commissioner shall consider relevant standards of the National Highway Traffic Safety Administration in adopting such rules. Any preliminary alcohol screening device authorized for use under this title shall be on the qualified products list of the National Highway Traffic Safety Administration.

* * *

Sec. 15. 23 V.S.A. § 1203a is amended to read:

§ 1203a. INDEPENDENT CHEMICAL TEST; BLOOD TESTS

* * *

(d) The physician, licensed nurse, medical technician, physician's assistant, medical technologist, or laboratory assistant drawing a sample of blood shall use a sample collection kit provided by the department of ~~health~~ public safety or another type of collection kit. The sample shall be identified as to donor, date, and time, sealed and mailed to the department of ~~health~~ public safety where it shall be held for a period of at least 45 days from the date the sample was taken. At any time during that period the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The department of ~~health~~ public safety may recover its costs of supplies, handling, and storage.

* * *

Sec. 16. 23 V.S.A. § 1205(h)(1)(D) is amended to read:

(D) whether the test was taken and the test results indicated that the person's alcohol concentration was 0.08 or more, or 0.02 or more for a violation of subsection 1201(d) of this title, at the time of operating, attempting to operate or being in actual physical control of a vehicle in violation of section 1201 of this title, whether the testing methods used were valid and reliable and whether the test results were accurate and accurately evaluated. Evidence that the test was taken and evaluated in compliance with rules adopted by the department of ~~health~~ public safety shall be prima facie evidence that the testing methods used were valid and reliable and that the test results are accurate and were accurately evaluated;

Sec. 17. 23 V.S.A. § 1210(i) is amended to read:

(i) A person convicted of violating section 1201 of this title shall be assessed a surcharge of $60.00, which shall be added to any fine imposed by the court. The court shall collect and transfer such surcharge to the department of ~~health~~ public safety for deposit in the blood and breath alcohol testing special fund established by section 1220b of this title.

Sec. 18. 23 V.S.A. § 1216 is amended to read:

§ 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02 OR MORE

* * *

(d) If a law enforcement officer has reasonable grounds to believe that a person is violating this section, the officer may request the person to submit to a breath test using a preliminary screening device approved by the commissioner of ~~health~~ public safety. A refusal to submit to the breath test shall be considered a violation of this section. Notwithstanding any provisions to the contrary in sections 1202 and 1203 of this title:

* * *

Sec. 19. 23 V.S.A. § 1220b is added to read:

§ 1220b. BLOOD AND BREATH ALCOHOL TESTING SPECIAL FUND

(a) There is created a blood and breath alcohol testing special fund which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5.

(b) The blood and breath alcohol testing special fund shall consist of receipts from the surcharges assessed under subsection 1210(i) of this title.

(c) The blood and breath alcohol testing special fund shall be used for the implementation and support of the blood and breath alcohol testing program within the department of public safety.

Sec. 20. BLOOD ALCOHOL TESTING AND ALCOHOL SCREENING DEVICES; AUTHORITY OF DEPARTMENT OF PUBLIC SAFETY; RULEMAKING

(a) The department of public safety shall adopt rules, which may include emergency rules, to govern the operation, maintenance, and use of blood and breath alcohol testing and alcohol screening devices, and to describe the methods used to exercise the authority granted by this act. Prior to the effective date of the rules required to be adopted by this subsection, the department of public safety may take such steps as are necessary to prepare to assume authority and supervision over operation, maintenance, and use of blood and breath alcohol testing and alcohol screening devices. The rules of the agency of human services pertaining to the blood and breath alcohol testing and alcohol screening program shall remain in effect and govern the program until revised or repealed by rules adopted by the department of public safety, including emergency rules adopted pursuant to this subsection.

(b) The administration shall, in consultation with the Vermont state employees association, ensure that no reduction in positions occurs as a result of the transfer required by this section. The administration shall transfer positions to the department of public safety so that the department may implement the authority granted to it by this act.

(c) On or before January 15, 2012, and on or before January 15 of each of the following two years, the department of public safety shall report to the senate and house committees on judiciary on progress toward identifying and implementing an accreditation process for the blood alcohol testing and alcohol screening program transferred to the department by this section.

(d) Notwithstanding any other provision of law, on March 1, 2012, or on the effective date of the rules required to be adopted by subsection (a) of this section, whichever is earlier, the department of public safety shall assume the authority transferred to it by this act over the blood and breath alcohol testing and alcohol screening program.

Sec. 21. 21 V.S.A. § 308 is added to read:

§ 308. EMPLOYERS OF INDIVIDUALS WHO WORK WITH MINORS OR VULNERABLE ADULTS; JOB REFERENCE INFORMATION FROM FORMER EMPLOYERS; LIMITATION FROM LIABILITY

(a) As used in this section:

(1) "Job performance" means:

(A) The suitability of the employee for employment;

(B) The employee's work-related duties, skills, abilities, attitude, effort, knowledge, and habits as they may relate to suitability for future employment;

(C) In the case of a former employee, the reason for the employee's separation; and

(D) Any illegal or wrongful act committed by the employee.

(2) "Prospective employer" means a person or organization who employs or contracts with one or more individuals whose duties may place that individual in a position of power, authority, or supervision over a minor or vulnerable adult, or whose duties are likely to permit regular and unsupervised contact with a minor or vulnerable adult, on either a paid or volunteer basis.

(3) "Vulnerable adult" shall have the same meaning as in 13 V.S.A. § 1375(8).

(b)(1) An employer who in good faith provides information about a current or former employee's job performance to a prospective employer of the current or former employee upon request of the prospective employer or the current or former employee shall not be subject to liability for such disclosure. An employer who provides the information in writing to a prospective employer shall provide a copy of the writing to the employee.

(2) The limitation on liability set forth in this subsection shall not apply if the employee shows, by a preponderance of the evidence, that the current or former employer:

(A) disclosed information which was false and which the employer providing the information knew or reasonably should have known was false;

(B) knowingly disclosed materially misleading information; or

(C) disclosed information in violation of the law.

Sec. 22. REPORT; EMPLOYER LIMITATION FROM LIABILITY

(a) On or before January 15, 2013, the legislative council shall report to the house and senate committees on judiciary on the impacts on employment and hiring practices in Vermont, if any, of the enactment of 21 V.S.A. § 308 in Sec. 21 of this act, including consideration of whether this enactment has resulted in an increase in job performance information provided to prospective employers by past and current employers. For purposes of compiling the report, the legislative council shall consult with and solicit information from interested parties, including the Vermont chamber of commerce, the University

of Vermont, the Vermont Hospitals Association, the Vermont department of labor, the Vermont state employees association, the Vermont School Boards Association, the Vermont-NEA, and the Vermont Association for Justice.

(b) As used in this section, "job performance" and "prospective employer" shall have the same meanings as in 21 V.S.A. § 308(a).

Sec. 23. MINOR GUARDIANSHIP STUDY COMMITTEE

(a) There is created a committee to study jurisdiction over proceedings involving guardianship of minors. The committee shall study issues related to probate and family division jurisdiction over minor guardianship proceedings, including:

(1) the circumstances under which it is appropriate to transfer minor guardianship proceedings between the probate and family divisions, including which division should have authority to order the transfer and the criteria which should govern whether the transfer should proceed;

(2) the involvement of the department for children and families in open cases in the family division when a CHINS proceeding has not been filed;

(3) the unofficial involvement of the department for children and families in minor guardianship proceedings in the probate division;

(4) whether the probate division should have the authority to make the department for children and families a party to minor guardianship proceedings in the probate division instead of transferring the proceeding to the family division; and

(5) whether and which substantive, procedural, or jurisdictional changes to minor guardianship proceedings would best serve the interests of children.

(b) The minor guardianship study committee shall consist of the following members:

(1) The commissioner of the department for children and families or designee, who shall convene the first meeting.

(2) The defender general or designee.

(3) A guardian ad litem appointed by the court administrator.

(4) A probate judge appointed by the chief justice.

(5) A judge with experience in family proceedings appointed by the chief justice.

(6) An advocate for parents appointed by the Vermont Parent Representation Center.

(7) A community-based social worker appointed by Casey Family Services.

(8) A kin advocate appointed by Vermont Kin as Parents.

(9) An attorney with experience in family and probate proceedings appointed by the Vermont Bar Association.

(c) The committee shall report its findings and any recommendations for legislative action to the house and senate committees on judiciary and on human services on or before January 12, 2012.

Sec. 24. 3 V.S.A. § 164(c) 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. If the prosecuting attorney refers a case to diversion, the information and affidavit 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.

* * *

Sec. 25. 14 V.S.A. chapter 114 is added to read:

CHAPTER 114. UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT

Subchapter 1. General Provisions

§ 3151. SHORT TITLE

This act may be cited as the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

§ 3152. DEFINITIONS

In this act:

(1) "Adult" means an individual who has attained 18 years of age.

(2) "Conservator" means a person appointed by the court to administer the property of an adult.

(3) "Guardian" means a person appointed by the court to make decisions regarding an adult, including a person appointed under this title.

(4) "Guardianship order" means an order appointing a guardian.

(5) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.

(6) "Incapacitated person" means an adult for whom a guardian has been appointed.

(7) "Party" means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.

(8) "Person," except in the term "incapacitated person" or "protected person," means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(9) "Protected person" means an adult for whom a protective order has been issued.

(10) "Protective order" means an order appointing a conservator or other order related to the management of an adult's property.

(11) "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "Respondent" means an adult for whom a protective order or the appointment of a guardian is sought.

(14) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

§ 3153. INTERNATIONAL APPLICATION OF ACT

A court of this state may treat a foreign country as if it were a state for the purpose of applying this subchapter and subchapters 2, 3, and 5 of this chapter.

§ 3154. COMMUNICATION BETWEEN COURTS

(a) The probate division of the superior court in this state may communicate with a court in another state concerning a proceeding arising

under this act. The probate division may allow the parties to participate in the communication. Except as otherwise provided in subsection (b) of this section, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

(b) Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.

§ 3155. COOPERATION BETWEEN COURTS

(a) In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to do any of the following:

(1) hold an evidentiary hearing;

(2) order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

(3) order that an evaluation or assessment be made of the respondent;

(4) order any appropriate investigation of a person involved in a proceeding;

(5) forward to the court of this state a certified copy of the transcript or other record of a hearing under subdivision (1) of this subsection or any other proceeding, any evidence otherwise produced under subdivision (2) of this subsection, and any evaluation or assessment prepared in compliance with an order under subdivision (3) or (4) of this subsection;

(6) issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person;

(7) issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 C.F.R. Section 164.504, as amended, but any information so disclosed may be admitted in a proceeding in this state only in accordance with the laws of this state.

(b) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection (a) of this section, a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request in accordance with the laws of this state.

§ 3156. TAKING TESTIMONY IN ANOTHER STATE

(a) In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in

another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The probate division of the superior court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(b) In a guardianship or protective proceeding, a probate division of the superior court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. The probate division of this state shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a probate division of the superior court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

Subchapter 2. Jurisdiction

§ 3161. DEFINITIONS; SIGNIFICANT CONNECTION FACTORS

(a) In this subchapter:

(1) "Emergency" means a circumstance that likely will result in serious and irreparable harm to a respondent's physical health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf.

(2) "Home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition.

(3) "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(b) In determining under section 3163 and subsection 3171(e) of this title whether a respondent has a significant connection with a particular state, the probate court shall consider:

(1) the location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

(2) the length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) the location of the respondent's property; and

(4) the extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship, or receipt of services.

§ 3162. EXCLUSIVE BASIS

This subchapter provides the exclusive jurisdictional basis for a probate division of the superior court of this state to appoint a guardian or issue a protective order for an adult. The probate division of the superior court shall have exclusive original jurisdiction to determine whether this state has jurisdiction pursuant to this subchapter.

§ 3163. JURISDICTION

A probate division of the superior court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) this state is the respondent's home state;

(2) on the date the petition is filed, this state is a significant-connection state and:

(A) the respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum; or

(B) the respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the probate division makes the appointment or issues the order:

(i) a petition for an appointment or order is not filed in the respondent's home state;

(ii) an objection to the probate division's jurisdiction is not filed by a person required to be notified of the proceeding; and

(iii) the probate division of the superior court in this state concludes that it is an appropriate forum under the factors set forth in section 3166 of this title;

(3) this state does not have jurisdiction under either subdivision (1) or (2) of this section, the respondent's home state, and all significant-connection states have declined to exercise jurisdiction because this state is the more

appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or

(4) the requirements for special jurisdiction under section 3164 of this title are met.

§ 3164. SPECIAL JURISDICTION

(a) A probate division of the superior court of this state lacking jurisdiction under section 3163 of this title has special jurisdiction to do any of the following:

(1) appoint a guardian in an emergency for a term not exceeding 90 days for a respondent who is physically present in this state;

(2) issue a protective order with respect to real or tangible personal property located in this state;

(3) appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to section 3171 of this title.

(b) If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the probate division shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

§ 3165. EXCLUSIVE AND CONTINUING JURISDICTION

Except as otherwise provided in section 3164 of this title, a court that has appointed a guardian or issued a protective order consistent with this act has exclusive jurisdiction over the proceeding until jurisdiction is terminated by the probate court or the appointment or order expires by its own terms.

§ 3166. APPROPRIATE FORUM

(a) A probate division of the superior court of this state having jurisdiction under section 3163 of this title to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(b) If a probate division of the superior court of this state declines to exercise its jurisdiction under subsection (a) of this section, it shall either dismiss or stay the proceeding. The court division may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

(c) In determining whether it is an appropriate forum, the probate division shall consider all relevant factors, including:

(1) any expressed preference of the respondent;

(2) whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;

(3) the length of time the respondent was physically present in or was a legal resident of this or another state;

(4) the distance of the respondent from the court in each state;

(5) the financial circumstances of the respondent's estate;

(6) the nature and location of the evidence;

(7) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present evidence;

(8) the familiarity of the court of each state with the facts and issues in the proceeding; and

(9) if an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

§ 3167. JURISDICTION DECLINED BY REASON OF CONDUCT

(a) If at any time a probate division of the superior court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

(1) decline to exercise jurisdiction;

(2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) continue to exercise jurisdiction after considering:

(A) the extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the probate court's jurisdiction;

(B) whether it is a more appropriate forum than the court of any other state under the factors set forth in subsection 3166(c) of this title; and

(C) whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 3163 of this title.

(b) If a probate division of the superior court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against the party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than this chapter.

§ 3168. NOTICE OF PROCEEDING

If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, the petitioner shall comply with the notice requirements of this state and shall give notice of the petition to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice must be given in the same manner as notice is required to be given in this state.

§ 3169. PROCEEDINGS IN MORE THAN ONE STATE

Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state under subdivision 3164(a)(1) or (2) of this title, if a petition for the appointment of a guardian or issuance of a protective order is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

(1) If the probate division of the superior court in this state has jurisdiction under section 3163 of this title, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to section 3163 of this title before the appointment or issuance of the order.

(2) If the probate division of the superior court in this state does not have jurisdiction under section 3163 of this title, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the probate division shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the probate division in this state shall dismiss the petition unless the court in the other state determines that the probate division of the superior court in this state is a more appropriate forum.

