Journal of the Senate

FRIDAY, APRIL 20, 2012

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 52

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 passed a House bill of the following title:

H. 533. An act relating to insurance business transfers.

In the passage of which the concurrence of the Senate is requested.

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

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

S. 203. An act relating to child support enforcement.

S. 222. An act relating to cost-sharing for employer-sponsored insurance assistance plans.

S. 236. An act relating to health care practitioner signature authority.

S. 245. An act relating to requiring cardiovascular care instruction in public and independent schools.

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 proposal of amendment to the following House bill:

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

And has severally concurred therein.

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

H. 413. An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult.

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

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

H. 535. An act relating to racial disparities in the Vermont criminal justice system.

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

Joint Resolution Placed on Calendar

J.R.S. 58.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Pollina,

J.R.S. 58. Joint resolution relating to respectful language in the Vermont Statutes Annotated.

Whereas, the State of Vermont is committed to eliminating all forms of abuse and harassment and to protecting the civil rights of all Vermonters, and

Whereas, this commitment includes achieving long-term systemic change to end discrimination against people with disabilities, and

Whereas, deliberate use of disrespectful language directed at people with disabilities is a form of harassment and abuse, and

Whereas, even if a word or phrase was not originally used with discriminatory intent, evolving societal perceptions may now cause the word or phrase to be viewed as showing disrespect to persons with disabilities, and

Whereas, in 2010, the general assembly enacted Act 24, directing that a working group under the supervision of the agency of human services identify instances in the Vermont Statutes Annotated of language that is now viewed as disrespectful to persons with disabilities, and

Whereas, the working group prepared a comprehensive inventory of instances where disrespectful language appears in the Vermont Statutes

Annotated and recommended alternative words and phrases as replacements, and

Whereas, the legislative council has the statutory revision authority provided in 2 V.S.A. § 424 to implement those language changes that do not substantively alter the meaning of the law, while other changes will require the enactment of legislation, and

Whereas, the general assembly desires that respectful language be used when referring to persons with disabilities, both in legislative deliberations and in the Vermont Statutes Annotated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly requests that the legislative council implement, during the 2012 statutory revision process, those aspects of the Act 24 working group's report on respectful language that are within the council's legal authority and further requests that a bill be prepared providing for the balance of the changes to the Vermont Statutes Annotated that would be presented to the house and senate committees on government operations no later than January 15, 2013.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Bill Passed in Concurrence with Proposal of Amendment

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

H. 550. An act relating to the Vermont administrative procedure act.

H. 789. An act relating to reapportioning the final representative districts of the House of Representatives.

Rules Suspended; Bills Messaged

On motion of Senator Campbell, the rules were suspended, and the following bills were ordered messaged to the House forthwith:

H. 550, H. 789.

Proposal of Amendment; Third Reading Ordered

H. 37.

Senator Miller, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to telemedicine.

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

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

Subchapter 14. Telemedicine

§ 4100k. COVERAGE FOR TELEMEDICINE SERVICES

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

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

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

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

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

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

(g) As used in this subchapter:

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

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

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

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

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

CHAPTER 219. HEALTH INFORMATION TECHNOLOGY AND TELEMEDICINE

Sec. 3. STATUTORY REVISION

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

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

Subchapter 2. Telemedicine

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

(a) Subject to the limitations of the license under which the individual is practicing, a health care provider licensed in this state may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient either in person or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider–patient settings. For purposes of this subchapter, "telemedicine" shall have the same meaning as in 8 V.S.A. § 4100k.

(b) Receiving teledermatology or teleophthalmology by store and forward means shall not preclude a patient from receiving real time telemedicine or face-to-face services with the distant site health care provider at a future date. Originating site health care providers involved in the store and forward process shall ensure informed consent from the patient. For purposes of this

subchapter, "store and forward" shall have the same meaning as in 8 V.S.A. § 4100k.

Sec. 5. RULEMAKING

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

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

Sec. 6. HEALTH CARE FACILITY; STUDY

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

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

Sec. 7. EFFECTIVE DATE

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

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

And that the bill ought to pass in concurrence with such proposal of amendment.

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

Consideration Resumed; Third Reading Ordered

H. 157.

Consideration was resumed on House bill entitled:

An act relating to restrictions on tanning beds.

Thereupon, the pending question, Shall the bill be read a third time?, was decided in the affirmative.

Proposal of Amendment; Consideration Postponed

H. 485.

Senator McCormack, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to establishing universal recycling of solid waste.

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

* * * Universal Recycling of Solid Waste * * *

Sec. 1. 10 V.S.A. § 6602 is amended to read:

§ 6602. DEFINITIONS

For the purposes of this chapter:

(1) "Secretary" means the secretary of the agency of natural resources, or his or her duly authorized representative.

(2) "Solid waste" means any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include animal manure and absorbent bedding used for soil enrichment; high carbon bulking agents used in composting; or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, chapter 47 of this title.

* * *

(12) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.

(13) "Waste" means a material that is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded or has served its original intended use and is normally discarded or is a manufacturing or mining by-product and is normally discarded.

* * *

(19) "Implementation plan" means that plan which is adopted to be consistent with the state solid waste management plan. This plan must include

all the elements required for consistency with the state plan and an applicable regional plan and shall be approved by the secretary. This implementation plan is the basis for state certification of facilities under subsection 6605(c) of this title.

* * *

(27) "Closed-loop recycling" means a system in which a product made from one type of material is reclaimed and reused in the production process or the manufacturing of a new or separate product.

(28) "Commercial hauler" means any person that transports:

(A) regulated quantities of hazardous waste; or

(B) solid waste for compensation in a motor vehicle having a rated capacity of more than one ton.

(29) "Mandated recyclable" means the following source separated materials: aluminum and steel cans; aluminum foil and aluminum pie plates; glass bottles and jars from foods and beverages; polyethylene terephthalate (PET) plastic bottles or jugs; high density polyethylene (HDPE) plastic bottles and jugs; corrugated cardboard; white and colored paper; newspaper; magazines; catalogues; paper mail and envelopes; boxboard; and paper bags.

(30) "Leaf and yard residual" means source separated, compostable untreated vegetative matter, including grass clippings, leaves, kraft paper bags, and brush, which is free from noncompostable materials. It does not include such materials as pre- and postconsumer food residuals, food processing residuals, or soiled paper.

(31) "Food residual" means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable, in a manner consistent with section 6605k of this title. Food residual may include preconsumer and postconsumer food scraps. "Food residual" does not mean meat and meat-related products when the food residuals are composted by a resident on site.

(32) "Source separated" or "source separation" means the separation of compostable and recyclable materials from noncompostable, nonrecyclable materials at the point of generation.

(33) "Wood waste" means trees, untreated wood, and other natural woody debris, including tree stumps, brush and limbs, root mats, and logs.

Sec. 2. 10 V.S.A. § 6604 is amended to read:

§ 6604. SOLID WASTE MANAGEMENT ~~PLANS~~ PLAN

(a) No later than ~~April 30, 1988~~ November 1, 2013, the secretary shall ~~publish and~~ adopt, after notice and public hearing pursuant to 3 V.S.A. chapter 25 ~~of Title 3~~, a solid waste management plan which sets forth a comprehensive statewide strategy for the management of waste~~, including whey. No later than July 1, 1991, the secretary shall publish and adopt, after notice and public hearing pursuant to chapter 25 of Title 3, a hazardous waste management plan, which sets forth a comprehensive statewide strategy for the management of hazardous waste~~.

(1)~~(A)~~ The ~~plans~~ plan shall ~~be based upon~~ promote the following priorities~~, in descending order~~, as found appropriate for certain waste streams, based on data obtained by the secretary as part of the analysis and assessment required under subdivision (2) of this subsection:

~~(i)~~(A) the greatest feasible reduction in the amount of waste generated;

~~(ii)~~(B) materials management, which furthers the development of products that will generate less waste and which promotes responsibility by manufacturers for waste generated from goods produced by a manufacturer;

(C) the reuse and closed-loop recycling of waste to reduce to the greatest extent feasible the volume remaining for processing and disposal;

(D) the reduction of the state's reliance on waste disposal to the greatest extent feasible;

(E) the creation of an integrated waste management system that promotes energy conservation, reduces greenhouse gases, and limits adverse environmental impacts;

~~(iii)~~(F) waste processing to reduce the volume or toxicity of the waste stream necessary for disposal~~;~~

~~(iv) land disposal of the residuals.~~

~~(B) Processing and disposal alternatives shall be preferred which do not foreclose the future ability of the state to reduce, reuse, and recycle waste. In determining feasibility, the secretary shall evaluate alternatives in terms of their expected life-cycle costs~~.

(2) The ~~plans~~ plan shall be revised at least once every five years and shall include:

(A) an analysis of the volume and nature of wastes generated in the state, the source of the waste, and the current fate or disposition of the waste.

Such an analysis shall include a waste composition study conducted in accordance with generally accepted practices for such a study;

(B) an assessment of the feasibility and cost of diverting each waste category from disposal, including, to the extent the information is available to the agency, the cost to stakeholders, such as municipalities, manufacturers, and customers. As used in this subdivision (a)(2), "waste category" means:

(i) marketable recyclables;

(ii) leaf and yard residuals;

(iii) food residuals;

(iv) construction and demolition residuals;

(v) household hazardous waste; and

(vi) additional categories or subcategories of waste that the secretary identifies that may be diverted to meet the priorities set forth under subdivision (a)(1) of this section;

(C) a survey of existing and potential markets for each waste category that can be diverted from disposal;

(D) measurable goals and targets for waste diversion for each waste category;

(E) methods to reduce and remove material from the waste stream, including commercially generated and other organic wastes, used clothing, and construction and demolition debris, and to separate, collect, and recycle, treat or dispose of specific waste materials that create environmental, health, safety, or management problems, including~~, but not limited to,~~ tires, batteries, obsolete electronic equipment, and unregulated hazardous wastes. These portions of the plans shall include strategies to assure recycling in the state, and to prevent the incineration or other disposal of marketable recyclables~~. They shall consider both the current solid waste stream and its projected changes, and shall be based on:~~

~~(i) an analysis of the volume and nature of wastes generated in the state, the sources of those wastes, and the current fate or disposition of those wastes;~~

~~(ii) an assessment of the feasibility and cost of recycling each type of waste, including an assessment of the feasibility of providing the option of single source recycling;~~

~~(iii) a survey of existing and potential markets for each type of waste that can be recycled~~;

(F) a coordinated education and outreach component that advances the objectives of the plan, including the source separation requirements, generator requirements to remove food residuals, and the landfill disposal bans contained within this chapter;

(G) performance and accountability measures to ensure that implementation plans are effective in meeting the requirements of this section;

~~(B)~~(H) ~~a proposal for the development~~ an assessment of facilities and programs necessary at the state, regional or local level to achieve the priorities identified in subdivision (a)(1) of this section and the goals established in the plan. ~~Consideration shall be given to the need for additional regional or local composting facilities, the need to expand the collection of commercially generated organic wastes, and the cost-effectiveness of developing single stream waste management infrastructure adequate to serve the entire population, which may include material recovery centers.~~ These portions of the plan shall be based, in part, on an assessment of the status, capacity, and life expectancy of existing ~~treatment and disposal~~ solid waste facilities, and they shall include siting criteria for waste management facilities, and shall establish requirements for full public involvement.

(b) ~~The secretary may manage the hazardous wastes generated, transported, treated, stored or disposed in the state by administering a regulatory and management program which, at a minimum, meets the requirements of subtitle C of the Resource Conservation and Recovery Act of 1976, and amendments thereto, codified as 42 U.S.C. chapter 82, subchapter 3, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.~~

~~(1) Removal of hazardous waste from the waste stream. The secretary is authorized to carry out studies, evaluations and pilot projects to remove significant quantities of unregulated hazardous wastes from the waste stream, when in the secretary's opinion the public health and safety will not be adversely affected. One or more of these projects shall investigate the feasibility and effectiveness of separating from the rest of the waste stream those nonhazardous materials which require disposal in landfills, but which may not require the use of liners and leachate collection systems.~~

~~(2) Report on disposal of hazardous wastes. The secretary shall consult with interested persons on the disposal of hazardous waste, including persons with relevant expertise and representatives from state and local government, industry, the agricultural sector, the University of Vermont, and the general public. The secretary shall conduct public hearings, take relevant testimony, perform appropriate analysis and report to the general assembly and the governor by January 1, 1990, on the following:~~

~~(A) the nature, origin and amount of hazardous waste generated in the state;~~

~~(B) the cost and environmental impact of current disposal practices;~~

~~(C) options for the treatment and disposal of leachate collected from sanitary landfills;~~

~~(D) steps that can be taken to reduce waste flows, or recycle wastes;~~

~~(E) the need for recycling, treatment and disposal facilities to be located within the state; and~~

~~(F) a proposed process and proposed criteria for use in siting and constructing needed facilities within the state, and for obtaining the maximum amount of public input in any such process.~~

~~(c)~~ The secretary shall hold public hearings, ~~perform studies as required, conduct ongoing analyses,~~ conduct analyses, and make recommendations to the ~~general assembly with respect to the reduction~~ house and senate committees on natural resources and energy regarding the volume, amount, and toxicity of the waste stream. In this process, the secretary shall consult with manufacturers of commercial products and of packaging used with commercial products, retail sales enterprises, health and environmental advocates, waste management specialists, the general public, and state agencies. The goal of the process is to ensure that packaging used and products sold in the state are not an undue burden to the state's ability to manage its waste. The secretary shall seek voluntary changes on the part of the industrial and commercial sector in both their practices and the products they sell, so as to serve the purposes of this section. In this process, the secretary may obtain voluntary compliance schedules from the appropriate industry or commercial enterprise, and shall entertain recommendations for alternative approaches. The secretary shall report at the beginning of each biennium to the ~~general assembly~~ house and senate committees on natural resources and energy, with any recommendations or options for legislative consideration. At least 45 days prior to submitting its report, the secretary shall post any recommendations within the report to its website for notice and comment.

