Veto Message: Governor Jenision
1839 (H.6)
An act to incorporate the Memphremagog Literary and Theological Seminary.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 2, 1839

(H.6.) The following communication from the Governor was read *to the House of Representatives:*

By the provisions of the bill herewith returned, entitled "an act to incorporate the Memphremagog Literary and Theological Seminary," the incorporation is perpetual. No power is reserved to alter or amend the act by future legislation, as the public good or the circumstances and condition of society may hereafter require. The condition of society is continually changing; that which may be expedient and for the best good of community at this time, may, reasoning from the past, in a course of years, require alteration to adapt it to the wants and wishes of our posterity. And in my view nothing but the most absolute necessity will warrant legislation of this character; that it ought never to be resorted to except when the objects in view are of such magnitude and difficulty of attainment, as to afford no other probable means of accomplishment. I am the more readily brought to this conclusion by the entire confidence I feel in the intelligence and liberality of those who may succeed us.

By leaving acts of incorporation open to future legislation, I cannot for a moment permit myself to believe that the rights or property of individuals or community will be endangered by the imposition of unnecessary or unreasonable restrictions or alterations, or that future legislators will not understand and fully appreciate the wants and wishes of society, as it may hereafter exist.

Entertaining these views, I feel it my duty to return the bill in

question to the House of Representatives in which it originated for their reconsideration.

S.H. Jenison,
Governor

Governor's Veto Sustained
H.6, 1839

The Governor's veto was sustained in The House :
Yeas 2 **Nays** 141

Sources: *The Journal of the House*, November 2,1839 (pages 128-131)

Veto Message: Governor Slade
1845 (H.36)
An act to pay Guy C. Sampson the sum therein mentioned.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 5, 1845

From: A message from the House of Representatives, by Mr. Merrill, their Clerk:

Mr. President: — I am directed to announce to the Senate, that the Governor has returned to the House of Representatives the bill **(H. 36)** entitled "An act to pay Guy C. Sampson the sum therein mentioned," which has heretofore passed the two Houses, together with his objections to giving the same his approbation and signature, and that the House have reconsidered the said bill, and resolved again to pass the same; and I am further directed to transmit the said bill, with the objections of the Governor thereto, to the Senate, for their action.

The objections of the Governor to the bill entitled "An act to pay Guy C. Sampson the sum therein mentioned," were thereupon read, and are as follows;

To the House of Representatives:

I have received and considered a bill presented to me for approval, entitled "An act to pay Guy C. Sampson the sum therein mentioned," and herewith return the same, with my objections thereto, to the House of Representatives, in which it originated.

It is declared in the bill that the sum therein directed to be paid, is "for labor and expenses in preparing a digested Index of all such portions of the Revised Statutes passed in one thousand eight hundred and thirty-nine, as have been altered or repealed, and all

public acts passed since such revision, with the public laws passed at the session of the Legislature of this State, for one thousand eight hundred and forty-four."

It appears that the service in question was performed by Mr. Sampson, under an appointment made by the Governor, in pursuance of the following resolution, adopted at the last session of the General Assembly: "*Resolved, by the Senate and House of Representatives*, That the Governor be requested to appoint some person to make a digested Index of all such portions of the Revised Statutes passed in 1839, as have been repealed or altered, and all public acts of this State passed since said revision, with the public laws passed at the present session of this Legislature, and cause the same to be published, with the laws passed at this session. *Provided,* the whole expense of publishing, with compiling the same, shall not exceed one hundred dollars, — and provided it shall not cause a delay in the publication of the laws passed at the present session, of more than ten days."

It will be observed, on an inspection of the resolution, that the Index was to be published with the laws of the session of 1844. It became the duty, therefore, of Mr. Sampson, to furnish an index in season to be in the hands of the person who had contracted to print the laws, by the time he was, by his contract, to have them ready for delivery— which it appears was on the first of December.

As the Governor was to cause the Index to be published, it was, of course, to be sent to him, when completed, — and that, for the obvious reason that he would be held responsible (as by the resolution it was evidently intended he should be,) for its correctness. The General Assembly could not have intended to impose on him the duty of publishing *any* Index which might be furnished him by the person he should appoint, because it would have subjected him to the hazard of severe censure for sending forth an erroneous or defective Index, besides suspending the public interest upon the same hazard. The Legislature evidently intended the double security of ordinary care in making the appointment, and the subsequent supervision of the Governor himself— else they would have provided that the person appointed to prepare the Index, and not the Governor, should cause it to be

published.

But not withstanding this obvious and necessary construction, Mr. Sampson took upon himself to determine that, after making the appointment, I had nothing more to do with the matter; and that the Index was not to be sent to me, but to the Secretary of State; and that *he* was bound to see that it was published with the laws — their publication being subject to his superintendence. He accordingly sent the Index to the Secretary; but not until the 28th of November, two days, only, before it was to go into the hands of the printer for publication. The Secretary, on the 29th, very properly sent it to me. On examining a few pages, I found several errors in the references to the pamphlet laws published since the revision — the appropriate references being to the years of their passage, and the pages of the pamphlets in which they were published — which in numerous cases were found erroneous in one or both these particulars. Great errors and deficiencies were also found in the descriptive part of the Index, while to a great number of important unrepealed sections of laws, there was no reference whatever. Of sections not thus noticed, I have found more than thirty, on a recent examination of about one half the Index.

The errors to which I have referred, were specified in a paper accompanying my communication on this subject, to the Senate, on the 3d instant; with which I also sent the Index itself, with a request that it might be preserved in the archives of that body, as appropriate evidence of my fidelity to the trust committed to me. The Index and accompanying explanation were referred to the Committee of Claims of the Senate, before whom I was requested to appear, and by whom it was admitted that my specification of errors was correct, and that the Index, as it came to my hands, was not such as should have been published.