Subchapter 3. Transfer of Guardianship or Conservatorship

§ 3171. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE

(a) A guardian or conservator appointed in this state may petition the probate division of the superior court to transfer the guardianship or conservatorship to another state.

(b) Notice of a petition under subsection (a) of this section must be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

(c) On the probate division's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on the petition filed pursuant to subsection (a) of this section.

(d) The probate division shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the probate court finds that:

(1) the incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) an objection to the transfer has not been made or, if any objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and

(3) plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

(e) The probate division shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) the protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in subsection 3161(b) of this chapter;

(2) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) adequate arrangements will be made for management of the protected person's property.

(f) The probate division shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) a provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to section 3172 of this title; and

(2) the documents required to terminate a guardianship or conservatorship in this state.

§ 3172. ACCEPTING GUARDIANSHIP TRANSFERRED FROM ANOTHER STATE

(a) To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to section 3171 of this title, the guardian or conservator must petition the probate division of the superior court in this state to accept the guardianship or conservatorship. The petition must also include a certified copy of the other state's provisional order of transfer.

(b) Notice of a petition under subsection (a) of this section must be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice must be given in the same manner as notice is required to be given in this state.

(c) On the probate division's own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection (a) of this section.

(d) The probate division shall issue an order provisionally granting a petition filed under subsection (a) of this section unless:

(1) an objection is made, and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) the guardian or conservator is ineligible for appointment in this state.

(e) The probate division shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to section 3171 of this title transferring the proceeding to this state.

(f) Not later than 90 days after issuance of a final order accepting transfer of a guardianship or conservatorship, the probate division shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

(g) In granting a petition under this section, the probate division shall recognize a guardianship or conservatorship order from another state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.

(h) The denial by a probate division of the superior court of this state of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian in this state under this title if the probate division has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

Subchapter 4. Registration and Recognition of Orders from Other States

§ 3181. REGISTRATION OF GUARDIANSHIP ORDERS

If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a probate division of the superior court, in any appropriate county of this state, certified copies of the order and letters of office.

§ 3182. REGISTRATION OF PROTECTIVE ORDERS

If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a probate division of the superior court of this state, in any county of this state in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

§ 3183. EFFECT OF REGISTRATION

(a) Upon registration of a guardianship or protective order from another state, the guardian may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian is not a resident of this state, subject to any conditions imposed upon nonresident parties.

(b) A probate division of the superior court of this state may grant any relief available under this act and other law of this state to enforce a registered order.

Subchapter 5. Miscellaneous Provisions

§ 3191. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 3192. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).

§ 3193. TRANSITIONAL PROVISION

(a) This act applies to guardianship and protective proceedings begun on or after July 1, 2011.

(b) Subchapters 1, 3, and 4 of this chapter and sections 3191 and 3192 of this title apply to proceedings begun before July 1, 2011, regardless of whether a guardianship or protective order has been issued.

Sec. 26. 14 V.S.A. § 3062 is amended to read:

§ 3062. JURISDICTION; REVIEW OF GUARDIAN'S ACTIONS

(a) If this state has jurisdiction of a guardianship proceeding pursuant to chapter 114 of this title, then the probate division of the superior court shall have exclusive jurisdiction over the proceedings. All proceedings to determine whether this court has jurisdiction pursuant to chapter 114 of this title shall be brought in probate division of the superior court.

(b) The probate division of the superior court shall have exclusive original jurisdiction over all proceedings brought under the authority of this chapter or pursuant to 18 V.S.A. § 9718.

~~(b)~~(c) The probate division of the superior court shall have supervisory authority over guardians. Any interested person may seek review of a guardian's proposed or past actions by filing a motion with the court.

Sec. 27. REPEALS

The following are repealed:

(1) Sec. 2 of No. 126 of the Acts of the 2009 Adj. Sess. (2010).

(2) Secs. 18 (requiring employers to disclose employee conduct potentially jeopardizing safety of a minor or vulnerable adult) and 22(a) (April 1, 2011 effective date of Sec. 18 disclosure requirement) of No. 157 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 1 of No. 5 of the Acts of 2011.

Sec. 28. EFFECTIVE DATES; SUNSET

This act shall take effect on passage, except as follows:

(1) Secs. 3, 4, 14, 15, 16, 17, 18, and 19 shall take effect on March 1, 2012.

(2) Sec. 21 of this act shall take effect on July 1, 2011, shall apply to disclosures made on and after that date, and shall be repealed effective July 1, 2013.

(3) Sec. 24, 25, and 26 of this act shall take effect on July 1, 2011.

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

An act relating to driving while intoxicated, forfeiture and registration of motor vehicles, the blood and breath alcohol testing and alcohol screening program, the minor guardianship study committee, confidentiality of cases accepted by the court diversion project, and the uniform adult guardianship and protective proceedings jurisdiction act.

ALICE W. NITKA
DIANE B. SNELLING
JEANETTE K. WHITE

Committee on the part of the Senate

WILLIAM J. LIPPERT
MAXINE JO GRAD
THOMAS F. KOCH

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Rules Suspended; Bill Messaged

H. 275.

Senator MacDonald, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

An act relating to the recently deployed veteran tax credit.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposals of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. chapter 151, subchapter 11N is added to read:

Subchapter 11N. Recently Deployed Veteran Tax Credit

§ 5930nn. RECENTLY DEPLOYED VETERAN TAX CREDIT

(a) A qualified employer shall be eligible for a nonrefundable credit against the income tax liability imposed under this chapter in an amount equal to $2,000.00 for each new full-time employee hired after the passage of this act but on or before December 31, 2012 for a position, the majority of the duties of which are at a business location within Vermont.

(b) A recently deployed veteran shall be eligible for a nonrefundable credit against the income tax liability imposed under this chapter in an amount up to a total of $2,000.00 for expenses associated with one start-up business in which the recently deployed veteran holds at least a 50-percent ownership interest. A credit under this subsection may only be taken for a business started after the passage of this act but on or before December 31, 2012, that is located within Vermont, and that shows a net profit of at least $3,000.00 for the year in which the credit is taken.

(c) A credit earned under this section shall be claimed in the tax year following the new full-time employee's date of hire, or in the tax year following the date that the start-up business was created, and may be carried forward one year.

(d) In this section:

(1) "Expense associated with a start-up business" means the following expenses:

(A) expenses associated with the development of a business plan;

(B) professional services associated with the formation of the business (e.g., attorney and accounting services);

(C) an analysis or survey of potential markets, products, labor supply, or transportation facilities;

(D) advertisements for the opening of the business;

(E) salaries and wages for employees who are being trained and their instructors;

(F) travel and other necessary costs for securing prospective distributors, suppliers, or customers;

(G) salaries and fees for executives and consultants, or for similar professional services.

(2) "New full-time employee" means a recently deployed veteran:

(A) who works at least 35 hours per week for not less than 45 of the 52 weeks following the individual's date of hire;

(B) whose compensation equals or exceeds the prevailing compensation level, including wages and benefits, for the particular employment sector and region of the state as determined by the commissioner of labor;

(C) who has certification by the department of labor at the time of hire of:

(i) collecting or being eligible to collect unemployment benefits; or

(ii) having exhausted his or her unemployment benefits;

(D) who has not been employed by the qualified employer for 90 days prior to the date of hire.

(3) "Qualified employer" means a person who:

(A) is in good standing with respect to applicable registration, fee, and filing requirements with the secretary of state, the department of taxes, and the department of labor; and

(B) has in place a valid workers' compensation policy.

(4) "Recently deployed veteran" means an individual who:

(A)(i) was a resident of Vermont at the time of entry into military service; or

(ii) was mobilized to active, federal military service while a member of the Vermont National Guard or other reserve unit located in Vermont, regardless of the resident's home of record.

(B) received an honorable or general discharge from active, federal military service within the two-year period preceding the date of hire.

(C) for the purposes of the credit in subsection (b) of this section, a person who at the time of starting up a new business has been certified by the department of labor as:

(i) collecting or being eligible to collect unemployment benefits; or

(ii) having exhausted his or her unemployment benefits.

(e) The department of labor, in coordination with the department of taxes, the agency of commerce and community development, and the office of veterans' affairs, shall:

(1) promote awareness of the recently deployed veteran tax credit authorized in this section to employers and eligible veterans;

(2) establish procedures for prequalifying an individual as a recently deployed veteran and for providing notice to the department of labor when a new full-time employee is hired;

(3) establish procedures for certifying a qualified employer's compliance, or in the case of a credit under subsection (b) of this section, a recently deployed veteran's compliance, with the eligibility and expense verification requirements to claim the credit authorized under this section;

(4) adopt measurable goals, outcomes, and an audit strategy to assess the utilization and performance of the credit authorized in this section;

(5) on or before January 15, 2012, submit a written report on its assessment of the credit to the house committees on commerce and economic development and on ways and means, and to the senate committees on finance and on economic development, housing and general affairs;

(6) engage in efforts to promote the hiring of recently deployed veterans through the hiring practices of the state of Vermont.

(f) An employer shall not claim the credit in subsection (a) of this section for an employee who has claimed the credit under subsection (b) of this section, and a recently deployed veteran shall not claim the credit in subsection (b) if an employer has claimed his or her hire for the credit in subsection (a).

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

MARK A. MACDONALD
RICHARD J. MCCORMACK
RICHARD A. WESTMAN
Committee on the part of the Senate

RACHEL WESTON
WARREN F. KITZMILLER
MICHAEL J. MARCOTTE
Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 28, Nays 2.

Senator Galbraith having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: Galbraith, Illuzzi.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Consideration Resumed; House Proposal of Amendment Concurred In with Further Proposal of Amendment

S. 96.

Consideration was resumed on Senate bill entitled:

An act relating to technical corrections to the workers' compensation statutes.

Thereupon, pending the question, Shall the Senate concur in the House Proposal of amendment?, Senator Illuzzi moved that the Senate concur in the House proposal of amendment with further proposal of amendment as follows:

By adding five new sections to be numbered Secs. 9a, 9b, 9c, 9d, and 9e to read as follows:

Sec. 9a. FINDINGS

The general assembly finds that:

(1) Federal law allows employees who work in a noninstructional, research, or principal administrative capacity in an educational institution to receive unemployment benefits between academic terms. This law allows bus drivers, custodians, and cafeteria staff, among others, to receive benefits.

(2) During the time Vermont allowed the receipt of these benefits, the Vermont supreme court held in Riddel v. Department of Employment Security that teachers' aides and para-educators were not eligible for unemployment benefits between academic terms because they were considered to be working in an instructional capacity.

(3) More study is needed to determine the impact of reinstating unemployment benefits between school terms.

Sec. 9b. STUDY

(a) The commissioner of labor in consultation with the Vermont school boards association and any other interested parties shall study the issue of allowing the receipt of unemployment benefits between academic terms for noninstructional employees. The study shall consider the costs of allowing receipt of such benefits, the employees who would be eligible for benefits, and any other relevant issues. In addition, the study shall consider the potential benefit to those employees of school-district-coordinated job placement services for the months between academic terms.

(b) The commissioner shall also study the issue of whether wages paid by an elderly individual for in-home assistance should be subject to the unemployment insurance statutes.

(c) The commissioner shall also study the issue of allowing the employees of a school district to elect to have their wages paid over the course of a calendar year.

(d) The commissioner shall report his or her findings and any recommendations to the senate committee on economic development, housing and general affairs and the house committees on commerce and economic development and on general, housing and military affairs by January 15, 2012.

Sec. 9c. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY; EMPLOYEE PAID $1,000.00 OR LESS DURING BASE PERIOD

(a) The commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

(1) The individual's employment with that employer was terminated under disqualifying circumstances.

(2) The individual's employment or right to reemployment with that employer was terminated by retirement of the individual pursuant to a retirement or lump-sum retirement pay plan under which the age of mandatory retirement was agreed upon by the employer and its employees or by the bargaining agent representing those employees.

(3) As of the date on which the individual filed an initial claim for benefits, the individual's employment with that employer had not been terminated or reduced in hours.

(4) The individual was employed by that employer as a result of another employee taking leave under subchapter 4A of chapter 5 of this title, and the individual's employment was terminated as a result of the reinstatement of the other employee under subchapter 4A of chapter 5 of this title.

(5) The individual was paid wages of $1,000.00 or less by the employer in the individual's base period.

* * *

Sec. 9d. STUDY; EMPLOYER FURNISHING REQUIRED APPAREL

(a) The department of labor shall study the issue of requiring employers that require their employees to wear apparel that displays the employer's trademark, logo, or other identifying characteristic to furnish the apparel free of charge to their employees. The study shall consider the economic impact of such a requirement on employers and employees and any other relevant issues.

(b) The department shall report its findings and any recommendations to the senate committee on economic development, housing and general affairs and the house committees on commerce and economic development and on general, housing and military affairs by January 15, 2012.

Sec. 9e. SUNSET

21 V.S.A. § 1325(a)(5) (relating to relieving an employer's experience record of charges) shall be repealed on July 1, 2012.

Thereupon, the question, Shall the Senate concur in the House Proposal of amendment with further proposal of amendment, was agreed to.

Rules Suspended; Bill Delivered

On motion of Senator Campbell, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S. 104.

Bill Called Up; Rules Suspended; Bill Committed

S. 38.

Senator Sears called up House bill entitled:

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

Thereupon, pending entry of the bill on the Calendar for action the next legislative day, on motion of Senator Sears, the rules were suspended and the bill was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Judiciary, on motion of Senator Sears, the rules were suspended and the bill was committed to the Committee on Judiciary, *intact*.

Rules Suspended; Bill Delivered

On motion of Senator Campbell, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S. 96.

Message from the House No. 72

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 108. An act relating to effective strategies to reduce criminal recidivism.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Adjournment

On motion of Senator Campbell, the Senate adjourned until three o'clock in the afternoon.

Called to Order

The Senate was called to order by the President.

Rules Suspended; House Proposal of Amendment Concurred In

S. 17.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to bill entitled:

An act relating to licensing a nonprofit organization to dispense marijuana for therapeutic purposes.

Was taken up for immediate consideration.

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

Sec. 1. 18 V.S.A. chapter 86, subchapter 2 is amended to read:

Subchapter 2. Marijuana for Medical Symptom Use by Persons with Severe Illness

§ 4472. DEFINITIONS

For the purposes of this subchapter:

(1) "Bona fide ~~physician-patient~~ health care professional–patient relationship" means a treating or consulting relationship of not less than six months duration, in the course of which a ~~physician~~ health care professional has completed a full assessment of the registered patient's medical history and current medical condition, including a personal physical examination.

(2) "Clone" means a plant section from a female marijuana plant not yet root-bound, growing in a water solution, which is capable of developing into a new plant.

(3) "Criminal history record" means all information documenting an individual's contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(4) "Debilitating medical condition," provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision ~~(2)~~(4), reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms, means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

(B) a disease, medical condition, or its treatment that is chronic, debilitating, and produces severe, persistent, and one or more of the following intractable symptoms: cachexia or wasting syndrome; severe pain; severe nausea; or seizures.