(1) In carrying out the provisions of this subsection, the secretary first shall consider ways to keep hazardous material; toxic substances, as that term is defined in subdivision 6624(7) of this title; and nonrecyclable, nonbiodegradable material out of the waste stream, as soon as possible. In this process, immediate consideration shall be given to the following:

(A) evaluation of products and packaging that contain large concentrations of chlorides, such as packaging made with polyvinyl chloride (PVC);

(B) evaluation of polystyrene packaging, particularly that used to package fast food on the premises where the food is sold;

(C) evaluation of products and packaging that bring heavy metals into the waste stream, such as disposable batteries, paint and paint products and containers, and newspaper supplements and similar paper products;

(D) identification of unnecessary packaging, which is nonrecyclable and nonbiodegradable.

(2) With respect to the above, the secretary shall consider the following:

(A) product and packaging bans, products or packaging which ought to be exempt from such bans, the existence of less burdensome alternatives, and alternative ways that a ban may be imposed;

(B) tax incentives, including the following options:

(i) product taxes, based on a sliding scale, according to the degree of undue harm caused by the product, the existence of less harmful alternatives, and other relevant factors;

(ii) taxes on all nonrecyclable, nonbiodegradable products or packaging;

(C) deposit and return legislation and extended producer responsibility legislation for certain products.

~~(d)~~(c) A portion of the state's solid waste management plan shall set forth a comprehensive statewide program for the collection, treatment, beneficial use, and disposal of septage and sludge. The secretary shall work cooperatively with the department of health and the agency of agriculture, food and markets in developing this portion of the plan and the rules to carry it out, both of which shall be consistent with or more stringent than that prescribed by section 405 of the Clean Water Act (33 U.S.C. § 1251, et seq.). In addition, the secretary shall consult with local governmental units and the interested public in the development of the plans. The sludge management plan and the septage management plan shall be developed and adopted by January 15, 1987. In the development of these portions of the plan, consideration shall be given to, but shall not be limited to, the following:

(1) the varying characteristics of septage and sludge;

(2) its value as a soil amendment;

(3) the need for licensing or other regulation of septage and sludge handlers;

(4) the need for seasonal storage capability;

(5) the most appropriate burdens to be borne by individuals, municipalities, and industrial and commercial enterprises;

(6) disposal site permitting procedures;

(7) appropriate monitoring and reporting requirements;

(8) actions which can be taken through existing state programs to facilitate beneficial use of septage and sludge;

(9) the need for regional septage facilities;

(10) an appropriate public information program; and

(11) the need for and proposed nature and cost of appropriate pilot projects.

~~(e)~~(d) Although the ~~plans~~ plan adopted under this section and any amendments to ~~these plans~~ the plan shall be adopted by means of a public process that is similar to the process involved in the adoption of administrative rules, the ~~plans~~ plan, as initially adopted or as amended, shall not be a rule.

Sec. 3. 10 V.S.A. § 6603 is amended to read:

§ 6603. SECRETARY; POWERS

In addition to any other powers conferred on him or her by law, the secretary shall have the power to:

(1) Adopt, amend, and repeal rules pursuant to 3 V.S.A. chapter 25 ~~of Title 3~~ implementing the provisions of this chapter;

(2) Issue compliance orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings;

(3) Encourage local units of government to manage solid waste problems within their respective jurisdictions, or by contract on a cooperative regional or interstate basis;

(4) Provide technical assistance to municipalities;

(5) Contract in the name of the state for the service of independent contractors under bond, or with an agency or department of the state, or a municipality, to perform services or to provide facilities necessary for the implementation of the state plan, including but not limited to the transportation and disposition of solid waste;

(6) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. This would include the

ability to convey such grants or other funds to municipalities, or other instruments of state or local government.

(7) Prepare a report which proposes methods and programs for the collection and disposal of household quantities of hazardous waste. The report shall compare the advantages and disadvantages of alternate programs and their costs. The secretary shall undertake a voluntary pilot project to determine the feasibility and effectiveness of such a program when in the secretary's opinion such can be undertaken without undue risk to the public health and welfare. Such pilot program may address one or more forms of hazardous waste.

(8) Provide financial assistance to municipalities.

(9) Manage the hazardous wastes generated, transported, treated, stored, or disposed in the state by administering a regulatory and management program which, at a minimum, meets the requirements of subtitle C of the Resource Conservation and Recovery Act of 1976, and amendments thereto, codified as 42 U.S.C. Chapter 82, subchapter 3, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(10) Require a facility permitted under section 6605 of this title or a transporter permitted under section 6607 of this title to explain its rate structure for different categories of waste to ensure that the rate structure is transparent to residential consumers.

Sec. 4. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the secretary for such facility, site, or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

(A) the treatment facility does not utilize a process to further reduce pathogens in order to qualify for marketing and distribution; and

(B) the facility is not a drying bed, lagoon, or nonconcrete bunker; and

(C) the owner of the facility has submitted a sludge and septage management plan to the secretary and the secretary has approved the plan. Noncompliance with an approved sludge and septage management plan shall

constitute a violation of the terms of this chapter, as well as a violation under chapters 201 and 211 of this title.

(2) Certification shall be valid for a period not to exceed ten years~~, except that a certification issued to a sanitary landfill or a household hazardous waste facility under this section shall be for a period not to exceed five years~~.

(b) Certification for a solid waste management facility, where appropriate, shall:

(1) Specify the location of the facility, including limits on its development;

(2) Require proper operation and development of the facility in accordance with the engineering plans approved under the certificate;

(3) Specify the projected amount and types of waste material to be disposed of at the facility, which, in case of landfills and incinerators, shall include the following:

(A) if the waste is being delivered from a municipality that has an approved implementation plan, hazardous materials and recyclables shall be removed from the waste according to the terms of that implementation plan;

(B) if the waste is being delivered from a municipality that does not have an approved implementation plan, ~~yard waste~~ leaf and yard residuals shall be removed from the waste stream, ~~as shall a minimum of approximately 75~~ and 100 percent of each of the following shall be removed from the waste stream: ~~marketable~~ mandated recyclables, hazardous waste from households, and hazardous waste from small quantity generators;

(4) Specify the type and numbers of suitable pieces of equipment that will operate the facility properly;

(5) Contain provisions for air, groundwater, and surface water monitoring throughout the life of the facility and provisions for erosion control, capping, landscaping, drainage systems, and monitoring systems for leachate and gas control;

(6) Contain such additional conditions, requirements, and restrictions as the secretary may deem necessary to preserve and protect the public health and the air, groundwater and surface water quality. This may include~~, but is not limited to,~~ requirements concerning reporting, recording, and inspections of the operation of the site.

(c) The secretary shall not issue a certification for a new facility or renewal for an existing facility, except for a sludge or septage land application project, unless it is included in an implementation plan adopted pursuant to 24 V.S.A.

§ 2202a, for the area in which the facility is located. ~~The implementation plan must be consistent with the state plan and in conformance with any municipal or regional plan adopted in accordance with 24 V.S.A. chapter 117. After July 1, 1990, the secretary shall not recertify a facility except for a sludge or septage land application project unless it is included in an implementation plan adopted pursuant to 24 V.S.A. § 2202a, for the area in which the facility is located. The implementation plan must be consistent with the state plan, unless the secretary determines that recertification promotes the public interest, considering the policies and priorities established in this chapter. After July 1, 1990, the secretary shall not recertify a facility, unless it is in conformance with any municipal or regional plan adopted in accordance with 24 V.S.A. chapter 117.~~

* * *

(j) A facility certified under this section that offers the collection of municipal solid waste shall:

(1) Beginning July 1, 2014, collect mandated recyclables separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables. A facility shall not be required to accept mandated recyclables from a commercial hauler.

(2) Beginning July 1, 2015, collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)–(5) of this title.

(3) Beginning July 1, 2016, collect food residuals separate from other solid waste and deliver food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)–(5) of this title.

(k) The secretary may, by rule, adopt exemptions to the requirements of subsection (j) of this section, provided that the exemption is consistent with the purposes of this chapter and the objective of the state plan.

(l) A facility certified under this section that offers the collection of municipal solid waste shall not charge a separate fee for the collection of mandated recyclables. A facility certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of municipal solid waste and may adjust the charge for the collection of municipal solid waste. A facility certified under this section may charge a separate fee for the collection of leaf and yard residuals or food residuals. If a

facility collects mandated recyclables from a commercial hauler, the facility may charge a fee for the collection of those mandated recyclables.

Sec. 5. 10 V.S.A. § 6605c is amended to read:

§ 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

* * *

(b) The secretary may, by rule, list certain solid waste categories as eligible for certification pursuant to this section:

(1) Solid waste categories to be deposited in a disposal facility shall not be a source of leachate harmful to human health or the environment.

(2) Solid waste categories to be managed in a composting facility shall not present an undue threat to human health or the environment.

(3) ~~Solid waste managed~~ Recyclable materials either recycled or prepared for recycling at a recycling facility ~~shall be restricted to facilities that manage 400 tons per year or less of recyclable solid waste~~.

* * *

Sec. 6. 10 V.S.A. § 6605k is added to read:

§ 6605k. FOOD RESIDUALS; MANAGEMENT HIERARCHY

(a) It is the policy of the state that food residuals collected under the requirements of this chapter shall be managed according to the following order of priority uses:

(1) Reduction of the amount generated at the source;

(2) Diversion for food consumption by humans;

(3) Diversion for agricultural use, including consumption by animals;

(4) Composting, land application, and digestion; and

(5) Energy recovery.

(b) A person who produces more than an amount identified under subsection (c) of this section in food residuals and is located within 20 miles of a certified organics management facility that has available capacity and that is willing to accept the materials shall:

(1) Separate food residuals from other solid waste, provided that a de minimis amount of food residuals may be disposed of in municipal solid waste when a person has established a program to separate food residuals and the program includes a component for the education of program users regarding the need to separate food residuals; and

(2) Arrange for the transfer of food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions (a)(2)–(5) of this section or shall manage food residuals on site.

(c) The following persons shall be subject to the requirements of subsection (b) of this section:

(1) Beginning July 1, 2014, a person whose acts or processes produce more than 104 tons per year of food residuals;

(2) Beginning July 1, 2015, a person whose acts or processes produce more than 52 tons per year of food residuals;

(3) Beginning July 1, 2016, a person whose acts or processes produce more than 26 tons per year of food residuals;

(4) Beginning July 1, 2017, a person whose acts or processes produce more than 18 tons per year of food residuals; and

(5) Beginning July 1, 2018, any person who generates any amount of food residuals.

Sec. 7. 10 V.S.A. § 6605l is added to read:

§ 6605l. PUBLIC COLLECTION CONTAINERS FOR SOLID WASTE

(a) As used in this section:

(1) "Public building" means a state, county, or municipal building, airport terminal, bus station, railroad station, school building, or school.

(2) "Public land" means all land that is owned or controlled by a municipal or state governmental body. "Public land" shall not mean land leased by the state to a person for private use.

(b) Beginning July 1, 2015, when a container or containers in a public building or on public land are provided to the public for use for solid waste destined for disposal, an equal number of containers shall be provided for the collection of mandated recyclables. The containers shall be labeled to clearly show the containers are for recyclables and shall be placed as close to each other as possible in order to provide equally convenient access to users. Bathrooms in public buildings and on public land shall be exempt from the requirement of this section to provide an equal number of containers for the collection of mandated recyclables.

Sec. 8. 10 V.S.A. § 6607a is amended to read:

§ 6607a. WASTE TRANSPORTATION

(a) A commercial hauler desiring to transport waste within the state shall apply to the secretary for a permit to do so, by submitting an application on a

form prepared for this purpose by the secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years~~. The secretary shall establish a system whereby one fifth of the permits issued under this section, or that were issued prior to July 1, 1996,~~ and shall be renewed annually. ~~The secretary may extend the expiration date of permits issued under this section as of July 1, 1996, for up to four years.~~ The application shall indicate the nature of the waste to be hauled ~~and the area to be served by the hauler~~. The secretary may specify conditions that the secretary deems necessary to assure compliance with state law. ~~If an area to be served is subject to a duly adopted flow control ordinance, the entity that adopted the flow control ordinance may notify the secretary of that fact on forms provided by the secretary, and shall specify the facility or facilities which must be the recipient of the waste from that area. The secretary shall issue to the applicant a permit which specifies those facilities to which the applicant must deliver waste collected from an area that is subject to a duly adopted flow control ordinance, and which otherwise contains the solid waste management conditions established by the secretary, sufficient to assure compliance with state law.~~

* * *

(g)(1) Except as set forth in subdivisions (2) and (3) of this subsection, a transporter certified under this section that offers the collection of municipal solid waste shall:

(A) Beginning July 1, 2014, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning July 1, 2015, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)–(5) of this title.

(C) Beginning July 1, 2016, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)–(5) of this title.