I did not publish the Index; and but for the previous preparation of another without my authority, which at that juncture I decided to accept, none would have been published.

But it has been contended, that the Index should have been returned to Mr. Sampson for correction; and that because it was

not, he is entitled to compensation for making it, though it was fatally defective. To this position I will devote a moment's attention.

Upon examining the Index on the 29th of November — the day that I received it — I not only saw that I could not order its publication, but that if I should return it, I could not trust any corrections which Mr. Sampson might make, without a subsequent inspection of it, since very gross errors had escaped him in a copy prepared with apparent care, for the press. And besides, as he had denied my right of supervision in the case, I had reason to doubt whether he would submit the Index to me after he should have attempted to correct it. The proper corrections would, moreover, have involved the necessity of re-constructing, and re-drafting it, which, it was apparent, could not be effected, and the whole submitted to me, and necessary time allowed me for its re-examination, before the expiration of the ten days when the printing of it should be *completed* — much less could all this have been done within the twenty-four hours which only remained between my examination of it, and the first of December. Indeed, it could not have even reached Mr. Sampson — his residence then being at Montpelier — about seventy miles distant from me-- until the first of December,-- the day when it should have been in the hands of the printer at Burlington, in a condition to be published.

I did not, therefore, return it to him; and I am unable to see upon what principal my omission to do it can lay a foundation for a claim on his part, for compensation. It is evident that my return of it could not have resulted in its publication with the laws, which, before it could have reached the hands of the printer, would have been completed, and in the process of delivery to the Sheriffs for distribution, and, of course, that even if corrected, it could not have been made available to the State in the way contemplated in the Resolution under which it was prepared — namely, its publication with the laws of the last session.

The truth is, it was the duty of Mr. Sampson to prepare an *Index* — not a defective one, but an *Index fit to be published* — in such season that it might have been placed in the hands of the printer by the first of December. Having failed to do this, he failed to do

the duty which, by accepting the appointment, he contracted to perform. And, having thus failed, I am unable to see on what principle applicable to the ordinary affairs of life, he can be entitled to compensation; — how, indeed, he is more entitled to it than one would be who, having engaged to furnish an article of manufacture by a given time, furnished a defective one, unadapted to the purposes of its construction.

But Mr. Sampson claims that, having performed labor, under an Executive appointment, it is hard for him to lose it, and that he needs compensation for it. But the question is not one of necessity, but of principle; — not whether labor was performed, but whether it was worth anything, — not whether the article, which was the product of that labor, could have been re-produced in a more perfect form at some subsequent time, but whether it could have been re-produced within the time when it must have been forthcoming in a state of reasonable perfection, in order to have served the purpose of the Legislature in providing for it.

Pressed by this view of the matter, Mr. Sampson has even contended that though the Index might have been imperfect, and could not have been made otherwise in season for publication with the laws of last year, yet it should, (to use the language of his letter to me of the 5th of February last,) have been "sent back for correction," and "have rested until 1845 for the action of the Legislature, as (to continue his language) the proviso says, — in case it shall not delay the printing of the laws more than ten days — plainly implying," (still to continue in his language,) "that there might not be time, and then the Index need not be published."

Such has been Mr. Sampson's reasoning on the subject — reasoning as defective as was the Index he sent me for publication.

I admit that I made a mistake in appointing him to the service in question — though it was done upon what I deemed a satisfactory recommendation; but I cannot admit that he is entitled to compensation for work acknowledged to be worthless, or that he could justly claim to be allowed until the present session of the Legislature to make it what it should be.

For the reasons thus stated, I feel constrained to perform the unpleasant duty of declining to approve and sign the bill allowing Mr. Sampson sixty dollars for the service in question, and to return it to the House of Representatives for their re-consideration. I need hardly say that I feel no little embarrassment in the performance of this duty, because the exercise of the power of thus returning bills places the Chief Magistrate in a position of conflict with the representatives of the people. I should feel an additional embarrassment, from the consideration that my own agency has been concerned in the transaction in question, had I not understood that the Committee of Claims in both Houses have especially exonerated me from all blame in this matter. I am left, therefore, to a consideration of the simple question of the justice of the claim, to which I am asked to give the sanction and approval. On this point I have, with perfect freedom, and yet with perfect respect for the General Assembly, expressed the conviction of my own judgment, and the grounds of them.

I will only add, that I perform this act with the less reluctance, because it still leaves the bill within the control of the bare majorities of the Senate and House of Representatives, with whom I am very happy to be permitted to leave the responsibility of giving the effect of law to an act which my own judgment cannot approve.

WILLIAM SLADE,
Governor

Governor's Veto Overridden
H.36, 1845

Governor's veto overridden in the House:
Yeas: 120 **Nays:** 26

Governor's veto overridden in the Senate:
Yeas: 19 **Nays:** 7

Sources: *Journal of the Senate*, November 5, 1845 (pages 138-143); *Journal of House* 1845 (pages 228-231)

Veto Message: Governor Coolidge
1848 (H.97)
An act to incorporate the National Life Insurance Company

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 13, 1848

A message, in writing, from the Governor, received this forenoon, was read, and is as follows:

To the House of Representatives:

I return the bill entitled--

"An act to incorporate the National Life Insurance Company."

I object to the bill, for the reason that it does not, in any manner, subject its provisions to the future control of the Legislature, without which I deem it to be defective in a very material feature. I feel strongly sustained in making the objection here offered, by information that it was intended by the House to incorporate in the bill a clause providing that the act should be subject to amendment or repeal, and that such a clause was lost by accident.