(5) "Dispensary" means a nonprofit entity registered under section 4474e of this title which acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient's use for symptom relief. A dispensary may provide marijuana for symptom relief to registered patients at only one facility or location but may have a second location associated with the dispensary where the marijuana is cultivated. Both locations are considered to be part of the same dispensary.

(6) "Health care professional" means an individual licensed to practice medicine under chapter 23 or 33 of Title 26, an individual certified as a physician's assistant under chapter 31 of Title 26, or an individual licensed as an advanced practice registered nurse under chapter 28 of Title 26. This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

(7) "Immature marijuana plant" means a female marijuana plant that has not flowered and which does not have buds that may be observed by visual examination.

~~(3)~~(8) "Marijuana" shall have the same meaning as provided in subdivision 4201(15) of this title.

~~(4) "Physician" means a person who is:~~

~~(A) licensed under chapter 23 or chapter 33 of Title 26, and is licensed with authority to prescribe drugs under Title 26; or~~

~~(B) a physician, surgeon, or osteopathic physician licensed to practice medicine and prescribe drugs under comparable provisions in New Hampshire, Massachusetts, or New York.~~

(9) "Mature marijuana plant" means a female marijuana plant that has flowered and which has buds that may be observed by visual examination.

~~(5)~~(10) "Possession limit" means the amount of marijuana collectively possessed between the registered patient and the patient's registered caregiver which is no more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana.

~~(6)~~(11) "Registered caregiver" means a person who is at least 21 years old who has never been convicted of a drug-related crime and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

~~(7)~~(12) "Registered patient" means a ~~person~~ resident of Vermont who has been issued a registration card by the department of public safety identifying the person as having a debilitating medical condition pursuant to the provisions of this subchapter. "Resident of Vermont" means a person whose domicile is Vermont.

~~(8)~~(13) "Secure indoor facility" means a building or room equipped with locks or other security devices that permit access only by a registered caregiver ~~or~~, registered patient, or a principal officer or employee of a dispensary.

~~(9)~~(14) "Usable marijuana" means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

~~(10)~~(15) "Use for symptom relief" means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient's debilitating medical condition which is in compliance with all the limitations and restrictions of this subchapter. For the purposes of this definition, "transfer" is limited to the transfer of marijuana and paraphernalia between a registered caregiver and a registered patient.

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

(a) To become a registered patient, a person must be diagnosed with a debilitating medical condition by a ~~physician~~ health care professional in the course of a bona fide ~~physician-patient~~ health care professional–patient relationship.

(b) The department of public safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit, under oath, a signed application for registration to the department. If the patient is under the age of 18, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient's registered caregiver applying for authorization under section 4474 of this title, if any, and the patient's designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the department pursuant to subdivision (2) of this subsection.

(2) The department of public safety shall develop a medical verification form to be completed by a ~~physician~~ health care professional and submitted by a patient applying for registration in the program. The form shall include:

(A) A cover sheet which includes the following:

(i) A statement of the penalties for providing false information.

(ii) Definitions of the following statutory terms:

(I) "Bona fide ~~physician-patient~~ health care professional–patient relationship" as defined in ~~subdivision 4472(1)~~ section 4472 of this title.

(II) "Debilitating medical condition" as defined in ~~subdivision 4472(2)~~ section 4472 of this title.

(III) "~~Physician~~ Health care professional" as defined in ~~subdivision 4472(4)~~ section 4472 of this title.

(B) A verification sheet which includes the following:

(i) A statement that a bona fide ~~physician-patient~~ health care professional–patient relationship exists under ~~subdivision 4472(1)~~ section 4472 of this title, or that under subdivision (3)(A) of this subsection (b), the debilitating medical condition is of recent or sudden onset, and the patient has not had a previous ~~physician~~ health care professional who is able to verify the nature of the disease and its symptoms.

(ii) A statement that reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms.

(iii) A statement that the patient has a debilitating medical condition as defined in ~~subdivision 4472(2)~~ section 4472 of this title, including the specific disease or condition which the patient has and whether the patient meets the criteria under ~~subdivision 4472(2)(A) or (B)~~ section 4472.

(iv) A signature line which provides in substantial part: "I certify that I meet the definition of ~~"physician' under 18 V.S.A. § 4472(4)(A) or 4472(4)(B)~~ 'health care professional' under 18 V.S.A. § 4472, that I am a ~~physician~~ health care professional in good standing in the state of ....., and that the facts stated above are accurate to the best of my knowledge and belief."

(v) The ~~physician's~~ health care professional's contact information, license number, category of his or her health care profession as defined in subdivision 4472(6) of this title, and contact information for the out-of-state licensing agency, if applicable. The department of public safety shall adopt rules for verifying the goodstanding of out-of-state health care professionals.

(3)(A) The department of public safety shall transmit the completed medical verification form to the ~~physician~~ health care professional and contact him or her for purposes of confirming the accuracy of the information contained in the form. The department may approve an application, notwithstanding the six-month requirement in ~~subdivision 4472(1)~~ section 4472 of this title, if the department is satisfied that the medical verification form confirms that the debilitating medical condition is of recent or sudden onset, and that the patient has not had a previous ~~physician~~ health care professional who is able to verify the nature of the disease and its symptoms.

(B) If the ~~physician~~ health care professional is licensed in another state as provided ~~by subdivision 4472(4)(B)~~ section 4472 of this title, the department shall ~~contact the state's medical practice board and~~ verify that the ~~physician~~ health care professional is in good standing in that state.

(4) The department shall approve or deny the application for registration in writing within 30 days from receipt of a completed registration application. If the application is approved, the department shall issue the applicant a registration card which shall include the registered patient's name and photograph, ~~as well as~~ the registered patient's designated dispensary, if any, and a unique identifier for law enforcement verification purposes under section 4474d of this title.

(5)(A) A review board is established. The medical practice board shall appoint three physicians licensed in Vermont to constitute the review board. If an application under subdivision (1) of this subsection is denied, within seven days the patient may appeal the denial to the board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating ~~physician~~ health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the board.

(B) The board shall meet periodically to review studies, data, and any other information relevant to the use of marijuana for symptom relief. The board may make recommendations to the general assembly for adjustments and changes to this chapter.

(C) Members of the board shall serve for three-year terms, beginning February 1 of the year in which the appointment is made, except that the first members appointed shall serve as follows: one for a term of two years, one for a term of three years, and one for a term of four years. Members shall be entitled to per diem compensation authorized under ~~section 1010 of Title 32~~ 32 V.S.A. § 1010. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS AND PROCEDURES

(a) A person may submit a signed application to the department of public safety to become a registered patient's registered caregiver. The department shall approve or deny the application in writing within 30 days. The department shall approve a registered caregiver's application and issue the person an authorization card, including the caregiver's name, photograph, and a unique identifier, after verifying:

(1) the person will serve as the registered caregiver for one registered patient only; and

(2) the person has never been convicted of a drug-related crime.

(b) Prior to acting on an application, the department shall obtain from the Vermont criminal information center a Vermont criminal record, an out-of-state criminal record, and a criminal record from the Federal Bureau of Investigation for the applicant. For purposes of this subdivision, "criminal record" means a record of whether the person has ever been convicted of a drug-related crime. Each applicant shall consent to release of criminal records to the department on forms substantially similar to the release forms developed by the center pursuant to ~~section 2056c of Title 20~~ 20 V.S.A. § 2056c. The department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. The Vermont criminal information center shall send to the requester any record received pursuant to this section or inform the department of public safety that no record exists. If the department disapproves an application, the department shall promptly provide a copy of any record of convictions and pending criminal charges to the applicant and shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont criminal information center. No person shall confirm the existence or

nonexistence of criminal record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(c) A registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time.

§ 4474a. REGISTRATION; FEES

(a) The department shall collect a fee of $50.00 for the application authorized by sections 4473 and 4474 of this title. The fees received by the department shall be deposited into a registration fee fund and used to offset the costs of processing applications under this subchapter.

(b) A registration card shall expire one year after the date of issue, with the option of renewal, provided the patient submits a new application which is approved by the department of public safety, pursuant to section 4473 or 4474 of this title, and pays the fee required under subsection (a) of this section.

§ 4474b. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES; SEIZURE OF PROPERTY

(a) A person who has in his or her possession a valid registration card issued pursuant to this subchapter and who is in compliance with the requirements of this subchapter, including the possession limits in ~~subdivision 4472(4)~~ section 4472 of this title, shall be exempt from arrest or prosecution under subsection 4230(a) of this title and from seizure of marijuana, marijuana-infused products, and marijuana-related supplies.

(b) A ~~physician~~ health care professional who has participated in a patient's application process under subdivision 4473(b)(2) of this title shall not be subject to arrest, prosecution, or disciplinary action under chapter 23 of Title 26, penalized in any manner, or denied any right or privilege under state law, except for giving false information, pursuant to subsection 4474c(f) of this title.

(c) No person shall be subject to arrest or prosecution for constructive possession, conspiracy, or any other offense for simply being in the presence or vicinity of a registered patient or registered caregiver engaged in use of marijuana for symptom relief.

(d) A law enforcement officer shall not be required to return marijuana ~~or paraphernalia relating to its use~~, marijuana-infused products, and marijuana-related supplies seized from a registered patient or registered caregiver. However, if marijuana or marijuana-infused products are seized by a law enforcement officer and if there is a subsequent determination that the patient or caregiver was in compliance with this subchapter, the seized marijuana and marijuana-infused products shall not count toward the

possession limits or dispensary allocation set forth in this subchapter for the patient or caregiver.

(e) A dispensary may donate marijuana, marijuana-infused products, and marijuana-related supplies to another dispensary in Vermont provided that no consideration is paid and that the recipient does not exceed the possession limits specified in this subchapter.

§ 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS REGARDING THE USE OF MARIJUANA FOR SYMPTOM RELIEF

(a) This subchapter shall not exempt any person from arrest or prosecution for:

(1) Being under the influence of marijuana while:

(A) operating a motor vehicle, boat, or vessel, or any other vehicle propelled or drawn by power other than muscular power;

(B) in a workplace or place of employment; or

(C) operating heavy machinery or handling a dangerous instrumentality.

(2) The use or possession of marijuana or marijuana-infused products by a registered patient or the possession of marijuana or marijuana-infused products by a registered caregiver:

(A) for purposes other than symptom relief as permitted by this subchapter; or

(B) in a manner that endangers the health or well-being of another person.

(3) The smoking of marijuana in any public place, including:

(A) a school bus, public bus, or other public vehicle;

(B) a workplace or place of employment;

(C) any school grounds;

(D) any correctional facility; or

(E) any public park, public beach, public recreation center, or youth center.

(b) This chapter shall not be construed to require that coverage or reimbursement for the use of marijuana for symptom relief be provided by:

(1) a health insurer as defined by section 9402 of this title, or any insurance company regulated under Title 8;

(2) Medicaid, Vermont health access plan, and any other public health care assistance program;

(3) an employer; or

(4) for purposes of workers' compensation, an employer as defined in 21 V.S.A. § 601(3).

(c) A registered patient or registered caregiver who elects to grow marijuana to be used for symptom relief by the patient may do so only if the marijuana is cultivated in a single, secure indoor facility.

(d) A registered patient or registered caregiver may not transport marijuana in public unless it is secured in a locked container.

(e) Within 72 hours after the death of a registered patient, the patient's registered caregiver shall return to the department of public safety for disposal any marijuana or marijuana plants in the possession of the patient or registered caregiver at the time of the patient's death. If the patient did not have a registered caregiver, the patient's next of kin shall contact the department of public safety within 72 hours after the patient's death and shall ask the department to retrieve such marijuana and marijuana plants for disposal.

(f) Notwithstanding any law to the contrary, a person who knowingly gives to any law enforcement officer false information to avoid arrest or prosecution, or to assist another in avoiding arrest or prosecution, shall be imprisoned for not more than one year or fined not more than $1,000.00 or both. This penalty shall be in addition to any other penalties that may apply for the possession or use of marijuana.

§ 4474d. LAW ENFORCEMENT VERIFICATION OF INFORMATION; RULEMAKING

(a) The department of public safety shall maintain and keep confidential, except as provided in subsection (b) of this section and except for purposes of a prosecution for false swearing under 13 V.S.A. § 2904, the records of all persons registered under this subchapter or registered caregivers in a secure database accessible by authorized department of public safety ~~employee's~~ employees only.

(b) In response to a person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution, the department may verify the identities and registered property addresses of the registered patient and the patient's registered caregiver, a dispensary, and the principal officer, the board members, or the employees of a dispensary.

(c) The department shall maintain a separate secure electronic database accessible to law enforcement personnel 24 hours a day that uses a unique identifier system to allow law enforcement to verify that a person or entity is a registered patient, ~~or~~ a registered caregiver, a dispensary, or the principal officer, a board member, or an employee of a dispensary.

(d) The department of public safety shall implement the requirements of this act within 120 days of its effective date. The department may adopt rules under chapter 25 of Title 3 and shall develop forms to implement this act.

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief. For purposes of this section, "transport" shall mean the movement of marijuana or marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, or as otherwise allowed under this subchapter.

(A) Marijuana-infused products shall include tinctures, oils, solvents, and edible or potable goods. Only the portion of any marijuana-infused product that is attributable to marijuana shall count toward the possession limits of the dispensary and the patient. The department of public safety shall establish by rule the appropriate method to establish the weight of marijuana that is attributable to marijuana-infused products.

(B) Marijuana-related supplies shall include pipes, vaporizers, and other items classified as drug paraphernalia under chapter 69 of this title.

(2) Acquire marijuana seeds or parts of the marijuana plant capable of regeneration from or dispense them to registered patients or their caregivers or acquire them from another registered Vermont dispensary, provided that records are kept concerning the amount and the recipient.

(3) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and two ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients but need not be recognized as a tax-exempt organization by the Internal Revenue Service.

(2) A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.

(c) A dispensary shall not be located within 1,000 feet of the property line of a preexisting public or private school or licensed or regulated child care facility.

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of the dispensary who have valid registry identification cards. The department of public safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

(2) A registered patient or registered caregiver may obtain marijuana from the dispensary facility by appointment only.

(3) The operating documents of a dispensary shall include procedures for the oversight of the dispensary and procedures to ensure accurate record-keeping.

(4) A dispensary shall submit the results of an annual financial audit to the department of public safety no later than 60 days after the end of the dispensary's fiscal year. The annual audit shall be conducted by an independent certified public accountant, and the costs of any such audit shall be borne by the dispensary. The department may also periodically require, within its discretion, the audit of a dispensary's financial records by the department.

(5) A dispensary shall destroy or dispose of marijuana, marijuana-infused products, clones, seeds, parts of marijuana that are not usable for symptom relief or are beyond the possession limits provided by this

subchapter, and marijuana-related supplies only in a manner approved by rules adopted by the department of public safety.

(e) A registered patient shall not consume marijuana for symptom relief on dispensary property.

(f) A person may be denied the right to serve as a principal officer, board member, or employee of a dispensary because of the person's criminal history record in accordance with section 4474g of this title and rules adopted by the department of public safety pursuant to that section.