(2) In a municipality that has adopted a solid waste management ordinance addressing the collection of mandated recyclables, leaf and yard residuals, or food residuals, a transporter in that municipality is not required to comply with the requirements of subdivision (1) of this subsection and subsection (h) of this section for the material addressed by the ordinance if the ordinance:

(A) is applicable to all residents of the municipality;

(B) prohibits a resident from opting out of municipally provided solid waste services; and

(C) does not apply a variable rate for the collection for the material addressed by the ordinance.

(3) A transporter is not required to comply with the requirements of subdivision (1)(B) or (C) of this subsection in a specified area within a municipality if:

(A) the secretary has approved a solid waste implementation plan for the municipality;

(B) the approved plan delineates an area where solid waste management services required by subdivision (1)(B) or (C) of this subsection are not required; and

(C) in the delineated area, alternatives to the services, including on site management, required under subdivision (1)(B) or (C) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(h) A transporter certified under this section that offers the collection of municipal solid waste shall not charge a separate fee for the collection of mandated recyclables from a residential customer. A transporter certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of municipal solid waste and may adjust the charge for the collection of municipal solid waste. A transporter certified under this section that offers the collection of municipal solid waste may charge a separate fee for the collection of leaf and yard residuals or organic waste from a residential customer.

Sec. 9. 10 V.S.A. § 6613 is amended to read:

§ 6613. VARIANCES

(a) A person who owns or is in control of any plant, building, structure, process, or equipment may apply to the secretary for a variance from the rules adopted under this chapter. The secretary may grant a variance if he or she finds that:

(1) The variance proposed does not endanger or tend to endanger human health or safety.

(2) Compliance with the rules from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(3) The variance granted does not enable the applicant to generate, transport, treat, store, or dispose of hazardous waste in a manner which is less stringent than that required by the provisions of Subtitle C of the Resource Conservation and Recovery Act of 1976, and amendments thereto, codified in 42 U.S.C. Chapter 82, subchapter 3, and regulations promulgated under such subtitle.

(b) A person who owns or is in control of any facility may apply to the secretary for a variance from the requirements of subdivision 6605(j)(2) or (3) of this title if the applicant demonstrates alternative services, including on-site management, are available in the area served by the facility, the alternative services have capacity to serve the needs of all persons served by the facility requesting the variance, and the alternative services are convenient to persons served by the facility requesting the variance.

(c) No variance shall be granted pursuant to this section except after public notice and an opportunity for a public meeting and until the secretary has considered the relative interests of the applicant, other owners of property likely to be affected, and the general public.

~~(c)~~(d) Any variance or renewal thereof shall be granted within the requirements of subsection (a) of this section and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the air and water pollution involved, it shall be only until the necessary practicable means for prevention, abatement, or control become known and available, and subject to the taking of any substitute or alternate measures that the secretary may prescribe.

(2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the secretary, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a time schedule for the taking of action in an expeditious manner and shall be conditioned on adherence to the time schedule.

(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in subdivisions (1) and (2) of this subsection, it shall be for not more than one year, except that in the case of a variance from the siting requirements for a solid waste

management facility, the variance may be for as long as the secretary determines necessary, including a permanent variance.

~~(d)~~(e) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods, which would be appropriate on initial granting of a variance. If a complaint is made to the secretary on account of the variance, no renewal thereof shall be granted, unless following public notice and an opportunity for a public meeting on the complaint, the secretary finds that renewal is justified. No renewal shall be granted except on application therefore. The application shall be made at least 60 days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the secretary shall give public notice of the application.

~~(e)~~(f) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the secretary.

~~(f)~~(g) This section does not limit the authority of the secretary under section 6610 of this title concerning imminent hazards from solid waste, nor under section 6610a of this title concerning hazards from hazardous waste and violations of statutes, rules, or orders relating to hazardous waste.

Sec. 10. 10 V.S.A. § 6621a is amended to read:

§ 6621a. LANDFILL DISPOSAL REQUIREMENTS

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in municipal solid waste or in landfills:

(1) Lead-acid batteries, after July 1, 1990.

(2) Waste oil, after July 1, 1990.

(3) White goods, after January 1, 1991. "White goods" include discarded refrigerators, washing machines, clothes ~~driers~~ dryers, ranges, water heaters, dishwashers, and freezers. Other similar domestic and commercial large appliances may be added, as identified by rule of the secretary.

(4) Tires, after January 1, 1992.

(5) Paint (whether water based or oil based), paint thinner, paint remover, stains, and varnishes. This prohibition shall not apply to solidified water based paint in quantities of less than one gallon, nor shall this prohibition apply to solidified water based paint in quantities greater than one gallon if those larger quantities are from a waste stream that has been subject to an effective paint reuse program, as determined by the secretary.

(6) Nickel-cadmium batteries, small sealed lead acid batteries, ~~and~~ nonconsumer mercuric oxide batteries, ~~after July 1, 1992, in any district or~~

~~municipality in which there is an ongoing program to accept these wastes for treatment~~ and any other battery added by the secretary by rule.

(7)(A) Labeled mercury-added products on or before July 1, 2007.

(B) Mercury-added products, as defined in chapter 164 of this title, after July 1, 2007, except as other effective dates are established in that chapter.

(8) Banned electronic devices. After January 1, 2011, computers; peripherals; computer monitors; cathode ray tubes; televisions; printers; personal electronics such as personal digital assistants and personal music players; electronic game consoles; printers; fax machines; wireless telephones; telephones; answering machines; videocassette recorders; digital versatile disc players; digital converter boxes; stereo equipment; and power supply cords (as used to charge electronic devices).

(9) Mandated recyclable materials after July 1, 2014.

(10) Leaf and yard residuals and wood waste after July 1, 2015.

(11) Food residuals after July 1, 2018.

(b) This section shall not prohibit the designation and use of separate areas at landfills for the storage or processing, or both, of material specified in this section.

(c) Insofar as it applies to the operator of a solid waste management facility, the secretary may suspend the application of this section to material specified in subdivisions (a)(2), (3), (4), (5), or (6) of this section, or any combination of these, upon finding that insufficient markets exist and adequate uses are not reasonably available to serve as an alternative to disposal.

Sec. 11. 24 V.S.A. § 2202a is amended to read:

§ 2202a. MUNICIPALITIES—RESPONSIBILITIES FOR SOLID WASTE

(a) Municipalities are responsible for the management and regulation of the storage, collection, processing, and disposal of solid wastes within their jurisdiction in conformance with the state solid waste management plan authorized under 10 V.S.A. chapter 159 ~~of Title 10~~. Municipalities may issue exclusive local franchises and may make, amend, or repeal rules necessary to manage the storage, collection, processing, and disposal of solid waste materials within their limits and impose penalties for violations thereof, provided that the rules are consistent with the state plan and rules ~~promulgated~~ adopted by the secretary of the agency of natural resources under 10 V.S.A. chapter 159. A fine may not exceed $1,000.00 for each violation. This section shall not be construed to permit the existence of a nuisance.

(b) Municipalities may satisfy the requirements of the state solid waste management plan and the rules of the secretary of the agency of natural resources through agreement between any other unit of government or any operator having a permit from the secretary, as the case may be.

(c)(1) No later than July 1, 1988 each municipality, as defined in subdivision 4303(12) of this title, shall join or participate in a solid waste management district organized pursuant to chapter 121 of this title no later than January 1, 1988 or participate in a regional planning commission's planning effort for purposes of solid waste implementation planning, as implementation planning is defined in 10 V.S.A. § 6602.

(2) No later than July 1, 1990 each regional planning commission shall work on a cooperative basis with municipalities within the region to prepare a solid waste implementation plan for adoption by all of the municipalities within the region which are not members of a solid waste district, that conforms to the state waste management plan and describes in detail how the region will achieve the priorities established by 10 V.S.A. § 6604(a)(1). A solid waste implementation plan adopted by a municipality that is not a member of a district shall not in any way require the approval of a district. No later than July 1, 1990 each solid waste district shall adopt a solid waste implementation plan that conforms to the state waste management plan, describes in detail how the district will achieve the priorities established by 10 V.S.A. § 6604(a)~~(1)~~, and is in conformance with any regional plan adopted pursuant to chapter 117 of this title. Municipalities or solid waste management districts that have contracts in existence as of January 1, 1987, which contracts are inconsistent with the state solid waste plan and the priorities established in 10 V.S.A. § 6604(a)~~(1)~~, shall not be required to breach those contracts, provided they make good faith efforts to renegotiate those contracts in order to comply. The secretary may extend the deadline for completion of a plan upon finding that despite good faith efforts to comply, a regional planning commission or solid waste management district has been unable to comply, due to the unavailability of planning assistance funds under 10 V.S.A. § 6603b(a) or delays in completion of a landfill evaluation under 10 V.S.A. § 6605a.

(3) A municipality that does not join or participate as provided in this subsection shall not be eligible for state funds to plan and construct solid waste facilities, nor can it use facilities certified for use by the region or by the solid waste management district.

(4) ~~By no later than July 1, 1992, a~~ A regional plan or a solid waste implementation plan shall include a component for the management of nonregulated hazardous wastes.

(A) At the outset of the planning process for the management of nonregulated hazardous wastes and throughout the process, solid waste management districts or regional planning commissions, with respect to areas not served by solid waste management districts, shall solicit the participation of owners of solid waste management facilities that receive mixed solid wastes, local citizens, businesses, and organizations by holding informal working sessions that suit the needs of local people. At a minimum, an advisory committee composed of citizens and business persons shall be established to provide guidance on both the development and implementation of the nonregulated hazardous waste management plan component.

(B) The regional planning commission or solid waste management district shall hold at least two public hearings within the region or district after public notice on the proposed plan component or amendment.

(C) The plan component shall be based upon the following priorities, in descending order:

(i) The elimination or reduction, whenever feasible, in the use of hazardous, particularly toxic, substances.

(ii) Reduction in the generation of hazardous waste.

(iii) Proper management of household and exempt small quantity generator hazardous waste.

(iv) Reduction in the toxicity of the solid waste stream, to the maximum extent feasible in accordance with the priorities of 10 V.S.A. § 6604(a)(1).

(D) At a minimum, this plan component shall include the following:

(i) An analysis of preferred management strategies that identifies advantages and disadvantages of each option.

(ii) An ongoing educational program for schools and households, promoting the priorities of this subsection.

(iii) An educational and technical assistance program for exempt small quantity generators that provides information on the following: use and waste reduction; preferred management strategies for specific waste streams; and collection, management and disposal options currently or potentially available.

(iv) A management program for household hazardous waste.

(v) A priority management program for unregulated hazardous waste streams that present the greatest risks.

(vi) A waste diversion program element, that is coordinated with any owners of solid waste management facilities and is designed to remove unregulated hazardous waste from the waste stream entering solid waste facilities and otherwise to properly manage unregulated hazardous waste.

(vii) A waste management system established for all the waste streams banned from landfills under 10 V.S.A. § 6621a.

(E) For the purposes of this subsection, nonregulated hazardous wastes include hazardous wastes generated by households and exempt small quantity generators as defined in the hazardous waste management regulations adopted under 10 V.S.A. chapter 159.

(d) By no later than July 1, 2015, a municipality shall implement a variable rate pricing system that charges for the collection of municipal solid waste from a residential customer for disposal based on the volume or weight of the waste collected.

(e) The education and outreach requirements of this section need not be met through direct mailings, but may be met through other methods such as television and radio advertising; use of the Internet, social media, or electronic mail; or the publication of informational pamphlets or materials.

Sec. 12. ANR REPORT ON SOLID WASTE

(a) On or before November 1, 2013, the secretary of natural resources shall submit to the house and senate committees on natural resources and energy a report addressing solid waste management in the state. At a minimum, the report shall include:

(1) Waste analysis. An analysis of the volume and nature of wastes generated in the state, the sources of those wastes, and the current fate or disposition of those wastes. This analysis shall include:

(A) the results of a waste composition study; and

(B) an analysis of the quantities and types of materials received at recycling facilities, the contamination levels of materials received at recycling facilities, and the final disposition of materials received by recycling facilities.

(2) Cost analysis.

(A) An estimate of the cost of implementation of the existing solid waste management system for the state, including the cost to consumers, avoided costs, and foreseeable future costs;

(B) An estimate of the cost of managing individual categories of solid waste as that term is defined in 10 V.S.A. § 6604(a)(2)(B);

(C) An estimate of the costs, cost savings, increased efficiencies, and economic opportunities attendant to the diversion of solid waste categories, including:

(i) the costs of recycling individual categories of materials, such as glass, aluminum, and polyethylene terephthalate (PET) plastic;

(ii) market opportunities for the sale of recyclable materials; and

(iii) the effect of fluctuating commodity prices on the diversion of solid waste and recycling and how to maintain existing recycling rates during commodity fluctuations;

(D) An estimate of the cost to and potential savings to all stakeholders, including municipalities, manufacturers, and customers, from beverage container deposit and return legislation and extended producer responsibility legislation.

(3) Local governance analysis. An analysis of the services provided by municipalities responsible for the management and regulation of the storage, collection, processing, and disposal of solid waste under 24 V.S.A. § 2202a. The analysis shall summarize:

(A) The organizational structure municipalities use to provide solid waste services, including the number of solid waste districts in the state and the number of towns participating in a solid waste district;

(B) The type of solid waste services provided by municipalities, including the categories of solid waste collected and the disposition of collected solid waste;

(C) The effectiveness of beverage container deposit and return legislation or other types of extended producer responsibility legislation for certain products in achieving the priorities and goals established by the state solid waste management plan;

(D) The effectiveness of those facilities and programs in achieving the priorities and goals established by the state solid waste plan; and

(E) The cost-effectiveness of solid waste services provided by municipalities.