CARLOS COOLIDGE,
Governor

Governor's Veto Sustained
H.97 1848

The Governor's veto was sustained in The House:
Yeas: 0 **Nays:** 140

Sources: *Journal of the House*, November 13, 1848 (pages 222-223)

Veto Message: Governor Royce
1855 (S.9)
An act in addition to Chapter thirty-eight of the Compiled Statutes, relating to Ejectment.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 5, 1855

A message was received from the Governor by Mr. HAYDEN, the Secretary of Civil Affairs, as follows:

Mr. PRESIDENT:

I am directed by the Governor to return to the Senate the bill (S.9) entitled, An Act in addition to Chapter thirty-eight of the Compiled Statutes, entitled, Ejectment, with a communication in writing in relation thereto.

And he then withdrew.

The message in writing from the Governor was read, and is as follows:

To the Hon. President of the Senate:

I return to the Senate, in which it originated, the bill entitled, An Act in addition to Chapter thirty-eight of the Compiled Statutes, relating to Ejectment. To this bill I have thought proper to withhold my signature, by reason of the following objection:

It is enacted by the second section, that the Chapter to which the bill is in addition shall not extend to any person, who shall enter upon and take possession of lands after the passing of this act. And inasmuch as said Chapter thirty-eight comprises our whole statutory law relating to Ejectment, as well as the provisions

giving a right to claim betterments in certain cases, I think the latter provisions only, and not the whole Chapter, should be excluded from application to those who shall hereafter take possession of lands.

With very great respect, &c.,
STEPHEN ROYCE,
Governor

Governor's Veto Sustained
S.9, 1855

The Governor's veto was sustained in the Senate:
Yeas: 0 **Nays:** 21

Sources: *Journal of the Senate*, November 5, 1855 (pages 224-226)

Veto Message: Governor Hall
1858 (H.237)
An act to extend the provisions of the 'act incorporating the Vermont and Canada Railroad Company, approved October 31, 1845,' approved Nov. 5, 1858.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 15,1858

The House proceeded to the consideration of House bill entitled

H.237. An act in amendment of an act entitled "an act to extend the provisions of an act incorporating the Vermont and Canada Railroad Company, approved Oct. 31,1845," approved Nov. 5, 1858,

Which had been returned from the Governor disapproved, together with the communication of his Excellency, the Governor, giving his reasons for withholding his approval of said bill, as follows:

HON. GEO. F. EDMUNDS,
Speaker of the House of Representatives:

SIR,— I return to the House of Representatives, in which it originated, and without my approval, the bill entitled "an act to extend the provisions of the 'act incorporating the Vermont and Canada Railroad Company, approved October 31, 1845,' approved Nov. 5, 1858."

The object of the bill is to extend the time allowed to the Vermont and Canada Railroad Company for completing a railroad connexion at Burlington with the Rutland and Burlington Railroad, to the *eighteenth* day of November instant. A bill passed by both Houses of Assembly and approved by me on the 13th instant, extends the time for performing the same act to the *twentieth* day of the

present month, two days longer than is provided for by the present bill. My objection to the bill now returned is, that it would not enact any new law, and is therefore unnecessary and useless.

HILAND HALL,
Governor

Governor's Veto Sustained
H. 237 1858

The Governor's veto was sustained in the House:
Yeas: 1 **Nays:** 191

Sources:: *Journal of the House*, November 15,1858 (pages 213-215)

Veto Message: Governor Dillingham
1865 (H.11)
An Act in addition to chapter one hundred and twenty-one of the General Statutes [Debtors]

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 3, 1865.

A communication in writing from the Governor, was read by the Clerk, as follows:

HON. JOHN W. STEWART,

Speaker of the House of Representatives:

SIR: I herewith return to the House of Representatives, in which House it originated, the bill entitled "An act in addition to chapter one hundred and twenty-one of the General Statutes," which I have not approved.

The first clause of the first section of the bill returned, refers to section forty-five of chapter one hundred and twenty-one of the General Statutes, which is in these words: "If the commissioners find that the prisoner has no estate to the amount of twenty dollars, nor sufficient to satisfy the execution on which he is committed, exclusive of such property as is by law exempt from execution, and has not disposed of any part of his estate to defraud his creditors, nor disposed of the same after his commitment, for the purpose of defrauding the committing creditor, or of preferring other creditors to him, they shall admit him to the poor debtor's oath, and deliver him two certificates in the form hereinafter prescribed." The first section of the returned bill provides that notwithstanding the debtor may have committed any or all of these frauds, and for that cause has been denied the benefits of the poor debtor's oath, he may nevertheless make

application to the county court or to a judge of the Supreme Court by petition praying to be discharged from such imprisonment; and the subsequent sections authorize the county court, or such judge of the Supreme Court, if he chooses to entertain the petition, to order a final discharge of the prisoner, to take effect at such time as they determine.

All this, too, is to be done without providing at all for the interest of the defrauded creditor.

The common law, as accepted and administered in this State, holds all fraud in business transactions in great abhorrence, and discountenances it in every possible way; it annuls and holds as void all contracts into the composition of which fraud enters, and holds a fraudulent party to make good in damages, all injury his act has occasioned to another. And our State legislation has, from its beginning, stood boldly by the common law, going further than that could, and imposing penalties and forfeitures upon the fraudulent party. As a specimen of State legislation, I refer to sections thirty-two and thirty-three of chapter one hundred and thirteen of the General Statutes.