(g)(1) A dispensary shall notify the department of public safety within 10 days of when a principal officer, board member, or employee ceases to be associated with or work at the dispensary. His or her registry identification card shall be deemed null and void, and the person shall be liable for any penalties that may apply.

(2) A dispensary shall notify the department of public safety in writing of the name, address, and date of birth of any proposed new principal officer, board member, or employee and shall submit a fee for a new registry identification card before a new principal officer, board member, or employee begins his or her official duties related to the dispensary and shall submit a complete set of fingerprints for the prospective principal officer, board member, or employee.

(h) A dispensary shall include a label on the packaging of all marijuana that is dispensed. The label shall identify the particular strain of marijuana contained therein. Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and shall reflect properties of the plant. The label also shall contain a statement to the effect that the state of Vermont does not attest to the medicinal value of cannabis.

(i) Each dispensary shall develop, implement, and maintain on the premises employee policies and procedures to address the following requirements:

(1) A job description or employment contract developed for all employees which includes duties, authority, responsibilities, qualification, and supervision;

(2) Training in and adherence to confidentiality laws; and

(3) Training for employees required by subsection (j) of this section.

(j) Each dispensary shall maintain a personnel record for each employee that includes an application for employment and a record of any disciplinary action taken. Each dispensary shall provide each employee, at the time of his or her initial appointment, training in the following:

(1) The proper use of security measures and controls that have been adopted; and

(2) Specific procedural instructions on how to respond to an emergency, including robbery or violent incident.

(k)(1) No dispensary, principal officer, board member, or employee of a dispensary shall:

(A) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, or dispense marijuana for any purpose except to assist a registered patient with the use of marijuana for symptom relief directly or through the qualifying patient's designated caregiver.

(B) Acquire usable marijuana or marijuana plants from any source other than registered dispensary principal officers, board members, or employees who cultivate marijuana in accordance with this subchapter.

(C) Dispense more than two ounces of usable marijuana to a registered patient directly or through the qualifying patient's registered caregiver during a 30-day period.

(D) Dispense an amount of usable marijuana to a qualifying patient or a designated caregiver that the principal officer, board member, or employee knows would cause the recipient to possess more marijuana than is permitted under this subchapter.

(E) Dispense marijuana to a person other than a registered patient who has designated the dispensary to provide for his or her needs or other than the patient's registered caregiver.

(2) A person found to have violated subdivision (1) of this subsection may no longer serve as a principal officer, board member, or employee of any dispensary, and such person's registry identification card shall be immediately revoked by the department of public safety.

(3) The board of a dispensary shall be required to report to the department of public safety any information regarding a person who violates this section.

(l)(1) A registered dispensary shall not be subject to the following provided that it is in compliance with this subchapter:

(A) Prosecution for the acquisition, possession, cultivation, manufacture, transfer, transport, supply, sale, or dispensing of marijuana, marijuana-infused products, or marijuana-related supplies for symptom relief in accordance with the provisions of this subchapter and any rule adopted by the department of public safety pursuant to this subchapter.

(B) Inspection and search, except pursuant to this subchapter or upon a search warrant issued by a court or judicial officer.

(C) Seizure of marijuana, marijuana-infused products, and marijuana-related supplies, except upon a valid order issued by a court.

(D) Imposition of any penalty or denied any right or privilege, including imposition of a civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for acting in accordance with this subchapter to assist registered patients or registered caregivers.

(2) No principal officer, board member, or employee of a dispensary shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including civil penalty or disciplinary action by a occupational or professional licensing board or entity, solely for working for or with a dispensary to engage in acts permitted by this subchapter.

(m) The governor may suspend the implementation and enforcement of subsection (a) of this section if the governor determines that it is in the interest of justice and public safety.

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND REGISTRATION

(a)(1) The department of public safety shall adopt rules on the following:

(A) The form and content of dispensary registration and renewal applications.

(B) Minimum oversight requirements for a dispensary.

(C) Minimum record-keeping requirements for a dispensary.

(D) Minimum security requirements for a dispensary, which shall include a fully operational security alarm system. This provision shall apply to each location where marijuana will be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary or will be distributed by the dispensary.

(E) Procedures for suspending or terminating the registration of a dispensary that violates the provisions of this subchapter or the rules adopted pursuant to this subchapter.

(F) The medium and manner in which a dispensary may notify registered patients of its services.

(G) Procedures to guide reasonable determinations as to whether an applicant would pose a demonstrable threat to public safety if he or she were to be associated with a dispensary.

(H) Procedures for providing notice to applicants regarding federal law with respect to marijuana.

(2) The department of public safety shall adopt such rules with the goal of protecting against diversion and theft without imposing an undue burden on a registered dispensary or compromising the confidentiality of registered patients and their registered caregivers. Any dispensing records that a registered dispensary is required to keep shall track transactions according to registered patients' and registered caregivers' registry identification numbers, rather than their names, to protect confidentiality.

(b) Within 30 days of the adoption of rules, the department shall begin accepting applications for the operation of dispensaries. Within 365 days of the effective date of this section, the department shall grant registration certificates to four dispensaries, provided at least four applicants apply and meet the requirements of this section. No more than four dispensaries shall hold valid registration certificates at one time. The total statewide number of registered patients who have designated a dispensary shall not exceed 1,000 at any one time. Any time a dispensary registration certificate is revoked, is relinquished, or expires, the department shall accept applications for a new dispensary. If at any time after one year after the effective date of this section fewer than four dispensaries hold valid registration certificates in Vermont, the department of public safety shall accept applications for a new dispensary.

(c) Each application for a dispensary registration certificate shall include all of the following:

(1) A nonrefundable application fee in the amount of $2,500.00 paid to the department of public safety.

(2) The legal name, articles of incorporation, and bylaws of the dispensary.

(3) The proposed physical address of the dispensary, if a precise address has been determined or, if not, the general location where it would be located.

(4) A description of the enclosed, locked facility where marijuana will be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary.

(5) The name, address, and date of birth of each principal officer and board member of the dispensary and a complete set of fingerprints for each of them.

(6) Proposed security and safety measures, which shall include at least one security alarm system for each location and planned measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana.

(7) Proposed procedures to ensure accurate record-keeping.

(d) Any time one or more dispensary registration applications are being considered, the department of public safety shall solicit input from registered patients and registered caregivers.

(e) Each time a dispensary certificate is granted, the decision shall be based on the overall health needs of qualified patients. The following factors shall weigh heavily in the consideration of an application:

(1) Geographic convenience to patients from throughout the state of Vermont to a dispensary if the applicant were approved.

(2) The entity's ability to provide an adequate supply to the registered patients in the state.

(3) The entity's ability to demonstrate its board members' experience running a nonprofit organization or business.

(4) The comments, if any, of registered patients and registered caregivers regarding which applicant should be granted a registration certificate.

(5) The sufficiency of the applicant's plans for record-keeping, which records shall be considered confidential health care information under Vermont law and are intended to be deemed protected health care information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, as amended.

(6) The sufficiency of the applicant's plans for safety and security, including the proposed location and security devices employed.

(f) The department of public safety may deny an application for a dispensary if it determines that an applicant's criminal history record indicates that the person's association with a dispensary would pose a demonstrable threat to public safety.

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the department of public safety:

(1) The legal name and articles of incorporation of the dispensary.

(2) The physical address of the dispensary.

(3) The name, address, and date of birth of each principal officer and board member of the dispensary along with a complete set of fingerprints for each.

(4) A registration fee of $20,000.00 for the first year of operation, and an annual fee of $30,000.00 in subsequent years.

(h) The governor may suspend the implementation and enforcement of subsection (a) or subsection (b) of this section, or both, if the governor determines that implementation of the suspended subsection is in the interest of justice and public safety.

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) Except as provided in subsection (b) of this section, the department of public safety shall issue each principal officer, board member, and employee of a dispensary a registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of $50.00. The fee shall be paid by the dispensary and the cost shall not be passed on to a principal officer, board member, or employee. A person shall not serve as principal officer, board member, or employee of a dispensary until that person has received a registry identification card issued under this section. Each card shall specify whether the cardholder is a principal officer, board member, or employee of a dispensary and shall contain the following:

(1) The name, address, and date of birth of the person.

(2) The legal name of the dispensary with which the person is affiliated.

(3) A random identification number that is unique to the person.

(4) The date of issuance and the expiration date of the registry identification card.

(5) A photograph of the person.

(b) Prior to acting on an application for a registry identification card, the department of public safety shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the department on forms substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056c.

(c) When the department of public safety obtains a criminal history record, the department shall promptly provide a copy of the record to the applicant and to the principal officer and board of the dispensary if the applicant is to be an

employee. The department shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the department.

(d) The department of public safety shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(e) The department of public safety shall not issue a registry identification card to any applicant who has been convicted of a drug-related offense or a violent felony or who has a pending charge for such an offense. For purposes of this subchapter, "violent felony" means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of chapter 64 of Title 13.

(f) The department of public safety shall adopt rules for the issuance of a registry identification card and shall set forth standards for determining whether an applicant should be denied a registry identification card because his or her criminal history record indicates that the person's association with a dispensary would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in subsection (e) of this section shall not automatically disqualify a person for a registry identification card. A dispensary may deny a person the opportunity to serve as a board member or an employee based on his or her criminal history record. An applicant who is denied a registry identification card may appeal the department of public safety's determination in superior court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) A registration identification card of a principal officer, board member, or employee shall expire one year after its issuance or upon the expiration of the registered organization's registration certificate, whichever occurs first.

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. A registered patient and his or her caregiver may not grow marijuana for symptom relief if the patient designates a dispensary. A registered patient who wishes to change his or her dispensary shall notify the department of public safety in writing on a form issued by the department and shall submit with the form a fee of $25.00. The department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary.

The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 90-day period.

(b) The department of public safety shall track the number of registered patients who have designated each dispensary. The department shall issue a monthly written statement to the dispensary identifying the number of registered patients who have designated that dispensary and the registry identification numbers of each patient and each patient's designated caregiver, if any.

(c) In addition to the monthly reports, the department of public safety shall provide written notice to a dispensary whenever any of the following events occurs:

(1) A qualifying patient designates the dispensary to serve his or her needs under this subchapter.

(2) An existing registered patient revokes the designation of the dispensary because he or she has designated a different dispensary.

(3) A registered patient who has designated the dispensary loses his or her status as a registered patient under this subchapter.

§ 4474i. CONFIDENTIALITY OF INFORMATION REGARDING DISPENSARIES AND REGISTERED PATIENTS

The confidentiality provisions in section 4474d of this title shall apply to records of all registered patients and registered caregivers within dispensary records in the department of public safety.

§ 4474j. ANNUAL REPORT

(a)(1) There is established a marijuana for symptom relief oversight committee. The committee shall be composed of the following members:

(A) one registered patient appointed by each dispensary;

(B) one registered nurse and one registered patient appointed by the governor;

(C) one physician appointed by the Vermont medical society;

(D) one member of a local zoning board appointed by the Vermont League of Cities and Towns;

(E) one representative appointed jointly by the Vermont sheriffs' association and the Vermont association of chiefs of police; and

(F) the commissioner of public safety or his or her designee.

(2) The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the general assembly regarding:

(A) The ability of qualifying patients and registered caregivers in all areas of the state to obtain timely access to marijuana for symptom relief.

(B) The effectiveness of the registered dispensaries individually and together in serving the needs of qualifying patients and registered caregivers, including the provision of educational and support services.

(C) Sufficiency of the regulatory and security safeguards contained in this subchapter and adopted by the department of public safety to ensure that access to and use of cultivated marijuana is provided only to cardholders authorized for such purposes.

(b) On or before January 1 of each year, beginning in 2013, the oversight committee shall provide a report to the department of public safety, the house committee on human services, the senate committee on health and welfare, the house and senate committees on judiciary, and the house and senate committees on government operations on its findings.

§ 4474k. FEES; DISPOSITION

All fees collected by the department of public safety relating to dispensaries and pursuant to this subchapter shall be deposited in the registration fee fund as referenced in section 4474a of this title.

§ 4474l. REGULATION BY MUNICIPALITIES

Nothing in this subchapter shall be construed to prevent a municipality from prohibiting the establishment of a dispensary within its boundaries or from regulating the time, place, and manner of dispensary operation through zoning or other local ordinances.

Sec. 1a. 18 V.S.A. § 4474h(a) is amended to read:

(a) A registered patient may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. ~~A registered patient and his or her caregiver may not grow marijuana for symptom relief if the patient designates a dispensary~~ If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary. A registered patient who wishes to change his or her dispensary shall notify the department of public safety in writing on a form issued by the department and shall submit with the form a

fee of $25.00. The department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 90-day period.

Sec. 2. DEPARTMENT OF PUBLIC SAFETY; IDENTIFICATION CARDS

The department of public safety shall take measures to improve the quality and security of identification cards required pursuant to chapter 86 of Title 18. The department shall consider the feasibility of a "swipe card" that could be used by law enforcement or a dispensary.

Sec. 2a. REPORT FROM THE DEPARTMENT OF PUBLIC SAFETY

The department of public safety shall report to the general assembly no later than January 1, 2012 on the following:

(1) The actual and projected income and costs for administering this act.

(2) Recommendations for how dispensaries could deliver marijuana to registered patients and their caregivers in a safe manner. Delivery to patients and caregivers is expressly forbidden until the general assembly takes affirmative action to permit delivery.

(3) Whether prohibiting growing marijuana for symptom relief by patients and their caregivers if the patient designates a dispensary interferes with patient access to marijuana for symptom relief and, if so, recommendations for regulating the ability of a patient and a caregiver to grow marijuana at the same time the patient has designated a dispensary.

Sec. 2b. JOINT FISCAL OFFICE REPORT

No later than January 15, 2012, the joint fiscal office shall report to the house committee on ways and means and the senate committee on finance regarding the projected costs of administering this act, the projected fee revenue from this act, the feasibility of a sales tax on marijuana sold through registered dispensaries, and any other information that would assist the committees in adopting policies that will encourage the viability of the dispensaries while remaining, at a minimum, revenue neutral to the state.

Sec. 3. SURVEY

(a) By September 1, 2011, the department of public safety shall develop a survey of patients registered to possess and use marijuana for symptom relief

and shall send the survey to such patients. The department shall request that patients return the survey by October 1, 2011.

(b) The survey shall make the following inquiries:

(1) Please describe your medical diagnosis and the "debilitating medical condition" that qualifies you to be a registered patient under Vermont law. Please describe the symptoms that are aided by your use of marijuana for symptom relief.

(2) Please describe how much marijuana you typically use in one month for symptom relief and the strain or strains of marijuana that you use or that are particularly helpful in alleviating symptoms of your medical condition.

(3) Would you purchase marijuana for symptom relief from a state-regulated dispensary if it were available to you at an affordable price? How much do you typically spend in one month on marijuana for symptom relief?

(c) The department of public safety shall clearly state on the survey that the information is being gathered solely for the purpose of assessing the needs of registered medical patients in order to facilitate a safer, more reliable means for patients to obtain marijuana for symptom relief. The completed surveys shall remain confidential and shall not be subject to public inspection; however, summary information shall be available as provided in subsection (d) of this section.