(4) Infrastructure analysis.

(A) An assessment of facilities and programs necessary at the state, regional, or local level to achieve the priorities and the goals established in the state solid waste plan.

(B) An estimate of the landfill capacity available in Vermont and an estimated time at which there will be no landfill capacity remaining in the state.

(C) An assessment of the status, capacity, and life expectancy of existing solid waste management facilities.

(D) An estimate of the cost of infrastructure necessary for the mandatory recycling of categories of solid waste.

(5) Natural resources and environmental analysis.

(A) A general, narrative summary or assessment of the natural resources and environmental impacts of current solid waste management practices on air quality, greenhouse gas emissions, and water quality.

(B) A general, narrative summary of how litter or improper disposal or management of solid waste impacts scenic or aesthetic resources.

(6) Legislative recommendation. Recommendations for amending solid waste management practices in the state, including recommended legislative or regulatory changes to promote the reduction in solid waste generation and to increase recycling and diversion of solid waste. Recommendations submitted under this subdivision shall include a summary of the rationale for the recommendation and a general, narrative summary of the costs and benefits of the recommended action.

(b) In preparing the report required by subsection (a) of this section, the secretary shall consult with interested persons, including manufacturers, recyclers, collectors, retailers, solid waste districts, and environmental groups.

Sec. 13. REPEAL

10 V.S.A. § 7113 (advisory committee on mercury pollution) is repealed.

Sec. 14. AGENCY OF NATURAL RESOURCES REPORT OF WASTE TIRE MANAGEMENT AND DISPOSAL

On or before January 15, 2013, the secretary of natural resources shall submit to the house and senate committees on natural resources and energy a report regarding the management of waste tires within the state. The report shall include:

(1) An inventory of sites in the state where the secretary determines, in his or her discretion, that the disposal, management, or disposition of waste tires is a problem.

(2) An estimate of the number of waste tires disposed of or stored at the problem sites identified under subdivision (1) of this section.

(3) An estimate of how much it would cost to properly dispose of or arrange for the final disposition of the number of waste tires estimated under subdivision (2) of this section.

(4) An estimate of the amount of time required for the proper disposal or final disposition of the number of waste tires estimated under subdivision (2) of this section.

Sec. 15. 10 V.S.A. § 6618(b) is amended to read:

(b) The secretary may authorize disbursements from the solid waste management assistance account for the purpose of enhancing solid waste management in the state in accordance with the adopted waste management plan. This includes:

* * *

(10) the costs of the proper disposal of waste tires. Prior to disbursing funds under this subsection, the secretary shall provide a person with notice and opportunity to dispose of waste tires properly. The secretary may condition a disbursement under this subsection on the repayment of the disbursement. If a person fails to provide repayment subject to the terms of a disbursement, the secretary may initiate an action against the person for repayment to the fund or may record against the property of the person a lien for the costs of cleaning up waste tires at a property.

* * * Collection and Recycling of Electronic Devices * * *

Sec. 16. 10 V.S.A. § 7551 is amended to read:

§ 7551. DEFINITIONS

For the purposes of this chapter:

* * *

(4) "Collector" means a public or private entity that receives ~~covered electronic devices~~ electronic waste from covered entities~~,~~ or from another collector and that performs any of the following:

(A) arranges for the delivery of the ~~devices~~ electronic waste to a recycler.

(B) sorts electronic waste.

(C) consolidates electronic waste.

(D) provides data security services in a manner approved by the secretary.

(5) "Computer" means ~~an~~ a laptop computer, desktop computer, tablet computer, or central processing unit that conveys electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions~~, including a laptop computer, desktop computer, and central processing unit~~. "Computer" does not include an automated typewriter or typesetter or other similar device.

* * *

(8) "Covered electronic device" means a: computer; computer monitor; device containing a cathode ray tube; printer; or television ~~sold to~~ from a covered entity. "Covered electronic device" does not include: any motor vehicle or any part thereof; a camera or video camera; a portable or stationary radio; a wireless telephone; a household appliance, such as a clothes washer, clothes dryer, water heater, refrigerator, freezer, microwave oven, oven, range, or dishwasher; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, research and development, or commercial setting; security or anti-terrorism equipment; monitoring and control instruments or systems; thermostats; hand-held transceivers; a telephone of any type; a portable digital assistant or similar device; a calculator; a global positioning system receiver or similar navigation device; commercial medical equipment that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display that is not separate from the larger piece of equipment; or other medical devices, as the term "device" is defined under 21 U.S.C. § 321(h) of the Federal Food, Drug, and Cosmetic Act, as that section is amended from time to time.

(9) "Covered entity" means any household, charity, or school district in the state; or a business in the state that employs ten or fewer individuals. If seven or fewer covered electronic devices are delivered to a collector at any given time, those devices shall be presumed to be from a covered entity.

(10) "Electronic waste" means a: computer; computer monitor; computer peripheral; device containing a cathode ray tube; printer; or television ~~sold to~~ from a covered entity. "Electronic waste" does not include: any motor vehicle or any part thereof; a camera or video camera; a portable or stationary radio; a wireless telephone; a household appliance, such as a clothes washer, clothes dryer, water heater, refrigerator, freezer, microwave oven, oven, range, or dishwasher; equipment that is functionally or physically part of a larger piece of equipment intended for use in an industrial, library, research and development, or commercial setting; security or antiterrorism equipment; monitoring and control instruments or systems; thermostats; handheld transceivers; a telephone of any type; a portable digital assistant or similar device; a calculator; a global positioning system receiver or similar navigation

device; commercial medical equipment that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display that is not separate from the larger piece of equipment; or other medical devices, as the term "device" is defined under 21 U.S.C. § 321(h) of the Federal Food, Drug, and Cosmetic Act, as that section is amended from time to time.

* * *

(12) "Market share" means a "manufacturer's market share" which shall be the manufacturer's percentage share of the total weight of covered electronic devices sold in the state as determined by ~~the best available information, which may include~~ an estimate of the aggregate total weight of the manufacturer's covered electronic devices sold in the state during the previous program year based on national sales data unless the secretary approves a manufacturer to use actual sales data.

* * *

(14) "Program year" means the period ~~from July 1 through June 30~~ established by the secretary as the program year in the plan required by section 7552 of this title.

* * *

(20) "Transporter" means a person that moves electronic waste from a collector to either another collector or to a recycler.

* * * Beverage Container Redemption System * * *

Sec. 17. 10 V.S.A. § 1521 is amended to read:

§ 1521. DEFINITIONS

For the purpose of this chapter:

(1) "Beverage" means ~~beer or other malt beverages and mineral waters, mixed wine drink, soda water and carbonated soft drinks in liquid form and intended for human consumption. As of January 1, 1990 "beverage" also shall mean liquor~~:

(A) beer, mixed wine drinks, and other malt beverages in liquid form and intended for human consumption; and

(B) mineral water, soda water, carbonated soft drinks, and all nonalcoholic carbonated or noncarbonated drinks in liquid form and intended for human consumption, except for rice milk, soy milk, milk, and dairy.

(2) "Biodegradable material" means material which is capable of being broken down by bacteria into basic elements.

(3) "Container" means the individual, separate, bottle, can, jar, or carton composed of glass, metal, paper, plastic, or any combination of those materials ~~containing~~ that, at the time of sale, contains three liters or less of a consumer product. This definition shall not include containers made of biodegradable material.

(4) "Distributor" means every person who engages in the sale of consumer products in containers to a dealer in this state including any manufacturer who engages in such sales. Any dealer or retailer who sells, at the retail level, beverages in containers without having purchased them from a person otherwise classified as a distributor, shall be a distributor.

(5) "Manufacturer" means every person bottling, canning, packing, or otherwise filling containers for sale to distributors or dealers.

(6) "Recycling" means the process of sorting, cleansing, treating, and reconstituting waste and other discarded materials for the purpose of reusing the materials in the same or altered form.

(7) "Redemption center" means a store or other location where any person may, during normal business hours, redeem the amount of the deposit for any empty beverage container labeled or certified pursuant to section 1524 of this title.

(8) "Secretary" means the secretary of the agency of natural resources.

(9) "Mixed wine drink" means a beverage containing wine and more than 15 percent added plain, carbonated, or sparkling water; and which contains added natural or artificial blended material, such as fruit juices, flavors, flavoring, adjuncts, coloring, or preservatives; which contains not more than 16 percent alcohol by volume; or other similar product marketed as a wine cooler.

~~(10) "Liquor" means spirits as defined in 7 V.S.A. § 2.~~

Sec. 18. 10 V.S.A. § 1522 is amended to read:

§ 1522. BEVERAGE CONTAINERS; DEPOSIT

(a) ~~Except with respect to beverage containers which contain liquor, a~~ A deposit of not less than ~~five cents~~ $0.05 shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. ~~With respect to beverage containers of volume greater than 50 ml. which contain liquor, a deposit of 15 cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. The difference between liquor bottle deposits collected and refunds made is hereby retained by the liquor control fund for administration of this subsection.~~

(b) A retailer or a person operating a redemption center who redeems beverage containers shall be reimbursed by the manufacturer or distributor of such beverage containers in an amount which is ~~three and one half cents~~ $0.035 per container for containers of beverage brands that are part of a commingling program and ~~four cents~~ $0.04 per container for containers of beverage brands that are not part of a commingling program.

(c) [Deleted.]

(d) Containers shall be redeemed during no fewer than 40 hours per week during the regular operating hours of the establishment.

Sec. 19. 10 V.S.A. § 1524 is amended to read:

§ 1524. LABELING

(a) Every beverage container sold or offered for sale at retail in this state shall clearly indicate by embossing or imprinting on the normal product label, or in the case of a metal beverage container on the top of the container, the word "Vermont" or the letters "VT" and the refund value of the container in not less than one-eighth inch type size or such other alternate indications as may be approved by the secretary. This subsection does not prohibit including names or abbreviations of other states with deposit legislation comparable to this chapter.

~~(b) The commissioner of the department of liquor control may allow, in the case of liquor bottles, a conspicuous, adhesive sticker to be attached to indicate the deposit information required in subsection (a) of this section, provided that the size, placement, and adhesive qualities of the sticker are as approved by the commissioner. The stickers shall be affixed to the bottles by the manufacturer, except that liquor which is sold in the state in quantities less than 100 cases per year may have stickers affixed by personnel employed by the department.~~

(c) This section shall not apply to permanently labeled beverage containers.

(d) [Repealed.]

Sec. 20. 10 V.S.A. § 1528 is amended to read:

§ 1528. BEVERAGE REGISTRATION

No distributor or manufacturer shall sell a beverage container in the state of Vermont without the manufacturer registering the beverage container with the agency of natural resources prior to sale~~, unless distributed by the department of liquor control~~. This registration shall take place on a form provided by the secretary and include the following:

(1) The name and principal business address of the manufacturer;

(2) The name of the beverage and the container size;

(3) Whether the beverage is a part of an approved commingling agreement; and

(4) The name of the person picking up the empty beverage container, if that person is different from the manufacturer.

* * * Retail Use of Plastic Carryout Bags * * *

Sec. 21. 10 V.S.A. chapter 167 is added to read:

CHAPTER 167. RETAIL USE OF PLASTIC CARRYOUT BAGS

§ 7601. DEFINITIONS

As used in this chapter:

(1) "Compostable plastic bag" means a plastic bag that meets the current American Society for Testing Materials (ASTM) D6400 standard for compostable plastic, as that standard may be amended from time to time.

(2) "Plastic carryout bag" means a bag composed primarily of thermoplastic synthetic polymeric material that is provided by a retail establishment to a consumer at the time of sale.

(3) "Recyclable paper bag" means a bag that:

(A) is composed of 100 percent recyclable material;

(B) contains 40 percent postconsumer recycled content; and

(C) displays the words "reusable" and "recyclable."

(4) "Retail establishment" means a place where goods, food, or other products are offered to the public for sale, including supermarkets, grocery stores, convenience stores, retail merchandise stores, and restaurants.

(5) "Reusable bag" means a bag designed and manufactured for multiple reuse composed of:

(A) cloth or machine-washable fabric; or

(B) durable plastic that is at least 2.25 mils thick.

§ 7602. PROHIBITION ON USE OF PLASTIC CARRYOUT BAGS

Beginning January 1, 2014:

(1) A retail establishment shall not provide customers with plastic carryout bags; and

(2) A retail establishment shall provide only compostable plastic bags, recyclable paper bags, or reusable bags for the purpose of carrying goods, food, or other products from the retail establishment.

§ 7603. PENALTY

A person who violates a provision of this chapter shall be fined not more than $500.00 for each violation.

* * * Appeals, Enforcement, and Effective Dates * * *

Sec. 22. 10 V.S.A. § 8003(a) is amended to read:

(a) The secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes:

* * *

(21) 10 V.S.A. chapter 166, relating to collection and recycling of electronic waste; ~~and~~

(22) 10 V.S.A. chapter 164A, collection and disposal of mercury-containing lamps;

(23) 24 V.S.A. § 2202a, relating to a municipality's adoption and implementation of a municipal solid waste implementation plan that is consistent with the state solid waste plan; and

(24) 10 V.S.A. chapter 167, relating to the use of plastic carryout bags.

Sec. 23. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(R) chapter 167 (use of plastic carryout bags).