The forty-fifth section of chapter one hundred and twenty-one, before quoted, is in perfect keeping and harmony in principle with all our other State legislation upon the subject of frauds and fraudulent transactions; and it seems to me that the bill now under discussion, both in spirit and purpose, is in conflict with all our previous legislation upon the same subject. Had the bill been put in different form and contained a simple proposition, so to amend section forty-five of chapter one hundred and twenty-one, that any disposition of the debtor's property which he might make, with the *intent* to defraud his creditors, should be no bar to his being allowed the benefit of the poor debtor's oath, I apprehend that it would have met with little favor from the Legislature. Does not the bill, in its provisions, indirectly do the same thing? Is there any satisfactory reason why it should become law? It seems more than probable that it was introduced and urged upon the attention of the Legislature to meet some existing case where a debtor has unfortunately, in his own estimation, thrown embarrassments about himself by some violation of existing laws; if that be so, we

are to remember that all jail limits now are co-extensive with the boundaries of our State, and the inconvenience to an individual from having to reside constantly in Vermont, or else pay an honest debt, should not, I think, furnish sufficient reason for a change, which to say the least of it, is a receding from the high tone of business morals and integrity, which our laws have hitherto uniformly insisted upon.

It is not to be presumed that any board of jail commissioners ever did, or will, refuse the poor debtor's oath to one in prison, on the ground of a fraudulent disposition of his property, until the fraud is clearly proved, and when that is done, to turn him over to another tribunal to be discharged, his fraud to the contrary notwithstanding, seems repugnant both to the harmony of our laws, and to sound justice.

These views have induced me to return this bill to the House for their further consideration, and should it after that consideration become law, I shall feel more reconciled to it than I could have been had I approved it without submitting it to the second sober thought the Legislature.

PAUL DILLINGHAM,
Governor

Governor's Veto Sustained
H.11, 1865

Governor's veto overridden in the House:
Yeas: 125 **Nays:** 48

Governor's veto Sustained in the Senate:
Yeas: 1 **Nays:** 26

Sources: *Journal of the House*, November 3, 1865 (pages 203-206 and 306-307);
Journal of the Senate, November 9, 1865 (pages 206-209)

Veto Message: Governor Dillingham
1865 (S.10)
An act to incorporate the Caledonia Manufacturing Company

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 3, 1865

The President laid before the Senate the following communication from his Excellency, the Governor:

HON. A.B. GARDNER, *President of the Senate:*

SIR: I herewith return to the Senate a bill which originated in that body, entitled "An act to incorporate the Caledonia Manufacturing Company," without my approval.

My objection to the bill is confined wholly to the language of the first section, descriptive of the powers of the corporation. It is as follows: *and shall have and enjoy all the powers and privileges incident to corporations, for the purpose of manufacturing and selling all kinds of articles made either in whole or in part from wool or cotton, or any other articles of merchandise they may think proper, in this State, with full power to vend or traffic in the same.*

The business or objects for which a corporation is created should always be stated with clearness and precision, to the end that no doubt may exist as to what would be a violation of its charter. In the present bill, after authority to manufacture all kinds of articles, made either in whole or in part of wool or of cotton, authority is further given to manufacture any other articles of merchandise they may think proper, with full power to vend or traffic in the same.

The last clause is the objectionable one. Should the company

under this choose to manufacture brandy, whiskey or rum, would these not be "articles of merchandise," with full power granted to vend and traffic in the same? And so of any other branch of business that may be prohibited or regulated by law.

This objectionable clause was probably overlooked when the bill passed both branches of the Legislature, and I therefore return it, that bill may be further considered.

PAUL DILLINGHAM,
Governor

Governor's Veto Sustained
S.10, 1865

Governor's veto sustained in the Senate:
Yeas: 0 **Nays:** 18

Sources: *Journal of the Senate*, November 4, 1865 (pages 124-125)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Dillingham
1866 (H.141)
An act to incorporate the Cambridgeport Quarrying and Manufacturing Company.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 10, 1866

The Speaker laid before the House a communication from his Excellency, the Governor, as follows:

HON. J.W. STEWART,
Speaker of the House Representatives:

SIR: I herewith return to the House, without my approval, House bill 141, entitled "An act to incorporate the Cambridgeport Quarrying and Manufacturing Company."

This act grants to the corporation the usual privilege of creating debts equal in amount to three-fourths of the capital stock paid in, without incurring any individual liability on the part of its directors or stockholders; but it does not contain the usual clause prohibiting the corporation from withdrawing the capital that has been paid in during the continuance of their corporate existence; while a withdrawal of capital, if effected, would leave debts against the corporation valueless.

I feel quite sure that so important an omission was unintentional, on the part of the Legislature; and for this reason return the bill for further consideration, and that such restriction may be incorporated into a new bill, if such is their pleasure.

PAUL DILLINGHAM,
Governor

Governor's Veto Sustained

H.141, 1866

Governor’s veto sustained in the House:
Yeas: 1 **Nays:** 159

Sources: *Journal of the House*, November 10, 1866 (pages 212-213)

Veto Message: Governor Page
1867 (H.114)
An act to incorporate the Hydepark Mining Company.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 8, 1867

The Speaker laid before the House a communication from his Excellency, the Governor, as follows:

To the Speaker of the House of Representatives:

SIR: I return herewith to the House of Representatives, without my approval, House bill 114, entitled "An act to incorporate the Hydepark Mining Company." This act grants extraordinary powers to a corporation without requiring any fixed capital, and evidently intended to transact its business without this State, as provision is made for doing *all kinds of business* in any state or territory in the United States. The granting of a charter with such provisions I consider of very doubtful expediency. The power of creating indebtedness is not limited as in other acts of incorporation passed at this session, neither does it contain the usual clause making the directors and stockholders personally liable to its creditors for any excess of indebtedness above three-fourths of the actually paid-up capital. The clause prohibiting the corporation from withdrawing its capital that may have been paid in during the continuance of their corporate existence is also omitted. Thus an easy way is provided for rendering any debts against the corporation valueless. I suppose this act must have passed without debate, and that the attention of the House was not directed to its provisions, otherwise I cannot believe it would have received your sanction. I therefore return the bill for further consideration.