(d) The department of public safety shall summarize the survey responses in a manner that protects the identity of patients, providing information that will assist state decision-makers, the department of public safety, and potential dispensary applicants to better understand the needs of registered patients. This summary shall not be confidential and shall be provided with other information about the medical marijuana registry on the Vermont criminal information website. The department of public safety shall ensure that any patient identifiers are not included in the summary.

Sec. 3a. APPROPRIATION

The amount of $108,500.00 is appropriated from the registry fee fund in fiscal year 2012 to the department of public safety for the performance of the department's responsibilities under this act.

Sec. 3b. DEPARTMENT OF PUBLIC SAFETY; POSITION

The department of public safety is authorized to establish one new classified position for the administration of the marijuana dispensary program in fiscal year 2012. The position shall be transferred and converted from existing vacant positions in the executive branch of state government.

Sec. 3c. REPEAL

18 V.S.A. § 4474e(m) (governor suspension; dispensaries implementation) and 18 V.S.A. § 4474f(h) (governor suspension; dispensary application) shall be repealed January 31, 2012.

Sec. 4. EFFECTIVE DATE

Sec. 1a of this act shall take effect July on 1, 2014, and the remainder of the act shall take effect on passage.

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

An act relating to registering four nonprofit organizations to dispense marijuana for symptom relief.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Galbraith moved that the Senate concur in the House proposal of amendment with further proposal of amendment as follows:

In Sec. 1, 18 V.S.A. § 4474f by adding a new subsection to be lettered subsection (i) to read as follows:

(i) The governor shall suspend the implementation, operation and enforcement of dispensaries as provided in this subchapter if the governor determines that a state employee is placed at significant risk of criminal prosecution for carrying out duties in accordance with this subchapter.

Which was disagreed to.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment Concurred In

S. 78.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to bill entitled:

An act relating to the advancement of cellular, broadband, and other technology infrastructure in Vermont.

Was taken up for immediate consideration.

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

First: In Sec. 1 (purpose and findings), in subsection (b), by adding a new subdivision (3) to read as follows:

(3) Of the approximately $8,900,000.00 in state funds appropriated to the VTA for capital investments since its creation in 2007, approximately $6,400,000.00 has been awarded to fund various telecommunications projects in the state, and about $280,000.00 worth of those projects has been completed to date.

And by renumbering the remaining subdivisions to be numerically correct.

Second: In Sec. 1 (purpose and findings), in subsection (b), in subdivision (5), after the words "promises near universal coverage in" by adding the words large areas of

Third: In Sec. 1 (purpose and findings), in subsection (b), by striking out subdivision (11) in its entirety and inserting in lieu thereof a new subdivision (11) to read as follows:

(11) In light of the infusion of federal dollars to build out telecommunications infrastructure in Vermont, the VTA, in coordination with the secretary of administration, needs to reexamine on a continuing basis its role in providing funds and its support for cellular and broadband deployment.

Fourth: In Sec. 1 (purpose and findings), in subsection (b), in subdivision (13), by striking out the second sentence in its entirety.

Fifth: In Sec. 1 (purpose and findings), in subsection (b), by striking out subdivision (14) and inserting in lieu thereof a new subdivision (14) to read as follows:

(14) It is also imperative that Vermont pursue telecommunications infrastructure deployment in a manner consistent with the state's iconic beauty and long-standing principles of historic and environmental stewardship. Notably, Vermont is ranked sixth in the world for "destination stewardship" by the National Geographic Society's Center for Sustainable Destination, as published in the November–December 2009 issue of National Geographic Traveler magazine. Provisions should be enacted that are specifically intended to assure that telecommunications facilities along Vermont's scenic highways are built consistently with this goal.

And by renumbering all subdivisions in subsection (b) to be numerically correct.

Sixth: In Sec. 2, 30 V.S.A. § 248a (certificate of public good for communications facilities), in subsection (c) (findings), by striking out subdivision (1) and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the

public health and safety, and the public's use and enjoyment of the I-89 and I-91 scenic corridors or of any highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). However, with respect to telecommunications facilities of limited size and scope, the board shall waive all criteria of this subdivision other than 10 V.S.A. § 6086(a)(1)(D) (floodways) and (a)(8) (aesthetics, scenic beauty, historic sites, rare and irreplaceable natural areas; endangered species; necessary wildlife habitat). Such waiver shall be on condition that:

(A) The board may determine, pursuant to the procedures described in subdivision (j)(2)(A) of this section, that a petition raises a significant issue with respect to any criterion of this subdivision; and

(B) A telecommunications facility of limited size and scope shall comply, at a minimum, with the requirements of the Low Risk Site Handbook for Erosion Prevention and Sediment Control issued by the department of environmental conservation, regardless of any provisions in that handbook that limit its applicability.

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

Sec. 3b. 3 V.S.A. § 2809 is amended to read:

§ 2809. REIMBURSEMENT OF AGENCY COSTS

* * *

(g) Concerning an application for a permit to discharge stormwater runoff from a telecommunications facility as defined in 30 V.S.A. § 248a that is filed before July 1, 2014:

(1) Under subdivision (a)(1) of this section, the agency shall not require an applicant to pay more than $10,000.00 with respect to a facility.

(2) The provisions of subsection (c) (mandatory meeting) of this section shall not apply.

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

Sec. 3c. Sec. F33 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. F33. ANR REPORT ON ANTI-DEGRADATION IMPLEMENTATION RULES

On or after January 15, 2011, and at ~~least 30 days prior to prefiling~~ the same time that the secretary of natural resources prefiles draft anti-degradation

policy implementation rules with the interagency committee on administrative rules under 3 V.S.A. § 837, the secretary of natural resources shall submit for review a copy of the draft anti-degradation policy implementation rules to the senate committee on natural resources and energy and the house committee on fish, wildlife and water resources. At the time of such prefiling, if the general assembly is not in session, then the secretary shall comply with this section by submitting the draft rules to the chairs of the senate committee on natural resources and energy and the house committee on fish, wildlife and water resources.

Ninth: In Sec. 10, 30 V.S.A. § 8092 (nonexclusive use of fiber on electric utility poles), in subsection (h) (transmission poles), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) Notwithstanding any law or rule to the contrary, a company may not enter into a contract with a communications service provider that provides exclusive access to its company-attached and company-maintained fiber-optic facilities by including terms that expressly prohibit any other communications service provider from leasing or purchasing unused strands of fiber. The terms and conditions of any contract entered into under this section shall include a provision specifying that, if a communications service provider leases fiber-optic capacity but fails to use that capacity within one year from the date the contract is entered into, the communications service provider shall report such non-use to the department of public service. The commissioner of public service shall determine if such non-use constitutes anti-competitive behavior that unreasonably precludes another communications service provider from leasing fiber-optic capacity. If the commissioner determines that such non-use constitutes anti-competitive behavior, he or she shall commence an investigation with the board of public service. The board is authorized to impose a remedy it deems appropriate under the circumstances. Such remedy may include termination of the lease with respect to the unused portion of the leased fiber-optic capacity.

Tenth: In Sec. 10, 30 V.S.A. § 8092 (nonexclusive use of fiber on electric utility poles), by striking out subsection (j) (distribution poles) in its entirety and inserting in lieu thereof a new subsection (j) to read as follows:

(j) A company having electric transmission or distribution structures carrying voltages of 110 kV or lower may not enter into a contract with a communications service provider that provides exclusive access to its company-attached and company-maintained fiber-optic facilities by including terms that expressly prohibit any other communications service provider from leasing or purchasing unused strands of fiber. The terms and conditions of any

contract entered into under this section shall include a provision specifying that, if a communications service provider leases fiber-optic capacity but fails to use that capacity within one year from the date the contract is entered into, the communications service provider shall report such non-use to the department of public service. The commissioner of public service shall determine if such non-use constitutes anti-competitive behavior that unreasonably precludes another communications service provider from leasing fiber-optic capacity. If the commissioner determines that such non-use constitutes anti-competitive behavior, he or she shall commence an investigation with the board of public service. The board is authorized to impose a remedy it deems appropriate under the circumstances. Such remedy may include termination of the lease with respect to the unused portion of the leased fiber-optic capacity.

Eleventh: In Sec. 11 (study on regulatory exemption), in subsection (a), in the first sentence, after the words "certain telecommunications carriers" by adding the words not currently eligible

Twelfth: In Sec. 12, 30 V.S.A. § 227e (leasing or licensing of state land for telecommunications facilities), in subsection (b), in subdivision (1), after the following: "on the website maintained by the agency of administration" by adding the following: , with appropriate hyperlinks to that website on all relevant, state-maintained websites

Thirteenth: In Sec. 14, 24 V.S.A. § 4413 (limitations on municipal bylaws), in subdivision (h)(1), in the first sentence, before "bylaw" by striking out the following: "A" and inserting in lieu thereof the following: Except as necessary to ensure compliance with the national flood insurance program, a

Fourteenth: In Sec. 14b, 3 V.S.A. § 2222b (telecommunications coordination and planning), in subsection (c) (deployment tracking), in subdivision (1), after the words "Not later than 30 days" by striking out the word "of" and inserting in lieu thereof the word after

Fifteenth: In Sec. 14b, 3 V.S.A. § 2222b (telecommunications coordination and planning), in subsection (c) (deployment tracking), in subdivision (5), at the end of the subdivision, by adding the following: Alternatively, entities that voluntarily provide information requested pursuant to this subdivision may select a third party to be the recipient of such information. That third party may aggregate information provided by the entities, but shall not disclose the information it has received to any person, including the secretary. The third party may only disclose the aggregated information to the secretary.

Sixteenth: By striking out Sec. 14c in its entirety and inserting in lieu thereof a new Sec. 14c to read as follows:

Sec. 14c. Rule 5(d)(2) of the Vermont Rules of Environmental Court Proceedings is amended to read:

(2) *Claims and Challenges of Party Status in an Appeal from a Final Decision.* An appellant who claims party status as a person aggrieved pursuant to 6 V.S.A. § 4855 or 10 V.S.A. § 8504(a) and is not denied that status by 10 V.S.A. § 8504(d)(1), or an appellant who claims party status as an interested person pursuant to 10 V.S.A. § 8504(b)(1), will be automatically accorded that status when the notice of appeal is filed unless the court otherwise determines on motion to dismiss a party. An appellant who claims party status under 10 V.S.A. § 8504(b)(2), (d)(2), or (e)(2) and who has not sought interlocutory relief pursuant to paragraph (1) of this subdivision must assert that claim by motion filed ~~with the notice of appeal~~ not later than the deadline for filing a statement of questions on appeal. Any other person who appears as provided in subdivision (c) of this rule will be accorded party status unless the court otherwise determines on its own motion, on motion to dismiss a party, or on a motion to intervene.

Seventeenth: By adding a new section to be numbered Sec. 14e to read as follows:

Sec. 14e. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

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

* * *

(8)(A) Communications antennae and facilities. Except to the extent bylaws protect historic landmarks and structures listed on the state or national register of historic places, no permit shall be required for placement of ~~antennae~~ an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the ~~aggregate~~ area of the largest ~~faces~~ face of the ~~antennae~~ antenna is not more than ~~eight~~ 15 square feet, and if the ~~antennae~~ antenna and any mast support ~~does~~ do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

* * *

Eighteenth: In Sec. 15, 30 V.S.A. § 8060 (VTA findings and purpose), in subsection (b), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) the ~~ubiquitous~~ universal availability of mobile telecommunication services, including voice and high-speed data ~~throughout the state~~ along

roadways and near universal availability statewide by the end of the year ~~2010~~ 2013.

Nineteenth: In Sec. 16, 30 V.S.A. § 8061 (establishment and organization of the VTA), in subsection (c), after the words "The governor" by striking out ", the speaker of the house, and the president pro tempore of the senate shall jointly" and inserting in lieu thereof the word "shall"

Twentieth: In Sec. 16, 30 V.S.A. § 8061 (establishment and organization of the VTA), in subsection (d), by striking out the last sentence in its entirety and inserting in lieu thereof the following: "Upon completion of a term of service for any reason, including the term's expiration or a member's resignation, and for one year from the date of such completion, a former board member shall not advocate before the authority on behalf of an enterprise that provides broadband or cellular service."

Twenty-first: By striking out Sec. 16a (VTA board transitional provision) in its entirety and inserting in lieu thereof a new Sec. 16a to read as follows:

Sec. 16a. VTA BOARD; REORGANIZATION

Upon the effective date of this act, the terms of office of the existing members of the board of directors of the Vermont telecommunications authority shall terminate, but members shall continue to serve until new members for the term commencing in 2011 are appointed as provided in this act.

Twenty-second: In Sec. 17, 30 V.S.A. § 8062 (VTA powers and duties), in subsection (a), after the new subdivision (2) (inventory of federal radio frequency licenses), by adding a new subdivision (3) to read as follows:

(3) to the extent not inconsistent with the goals of this chapter, to utilize existing buildings and structures, historic or otherwise, as sites for visually-neutral placement of mobile telecommunications and wireless broadband antenna facilities;

And by renumbering the remaining subdivisions to be numerically correct.

Twenty-third: In Sec. 17, 30 V.S.A. § 8062 (VTA powers and duties), in subsection (b), in subdivision (1), after the word "unserved" in both instances by inserting the words or underserved

Twenty-fourth: In Sec. 18, 30 V.S.A. § 8063 (interagency cooperation), in the new subsection (b), after the words "general assembly" by inserting the following: or, if the general assembly is not in session, without prior notice to the chairs of the house committee on commerce and economic development and the senate committees on finance and on economic development, housing

and general affairs and approval of the joint fiscal committee, in consultation with the legislative chairs already referenced in this subsection

Twenty-fifth: In Sec. 19, 30 V.S.A. § 8071 (VTA quarterly and annual reports), in subsection (c), in subdivision (6), after the words "existing business providers" by striking out the rest of the sentence until the period

Twenty-sixth: By striking out Sec. 23 (Hughesnet recovery act program) in its entirety and inserting in lieu thereof a new Sec. 23 to read as follows:

Sec. 23. SATELLITE RECOVERY ACT PROGRAM

(a) Pursuant to the broadband initiatives program of the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, companies such as Hughes Network Systems, LLC (Hughes) were selected by the Rural Utilities Service (RUS) of the United States Department of Agriculture as nationwide providers under RUS's satellite grant program. Under the program, Hughes was awarded a $58,700,000.00 grant in 2010. The grant allows Hughes to provide high speed Internet service by satellite to over 105,000 rural residences by eliminating the cost of hardware and installation and by reducing the price of monthly service plans.

(b) The satellite Internet service provided by satellite grant recipients may provide a good opportunity to bring broadband service to areas that otherwise might not be served and for such time until broadband service meeting or exceeding the minimum technical service characteristics under 30 V.S.A. § 8077 is available.

(c) Notwithstanding the minimum technical service characteristics under 30 V.S.A. § 8077, the commissioner of public service and the director of the Vermont telecommunications authority shall make known the availability of satellite recovery act programs and reference them in relevant publications listing broadband providers in Vermont.

(d) Notwithstanding the provisions of this section, an area shall not be considered "served" for purposes of state broadband policy and planning if it is only served by a satellite provider.