* * *

(g) This chapter shall govern all appeals of an act or decision of the secretary of natural resources that a municipal solid waste implementation plan proposed under 24 V.S.A. § 2202a conforms with the state solid waste implementation plan adopted pursuant to section 6604 of this title.

Sec. 24. EFFECTIVE DATE

This act shall take effect on July 1, 2012, except that Secs. 17 (definitions; beverage redemption), 18 (beverage container deposit), 19 (beverage container

labeling), and 20 (beverage registration) of this act shall take effect July 1, 2014.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator McCormack, on behalf of the Committee on Natural Resources and Energy, moved to amend the proposal of amendment of the Committee on Natural Resources and Energy as follows:

By striking Secs. 17 through 24 in their entirety and inserting in lieu thereof the following:

* * * Studies of Ban on Plastic Carryout Bags and Expansion of Beverage Container Redemption System * * *

Sec. 17. ANR REPORT ON IMPLEMENTATION OF BAN ON PLASTIC CARRYOUT BAGS

(a) On or before January 15, 2013, the secretary of natural resources shall report to the senate and house committees on natural resources and energy regarding the use of plastic carryout bags in the state. The report shall include:

(1) An estimate of the number of plastic bags used in the state and a summary of how plastic carryout bags are currently disposed of or recycled;

(2) A recommendation on whether to ban the use of plastic carryout bags by retail establishments in the state, to allow the continued use of plastic carryout bags, or to regulate plastic carryout bags in some other manner, including a summary of the basis for the recommendation.

(3) If the secretary under subdivision (2) of this subsection recommends that plastic carryout bags should be banned or regulated, the secretary shall:

(A) Recommend a definition of "plastic carryout bag";

(B) Specify to whom the ban or regulation should apply;

(C) Recommend an effective date for the recommended ban or regulation; and

(D) Estimate the cost to implement the recommended ban or regulation.

(b) In preparing the report required by this section, the secretary of natural resources shall consult with interested parties, including representatives of:

grocers in the state, retail establishments in the state, environmental groups, solid waste districts, and plastic or container industry associations.

Sec. 18. ANR REPORT ON EXPANSION OF THE BEVERAGE CONTAINER REDEMPTION SYSTEM

(a) On or before January 15, 2013, the secretary of natural resources shall report to the senate and house committees on natural resources and energy regarding the proposed expansion of the beverage container redemption system to all containers for noncarbonated beverages.

(1) The report shall include:

(A) An estimate of the number of containers redeemed in the state under the existing requirements of 10 V.S.A. chapter 53.

(B) A recommendation on whether to expand the beverage container redemption system or to implement an alternative method for the collection and recycling of beverage containers, including a summary of the basis for the recommendation.

(2) If the secretary under subdivision (1) of this subsection recommends that the beverage container redemption system should be expanded, the secretary shall:

(A) Recommend the additional containers that will be subject to redemption requirement, including whether all containers for noncarbonated beverages should be subject to redemption requirements;

(B) Recommend an effective date for the recommended expansion; and

(C) Estimate the cost to implement the recommended expansion.

(3) If the secretary under subdivision (1) of this subsection recommends that an alternative method for the collection and recycling of beverage containers should be implemented, the secretary shall:

(A) Summarize the recommended alternative method and how it would provide for the collection and recycling of beverage containers;

(B) Recommend an effective date for implementation of the recommended alternative;

(C) Recommend whether the existing beverage container redemption requirements should be repealed and, if so, the effective date of the repeal; and

(D) Estimate the cost of implementing the recommended alternative method.

(b) In preparing the report required by this section, the secretary of natural resources shall consult with interested parties, including representatives of: beverage manufacturers and distributors, redemption centers, grocers in the state, environmental groups, solid waste districts, solid waste haulers or handlers, solid waste facilities, and the container industry.

* * * Appeals, Enforcement, and Effective Dates * * *

Sec. 19. 10 V.S.A. § 8003(a) is amended to read:

(a) The secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes:

* * *

(21) 10 V.S.A. chapter 166, relating to collection and recycling of electronic waste; ~~and~~

(22) 10 V.S.A. chapter 164A, collection and disposal of mercury-containing lamps; and

(23) 24 V.S.A. § 2202a, relating to a municipality's adoption and implementation of a municipal solid waste implementation plan that is consistent with the state solid waste plan.

Sec. 20. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

* * *

(g) This chapter shall govern all appeals of an act or decision of the secretary of natural resources that a municipal solid waste implementation plan proposed under 24 V.S.A. § 2202a conforms with the state solid waste implementation plan adopted pursuant to section 6604 of this title.

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Thereupon, pending the question, Shall the proposal of amendment recommended by the Committee on Natural Resources and Energy be amended as moved by Senator McCormack?, Senator Illuzzi moved to

substitute for the amendment of Senator McCormack to the proposal of the Committee on Natural Resources and Energy as follows:

First: By striking out Secs. 17 through 21 in their entirety and inserting in lieu thereof new Secs. 17 through 21 to read as follows:

Sec. 17. ANR REPORT ON THE COSTS AND BENEFITS OF EXPANSION OF THE BEVERAGE CONTAINER REDEMPTION SYSTEM

(a) Findings. The general assembly finds and declares that:

(1) the beverage container redemption system, commonly referred to as the bottle bill, originally was developed as a method of litter control and not as a comprehensive recycling system;

(2) since enactment of the beverage container redemption system, communities and solid waste haulers have developed the management, markets, and infrastructure necessary to implement zero-sort, single-stream recycling programs that allow a broad range of recyclable material to be collected and recycled without source-separation and with minimal labor;

(3) in municipalities where zero-sort, single-stream recycling has been implemented, local recycling collection rates have increased 20 to 30 percent while program operating costs have been reduced by more than 10 percent;

(4) expanding the beverage container redemption system will divert higher-value recyclable material from zero-sort, single-stream recycling programs, which will reduce the dollar value municipalities receive from the commodities market for recyclable material, thereby increasing the costs of municipal solid waste programs; and

(5) in order to determine whether the bottle bill should be expanded, the secretary of natural resources should analyze the costs and benefits of the bottle bill under the existing recycling system and infrastructure in the state in order to determine if expansion of the bottle bill provides Vermont with the optimal, cost-efficient, and effective means of collecting and recycling solid waste in the state.

(b) Report on costs on bottle bill. On or before November 15, 2013, the secretary of natural resources shall submit to the senate and house committees on natural resources and energy, the senate committee on economic development, housing and general affairs, and the house committee on commerce a report regarding the costs and benefits of expanding the beverage container redemption system to include containers for all noncarbonated drinks. The report shall include:

(1) An estimate of the cost of implementing the existing beverage container redemption system;

(2) An estimate of the cost of implementing expansion of the beverage container redemption system to include containers for all noncarbonated drinks, including an estimate of the commodity value lost by municipalities due to diversion of recyclable material from single-stream recycling programs.

(3) An estimate of the cost of implementing a zero-sort, single-stream recycling program.

(4) A summary of the total recycling benefits of a single-stream recycling program in contrast to the beverage container redemption system.

(5) A recommendation from the secretary whether the beverage container redemption system should be expanded, remain unchanged, or be repealed.

Second: By striking out Sec. 24 in its entirety and inserting in lieu thereof the following:

Sec. 24. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Thereupon, pending the question, Shall the Senate adopt the substitute the proposal of amendment of Senator Illuzzi for the proposal of amendment of Senator McCormack to the proposal of amendment of the Committee on Natural Resources and Energy?, Senator Campbell moved that action on the bill be postponed until later in the legislative day, which was agreed to.

Proposal of Amendment; Third Reading Ordered

H. 627.

Senator Pollina, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to an opioid addiction treatment system.

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

Sec. 1. 18 V.S.A. chapter 93 is added to read:

CHAPTER 93. TREATMENT OF OPIOID ADDICTION

§ 4751. PURPOSE

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

§ 4752. OPIOID ADDICTION TREATMENT SYSTEM

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

(b) The rules shall include the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2. REPEAL

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

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

Rules Suspended; Bill Committed

H. 468.

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

An act relating to the Vermont Energy Act of 2012.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy, Senator Lyons moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Natural Resources and Energy *intact*,

Which was agreed to.

Recess

On motion of Senator Campbell the Senate recessed until one o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Message from the House No. 53

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 bill entitled:

H. 789. An act relating to reapportioning the final representative districts of the House of Representatives.

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

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

Rep. Sweaney of Windsor
Rep. Hubert of Milton
Rep. Jewett of Ripton

Message from the House No. 54

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 passed House bills of the following titles:

H. 792. An act relating to approval of amendments to the charter of the city of Burlington.

H. 793. An act relating to approval of amendments to the charter of the Winooski incorporated school district.

H. 794. An act relating to the management of search and rescue operations.

In the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill entitled:

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

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

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

Rep. Brennan of Colchester
Rep. Potter of Clarendon
Rep. Corcoran of Bennington

Message from the House No. 55

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 passed a House bill of the following title:

H. 777. An act relating to licensed midwives and certified nurse midwives.

In the passage of which the concurrence of the Senate is requested.

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

S. 136. An act relating to vocational rehabilitation.

S. 217. An act relating to closely held benefit corporations.

S. 237. An act relating to the genuine progress indicator.

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 proposal of amendment to House bill of the following title:

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

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

Consideration Resumed; Consideration Postponed

H. 485.

Consideration was resumed on House bill entitled:

An act relating to establishing universal recycling of solid waste.

Thereupon, pending the question, Shall the Senate substitute the proposal of amendment of Senator Illuzzi for the proposal of amendment of Senator McCormack, to the proposal of amendment of the Committee on Natural

Resources and Energy?, Senator Illuzzi requested and was granted leave to withdraw the substitute proposal of amendment.

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Natural Resources be amended as recommended by Senator McCormack?, Senator McCormack requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy?, Senator McCormack moved to amend the proposal of amendment of the Committee on Natural Resources and Energy as follows:

By striking out Secs. 17 through 24 in their entirety and inserting in lieu thereof new Secs. 17 through 24 to read as follows:

* * * Studies of Ban on Plastic Carryout Bags and Expansion of Beverage Container Redemption System * * *

Sec. 17. ANR REPORT ON IMPLEMENTATION OF BAN ON PLASTIC CARRYOUT BAGS

(a) On or before January 15, 2013, the secretary of natural resources shall report to the senate and house committees on natural resources and energy regarding the use of plastic carryout bags in the state. The report shall include:

(1) An estimate of the number of plastic bags used in the state and a summary of how plastic carryout bags are currently disposed of or recycled;

(2) A recommendation on whether to ban the use of plastic carryout bags by retail establishments in the state, to allow the continued use of plastic carryout bags, or to regulate plastic carryout bags in some other manner, including a summary of the basis for the recommendation.

(3) If the secretary under subdivision (2) of this subsection recommends that plastic carryout bags should be banned or regulated, the secretary shall:

(A) Recommend a definition of "plastic carryout bag";

(B) Specify to whom the ban or regulation should apply;

(C) Recommend an effective date for the recommended ban or regulation; and

(D) Estimate the cost to implement the recommended ban or regulation.

(b) In preparing the report required by this section, the secretary of natural resources shall consult with interested parties, including representatives of:

grocers in the state, retail establishments in the state, environmental groups, solid waste districts, and plastic or container industry associations.

Sec. 18. ANR REPORT ON THE COSTS AND BENEFITS OF EXPANSION OF THE BEVERAGE CONTAINER REDEMPTION SYSTEM

(a) Findings. The general assembly finds and declares that:

(1) the beverage container redemption system, commonly referred to as the bottle bill, originally was developed as a method of litter control and not as a comprehensive recycling system;

(2) since enactment of the beverage container redemption system, communities and solid waste haulers have developed the management, markets, and infrastructure necessary to implement zero-sort, single-stream recycling programs that allow a broad range of recyclable material to be collected and recycled without source-separation and with minimal labor;

(3) in municipalities where zero-sort, single-stream recycling has been implemented, local recycling collection rates have increased 20 to 30 percent while program operating costs have been reduced by more than 10 percent;

(4) expanding the beverage container redemption system will divert higher-value recyclable material from zero-sort, single-stream recycling programs, which will reduce the dollar value municipalities receive from the commodities market for recyclable material, thereby increasing the costs of municipal solid waste programs; and

(5) in order to determine whether the bottle bill should be expanded, the secretary of natural resources should analyze the costs and benefits of the bottle bill under the existing recycling system and infrastructure in the state in order to determine if expansion of the bottle bill provides Vermont with the optimal, cost-efficient, and effective means of collecting and recycling solid waste in the state.

(b) Report on costs on bottle bill. On or before November 15, 2013, the secretary of natural resources shall submit to the senate and house committees on natural resources and energy, the senate committee on economic development, housing and general affairs, and the house committee on commerce a report regarding the costs and benefits of expanding the beverage container redemption system to include containers for all noncarbonated drinks. The report shall include:

(1) An estimate of the cost of implementing the existing beverage container redemption system;

(2) An estimate of the cost of implementing expansion of the beverage container redemption system to include containers for all noncarbonated drinks, including an estimate of the commodity value lost by municipalities due to diversion of recyclable material from single-stream recycling programs.

(3) An estimate of the cost of implementing a zero-sort, single-stream recycling program.

(4) A summary of the total recycling benefits of a single-stream recycling program in contrast to the beverage container redemption system.

(5) A recommendation from the secretary as to whether the beverage container redemption system should be expanded, remain unchanged, or be repealed.