JOHN B. PAGE,

Governor's Veto Sustained

H.114, 1867

Governor's veto sustained in the House:
Yeas: 0 **Nays:** 193

Sources: *Journal of the House*, November 8, 1867 (pages 190-191)

Veto Message: Governor Page
1867 (S.24)
An act to incorporate the United States Peat Fuel Company

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 14, 1867

The President laid before the Senate a communication from his Excellency, the Governor, as follows:

To the President of the Senate:

SIR: I return herewith to the Senate without my approval Senate bill No. 24, entitled " An act to incorporate the United States Peat Fuel Company." This bill passed the Senate on the 5th inst., and was concurred in by the House of Representatives on the 7th inst. It was presented to me on the afternoon of the 12th inst. On examination I find the bill is similar in its provisions to the act incorporating the Hydepark Mining Company, returned to the House of Representatives on the 8th inst.

The bill returned grants almost unlimited powers to the corporation thereby created, without requiring any fixed capital; it may have its office, and keep its records in any place where it may do business; and it may carry on *all kinds of business*, in any state or territory of the United States. This act is made "subject to any general laws applicable to similar acts of incorporation." It is quite doubtful to what general laws reference is here had, as by the terms of the bill the chapter of the General Statutes relating to "private corporations," is in nearly all its essential provisions modified or repealed, so far as this corporation is concerned, by the different provisions in the act. As, for instance, one of the most important provisions of the chapter referred to is that requiring the clerk or recording officer of all corporations to reside within this State, and that he shall at *all times* have the custody of

the by-laws and records of the corporation. The clerk is required to keep a record of all corporate doings, and the records and by-laws are at all proper and seasonable times to be exhibited to stockholders and others interested. Certified copies of the records are to be furnished when required, and upon the clerk are to be served all writs and processes for the attachment of the stock of the company for any debts against the company or any stockholders. Allow the clerk or recording officer to keep his office, as may be done under this bill, without this State, and the corporation and its stock are beyond the reach of any process from our courts. Our citizens would be obliged to pursue for the collection of a debt wherever they choose to locate, provided their office or place of business could be found. This provision, with no limitation in the amount of indebtedness, or any section to make managers liable to its creditors, or to prevent the withdrawal of any capital that may be paid in, certainly renders easy the way to prevent the collection of any debts against the corporation.

Under the powers granted in the seventh section of the bill, there may be formed any number of sub-companies, whose relations to the mother company and the public are to be defined by the by-laws that may be adopted.

No one can have any objections to a peat fuel company, with the necessary authority to prosecute the business in all its branches, but for that purpose the extraordinary powers of this bill are not required. I cannot believe that the corporators named in the act desire the Legislature to open the door so wide for their benefit, when like powers granted to other parties might lead to great frauds. I therefore return the bill for further consideration.

JOHN B. PAGE,
Governor.

Governor's Veto Sustained
S.24, 1867

Governor’s veto sustained in the Senate:
Yeas: 0 **Nays:** 27

Sources: *Journal of the Senate*, November 15, 1867 (pages 169-171)

Veto Message: Governor Page
1867 (S.66)
An act to incorporate the Green Mountain Quarrying and Manufacturing Company.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 20, 1867.

The President laid before the Senate the following communication from his Excellency, the Governor, which was read:

To the President of the Senate:

SIR: I return herewith to the Senate, without my approval, Senate bill No.66, entitled "An act to incorporate the Green Mountain Quarrying and Manufacturing Company."

This bill has the same title as House bill No. 203, approved yesterday, and is in all respects the same; it cannot therefore be necessary to secure the objects of the corporators that this act should become a law.

JOHN B. PAGE,
Governor.

Governor's Veto Sustained
S.66 1867

Governor's veto sustained in the Senate:
Yeas: 0 **Nays:** 24

Sources: *Journal of the Senate* , November 20, 1867 (pages 226-227)

Veto Message: Governor Page
1868 (H.117)
An act to make it legal for the persons therein named to vote for elector of President and Vice President at the State House, November 3, 1868.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Oct. 30, 1868

The Speaker laid before the House a communication from his Excellency, the Governor, as follows:

STATE OF VERMONT

To the Speaker of the House of Representatives:

SIR: I return herewith to the House of Representatives, without my approval, House bill No.117, entitled "An act to make it legal for the persons therein named to vote for electors of President and Vice President at the State House, November 3, 1868."

This bill is for the same purpose as an act entitled "An act in relation to the election of the electors of President and Vice President," passed at this session and now a law. The method provided for taking the ballots and making returns, being different, would lead to confusion, and the object for which this bill was passed having been attained, I return the bill for further consideration.

JOHN B. PAGE,
Governor.

Governor's Veto Sustained
H.117 1868

Governor's veto overridden in the House:

Yeas: 0 **Nays:** 174

Sources: *Journal of the House*, November 5, 1868 (pages 154-155)

Veto Message: Governor Washburn
1869 (S.15)
An act to to incorporate the Alburgh, Highgate and Plattsburgh Steam Ferry Company.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 2, 1869

The President laid before the Senate a communication from his Excellency, the Governor, as follows:

To the President of the Senate:

SIR: I return herewith to the Senate, without my approval, Senate bill No. 15, entitled "An act to incorporate the Alburgh, Highgate and Plattsburgh Steam Ferry Company."