Twenty-seventh: In Sec. 24a, 3 V.S.A. § 2222c (report on broadband and wireless deployment), in subsection (a), by striking out the word "chapter" and inserting in lieu thereof the word section

Twenty-eighth: In Sec. 24a, 3 V.S.A. § 2222c (report on broadband and wireless deployment), in subsection (b), in subdivision (1)(B), by striking out the following: "mpbs" and inserting in lieu thereof the following: Mbps

Twenty-ninth: In Sec. 24a, 3V.S.A. § 2222c (report on broadband and wireless deployment), in subsection (b), in subdivision (1)(A) and in

subdivisions (2)(A) and (B), by striking out each instance of the following: "mbps" and inserting in lieu thereof the following: Mbps

Thirtieth: In Sec. 24b, 30 V.S.A. § 202c (state telecommunications policy and planning), in subsection (b), in subdivision (9), after the following: "deployment of broadband infrastructure" by striking out the following: "pursuant to the objectives set forth in S.78 of the Acts of 2011"

Thirty-first: In Sec. 24c (report on the VTA's sustainability), in subsection (a), by striking out the word "ubiquitous" and inserting in lieu thereof the word universal

Thirty-second: By adding a new section to be numbered Sec. 24d to read as follows:

Sec. 24d. VTA FUNDING; FIBER-OPTIC FACILITIES; NORTH LINK

(a) Notwithstanding Sec. 14 of No. 2 of the Acts of 2009 (Special Session), which appropriated the sum of $500,000.00 from the general fund to the Vermont telecommunications authority (VTA) for the purpose of financing a transaction with Northern Enterprises, Inc. ("North Link"), such funds shall be used to complete the construction and installation of an open access fiber-optic network from Hardwick, Vermont to Newport, Vermont.

(b) The funds appropriated under this section may be used for direct investment in fiber-optic facilities, to be owned by the VTA, or for grants to telecommunications service providers.

(c) Fiber-optic facilities owned by the VTA pursuant to this section shall include fiber strands for use by a telecommunications service provider to deliver broadband Internet access directly to homes, businesses, and institutional users (last-mile connectivity), in addition to strands which may be used to interconnect with other broadband and cellular facilities (middle mile) or to support system control and data acquisition for an electric distribution utility for smart metering technology solutions.

(d) Fiber-optic facilities funded in whole or in part with funds appropriated under this section shall be available for use by as many telecommunications service providers as the technology will permit on a nondiscriminatory basis and according to published terms and conditions.

Which was agreed to.

House Proposal of Amendment Concurred In with Amendment

S. 92.

House proposal of amendment to Senate bill entitled:

An act relating to the protection of students' health by requiring the use of safe cleaning products in schools.

Was taken up.

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

Sec. 1. STATEMENT OF POLICY

The general assembly has long been committed to improving the indoor air quality of schools and the environmental health of students. To that end, the envision program, adopted by this body in No. 125 of the Acts of the 1999 Adj. Sess. (2000), shall be instructional in carrying out the requirements set forth in 18 V.S.A. chapter 39.

Sec. 1a. 18 V.S.A. chapter 39 is added to read:

CHAPTER 39. CLEANING PRODUCTS IN SCHOOLS

§ 1781. DEFINITIONS

As used in this chapter:

(1) "Air freshener" means an aerosol spray, liquid deodorizer, plug-in product, para-di-chlorbenzene block, scented urinal screen, or other product used to mask odors or freshen the air in a room.

(2) "Antimicrobial pesticide" means a product regulated by the federal Insecticide, Fungicide and Rodenticide Act that is intended to:

(A) disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms; or

(B) protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.

(3) "Cleaning product" means an institutional compound intended for routine cleaning, including general purpose cleaners, bathroom cleaners, glass cleaners, carpet cleaners, floor care products, and hand soaps. Cleaning product shall not mean an antimicrobial pesticide.

(4) "Conventional cleaning product" means a cleaning product that is not an environmentally preferable cleaning product.

(5) "Distributor" means any person or entity that distributes cleaning products commercially, but excludes retail stores.

(6) "Environmentally preferable cleaning product" means a cleaning product that has a lesser or reduced effect on human health and the environment when compared to competing products serving the same purpose.

(7) "Green cleaning" means a practice that includes the use of a cleaning product certified as environmentally preferable by an independent third party, best practices that follow accepted management standards and improve indoor air quality, and equipment that facilitates effective cleaning.

(8)(A) "Independent third party" means a nationally recognized organization that has developed a program for the purpose of certifying environmentally preferable cleaning products. The independent third party's certification program shall:

(i) define a manufacturer's certification fees;

(ii) identify any potential conflicts of interest;

(iii) base certification on consideration of human health and safety, ecological toxicity, other environmental impacts, and resource conservation as appropriate for the product and its packaging on a life-cycle basis;

(iv) develop certification standards in an open, public, and transparent manner that involves the public and key stakeholders;

(v) periodically revise and update the standards to remain consistent with current research about the impacts of chemicals on human health;

(vi) monitor and enforce the standards for the purpose of certification, and have the authority to inspect the manufacturing facility and periodically do so, and have a registered or legally protected certification mark; and

(vii) make the standards easily accessible to purchasers and manufacturers; or

(B) In the alternative, "independent third party" means any organization otherwise deemed by the department of health to satisfactorily assess and certify environmentally preferable cleaning products.

(9) "Manufacturer" means any person or entity engaged in the process of manufacturing cleaning products for commercial distribution.

(10) "School" means:

(A) A public school in Vermont, including a regional technical center and a comprehensive high school; and

(B) An approved independent school.

§ 1782. ENVIRONMENTALLY PREFERABLE CLEANING PRODUCTS

(a) A distributor or manufacturer of cleaning products shall sell, offer for sale, or distribute to a school, school district, supervisory union, or procurement consortium only:

(1) environmentally preferable cleaning products utilized by the department of buildings and general services under state contracts; or

(2) cleaning products certified as environmentally preferable by an independent third party.

(b) A person who contracts with a school, school district, or supervisory union to provide cleaning services for a school only shall use a cleaning product that meets the requirements of subdivisions (a)(1) and (2) of this section.

(c) Nothing in this chapter shall be construed to regulate the sale, use, or distribution of antimicrobial pesticides.

§ 1783. ENVIRONMENTALLY PREFERABLE AIR FRESHENERS

(a) A distributor or manufacturer shall sell, offer for sale, or distribute air fresheners to a school, school district, supervisory union, or procurement consortium only if the air fresheners are certified as environmentally preferable by an independent third party.

(b) A person who contracts with a school, school district, or supervisory union to provide cleaning services for a school shall only use air fresheners that meet the requirements of subsection (a) of this section.

Sec. 2. TRANSITION

Notwithstanding the provisions of 18 V.S.A. § 1782:

(1) A manufacturer or distributor of cleaning products may continue to sell, offer for sale, or distribute conventional cleaning products to a school, school district, supervisory union, or procurement consortium until July 1, 2011. A school may continue to use conventional cleaning products purchased prior to July 1, 2011 until supplies are depleted.

(2) A manufacturer or distributor of cleaning products may continue to sell, offer for sale, or distribute conventional cleaning products to an approved independent school with fewer than 50 students until July 1, 2012. An approved independent school with fewer than 50 students may continue to use conventional cleaning products purchased prior to July 1, 2012 until supplies are depleted.

Sec. 3. Sec. 2 of No. 125 of the Acts of the 1999 Adj. Sess. (2000) is amended to read:

Sec. 2. COMMISSIONERS OF HEALTH AND OF BUILDINGS AND GENERAL SERVICES; SCHOOL ENVIRONMENTAL HEALTH WEBSITE

(a) The commissioners of health and of buildings and general services shall jointly create and jointly update as necessary an electronic school environmental health clearinghouse site on the health department's website, including diagnostic checklists and searchable databases. This website shall include:

(1) Information on materials and practices in common use in school operations and construction that may compromise indoor air quality or negatively impact human health;

(2) Information on potential health problems associated with these materials, with specific reference to children's vulnerability;

(3) Information on integrated pest management and alternatives to chemical pest control;

(4) Information on methods to reduce or eliminate exposure to potentially hazardous substances in schools, including the following:

(A) a list of preventive management options, such as ventilation, equipment upkeep, design strategies, and performance standards;

(B) a list of nontoxic or least-toxic office and classroom supplies, ~~maintenance and cleaning chemicals,~~ building equipment, and materials and furnishings; and

(C) a list of environmental health criteria that schools may use as a decision-making tool when determining what materials to purchase or use in school construction or operations;

(5) Information on environmentally preferable cleaning products, including:

(A) a list of environmentally preferable cleaning products used by the department of buildings and general services under state contracts or a list of environmentally preferable cleaning products certified by an independent third party pursuant to 18 V.S.A. chapter 39; and

(B) procedures for using environmentally preferable cleaning products;

~~(5)~~(6) The model school environmental health policy and management plan developed pursuant to Sec. 3 of this act.

(b) The commissioners of health, of buildings and general services, and of education, with help from the secretary of the agency of natural resources when appropriate, shall:

(1) Review the information on the school environmental health information clearinghouse at least twice yearly, and update it whenever significant developments occur.

(2) At the request of school officials, assist school environmental health coordinators to identify potential sources of environmental pollution in the school, and make recommendations on how to alleviate any problems.

(3) Annually, organize a school environmental health training workshop for school environmental health coordinators and school administrators, and an annual training for school maintenance and custodial staff. Each workshop and training shall include instruction on green cleaning practices, including products and procedures as defined pursuant to 18 V.S.A. § 1781. The department shall issue certificates of training to participants who successfully complete the workshops.

(4) Publicize the availability of information through the school environmental health clearinghouse.

(5) Provide information and referrals to members of school communities who contact the school environmental health clearinghouse with hazardous exposure and indoor air concerns.

(6) Assist elementary and secondary schools in Vermont to establish comprehensive school environmental health programs, which have all or most of the elements of the model policy developed pursuant to Sec. 3 of this act, to address indoor air and hazardous exposure issues.

(7) Report annually to the house and senate committees on education on the extent of indoor air and hazardous exposure problems in Vermont schools and on the percentage of Vermont schools that have established a school environmental health program or qualified for environmental health certification.

(c) Any information provided under this section shall be based on peer-reviewed published scientific material.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Lyons moved that the Senate concur in the House proposal of amendment with a further amendment as follows:

First: In Sec. 1a, 18 V.S.A. § 1781, by striking out subdivision (7) in its entirety and inserting in lieu thereof a new subdivision (7) to read as follows:

(7) "Green cleaning" means a practice that includes:

(A) the use of a cleaning product certified as environmentally preferable by an independent third party or an environmentally preferable cleaning product used by the department of buildings and general services;

(B) best practices that follow accepted management standards and improve indoor air quality; and

(C) equipment that facilitates effective cleaning.

Second: In Sec. 1a, 18 V.S.A. § 1782, by adding a new subsection (d) to read as follows:

(d) A distributor or manufacturer of cleaning products shall provide a green cleaning training to each school district it provides with environmentally preferable cleaning products pursuant to 18 V.S.A. § 1782, provided the training is incurred at no cost to the school district.

Third: In Sec. 1a, 18 V.S.A. chapter 39, by adding a new section to be § 1784 to read as follows:

§ 1784. PENALTY EXEMPTION

Nothing in this chapter shall cause a person to be subject to the fine established in section 7 of this title.

Which was agreed to.

Senate Resolution Adopted

S.R. 9.

Senate resolution entitled:

Senate resolution urging Congress to adopt comprehensive immigration reform legislation at the earliest possible date.

Having been placed on the Calendar for action, was taken up and adopted.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment to House Proposal of Amendment Concurred In

S. 108.

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to bill entitled:

An act relating to effective strategies to reduce criminal recidivism.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the Senate proposal amendment to the House proposal of amendment in the *first*, and *fourth* through *ninth* instances of amendment and proposes that the bill be further amended by adding a new section to be numbered Sec. 3c to read as follows:

Sec. 3c. 28 V.S.A. §§ 808a–808c are amended to read:

§ 808a. TREATMENT FURLOUGH

(a) An offender may be sentenced to serve a term of imprisonment, but placed by a court on treatment furlough to participate in such programs administered by the department in the community that reduce the offender's risk to reoffend or that provide reparation to the community in the form of supervised work activities.

(b) Provided the approval of the sentencing judge is first obtained, the department may place on treatment furlough an offender who has not yet served the minimum term of the sentence, who, in the department's determination, needs residential treatment services not available in a correctional facility. The services may include treatment for substance abuse or personal violence or any other condition that the department has determined should be addressed in order to reduce the offender's risk to reoffend or cause harm to himself or herself or to others in the facility. The offender shall be released only to a hospital or residential treatment facility that provides services to the general population. The state's share of the cost of placement in such a facility, net of any private or federal participation, shall be paid pursuant to memoranda of agreement between and within state agencies reflective of their shared responsibilities to maximize the efficient and effective use of state resources. In the event that a memorandum of agreement cannot be reached, the secretary of administration shall make a final determination as to the manner in which costs will be allocated.

(c)(1) Except as provided in subdivision (2) of this subsection, the department, in its own discretion, may place on treatment furlough an offender who has not yet served the minimum term of his or her sentence for an eligible misdemeanor as defined in section 808d of this title if the department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism. ~~An offender shall not be eligible for treatment furlough under this subdivision, if, at the time of sentencing, the court makes written findings that treatment furlough is not likely to ensure public safety or victim safety, or is not likely to reduce the risk of recidivism for the offender.~~

(2) Driving under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. §§ 1201 and 1210(c) and boating under the influence of

alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323 shall be considered eligible misdemeanors for the sole purpose of subdivision (1) of this subsection.

§ 808b. HOME CONFINEMENT FURLOUGH

(a) An offender may be sentenced to serve a term of imprisonment, but placed by a court on home confinement furlough that restricts the defendant to a preapproved place of residence continuously, except for authorized absences. Home confinement furlough shall be enforced by appropriate means of supervision, including electronic monitoring and other conditions such as limitations on alcohol, visitors, and access to firearms imposed by the court, the department, or both.

(b) The department, in its own discretion, may place on home confinement furlough an offender who has not yet served the minimum term of the sentence for an eligible misdemeanor as defined in section 808d of this title if the department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism. ~~An offender shall not be eligible for home confinement furlough under this subsection, if, at the time of sentencing, the court makes written findings that home confinement furlough is not likely to ensure public safety or victim safety, or is not likely to reduce the risk of recidivism for the offender, or the criteria for a home confinement furlough set forth in this section have not been met. Such a finding shall be set forth as a condition on the mittimus.~~

(c) A home confinement furlough shall not exceed a total of 180 days and shall require the defendant:

(1) to remain at a preapproved residence at all times except for scheduled and preapproved absences for work, school, treatment, attorney appointments, court appearances, and other obligations as the court may order; or

(2) to remain at a preapproved residence 24 hours a day on lock-down status except for medical appointments and court appearances.

(d) In determining whether a home confinement furlough sentence is appropriate and whether a place of residence is suitable for such a sentence, all of the following shall be considered:

(1) The nature of the offense with which the defendant was charged and the nature of the offense of which the defendant was convicted.