* * * Appeals, Enforcement, and Effective Dates * * *

Sec. 19. 10 V.S.A. § 8003(a) is amended to read:

(a) The secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes:

* * *

(21) 10 V.S.A. chapter 166, relating to collection and recycling of electronic waste; ~~and~~

(22) 10 V.S.A. chapter 164A, collection and disposal of mercury-containing lamps; and

(23) 24 V.S.A. § 2202a, relating to a municipality's adoption and implementation of a municipal solid waste implementation plan that is consistent with the state solid waste plan.

Sec. 20. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

* * *

(g) This chapter shall govern all appeals of an act or decision of the secretary of natural resources that a municipal solid waste implementation plan proposed under 24 V.S.A. § 2202a conforms with the state solid waste implementation plan adopted pursuant to section 6604 of this title.

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Thereupon, the pending question, Shall the proposal of amendment of the Committee on Natural Resources and Energy be amended as recommended by Senator McCormack?, Senator Galbraith requested the question be divided and that Secs. 17 through 20 be voted on separately.

Thereupon, pending the question, Senator Campbell moved action on the bill be postponed until later in the day, which was agreed to.

Committee Relieved of Further Consideration; Bills Committed

On motion of Senator Campbell, the Committee on Rules was relieved of further consideration of House bills entitled:

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

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

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

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

and the bills were severally committed to the Committee on Government Operations.

Proposal of Amendment; Third Reading Ordered

H. 254.

Senator Sears, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to consumer protection.

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

Sec. 1. 9 V.S.A. chapter 63, subchapter 1C is added to read:

Subchapter 1C. Discount Membership Programs

§ 2470aa. DEFINITIONS

In this subchapter:

(1) "Billing information" means any data that enables a seller of a discount membership program to access a consumer's credit or debit card, bank, or other account, but does not include the consumer's name, e-mail address, telephone number, or mailing address. For credit card and debit card accounts, billing information includes the full account number, card type, and expiration date, and, if necessary, the security code. For accounts at a financial institution, "billing information" includes the full account number and routing number, and, if necessary, the name of the financial institution holding the account.

(2) A "discount membership program" is a program that entitles consumers to receive discounts, rebates, rewards, or similar incentives on the purchase of goods or services or both, in whole or in part, from any third party.

§ 2470bb. APPLICABILITY

A discount membership program is a good or service within the meaning of subsection 2451a(b) of this chapter. This subchapter applies only to persons who are regularly and primarily engaged in trade or commerce in this state in connection with offering or selling discount membership programs. This subchapter shall not apply to an electronic payment system, as defined in 9 V.S.A. § 2480o, or to a financial institution, as defined in 8 V.S.A. § 11101(32).

§ 2470cc. REQUIRED DISCLOSURES; CONSENT

(a) No person shall charge or attempt to charge a consumer for a discount membership program, or to renew a discount membership program beyond the term expressly agreed to by the consumer or the term permitted under section 2470ff of this title, whichever is shorter, unless:

(1) Before obtaining the consumer's billing information, the person has clearly and conspicuously disclosed to the consumer all material terms of the transaction, including:

(A) A description of the types of goods and services on which a discount is available;

(B) The name of the discount membership program and the name and address of the seller of the program;

(C) The amount, or a good faith estimate, of the typical discount on each category of goods and services;

(D) The cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment;

(E) The right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ee of this subchapter, and a toll-free telephone number and e-mail address that can be used to cancel the membership;

(F) The maximum length of membership, as described in section 2470ff of this subchapter;

(G) In the event that the program is offered on the Internet through a link or referral from another business's website, the fact that the seller is not affiliated with that business;

(H) The fact that periodic notices of the program billings will be e-mailed or mailed to the consumer, as the case may be, consistent with section 2470dd of this title; and

(2) The person has received express informed consent for the charge from the consumer whose credit or debit card, bank, or other account will be charged, by:

(A) Obtaining from the consumer:

(i) the consumer's billing information; and

(ii) the consumer's name and address and a means to contact the consumer; and

(B) Requiring the consumer to perform an additional affirmative action, such as clicking on an online confirmation button, checking an online box that indicates the consumer's consent to be charged the amount disclosed, or expressly giving consent over the telephone.

(b) A person who sells discount membership programs shall retain evidence of a consumer's express informed consent for at least three years after the consent is given.

§ 2470dd. PERIODIC NOTICES

(a) A person who periodically charges a consumer for a discount membership program shall send the consumer a notice of the charge no less frequently than every three months from the date of initial enrollment that clearly and conspicuously discloses:

(1) A description of the program;

(2) The name of the discount membership program and the name and address of the seller of the program;

(3) The cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment;

(4) The right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ee of this subchapter, and a toll-free number and e-mail address that can be used to cancel the membership; and

(5) The maximum length of membership, as described in section 2470ff of this subchapter.

(b) The notice specified in subsection (a) of this section:

(1) Shall be sent:

(A) To the consumer's last known e-mail address, if the consumer enrolled in the discount membership program online or by e-mail, with the subject line, "IMPORTANT INFORMATION ABOUT YOUR DISCOUNT PROGRAM BILLING," or substantially similar words, provided that the sender takes reasonable steps to verify that the e-mail has been opened; or

(B) Otherwise by first-class mail to the consumer's last known mailing address, with the heading on the enclosure and outside envelope, "IMPORTANT INFORMATION ABOUT YOUR DISCOUNT PROGRAM BILLING," or substantially similar words; and

(2) Shall not include any solicitation or advertising.

§ 2470ee. CANCELLATION AND TERMINATION

(a) In addition to any other right to revoke an offer, a consumer may cancel the purchase of a discount membership program until midnight on the 30th day after the date the consumer has given express informed consent to be charged for the program. If the consumer cancels within the 30-day period, the seller of the discount membership program shall, within ten days of receiving the notice of cancellation, provide a full refund to the consumer.

(b) Notice of cancellation shall be deemed given when deposited in a mailbox properly addressed and postage prepaid or when e-mailed to the e-mail address of the seller of the discount membership program.

(c) In addition to the right to cancel described in this subchapter, a consumer may terminate a discount membership program at any time by providing notice to the seller by one of the methods described in this section. In that case, the consumer shall not be obligated to make any further payments

under the program and shall not be entitled to any discounts under the program for any period of time after the last month for which payment has been made.

(d) If the seller of a discount membership program cancels the program for any reason other than nonpayment by the consumer, the seller shall make pro rata reimbursement to the consumer of all periodic charges paid by the consumer for periods of time after cancellation. Prior to such cancellation, the seller shall first provide reasonable notice and an explanation of the cancellation in writing to the consumer.

§ 2470ff. MAXIMUM LENGTH OF PLAN

No person shall sell, or offer for sale, a discount membership program lasting longer than 18 months.

§ 2470gg. BILLING INFORMATION

No person who offers or sells discount membership programs shall obtain billing information relating to a consumer except directly from the consumer.

§ 2470hh. VIOLATIONS

(a) A violation of this subchapter is deemed to be a violation of section 2453 of this title.

(b) The attorney general has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as is provided under subchapter 1 of this chapter.

Sec. 2. 9 V.S.A. chapter 63 is amended to read:

CHAPTER 63. CONSUMER ~~FRAUD~~ PROTECTION

* * *

§ 2453. PRACTICES PROHIBITED; ANTITRUST AND CONSUMER ~~FRAUD~~ PROTECTION

* * *

§ 2461e. REQUIREMENTS FOR GUARANTEED PRICE PLANS AND PREPAID CONTRACTS

* * *

(d) Private right of action under consumer ~~fraud~~ protection act. In addition to the remedies set forth in sections 2458 and 2461 of this title, a home heating oil, kerosene, or liquefied petroleum gas dealer may bring an action against its heating oil, kerosene, or liquefied petroleum gas suppliers for failing to honor its contract with the home heating oil, kerosene, or liquefied petroleum gas dealer. The home heating oil, kerosene, or liquefied petroleum gas dealer

bringing the action may recover all remedies available to consumers under subsection 2461(b) of this title.

* * *

§ 2480q. PENALTIES

(a) The following penalties shall apply to violations of this subchapter:

* * *

(3) A violation of section 2480p of this subchapter shall be deemed a violation of ~~chapter 63~~ section 2453 of this title~~, the Consumer Fraud Act~~. The attorney general has the same authority to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under subchapter 1 ~~of chapter 63~~ of this ~~title~~ chapter.

* * *

Sec. 3. REDESIGNATION OF TERM "CONSUMER FRAUD" TO READ "CONSUMER PROTECTION"

(a) The legislative council, under its statutory revision authority pursuant to 2 V.S.A. § 424, is directed to delete the term "consumer fraud" and to insert in lieu thereof the term "consumer protection" wherever it appears in each of the following sections: 7 V.S.A. § 1010; 8 V.S.A. §§ 2706, 2709, and 2764; 9 V.S.A. § 2471; 18 V.S.A. §§ 1511, 1512, 4086, 4631, 4633, 4634, and 9473; 20 V.S.A. § 2757; and 33 V.S.A. §§ 1923 and 2010; and in any other sections as appropriate.

(b) Notwithstanding the provisions of 3 V.S.A. chapter 25, the attorney general shall have the authority to delete the term "consumer fraud" and to insert in lieu thereof the term "consumer protection" wherever it appears in the attorney general's rules, regulations, and procedures and shall exercise such authority upon passage of this act as he or she deems to be necessary, appropriate, and consistent with the purposes of this section.

Sec. 4. 9 V.S.A. chapter 62 is amended to read:

CHAPTER 62: PROTECTION OF PERSONAL INFORMATION

§ 2430. DEFINITIONS

The following definitions shall apply throughout this chapter unless otherwise required:

* * *

(5)(A) "~~Personal~~ Personally identifiable information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data

elements are not encrypted or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) Social Security number;

(ii) Motor vehicle operator's license number or nondriver identification card number;

(iii) Financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords;

(iv) Account passwords or personal identification numbers or other access codes for a financial account.

(B) "~~Personal~~ Personally identifiable information" does not mean publicly available information that is lawfully made available to the general public from federal, state, or local government records.

* * *

(8)(A) "Security breach" means unauthorized acquisition ~~or access~~ of ~~computerized~~ electronic data or a reasonable belief of an unauthorized acquisition of electronic data that compromises the security, confidentiality, or integrity of ~~personal~~ a consumer's personally identifiable information maintained by the data collector.

(B) "Security breach" does not include good faith but unauthorized acquisition ~~or access~~ of ~~personal~~ personally identifiable information by an employee or agent of the data collector for a legitimate purpose of the data collector, provided that the ~~personal~~ personally identifiable information is not used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information has been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data collector may consider the following factors, among others:

(i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;

(ii) indications that the information has been downloaded or copied;

(iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the information has been made public.

§ 2435. NOTICE OF SECURITY BREACHES

(a) This section shall be known as the Security Breach Notice Act.

(b) Notice of breach.

(1) Except as set forth in subsection (d) of this section, any data collector that owns or licenses computerized ~~personal~~ personally identifiable information that includes personal information concerning a consumer shall notify the consumer that there has been a security breach following discovery or notification to the data collector of the breach. Notice of the security breach shall be made in the most expedient time possible and without unreasonable delay, but not later than 45 days after the discovery or notification, consistent with the legitimate needs of the law enforcement agency, as provided in ~~subdivision~~ subdivisions (3) and (4) of this subsection, or with any measures necessary to determine the scope of the security breach and restore the reasonable integrity, security, and confidentiality of the data system.

(2) Any data collector that maintains or possesses computerized data containing ~~personal~~ personally identifiable information of a consumer that the ~~business~~ data collector does not own or license or any data collector that acts or conducts business in Vermont that maintains or possesses records or data containing ~~personal~~ personally identifiable information that the data collector does not own or license shall notify the owner or licensee of the information of any security breach immediately following discovery of the breach, consistent with the legitimate needs of law enforcement as provided in ~~subdivision~~ subdivisions (3) and (4) of this subsection.

(3) A data collector or other entity subject to this subchapter, other than a person or entity licensed or registered with the department of financial regulation under Title 8 or this title, shall provide notice of a breach to the attorney general's office as follows:

(A)(i) The data collector shall notify the attorney general of the date of the security breach and the date of discovery of the breach and shall provide a preliminary description of the breach within 14 business days, consistent with the legitimate needs of the law enforcement agency as provided in subdivisions (3) and (4) of this subsection, of the data collector's discovery of the security breach or when the data collector provides notice to consumers pursuant to this section, whichever is sooner.

(ii) Notwithstanding subdivision (A)(i) of this subdivision (b)(3), a data collector who, prior to the date of the breach, on a form and in a manner prescribed by the office of the attorney general, had sworn in writing to the attorney general that it maintains written policies and procedures to maintain

the security of personally identifiable information and respond to a breach in a manner consistent with Vermont law shall notify the attorney general of the date of the security breach and the date of discovery of the breach and shall provide a description of the breach prior to providing notice of the breach to consumers pursuant to subdivision (1) of this subsection.

(iii) If the date of the breach is unknown at the time notice is sent to the attorney general, the data collector shall send the attorney general the date of the breach as soon as it is known.

(iv) Unless otherwise ordered by a court of this state for good cause shown, a notice provided under this subdivision (3)(A) shall not be disclosed to any person other than the authorized agent or representative of the attorney general, a state's attorney, or another law enforcement officer engaged in legitimate law enforcement activities without the consent of the data collector.

(B)(i) When the data collector provides notice of the breach pursuant to subdivision (1) of this subsection (b), the data collector shall notify the attorney general of the number of Vermont consumers affected, if known to the data collector, and shall provide a copy of the notice provided to consumers under subdivision (1) of this subsection (b).