This bill contains the usual clause limiting the right of the company to contract debts to the extent of three-fourths of the capital stock actually paid in, and making the directors personally liable for all debts in excess of that amount; but it does not contain any prohibition of the withdrawal or diversion from the business of the corporation, during its existence, of any part of the capital actually paid in. The express provision, prohibiting such withdrawal, inserted in section forty-three of chapter eighty-six of the General Statutes, and applicable to all private corporations formed by voluntary association, indicates very clearly that this has become the settled policy of the State. The same prohibition has been inserted in a majority of the special acts incorporating private corporations, enacted since the enactment of the General Statutes; and its omission in any has been probably the result rather of inadvertence than of intention. It is a provision essential for the proper protection of the creditors of the company. Without it, although the debts may not exceed three-fourths of the capital paid in, yet, by using the capital to pay dividends, which is not

infrequently done by the corporations when their business fails to be profitable, the amount of the debts, and thus a portion of the creditors be left without security or the means of obtaining payment of their claims.

And this objection to the bill is not relieved by the provision in section six, making it subject to the provisions of chapter eighty-six of the General Statutes. It is thereby made subject to the general provisions of that chapter, which are applicable to all private corporations, but not to sections twenty-four to forty inclusive, which by their terms are made applicable only to savings banks and moneyed corporations, nor to section forty-three, which by its terms is made applicable only to corporations organized by voluntary association.

I therefore respectfully return the bill for the further consideration of the Senate.

PETER T. WASHBURN,
Governor

Governor's Veto Sustained
S.16 1869

Governor's veto sustained in the Senate:
Yeas: 0 **Nays:** 20

Sources: *Journal of the Senate*, November 2, 1869 (pages 85-86)

Veto Message: Governor Washburn
1869 (H.67)
An act in amendment of section eighty-two of chapter fifteen of the General Statues, relating to jurisdiction of constables.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 5, 1869.

Message from his Excellency, the Governor, by Mr. Marsh, Secretary of Civil and Military affairs, as follows:

Mr. Speaker: I am directed by the Governor to return herewith to the House of Representatives House bill No. 67, entitled "An act in amendment of section eight-two of chapter fifteen of the General Statutes, relating to jurisdiction of constables," without his approval, and with his objections thereto in writing.

Sir: I return herewith to the House of Representatives, without my approval, a bill originating in the House entitled "An act in amendment of section eighty-two of chapter fifteen of the General Statutes, relating to jurisdiction of constables."

This bill purports to be a substitute for section eight-two of chapter fifteen of the General Statutes. It was in fact intended as a substitute for section eighty-one. Section eighty-two provides, that towns may agree with some person to fill the office of first constable, and will stand repealed if this bill should become a law. It is obvious, that no such purpose was intended, and that the mistake in naming the section to be amended was a mere inadvertence.

As this bill is beyond the reach of amendment, and as I am satisfied that, if approved, it would have an effect not intended by the Legislature, I respectfully return it to the House for their further consideration.

PETER T. WASHBURN,
Governor

Governor's Veto Sustained
H.67 1869

The Governor's veto was sustained in the House:
Yeas 0 **Nays** 152

Sources: *Journal of the House*, November 5, 1869 (pages 139-140)

Veto Message: Governor Washburn
1869 (H.85)
An act relating to the collection of taxes.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov., 1869

To the Speaker of the House of Representatives:

SIR: I return herewith to the House of Representatives, without my approval, a bill originating in the House, entitled " An act relating to the collection of taxes;"

The intent of this bill probably was to facilitate the collection of taxes against non-residents, by allowing the collector of a town, holding a rate-bill against a non-resident, to transmit an abstract of his rate-bill and a copy of his warrant to the collector of the town in which the tax-payer resides, and authorize the collector of that town to collect the tax there. And if the bill provided only this, with suitable checks and limitations, there would be no serious objection to it, although the necessity for its enactment is not very obvious, under the provisions of section fifteen of chapter eighty-four of the General Statutes. But the bill, as drawn, is uncertain in its application and without sufficient guards in its execution. It makes no distinction between town, school district, or village collectors, but provides that any collector, having a tax against a person residing out of the town in which the collector resides, may transmit the specified abstract and copy to " a collector of taxes" in any other town, without limitation.

It does not provide for any verification of the abstract of the rate-bill and copy of the warrant by the collector who transmits them, or by any other officer, and thus authorizes the delegation of important powers, including the power of district, and of court, with the loosest possible evidence of authority.

And instead of providing that such abstract and copy shall be transmitted to the collector of the town in which time taxpayer resides, it provides that they may be put into the hands of a collector of taxes in "*any other town*," and authorizes such collector to collect the tax and charge for his actual travel.

It may be that no mischief would ever arise from this looseness of provision; but I am unwilling to approve of a bill which would afford even the opportunity to an evil disposed person to work such injustice under order of law as its terms might allow.

I therefore respectfully return the bill to the House of Representatives for their further consideration.

PETER T. WASHBURN,
Governor

Governor's Veto Sustained
H.85 1869

Governor's veto sustained in the House:
Yeas: 9 **Nays:** 192

Sources: *Journal of the House*, November 11, 1869 (pages 176-179,253)

Veto Message: Governor Washburn
1869 (S.40)
An act in addition to chapter eighty-three of the General Statutes, entitled 'Of the grand list.'

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 15, 1869

The President laid before the Senate the following message from his Excellency, the Governor:

VETO MESSAGE OF SENATE BILL NO. 40,
RELATING TO THE GRAND LIST.