(2) The defendant's criminal history record, history of violence, medical and mental health needs, history of supervision, and risk of flight.

(3) Any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

~~(e) At the request of the department, the court may vacate a condition of a mittimus prohibiting home confinement issued under subsection (b) of this section, based upon a showing of changed circumstances by the department.~~

§ 808c. REINTEGRATION FURLOUGH

(a)(1) To prepare for reentry into the community, an offender sentenced to incarceration may be furloughed to the community up to 180 days prior to completion of the minimum sentence, at the commissioner's discretion and in accordance with rules adopted pursuant to subsection (c) of this section. Except as provided in subdivision (2) of this subsection, an offender sentenced to a minimum term of fewer than 365 days shall not be eligible for furlough under this subdivision until the offender has served at least one-half of his or her minimum term of incarceration.

(2) An offender sentenced to a minimum term of fewer than 365 days for an eligible misdemeanor as defined in section 808d of this title shall be eligible for furlough under this subdivision, provided the department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism. ~~An offender shall not be eligible for a reintegration furlough under this subdivision if, at the time of sentencing, the court makes written findings that it is not likely to ensure public safety or victim safety, or is not likely to reduce the risk of recidivism for the offender.~~

(b) Except as provided in subsection (d) of this section, an offender sentenced to incarceration is eligible to earn five days toward reintegration furlough, to be applied prior to the expiration of the offender's minimum term, for each month served in the correctional facility during which the offender has complied with the case plan prepared pursuant to subsection 1(b) of this title and has obeyed all rules and regulations of the facility. Days shall be awarded only if the commissioner determines, in his or her sole discretion, that they have been earned in accordance with rules adopted by the department pursuant to subsection (c) of this section and shall in no event be awarded automatically. The commissioner's determination shall be final. Days earned under this subsection may be awarded in addition to the reintegration furlough authorized in subsection (a) of this section. The commissioner shall have the discretion to

determine the frequency with which calculations under this subsection shall be made provided they are made at least as frequently as every six months.

(c) The commissioner may authorize reintegration furlough under subsections (a) and (b) of this section only if the days are awarded in accordance with rules adopted pursuant to chapter 25 of Title 3 designed to do the following:

(1) Evaluate factors such as risk of reoffense, history of violent behavior, history of compliance with community supervision, compliance with the case plan, progress in treatment programs designed to reduce criminal risk, and obedience to rules and regulations of the facility.

(2) Ensure adequate departmental supervision of the offender when furloughed into the community.

(d) The commissioner may not award days toward reintegration furlough under subsection (b) of this section if the offender is sentenced to a minimum term of incarceration in excess of five years or is incarcerated for a conviction of one or more of the following crimes:

(1) Arson causing death as defined in 13 V.S.A. § 501;

(2) Assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);

(3) Assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);

(4) Aggravated assault as defined in 13 V.S.A. § 1024;

(5) Murder as defined in 13 V.S.A. § 2301;

(6) Manslaughter as defined in 13 V.S.A. § 2304;

(7) Kidnapping as defined in 13 V.S.A. § 2405;

(8) Unlawful restraint as defined in 13 V.S.A. §§ 2406 and 2407;

(9) Maiming as defined in 13 V.S.A. § 2701;

(10) Sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (2);

(11) Aggravated sexual assault as defined in 13 V.S.A. § 3253;

(12) Burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c); or

(13) Lewd or lascivious conduct with a child as defined in 13 V.S.A. § 2602.

(e) An offender incarcerated for driving while under the influence of alcohol under 23 V.S.A. § 1210(d) or (e) may be furloughed to the community up to 180 days prior to completion of the minimum sentence at the commissioner's discretion and in accordance with rules adopted pursuant to subsection (d) of this section, provided that an offender sentenced to a minimum term of fewer than 270 days shall not be eligible for furlough under this subsection until the offender has served at least 90 days of his or her minimum term of incarceration and provided that the commissioner uses electronic equipment to monitor the offender's location and blood alcohol level continually, or other equipment such as an alcohol ignition interlock system, or both.

(f) Prior to release under this section, the department shall screen and, if appropriate, assess each felony drug and property offender for substance abuse treatment needs using an assessment tool designed to assess the suitability of a broad range of treatment services, and it shall use the results of this assessment in preparing a reentry plan. The department shall attempt to identify all necessary services in the reentry plan and work with the offender to make connections to necessary services prior to release so that the offender can begin receiving services immediately upon release.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment?, was decided in the affirmative.

Message from the House No. 73

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 74. An act relating to the transferring of the animal spaying and neutering program to the department of health.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Joint Senate Resolution Adopted on the Part of the Senate; Rules Suspended; Joint Resolution Messaged

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Campbell,

J.R.S. 32. Joint resolution relating to final adjournment of the General Assembly in 2011.

Resolved by the Senate and House of Representatives

That when the President of the Senate and the Speaker of the House of Representatives adjourn their respective houses on the sixth day of May, 2011 they shall do so to reconvene on the seventh day of June, 2011, at ten o'clock in the forenoon if the Governor should fail to approve and sign any bill and should he return it to the house of origin with his objections in writing after such adjournment, or to reconvene on the eighteenth day of October, 2011, at ten o'clock in the forenoon on the joint call of the President *pro tempore* of the Senate and the Speaker of the House, or if not so jointly called, on the third day of January, 2012, at ten o'clock in the forenoon, if the Governor should *not* so return any bill to either house.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the joint resolution was ordered messaged to the House forthwith.

Rules Suspended; Bill Messaged

On motion of Senator Campbell, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

S. 92.

Rules Suspended; House Proposal of Amendment Concurred In

S. 74.

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to bill entitled:

An act relating to the transferring of the animal spaying and neutering program to the department of health.

Was taken up for immediate consideration.

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

Sec. 1. 20 V.S.A § 3815 is amended to read:

§ 3815. DOG, CAT, AND WOLF-HYBRID SPAYING AND NEUTERING PROGRAM

(a) The ~~agency of agriculture, food and markets shall establish by rule a process by which a qualified organization~~ agency of human services shall administer a dog, cat, and wolf-hybrid spaying and neutering program

providing reduced-cost spaying and neutering services and presurgical immunization for dogs, cats, and wolf-hybrids owned or cared for by low income individuals. The agency shall implement the program through an agreement with a qualified organization consistent with the applicable administrative rules.

(b) The program shall reimburse veterinarians who voluntarily consent to spay or neuter dogs, cats, and wolf-hybrids under the auspices of the program. The reimbursement shall be less any co-payment by the owner of a dog, cat, or wolf-hybrid for the cost of each spaying or neutering procedure.

(c) ~~The agency of agriculture, food and markets is authorized to promulgate an emergency administrative rule by August 1, 2009, the purpose of which shall be that only a dog, cat, or wolf-hybrid acquired for no compensation shall be eligible for funding from the animal spaying and neutering program established under this section. The rule shall provide consideration for the financial ability of the funding applicant to pay for the requested service. For the purposes of this subsection, a nominal fee or donation required for adoption of a dog, cat, or wolf-hybrid shall not constitute compensation paid for the animal~~ The secretary of human services, in consultation with the chair of the Vermont Board of Veterinary Medicine, may adopt and amend rules pursuant to chapter 25 of Title 3 to enable the agency to carry out the purposes of this act.

Sec. 2. 20 V.S.A. § 3816 is amended to read:

§ 3816. ANIMAL SPAYING AND NEUTERING FUND; CREATION

(a) There is created, pursuant to subchapter 5 of chapter 7 of Title 32, in the ~~agency of agriculture, food and markets~~ agency of human services the dog, cat, and wolf-hybrid spaying and neutering special fund to finance the costs of the dog, cat, and wolf-hybrid spaying and neutering program established in section 3815 of this title.

(b) Revenue for the fund shall be derived from:

(1) The ~~$2.00~~ surcharge payment paid to a municipality pursuant to subdivision 3581(c)(1) of this title.

(2) Gifts from private donors.

(3) Any appropriation which the general assembly makes to the fund.

(c) Interest earned on the fund shall be retained in the fund.

(d) The ~~agency may offset the cost of administering the dog, cat, and wolf-hybrid spaying and neutering program from the fund created in subsection (a) of this section in accordance with the provisions of section 10 of~~

~~Title 6~~ agency of human services shall use the revenue in the fund created in subsection (a) of this section for administering the dog, cat, and wolf-hybrid spaying and neutering program.

Sec. 3. ADMINISTRATIVE RULE APPLICABILITY

The agency of human services shall administer the dog, cat, and wolf-hybrid spaying and neutering program established in 20 V.S.A. § 3815 pursuant to the applicable administrative rule which became effective on July 1, 2010 until the rule is amended to reflect the transfer of the jurisdiction of the program to the agency of human services.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

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

An act relating to the transferring of the animal spaying and neutering program to the agency of human services.

Thereupon, the pending question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Senate Concurrent Resolutions Adopted

Senate concurrent resolutions of the following title was offered, read and adopted in concurrence:

By All Members of the Senate,

S.C.R. 18.

Senate concurrent resolution designating December 1–7, 2011 as Civil Air Patrol Week and commemorating the organization's 70th anniversary.

By Senators Sears and Hartwell,

By Representative Botzow and others,

S.C.R. 19.

Senate concurrent resolution congratulating the Oldcastle Theatre Company of Bennington on its 40th anniversary.

[The full text of the Senate concurrent resolutions will appear in the volume of the Public Acts and Resolves to be published for this session of the seventieth-first biennial session of the Vermont General Assembly.]

House Concurrent Resolutions Adopted

House concurrent resolutions of the following titles were severally offered, read and adopted in concurrence:

By Representatives Lippert and Grad,

H.C.R. 194.

House concurrent resolution honoring Big Truck Day @ Hinesburg Nursery School.

By Senators Campbell, McCormack and Nitka,

By Representative Sweaney and others,

H.C.R. 195.

House concurrent resolution extending best wishes for success to the New England Living Show House in Windsor .

By Senator Westman,

By Representative Howard,

H.C.R. 196.

House concurrent resolution congratulating the Cambridge municipal emergency and highway officials on their superb response during the 2011 spring floods.

By Senators Ashe, Ayer, Benning, Brock, Campbell, Carris, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman and White,

By Representative Olsen and others,

H.C.R. 197.

House concurrent resolution in memory of Mr. Vermont, Elbert (Al) Moulton.

By Senators Campbell, McCormack and Nitka,

By Representative Clarkson,

H.C.R. 198.

House concurrent resolution congratulating the town of Reading on its 250th anniversary.

By Representative McNeil and others,

H.C.R. 199.

House concurrent resolution honoring Commander Frank L. Gabaree of the Vermont Detachment of the Sons of the American Legion for his outstanding leadership.

By Senator White,

By Representative Mrowicki and others,

H.C.R. 200.

House concurrent resolution congratulating the award-winning *The Commons* newspaper on the publication of its 100th issue.

By Senator Mazza,

By Representatives Keenan and Miller,

H.C.R. 201.

House concurrent resolution congratulating Vermont Interactive Television on winning two international awards.

By Representatives Young and Hooper,

H.C.R. 202.

House concurrent resolution honoring the Langdon Street Café for its artistic contribution to life in Vermont's capital city.

By Representative Jewett and others,

H.C.R. 203.

House concurrent resolution in memory of Alfred G. Hare of Middlebury.

[The full text of the House concurrent resolutions will appear in the volume of the Public Acts and Resolves to be published for this session of the seventieth-first biennial session of the Vermont General Assembly.]

Rules Suspended; Bills Delivered

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

S. 17, S. 74, S. 78, S. 108.

Senate Concurrent Resolutions

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted on the part of the Senate:

By All Members of the Senate,

By Representative Andrews and others,

S.C.R. 20.

Senate concurrent resolution congratulating the South Burlington Land Trust on winning the Green Mountain Environmental Leadership Awards' 2011 Courage in Leadership Award.

By All Members of the Senate,

By Representative Atkins and others,

S.C.R. 21.

Senate concurrent resolution congratulating the Lake Champlain Committee on winning the Green Mountain Environmental Leadership Awards' 2011 Citizen Science Award.

By All Members of the Senate,

By Representative Andrews and others,

S.C.R. 22.

Senate concurrent resolution congratulating Freeaire Refrigeration of Waitsfield and its president, Richard Travers, on winning the Green Mountain Environmental Leadership Awards' 2011 What a Great Idea! Award.

By Senators Illuzzi, Ashe, Campbell, Carris, Doyle, Galbraith, McCormack, Nitka and Starr,

S.C.R. 23.

Senate concurrent resolution congratulating Judge Franklin Swift Billings, Jr., and Mrs. Pauline Richardson Gillingham Billings on their 60th wedding anniversary.

By Senators Campbell and Doyle,

S.C.R. 24.

Senate concurrent resolution honoring Paolo Rovetto for his amazing disc jockeying achievements.

[The full text of the Senate concurrent resolutions appeared in the Senate calendar addendum for May 5, 2011 and May 6, 2011, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the seventieth-first biennial session of the Vermont General Assembly.]

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence:

By Committee on General, Housing and Military Affairs,

H.C.R. 171.

House concurrent resolution honoring Robert Howe for his 41 years of dedicated public service on behalf of the state of Vermont.

By Representative Lorber and others,

H.C.R. 172.

House concurrent resolution congratulating Claude Mumbere on winning the 2011 Vermont Poetry Out Loud: National Recitation Contest.

By Senators Sears and Hartwell,

By Representative Botzow,

H.C.R. 173.

House concurrent resolution honoring former Representative Neal Hoag for his dedicated public service on behalf of the citizens of Woodford .

By Senators Ayer and Giard,

By Representatives Clark and Lanpher,

H.C.R. 174.

House concurrent resolution congratulating Vergennes Union Elementary School on being named a 2011 Fit & Healthy Kids School Wellness Award recognition-level winner.

By Senators Benning, Illuzzi and Kitchel,

By Representative Larocque and others,

H.C.R. 175.

House concurrent resolution honoring Taylor Coppenrath on his continuing success in European professional basketball.

By Senators Ayer and Giard,

By Representative Smith,

H.C.R. 176.

House concurrent resolution congratulating the town of Bridport on the 250th anniversary of its municipal incorporation.

By Senators Ayer and Giard,

By Representative Smith,

H.C.R. 177.

House concurrent resolution congratulating the town of Weybridge on its 250th birthday.

By Senators Ayer and Giard,

By Representative Smith,

H.C.R. 178.

House concurrent resolution commemorating the 250th anniversary of the incorporation of the town of New Haven.

By Senators Ashe, Baruth, Fox, Lyons, Mazza, Miller and Snelling,

By Representative Waite-Simpson and others,

H.C.R. 179.

House concurrent resolution congratulating IBM on its centennial anniversary.

By Representative Howard and others,

H.C.R. 180.

House concurrent resolution recognizing the Vermont Mountain Bike Association’s important role in outdoor nonmotorized recreation.

By Senators Campbell, McCormack and Nitka,

By Representative Clarkson,

H.C.R. 181.

House concurrent resolution congratulating the town of Woodstock on its 250th anniversary.

By Representative Komline and others,

H.C.R. 182.