(ii) The data collector may send to the attorney general a second copy of the consumer notice, from which is redacted the type of personally identifiable information that was subject to the breach, and which the attorney general shall use for any public disclosure of the breach.

(4) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation, or a national or homeland security investigation or jeopardize public safety or national or homeland security interests. In the event law enforcement makes the request in a manner other than in writing, the data collector shall document such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data collector when the law enforcement agency no longer believes that notification may impede a law enforcement investigation, or a national or homeland security investigation or jeopardize public safety or national or homeland security interests. The data collector shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

~~(4)~~(5) The notice to a consumer shall be clear and conspicuous. The notice shall include a description of each of the following, if known to the data collector:

(A) The incident in general terms.

(B) The type of ~~personal~~ personally identifiable information that was subject to the ~~unauthorized access or acquisition~~ security breach.

(C) The general acts of the ~~business~~ data collector to protect the ~~personal~~ personally identifiable information from further ~~unauthorized access or acquisition~~ security breach.

(D) A ~~toll-free~~ telephone number, toll-free if available, that the consumer may call for further information and assistance.

(E) Advice that directs the consumer to remain vigilant by reviewing account statements and monitoring free credit reports.

(F) The approximate date of the security breach.

~~(5)~~(6) For purposes of this subsection, notice to consumers may be provided by one of the following methods:

* * *

(h) Vermont law enforcement agencies, including the department of public safety, shall not be considered a data collector. Except as provided in subdivisions (b)(2) and (b)(3) of this section, Vermont law enforcement agencies, including the department of public safety, shall be exempt from this subchapter.

Sec. 5. 3 V.S.A. § 2222 is amended to read:

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

(a) In addition to the duties expressly set forth elsewhere by law the secretary shall:

* * *

(9) Submit to the general assembly concurrent with the governor's annual budget request required under 32 V.S.A. § 306, a strategic plan for information technology and information security which outlines the significant deviations from the previous year's ~~information technology~~ plan, and which details the plans for information technology activities of state government for the following fiscal year as well as the administration's financing recommendations for these activities. For purposes of this section, "information security" shall mean protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or

destruction in order to provide integrity, confidentiality, and availability. All such plans shall be reviewed and approved by the commissioner of information and innovation prior to being included in the governor's annual budget request. The plan shall identify the proposed sources of funds for each project identified. The plan shall also contain a review of the state's information technology and information security and an identification of priority projects by agency. The plan shall include, for any proposed information technology activity with a cost in excess of $100,000.00:

(A) a life-cycle costs analysis including planning, purchase and development of applications, the purchase of hardware and the ~~on-going~~ ongoing operation and maintenance costs to be incurred over the expected life of the systems; and a cost-benefit analysis which shall include acquisition costs as well as operational and maintenance costs over the expected life of the system;

(B) the cost savings ~~and/or~~ or service delivery improvements or both which will accrue to the public or to state government;

(C) a statement identifying any impact of the proposed new computer system on the privacy or disclosure of individually identifiable information;

(D) a statement identifying costs and issues related to public access to nonconfidential information;

(E) a statewide budget for all information technology activities with a cost in excess of ~~$100,000~~ $100,000.00.

(10) The secretary shall annually submit to the general assembly a five-year information technology and information security plan which indicates the anticipated information technology activities of the legislative, executive, and judicial branches of state government. For purposes of this section, "information technology activities" shall mean:

(A) the creation, collection, processing, storage, management, transmission, or conversion of electronic data, documents, or records;

(B) the design, construction, purchase, installation, maintenance, or operation of systems, including both hardware and software, which perform these activities.

* * *

Sec. 6. 22 V.S.A. § 901 is amended to read:

§ 901. DEPARTMENT OF INFORMATION AND INNOVATION

The department of information and innovation, created in 3 V.S.A. § 2283b, shall have all the responsibilities assigned to it by law, including the following:

(1) to provide direction and oversight for all activities directly related to information technology and information security, including telecommunications services, information technology equipment, software, accessibility, and networks in state government. For purposes of this section, "information security" is defined as in 3 V.S.A. § 2222(a)(9);

(2) to manage GOVnet;

(3) to review all information technology and information security requests for proposal in accordance with agency of administration policies;

(4) to review and approve information technology activities in all departments with a cost in excess of $100,000.00, and annually submit to the general assembly a strategic plan and a budget for information technology and information security as required of the secretary of administration by 3 V.S.A. § 2222(a)(9). For purposes of this section, "information technology activities" is defined in 3 V.S.A. § 2222(a)(10);

(5) to administer the independent review responsibilities of the secretary of administration described in 3 V.S.A. § 2222(g);

(6) to perform the responsibilities of the secretary of administration under 30 V.S.A. § 227b;

(7) to administer communication, information, and technology services, which are transferred from the department of buildings and general services;

(8) to inventory technology assets within state government;

(9) to coordinate information technology and information security training within state government;

* * *

(11) to provide technical support and services to the department of human resources and of finance and management for the statewide central accounting and encumbrance system, the statewide budget development system, the statewide human resources management system, and other agency of administration systems as may be assigned by the secretary; and

(12) not later than July 1, 2013, to adopt rules requiring the auditing and updating of state websites.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

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

Proposal of Amendment; Third Reading Ordered

H. 496.

Senator Starr, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to preserving Vermont's working landscape.

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

Sec. 1. 6 V.S.A. § 2966 (Vermont agricultural development board) is repealed in its entirety and new §§ 2966 is added to read:

§ 2966. ESTABLISHMENT OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) Board Established. The Vermont working lands enterprise board is hereby established as the successor in interest to the Vermont agricultural development board.

(b) Goals. The Vermont working lands enterprise board shall perform its duties pursuant to sections 2967 and 2968 of this title:

(1) to promote job creation and the economic viability, growth, and sustainability of the working landscape;

(2) to attract a new generation of entrepreneurs to agriculture and forestry, food and forest systems, and value-added production as a foundation for rural job creation and working lands conservation;

(3) to increase the value and sales of the products of the working landscape by means which reward sound farm and forest management, including appropriate increases in the proportion of value-added farm and forest products relative to raw material exports; and

(4) to build Vermont's reputation as the national leader in food systems development, environmental quality, land stewardship, access to outdoor recreation, and working lands entrepreneurism.

(c) Board Composition. The board shall be composed of the following 24 members:

(1) six members appointed by the governor:

(A) a person with expertise in rural economic development issues;

(B) an employee of a Vermont postsecondary institution experienced in researching issues related to agriculture or forestry;

(C) a person familiar with the agricultural or forest tourism industry;

(D) a member of the Northeast Organic Farming Association of Vermont;

(E) a member of the Vermont Forest Products Association; and

(F) a member of the Vermont Wood Manufacturers Association;

(2) six members appointed by the speaker of the house of representatives:

(A) a person who produces an agricultural commodity other than dairy products;

(B) a person who creates a value-added product using ingredients substantially produced on Vermont farms or from Vermont forests;

(C) a person with expertise in sales and marketing;

(D) a person representing the feed, seed, fertilizer, or equipment enterprises;

(E) a member of the Vermont Woodlands Association; and

(F) a member of the Vermont Forest Stewardship Committee;

(3) six members appointed by the committee on committees of the senate:

(A) a representative of Vermont's dairy industry who is also a dairy farmer;

(B) a person with expertise in land planning and conservation efforts that support Vermont's working landscape;

(C) a representative from a Vermont agricultural or forestry advocacy organization;

(D) a person with experience in providing youth with educational opportunities enhancing understanding of agriculture or forestry;

(E) a member of the Green Mountain Division, Society of American Foresters; and

(F) a member of the Forest Guild who is a resident of Vermont.

(4) the following three members from the executive branch:

(A) the secretary of agriculture, food and markets;

(B) the secretary of commerce and community development; and

(C) the commissioner of forest, parks and recreation; and

(5) the following three members who shall serve as ex officio, non-voting members:

(A) the manager of the Vermont economic development authority;

(B) the executive director of the Vermont sustainable jobs fund; and

(C) the executive director of the Vermont housing conservation board.

(d) Governance.

(1) Eleven voting members of the board shall constitute a quorum, and an action of the board shall be taken by a majority of those members present and voting at a meeting of the members at which a quorum is present.

(2)(A) The chair of the board shall be elected by the board from its membership at the first meeting. The chair shall serve for the duration of his or her member term, until his or her earlier resignation, or until his or her unanimous removal by the governor, the speaker of the house, and the president pro tempore of the senate. A chair may be reappointed, provided that no individual may serve more than two consecutive three-year terms as chair.

(3) Each member of the board shall serve a term of three years, or until his or her earlier resignation. A member shall not serve more than two consecutive three-year terms. Any vacancy occurring among the members shall be filled by the respective appointing authority, and shall be filled for the balance of the unexpired term.

(e) Compensation. Members who are not state employees or whose membership is not supported by their employer or association may receive reimbursement for actual and necessary expenses incurred in the performance of their duties pursuant to 32 V.S.A. § 1010.

Sec. 2. 6 V.S.A. § 2967 is added to read:

§ 2967. POWERS AND DUTIES OF THE VERMONT WORKING LANDS ENTERPRISE BOARD

(a) The Vermont working lands enterprise board shall have the authority to promote job creation and the economic viability, growth, and sustainability of the working landscape through three mechanisms:

(1) Direct grants and investments in agricultural and forestry enterprises;

(2) Services and assistance to agricultural and forestry enterprises, both through direct coordination with public and private partners, and through performance contracts with one or more persons, including:

(A) technical assistance and product research services;

(B) marketing assistance, market development, and business and financial planning;

(C) local, statewide, regional, national, or international marketing of the Vermont working landscape, its entrepreneurs and sectors, and the public and private programs and partners supporting the working landscape;

(D) organizational, regulatory, and development assistance; and

(E) feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies.

(3) Direct grants and investments in food and forest systems infrastructure.

(b) The board shall have the additional authority:

(1) to pursue, receive, and accept any type of funding from public or private funding sources for the performance of its work;

(2) to use the services and staff of the agency of agriculture, food and markets to assist in the performance of the board's duties, with the concurrence of the secretary of agriculture, food and markets;

(3) to contract for support, technical, or other professional services necessary to complete its work; and

(4) to advise and make recommendations to the secretary of agriculture, food and markets and to the commissioner of forests, parks and recreation on the adoption and amendment of laws, regulations, and governmental policies that affect agriculture and forestry.

Sec. 3. 6 V.S.A. § 2968 is added to read:

§ 2968. VERMONT WORKING LANDS ENTERPRISE FUND

There is created a special fund in the state treasury to be known as the "Vermont working lands enterprise fund." Notwithstanding any contrary provisions of 32 V.S.A. Chapter 7, subchapter 5:

(1) the fund shall be administered, and the monies of the funds shall be expended, by the Vermont working lands enterprise board created in section 2966 of this title;

(2) the fund shall be composed of moneys from time to time appropriated to the fund by the general assembly or received from any other source, private or public, approved by the board, and unexpended balances and any earnings shall remain in the fund from year to year; and

(3) the board shall make expenditures from the fund consistent with the duties and authority of the board to promote job creation and the economic viability, growth, and sustainability of the working landscape consistent with section 2967 of this title.

Sec. 4. TRANSITION

Notwithstanding any provision of Sec. 1. of this act to the contrary, upon the effective date of this act, each member of the Vermont agricultural development board shall become a member of the Vermont working lands enterprise board and shall serve the remainder of his or her current term, upon the expiration of which a member may be reappointed or replaced as provided in 6 V.S.A. § 2966, as amended by this act.

Sec. 5. 10 V.S.A. chapter 15 is amended to read:

CHAPTER 15. VERMONT HOUSING AND CONSERVATION TRUST FUND

* * *

§ 302. POLICY, FINDINGS, AND PURPOSE

(a) The dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont's agricultural ~~land~~ and forest land, historic properties, important natural areas, and recreational lands are of primary importance to the economic vitality and quality of life of the state.

(b) In the best interests of all of its citizens and in order to improve the quality of life for Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, Vermont should encourage and assist in creating affordable housing and in preserving the state's agricultural ~~land~~ and forest land, historic properties, important natural areas, and recreational lands.

(c) It is the purpose of this chapter to create the Vermont housing and conservation trust fund to be administered by the Vermont housing and conservation board to further the policies established by subsections (a) and (b) of this section.

§ 303. DEFINITIONS

As used in this chapter:

(1) "Board" means the Vermont housing and conservation board established by this chapter.

(2) "Fund" means the Vermont housing and conservation trust fund established by this chapter.

(3) "Eligible activity" means any activity which will carry out either or both of the dual purposes of creating affordable housing and conserving and protecting important Vermont lands, including activities which will encourage or assist:

(A) the preservation, rehabilitation or development of residential dwelling units which are affordable to lower income Vermonters;

(B) the retention of agricultural land for agricultural use, and of forest land for forestry use;

(C) the protection of important wildlife habitat and important natural areas;

(D) the preservation of historic properties or resources;

(E) the protection of areas suited for outdoor public recreational activity;

(F) the development of capacity on the part of an eligible applicant to engage in an eligible activity.

* * *

§ 311. CREATION OF THE VERMONT HOUSING AND CONSERVATION BOARD

(a) There is created and established a body politic and corporate to be known as the "Vermont housing and conservation board" to carry out the provisions of this chapter. The board is constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the state. The board is exempt from licensure under 8 V.S.A. chapter 73 ~~of Title 8~~.