To the President of the Senate:

SIR: I return herewith to the Senate, without my approval, a bill originating in the Senate, entitled "An act in addition to chapter eighty-three of the General Statutes, entitled 'of the grand list.'"

This bill provides, that if the owner of stock in any bank, &c., shall remove from one town to another town in this State, and shall omit, on or before the sixth day of the next April, to give notice to the cashier of the bank of his removal, "it shall be the duty" of the listers of the town from which he removed to set his stock in the grand list of that town, and such person is made liable to pay all taxes, which shall be assessed upon it in that town. It makes no provision, in terms, for the case where the fact of the removal is known to the cashier in some other way, and he gives to the town clerk of the town, to which the person has removed, the notice required by the section forty-two of chapter sixty-one of the General Statutes, but requires absolutely,

that if the taxpayer shall *himself* omit to give to the cashier notice of his removal, he shall be taxed for his stock in the town from which he removed, even though no return of his stock is made by the cashier to that town; and it leaves it entirely uncertain, whether, if the taxpayer omit to give the notice required of him, but the cashier ascertains the fact of removal otherwise, and makes return of he stock to the town to which such person has removed, he shall thereupon be taxed in both towns, or only in the town in which he does not reside, and not in the town where he does reside. If double taxation was intended, the bill is defective in not expressly so providing; for double taxation for the same property is in the nature of a penalty, which must be expressed upon the face of the law, and can not be mere matter of inference. And if, instead of double taxation, it was intended, as expressed in the bill, that the owner of the stock should only be taxed in the town from which he has removed, and not in the town where he resides, then it may deprive the latter town of the benefit of his grand list, not for any fault of that town, or of its officers, but as the result of the voluntary omission of the taxpayer, and at the same time give to such taxpayer full power to elect, in which town he will be taxed for his bank stock,- a very convenient power for him to have, in a case where the rate of taxation in the town to which he removes exceeds that of the town from which the removal is made, but entirely at variance with the policy of the general laws of the State upon the subject of taxation.

I am unable to determine from the terms of the bill, whether it was intended merely to impose a duty upon the taxpayer, and to provide that his omission to perform that duty should not operate to enable him to escape taxation in some town, or whether it was also intended to provide, that he might be taxed in both towns, as a penalty for his omission to perform the duty. And in either view the terms of the bill are so indefinite and could so obviously induce litigation in

order to obtain a judicial construction of its intent, that I am unwilling to give it my approval,- although, if a bill was carefully drawn in either aspect, it might provide a very proper remedy for an existing mischief.

I therefore respectfully return the bill to the Senate for their further consideration.

PETER T. WASHBURN,
Governor

Governor's Veto Sustained
S.40, 1869

The Governor's veto was sustained in the Senate:
Yeas 2 **Nays** 23

Sources: *Journal of the Senate*, November 15,1869 (pages 175, 191, and 237-238 of the Appendix)

Veto Message: Governor Washburn
1869 (H.104)
An act relating to ditches and water courses.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 16, 1869.

A message from his Excellency, the Governor, by Mr. Marsh, Secretary of Civil and Military Affairs, as follows:

Mr. SPEAKER: I am directed by the Governor to return herewith to the House of Representatives, House bill No. 104, entitled "An act relating to ditches and water courses," without his approval and with his objections thereto in writing as follows

The Speaker of the House of Representatives:

SIR: I return herewith to the House of Representatives, without my approval, a bill originating in the House, entitled " An act relating to ditches and water courses."

It is well settled, that private property can not be taken for any other than a public use, either with or without compensation, and that it can not be taken even for such public use, without such compensation is actually secured to the owner before it is taken and appropriated to such use.

This bill provides, that when it is for the interest of individuals, owning adjoining lands, to open a ditch or water course for the purpose of draining such lands, they shall bear jointly the expense of opening such ditch or water course, and if they can not agree upon what is the fair proportion of the expense to be borne by each, the selectmen of the town shall decide between them. By section six it provides, that if it is necessary to extend such ditch or water course across the land of a third person, and the

selectmen shall decide that said third person will not be benefited thereby, then that the parties to be benefited thereby may construct such ditch or water course across the land of said third person at their own expense, "without being trespassers therefor." And by subsequent sections it is provided, that if such person shall claim damages therefor, he may apply to the selectmen to appraise them, and may appeal from their decision.

It thus directly authorizes the taking of the land of such third person for the purpose of the ditch or water course, without his consent, and without securing to him any compensation before his land is entered upon for that purpose.

And the bill does not even profess thus to take his property, or create an easement upon his land for a *public* use. By the first section it is declared in terms to be for the *private* use of the parties who are to be benefited by the ditch or water course. It is thus in conflict with the second article of the Bill of Rights in the Constitution of this State, and at variance with well established rules of constitutional law.

And it is equally at variance with the requirements of the Constitution in not requiring compensation to be made to the party whose land is taken without his consent, previous to its being taken. And in this respect it is also at variance with the uniform requirements of the Statute law of this State in reference to the taking of land for highways, railroads, school houses and cemeteries, and the taking for public use of the franchise of a turnpike or toll bridge company.

I therefore respectfully return the bill to the House of Representatives for their further consideration.

PETER T. WASHBURN,
Governor

Governor's Veto Sustained
H.104 1869

The Governor's veto was sustained in the House:

Yeas 0 **Nays** 206

Sources: *Journal of the House*, November 16,1869 (pages 250-252)

Veto Message: Governor Hendee
1870 (S.153)
An act fixing the salary of the State Treasurer and clerk hire.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 23, 1870

A message was received from his Excellency, the Governor, by Mr. Slade, Secretary of Civil and Military Affairs, as follows:

Mr. President: I am directed by the Governor to return herewith to the Senate, Senate bill entitled

S.153. An act fixing the salary of the State Treasurer and clerk hire;

Without his approval, and with his objections thereto in writing.