House concurrent resolution congratulating the Long Trail School on its 35th anniversary.

By Senators Ayer and Giard,

By Representatives Clark and Lanpher,

H.C.R. 183.

House concurrent resolution congratulating Kaitlin Leroux-Eastman on being named the 2011 Vermont Boys & Girls Clubs Youth of the Year.

By Senators Campbell, McCormack, Nitka, Sears, Snelling and White,

By Representative Olsen,

H.C.R. 184.

House concurrent resolution honoring the inspiring family of Felipe and Elena Ixcot and the Benedictine Brothers of the Weston Priory who offered them refuge and love for a quarter of a century.

By Representatives Donahue and Grad,

H.C.R. 185.

House concurrent resolution congratulating the Northfield Elementary School Destination ImagiNation Vermont state championship team.

By Senators Benning, Brock, Campbell, Carris, Doyle, Flory, Fox, Galbraith, Hartwell, Kitchel, Kittell, Mazza, McCormack, Nitka, Pollina, Sears and Snelling,

By Representative Bartholomew and others,

H.C.R. 186.

House concurrent resolution commemorating World Veterinary Year and the 250th anniversary of the veterinary medical profession.

By Senators Hartwell and Sears,

By Representative Campion and others,

H.C.R. 187.

House concurrent resolution celebrating the historic Park-McCullough House as a cultural treasure in the town of Bennington.

By Representative Lippert and others,

H.C.R. 188.

House concurrent resolution honoring Elise A. Guyette on the publication of *Discovering Black Vermont: African American Farmers in Hinesburgh, Vermont, 1790–1890*.

By Representative Buxton,

H.C.R. 189.

House concurrent resolution commemorating the 250th anniversary of the town of Tunbridge.

By Senators Hartwell and Sears,

By Representative Morrissey and others,

H.C.R. 190.

House concurrent resolution designating June 18, 2011 as Founders Day in Bennington.

By Representative Trieber and others,

H.C.R. 191.

House concurrent resolution congratulating Matt Martin on his being named Boys & Girls Clubs of Brattleboro Youth of the Year.

By Representative Pugh and others,

H.C.R. 192.

House concurrent resolution congratulating the 2011 Rice Memorial High School Green Knights Division I championship boys' basketball team.

By Representative Font-Russell and others,

H.C.R. 193.

House concurrent resolution commemorating National Train Day 2011 and the 40th anniversary of Amtrak.

[The full text of the House concurrent resolutions appeared in the Senate calendar addendum for May 5, 2011 and May 6, 2011, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the seventieth-first biennial session of the Vermont General Assembly.]

Message from the House No. 74

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

H. 264. An act relating to driving while intoxicated and to forfeiture and registration of motor vehicles .

And has adopted the same on its part.

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

H. 275. An act relating to the recently deployed veteran tax credit.

And has adopted the same on its part.

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

H. 287. An act relating to job creation and economic development.

And has adopted the same on its part.

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

H. 436. An act relating to tax changes, including income taxes, property taxes, economic development credits, health care-related tax provisions, and miscellaneous tax provisions.

And has adopted the same on its part.

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

H. 441. An act relating to making appropriations for the support of government.

And has adopted the same on its part.

The Governor has informed the House that on the May 6, 2011, he approved and signed bills originating in the House of the following titles:

H. 66. An act relating to the illegal taking of trophy big game animals.

H. 294. An act relating to approving amendments to the charter of the city of Montpelier.

H. 452. An act relating to establishing the boundary line between the towns of Shelburne and St. George.

Message from the House No. 75

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 77. An act relating to water testing of private wells.

S. 96. An act relating to technical corrections to the workers' compensation statutes.

And has severally concurred therein.

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

S. 108. An act relating to effective strategies to reduce criminal recidivism.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 171. House concurrent resolution honoring Robert Howe for his 41 years of dedicated public service on behalf of the state of Vermont.

H.C.R. 172. House concurrent resolution congratulating Claude Mumbere on winning the 2011 Vermont Poetry Out Loud: National Recitation Contest.

H.C.R. 173. House concurrent resolution honoring former Representative Neal Hoag for his dedicated public service on behalf of the citizens of Woodford .

H.C.R. 174. House concurrent resolution congratulating Vergennes Union Elementary School on being named a 2011 Fit & Healthy Kids School Wellness Award recognition-level winner.

H.C.R. 175. House concurrent resolution honoring Taylor Coppenrath on his continuing success in European professional basketball.

H.C.R. 176. House concurrent resolution congratulating the town of

Bridport on the 250th anniversary of its municipal incorporation.

H.C.R. 177. House concurrent resolution congratulating the town of Weybridge on its 250th birthday.

H.C.R. 178. House concurrent resolution commemorating the 250th anniversary of the incorporation of the town of New Haven.

H.C.R. 179. House concurrent resolution congratulating IBM on its centennial anniversary.

H.C.R. 180. House concurrent resolution recognizing the Vermont Mountain Bike Association's important role in outdoor nonmotorized recreation.

H.C.R. 181. House concurrent resolution congratulating the town of Woodstock on its 250th anniversary.

H.C.R. 182. House concurrent resolution congratulating the Long Trail School on its 35th anniversary.

H.C.R. 183. House concurrent resolution congratulating Kaitlin Leroux-Eastman on being named the 2011 Vermont Boys & Girls Clubs Youth of the Year.

H.C.R. 184. House concurrent resolution honoring the inspiring family of Felipe and Elena Ixcot and the Benedictine Brothers of the Weston Priory who offered them refuge and love for a quarter of a century.

H.C.R. 185. House concurrent resolution congratulating the Northfield Elementary School Destination ImagiNation Vermont state championship team.

H.C.R. 186. House concurrent resolution commemorating World Veterinary Year and the 250th anniversary of the veterinary medical profession.

H.C.R. 187. House concurrent resolution celebrating the historic Park-McCullough House as a cultural treasure in the town of Bennington.

H.C.R. 188. House concurrent resolution honoring Elise A. Guyette on the publication of *Discovering Black Vermont: African American Farmers in Hinesburgh, Vermont, 1790–1890*.

H.C.R. 189. House concurrent resolution commemorating the 250th anniversary of the town of Tunbridge.

H.C.R. 190. House concurrent resolution designating June 18, 2011 as Founders Day in Bennington.

H.C.R. 191. House concurrent resolution congratulating Matt Martin on

his being named Boys & Girls Clubs of Brattleboro Youth of the Year.

H.C.R. 192. House concurrent resolution congratulating the 2011 Rice Memorial High School Green Knights Division I championship boys' basketball team.

H.C.R. 193. House concurrent resolution commemorating National Train Day 2011 and the 40th anniversary of Amtrak.

H.C.R. 194. House concurrent resolution honoring Big Truck Day @ Hinesburg Nursery School.

H.C.R. 195. House concurrent resolution extending best wishes for success to the New England Living Show House in Windsor .

H.C.R. 196. House concurrent resolution congratulating the Cambridge municipal emergency and highway officials on their superb response during the 2011 spring floods.

H.C.R. 197. House concurrent resolution in memory of Mr. Vermont, Elbert (Al) Moulton.

H.C.R. 198. House concurrent resolution congratulating the town of Reading on its 250th anniversary.

H.C.R. 199. House concurrent resolution honoring Commander Frank L. Gabaree of the Vermont Detachment of the Sons of the American Legion for his outstanding leadership.

H.C.R. 200. House concurrent resolution congratulating the award-winning *The Commons* newspaper on the publication of its 100th issue.

H.C.R. 201. House concurrent resolution congratulating Vermont Interactive Television on winning two international awards.

H.C.R. 202. House concurrent resolution honoring the Langdon Street Café for its artistic contribution to life in Vermont's capital city.

H.C.R. 203. House concurrent resolution in memory of Alfred G. Hare of Middlebury.

In the adoption of which the concurrence of the Senate is requested.

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

S.C.R. 18. Senate concurrent resolution designating December 1–7, 2011 as Civil Air Patrol Week and commemorating the organization's 70th anniversary.

S.C.R. 19. Senate concurrent resolution congratulating the Oldcastle

Theatre Company of Bennington on its 40th anniversary.

S.C.R. 20. Senate concurrent resolution congratulating the South Burlington Land Trust on winning the Green Mountain Environmental Leadership Awards' 2011 Courage in Leadership Award.

S.C.R. 21. Senate concurrent resolution congratulating the Lake Champlain Committee on winning the Green Mountain Environmental Leadership Awards' 2011 Citizen Science Award.

S.C.R. 22. Senate concurrent resolution congratulating Freeaire Refrigeration of Waitsfield and its president, Richard Travers, on winning the Green Mountain Environmental Leadership Awards' 2011 What a Great Idea! Award.

S.C.R. 23. Senate concurrent resolution congratulating Judge Franklin Swift Billings, Jr., and Mrs. Pauline Richardson Gillingham Billings on their 60th wedding anniversary.

S.C.R. 24. Senate concurrent resolution honoring Paolo Rovetto for his amazing disc jockeying achievements.

And has adopted the same in concurrence.

Message from the House No. 76

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 20. Joint resolution relating to final adjournment of the General Assembly in 2011.

In the adoption of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 32. Joint resolution related to final adjournment of the General Assembly in 2011.

And has adopted the same in concurrence.

The Governor has informed the House that on the May 6, 2011, he approved and signed bills originating in the House of the following titles:

H. 66. An act relating to the illegal taking of trophy big game animals.

H. 294. An act relating to approving amendments to the charter of the city of Montpelier.

H. 452. An act relating to establishing the boundary line between the towns of Shelburne and St. George.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the ninth he approved and signed a bill originating in the Senate of the following title:

S. 58. An act relating to jurisdiction of a crime committed when the defendant was under the age of 16.

Secretary Directed to Inform the House of Completion of Business

On motion of Senator Campbell, the Secretary was directed to inform the House that the Senate has completed the business of the session and is ready to adjourn to a day certain, June 7, 2011, if necessary, or, if not necessary, to reconvene on the October 18, 2011, at ten o'clock in the forenoon on the joint call of the President *pro tempore* of the Senate and the Speaker of the House, or if not so jointly called, then to January 3, 2011, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 32.

Committee Appointed to Inform Governor of Completion of Business

On motion of Senator Campbell, the President appointed the following six (6) Senators as members of a committee to wait upon His Excellency, Peter E. Shumlin, the Governor, and inform him that the Senate has completed the business of the session and is ready to adjourn to a day certain, June 7, 2011, if necessary, or, if not necessary, to reconvene on the October 18, 2011, at ten o'clock in the forenoon on the joint call of the President *pro tempore* of the Senate and the Speaker of the House, or if not so jointly called, then to January 3, 2011, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 32:

Senator Campbell
Senator Mazza
Senator Flory
Senator Ayer
Senator Kitchel
Senator Cummings

Report of Committee

The Committee appointed to wait upon His Excellency, the Governor, to inform him that the Senate had, on its part, completed the business of the session and was ready to adjourn to a day certain, June 7, 2011, if necessary, or, if not necessary, to reconvene on the October 18, 2011, at ten o'clock in the forenoon on the joint call of the President *pro tempore* of the Senate and the Speaker of the House, or if not so jointly called, then to January 3, 2011, at ten o'clock in the forenoon, pursuant to the provisions of **J.R.S. 32**, performed the duties assigned to it and escorted the Governor to the rostrum where he delivered his remarks in person.

Remarks of Governor

The Governor, the Honorable Peter E. Shumlin, assumed the rostrum and briefly addressed the Senate.

Departure of Governor

The Governor, having completed the delivery of his message, was escorted from the Chamber by the committee appointed by the Chair.

Final Adjournment

On motion of Senator Campbell, at six o'clock and thirty minutes in the afternoon, (6:30 P.M.), the Senate adjourned to reconvene on the seventh day of June, 2011, at ten o'clock in the forenoon if the Governor should fail to approve and sign any bill and should he return it to the house of origin with his objections in writing after such adjournment, or to reconvene on the eighteenth day of October, 2011, at ten o'clock in the forenoon on the joint call of the President *pro tempore* of the Senate and the Speaker of the House, or if not so jointly called, on the third day of January, 2012, at ten o'clock in the forenoon, if the Governor should *not* so return any bill to either house, pursuant to the provisions of **J.R.S. 32**.

Messages Received After Final Adjournment

After final adjournment, the following messages were received by the Secretary:

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the ninth day of May, 2011, he approved and signed a bill originating in the Senate of the following title:

S. 58. An act relating to jurisdiction of a crime committed when the defendant was under the age of 16.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the eleventh day of May, 2011, he approved and signed bills originating in the Senate of the following titles:

S. 49. An act relating to commercial motor vehicle operation on the interstate system.

S. 90. An act relating to respectful language in state statutes in referring to people with disabilities.

S. 91. An act relating to motor vehicle operation and entertainment pictures.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twelfth day of May, 2011, he approved and signed a bill originating in the Senate of the following title:

S. 30. An act relating to assault of a health care worker.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the seventeenth day of May, 2011, he approved and signed bills originating in the Senate of the following titles:

S. 2. An act relating to sexual exploitation of a minor and the sex offender registry.

S. 101. An act relating to child support enforcement.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the eighteenth day of May, 2011, he approved and signed a bill originating in the Senate of the following title:

S. 15. An act relating to insurance coverage for midwifery services and home births.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the nineteenth day of May, 2011, he approved and signed bills originating in the Senate of the following titles:

S. 34. An act relating to the collection and disposal of mercury-containing lamps.

S. 53. An act relating to the number of prekindergarten children included within a school district's average daily membership.

S. 105. An act relating to miscellaneous agricultural subjects.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twentieth day of May, 2011, he approved and signed a bill originating in the Senate of the following title:

S. 108. An act relating to effective strategies to reduce criminal recidivism.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-third day of May, 2011, he approved and signed a bill originating in the Senate of the following title:

S. 73. An act relating to raising the penalties for eluding a police officer.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-fourth day of May, 2011, he approved and signed a bill originating in the Senate of the following title:

S. 94. An act relating to miscellaneous amendments to the motor vehicle laws.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-sixth day of May, 2011, he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 77. An act relating to water testing of private wells.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, whereby he veoted and returned unsigned **Senate Bill No. 77** to the Senate is as follows:

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-sixth day of May, 2011, he approved and signed bills originating in the Senate of the following titles:

S. 36. An act relating to the surplus lines insurance multi-state compliance compact.

S. 96. An act relating to technical corrections to the workers' compensation statutes.

S. 104. An act relating to modifications to the ban on gifts by manufacturers of prescribed products.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-seventh day of May, 2011, he approved and signed a bill originating in the Senate of the following title:

S. 78. An act relating to the advancement of cellular, broadband and other technology infrastructure in Vermont.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirty-first day of May, 2011, he approved and signed bills originating in the Senate of the following titles:

S. 74. An act relating to the transferring of the animal spaying and neutering program to the agency of human services.

S. 100. An act relating to making miscellaneous amendments to education laws.

Message from the Governor

A message was received from His Excellency, the Governor, by Alexandra McLean, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the second day of June, 2011, he approved and signed a bill originating in the Senate of the following title:

S. 17. An act relating to registering four nonprofit organizations to dispense marijuana for symptom relief.