(b) The board shall consist of the following 11 members:

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

(2) The secretary of human services or his or her designee.

(3) The secretary of natural resources or his or her designee.

(4) The executive director of the Vermont housing finance agency or his or her designee.

(5) Three public members appointed by the governor with the advice and consent of the senate, who shall be residents of the state and who shall be experienced in creating affordable housing or conserving and protecting Vermont's agricultural ~~land~~ and forest land, historic properties, important natural areas, or recreational lands, one of whom shall be a representative of lower income Vermonters and one of whom shall be a farmer as defined in 32 V.S.A. § 3752(7).

(6) One public member appointed by the speaker of the house, who shall not be a member of the general assembly at the time of appointment.

(7) One public member appointed by the senate committee on committees, who shall not be a member of the general assembly at the time of appointment.

(8) Two public members appointed jointly by the speaker of the house and the president pro tempore of the senate as follows:

(A) One member from the nonprofit affordable housing organizations that qualify as eligible applicants under subdivision 303(4) of this title who shall not be an employee or board member of any of those organizations at the time of appointment.

(B) One member from the nonprofit conservation organizations whose activities are eligible under subdivision 303(3) of this title who shall not be an employee or member of the board of any of those organizations at the time of appointment.

* * *

§ 321. GENERAL POWERS AND DUTIES

* * *

(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection and forestland conservation funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use and forestland for future forestry use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection and forestland conservation funds under this subsection, the board shall seek to maximize state participation in the federal wetlands reserve program ~~in order~~ and such other programs as is appropriate to allow for increased or additional implementation of conservation practices on farmland and forestland protected or preserved under this chapter.

* * *

§ 324. STEWARDSHIP

If an activity funded by the board involves acquisition by the state of an interest in real property for the purpose of conserving and protecting agricultural ~~land~~ or forest land, important natural areas, or recreation lands, the board, in its discretion, may make a one-time grant to the appropriate state agency or municipality. The grant shall not exceed ten percent of the current appraised value of that property interest and shall be used to support its proper management or maintenance or both.

* * *

Sec. 6. APPROPRIATIONS

(a) The amount of $1,500,000.00 is appropriated from the general fund to the Vermont working lands enterprise fund in the amounts and for the purposes as follows:

(1) $500,000.00 for direct grants and investments in agricultural or forestry enterprises pursuant to 6 V.S.A. § 2966(a)(1).

(2) $375,000.00 to provide services and assistance to agricultural and forestry enterprises pursuant to 6 V.S.A. § 2966(a)(2).

(3) $500,000.00 for direct grants and investments in food and forest systems infrastructure pursuant to 6 V.S.A. § 2966(a)(3).

(b) The amount of $125,000.00 is appropriated from the general fund to the agency of agriculture, food and markets to provide funding for one full-time position of "Vermont working landscape development director," support staff, and for fiscal management and operations costs.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture with the following amendment thereto:

By striking out Sec. 6 (appropriations) in its entirety and by inserting in lieu thereof a new Sec. 6 to read:

Sec. 6. PRIORITIES FOR WORKING LANDS INVESTMENTS

In the event that sources of funding for investments are available in the agency of agriculture, food and markets, the working lands enterprise board, and the working lands enterprise fund, it is the intent of the general assembly to invest in the following priorities:

(1) funding for direct grants and investments in food and forest systems infrastructure pursuant to 6 V.S.A. § 2966(a)(3).

(2) funding for direct grants and investments in agricultural or forestry enterprises pursuant to 6 V.S.A. § 2966(a)(1).

(3) funding to provide services and assistance to agricultural and forestry enterprises pursuant to 6 V.S.A. § 2966(a)(2).

(4) funding to the agency of agriculture, food and markets for one full-time position of "Vermont working landscape development director," for support staff, and for fiscal management and operations costs.

And by renumbering the remaining sections to be numerically correct

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Agriculture was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Agriculture, as amended, was agreed to and third reading of the bill was ordered on a roll call, Yeas 28, Nays 0.

Senator Baruth 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, Carris, Cummings, Doyle, Flory, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Campbell, Fox.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 485.

Consideration was resumed on House bill entitled:

An act relating to establishing universal recycling of solid waste.

Thereupon, pending the question, Senator McCormack requested and was granted leave to withdraw his proposal of amendment.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy?, Senators McCormack and Illuzzi moved to amend the recommendation of amendment of the Committee on Natural Resources and Energy proposal of amendment as follows:

First: By striking out Secs. 17 through 20 in their entirety

Second: By striking out Sec. 21 through 23 in its entirety

Third: By striking out Sec. 24 in its entirety

Fourth: By inserting new Secs. 17 through 20 to read as follows:

* * * Studies of Ban on Plastic Carryout Bags and Expansion of Beverage Container Redemption System * * *

Sec. 17. ANR REPORT ON IMPLEMENTATION OF BAN ON PLASTIC CARRYOUT BAGS

(a) On or before January 15, 2013, the secretary of natural resources shall report to the senate and house committees on natural resources and energy regarding the use of plastic carryout bags in the state. The report shall include:

(1) An estimate of the number of plastic bags used in the state and a summary of how plastic carryout bags are currently disposed of or recycled;

(2) A recommendation on whether to ban the use of plastic carryout bags by retail establishments in the state, to allow the continued use of plastic carryout bags, or to regulate plastic carryout bags in some other manner, including a summary of the basis for the recommendation.

(3) If the secretary under subdivision (2) of this subsection recommends that plastic carryout bags should be banned or regulated, the secretary shall:

(A) Recommend a definition of "plastic carryout bag";

(B) Specify to whom the ban or regulation should apply;

(C) Recommend an effective date for the recommended ban or regulation; and

(D) Estimate the cost to implement the recommended ban or regulation.

(b) In preparing the report required by this section, the secretary of natural resources shall consult with interested parties, including representatives of: grocers in the state, retail establishments in the state, environmental groups, solid waste districts, and plastic or container industry associations.

Sec. 18. ANR REPORT ON THE COSTS AND BENEFITS OF EXPANSION OF THE BEVERAGE CONTAINER REDEMPTION SYSTEM

(a) Findings. The general assembly finds and declares that:

(1) the beverage container redemption system, commonly referred to as the bottle bill, originally was developed as a method of litter control and not as a comprehensive recycling system;

(2) since enactment of the beverage container redemption system, communities and solid waste haulers have developed the management, markets, and infrastructure necessary to implement zero-sort, single-stream recycling programs that allow a broad range of recyclable material to be collected and recycled without source-separation and with minimal labor;

(3) in municipalities where zero-sort, single-stream recycling has been implemented, local recycling collection rates have increased 20 to 30 percent while program operating costs have been reduced by more than 10 percent;

(4) expanding the beverage container redemption system will divert higher-value recyclable material from zero-sort, single-stream recycling programs, which will reduce the dollar value municipalities receive from the commodities market for recyclable material, thereby increasing the costs of municipal solid waste programs; and

(5) in order to determine whether the bottle bill should be expanded, the secretary of natural resources should analyze the costs and benefits of the bottle bill under the existing recycling system and infrastructure in the state in order to determine if expansion of the bottle bill provides Vermont with the optimal, cost-efficient, and effective means of collecting and recycling solid waste in the state.

(b) Report on costs on bottle bill. On or before November 15, 2013, the secretary of natural resources shall submit to the senate and house committees on natural resources and energy, the senate committee on economic development, housing and general affairs, and the house committee on commerce a report regarding the costs and benefits of expanding the beverage

container redemption system to include containers for all noncarbonated drinks. The report shall include:

(1) An estimate of the cost of implementing the existing beverage container redemption system;

(2) An estimate of the cost of implementing expansion of the beverage container redemption system to include containers for all noncarbonated drinks, including an estimate of the commodity value lost by municipalities due to diversion of recyclable material from single-stream recycling programs.

(3) An estimate of the cost of implementing a zero-sort, single-stream recycling program.

(4) A summary of the total recycling benefits of a single-stream recycling program in contrast to the beverage container redemption system.

(5) A recommendation from the secretary as to whether the beverage container redemption system should be expanded, remain unchanged, or be repealed.

* * * Appeals, Enforcement, and Effective Dates * * *

Sec. 19. 10 V.S.A. § 8003(a) is amended to read:

(a) The secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes:

* * *

(21) 10 V.S.A. chapter 166, relating to collection and recycling of electronic waste; ~~and~~

(22) 10 V.S.A. chapter 164A, collection and disposal of mercury-containing lamps; and

(23) 24 V.S.A. § 2202a, relating to a municipality's adoption and implementation of a municipal solid waste implementation plan that is consistent with the state solid waste plan.

Sec. 20. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

* * *

(g) This chapter shall govern all appeals of an act or decision of the secretary of natural resources that a municipal solid waste implementation plan proposed under 24 V.S.A. § 2202a conforms with the state solid waste implementation plan adopted pursuant to section 6604 of this title.

Fifth: By inserting a new Sec. 21 to read as follows:

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Natural Resources and Energy be amended as proposed by Senators McCormack and Illuzzi?, Senator Galbraith requested the question be divided and that Secs. 1, 3 and 5 be voted on separately and that Secs. 2 and 4 be voted on separately.

Thereupon, the pending question, Shall the proposal of amendment of the Committee on Natural Resources and Energy be amended as proposed by Senators McCormack and Illuzzi in Secs. 1, 3 and 5?, was decided in the affirmative on a roll call, Yeas 22, Nays 7.

Senator MacDonald 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, Brock, Campbell, Carris, Cummings, Flory, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, Mazza, McCormack, Miller, Mullin, Nitka, Sears, Snelling, Starr, Westman.

Those Senators who voted in the negative were: Baruth, Benning, Doyle, Galbraith, MacDonald, Pollina, White.

The Senator absent and not voting was: Fox.

Thereupon, the pending question, Shall the proposal of amendment of the Committee on Natural Resources and Energy be amended as proposed by Senators McCormack and Illuzzi in Secs. 2 and 4?, which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy, Senator MacDonald moved to amend the proposal of amendment in Sec. 18 by striking out subsection (a) in its entirety which was decided in the affirmative.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy?, Senator Pollina moved to amend the proposal of amendment of in

Sec. 18, subsection (b) by striking out the word "November" and inserting in lieu thereof the word January which was agreed to.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy, amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Senate Concurrent Resolution

The following joint concurrent resolution, 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, was adopted on the part of the Senate:

By Senators Ayer and Giard,

By Representative Jewett and others,

S.C.R. 45.

Senate concurrent resolution congratulating the 2012 Vermont Prudential Spirit of Community Award winners.

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, were adopted in concurrence:

By Representative Keenan and others,

By Senators Ayer, Kittell and Flory,

H.C.R. 353.

House concurrent resolution designating May 6–12, 2012 as National Nurses Week in Vermont.

By Representative Komline and others,

By Senators Sears and Hartwell,

H.C.R. 354.

House concurrent resolution congratulating the Bromley Mountain Ski Resort and the Bromley Outing Club on celebrating their respective 75th and 60th anniversaries.

By Representative Lenes and others,

By Senators Lyons and Snelling,

H.C.R. 355.

House concurrent resolution congratulating the Champlain Valley Union High School Redhawks 2012 Division I championship girls' Nordic ski team.

By Representative Russell and others,

By Senators Carris, Flory and Mullin,

H.C.R. 356.

House concurrent resolution commemorating the 25th anniversary of the Rutland Open Door Mission at its Park Street location.

By Representative Devereux and others,

H.C.R. 357.

House concurrent resolution in memory of Allyn Seward of East Wallingford.

By Representative Ancel and others,

H.C.R. 358.

House concurrent resolution congratulating Circus Smirkus on its 25th anniversary.

By Representative Martin and others,

H.C.R. 359.

House concurrent resolution congratulating Marita Johnson on being named the Springfield Regional Chamber of Commerce's 23rd Annual Citizen of the Year.

By Representatives French and Townsend,

H.C.R. 360.

House concurrent resolution honoring Brian Lowe for his volunteer ornithological protection activities.

By Representative Clarkson and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 361.

House concurrent resolution congratulating the Woodstock Union High School Wasps on winning their third consecutive Division II boys' Nordic skiing championship.

By Representative French and others,

H.C.R. 362.

House concurrent resolution honoring the educational and community leadership of Jerry Sullivan.

By Representative Mook and others,

By Senators Hartwell and Sears,

H.C.R. 363.

House concurrent resolution congratulating Alfred L. Pinsonneault Jr. on 50 exemplary years of service with the Town of Bennington Rescue Squad, Inc..

By Representative Greshin,

H.C.R. 364.

House concurrent resolution honoring Andreas Lehner for his outstanding administrative leadership in public education.

By Representative Pugh and others,

H.C.R. 365.

House concurrent resolution congratulating the South Burlington Dolphins on winning the 2011 Northern Vermont Youth Football League state championship.

By Representative Grad and others,

By Senator Mullin,

H.C.R. 366.

House concurrent resolution designating April as the month of the military child in Vermont.

By Representative Toll,

By Senators Cummings, Doyle and Pollina,

H.C.R. 367.

House concurrent resolution congratulating Blanche Lamore on her 100th birthday.

By Representative Strong and others,

H.C.R. 368.

House concurrent resolution remembering the life of U.S. Army Major Jonathan Kirk Weaver.

By Representative Haas,

H.C.R. 369.

House concurrent resolution congratulating the Rochester School winners of the 2012 Vermont aviation art contest.

Adjournment

On motion of Senator Campbell, the Senate adjourned until eleven o'clock in the morning.