I am also directed by the Governor to inform the Senate that he has received their communication that they have on their part concluded the business of the session, and that he has no further communication to make to them.

The President laid before the Senate the Governor's objections to the approval of Senate bill entitled

S. 153. An act fixing the salary of the State Treasurer and clerk hire;

That the substance of the bill had been embraced in a previous act which had received his approval, equalizing the salary of State officers.

Governor's Veto Sustained
S.153 1870

The Governor's veto was sustained in the Senate:
Yeas 0 **Nays** 23

Sources: *Journal of the Senate*, November 23, 1870 (page 322)

Veto Message: Governor Peck
1874 (H. 51)
An act to incorporate the Frontier Navigation and Transportation Company.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 11, 1874

The Speaker laid before the House, a communication from his Excellency, the Governor, as follows:

To the Speaker of the House of Representatives:

I have the honor, herewith, to return to the House of Representatives, House Bill No. 51, entitled, " An act to incorporate the Frontier Navigation and Transportation Company," without the Executive approval.

The Bill constitutes certain persons therein named, their associates and successors, a body corporate, by the name of the Frontier Navigation and Transportation Company, for the purpose, and with the right of carrying persons, property, and mails by land or water. It provides that the capital stock shall consist of one hundred shares of the par value of fifty dollars each, with the right to increase it to an amount not exceeding two thousand shares.

Under this general grant of corporate powers to prosecute the business of carrying persons, property, and mails by land and water, without limit as to place or route, a very extensive business may be done, debts contracted, and grave liabilities may be incurred by loss of property and injury to persons, incident to the business of common carriers,

The bill also grants to the corporation the exclusive right of ferriage between St. Albans Bay and the Island of North Hero, in Lake Champlain. A prudent exercise of the power to grant an

exclusive right of this character, would seem to require the grant to be limited in point of time; but the provision in the bill that it may be altered amended or repealed, by the Legislature, obviates this objection. But as the effect of the act of incorporation is to exempt the corporators from all personal liability, there should be some substitute required for the security of those who deal with the corporation, or entrust their persons and property with it for safe carriage or transportation.

This act of incorporation provides for no such security. It gives the right to organize, when fifty shares of the capital stock shall have been subscribed, but it contains no provision that any part of the stock subscribed shall be paid in before the commencement of business by the corporation, or ever. It also provides that the corporation shall not divert its capital stock from the business of the company, or incur any debts exceeding three-fourths of the subscribed stock. Stock subscribed, and wholly unpaid, affords no security to creditors or to others having claims on the corporation growing out of the risks and liabilities incident to the business of common carriers of persons and property.

The general policy of the State on this subject may fairly be considered as indicated by the act of 1870, entitled " An act relating to private corporations by voluntary association," the substantial provisions of which have been on our statute books many years. That act enables persons, for the purpose of carrying on any manufacturing, mechanical, mining or quarrying business, or for the purpose of building wharves, storehouses, hotels, factories, or other buildings, within this State, to constitute themselves a corporation by complying with the provisions of the act. That act provides, among other things, in substance, that all stockholders in such corporation shall be severally and individually liable to the creditors of such corporation, to an amount of stock held by them respectively, for all contracts and debts made by such corporation until the whole amount of stock fixed and limited by the company, shall have been paid in; and also, that one-half of the capital stock shall be paid in before such corporation shall contract any debts; and that no debts shall at any time be contracted by such corporation, exceeding in amount two-thirds the capital stock actually paid in, and that the directors assenting

to the creation of such indebtedness, shall be liable personally for such excess.

It is true the business for which this corporation is created by the bill in question, is not such as comes within that general law as to private corporations by voluntary association; but in view of the nature of its business, and the character and extent of liabilities it may incur, there seems to be no apparent reason why similar guarantees for the protection of the public should not be required in this case as in the case of such corporations by voluntary association.

For the reason that this bill enables the corporation thereby created, to enter upon and prosecute its business, without any payment ever being made upon the subscriptions for its capital stock, and without imposing any liabilities upon the stockholders or directors, for debts and liabilities incurred by the corporation, while the stock subscriptions remain wholly unpaid, I feel constrained to withhold from it the Executive sanction; and I therefore return the bill, with my objections, to the House in which it originated, without my approval or signature.

ASAHEL PECK,
Governor

Governor's Veto Sustained
H.51 1874

The Governor's veto was sustained in the House:
Yeas 1 **Nays** 194

Sources: *Journal of the House*, November 11, 1874 (pages 280-284)

Veto Message: Governor Peck
1874 (H. 171)
An act to incorporate E. & T. Fairbanks & Company.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 20, 1874

The Speaker laid before House a communication from his Excellency, the Governor, as follows:

To the Speaker of the House of Representatives:

SIR: I have the honor to return to the House of Representatives, in which it originated, the bill entitled

"An act to incorporate E. & T. Fairbanks & Company," without my approval. I can not but regard the provision of section five, that "no sale or transfer of the stock of said corporation except on attachment and execution, or by an administrator for the purpose of paying the debts of the estate he represents, shall be valid and binding upon the corporation," except upon compliance with the provisions of that section, as an insuperable objection to its receiving the executive approval. Besides other objections to it, there are *various other* judicial rules which in the course of business it may be necessary for the interest, not only of the stockholder, but of others having claims on him, for a court to *order*, and which, *under* this section, are included in the prohibition.

The further provision forbidding the devising of the property, except to the heirs of the testator so as to enable the devisee to hold it if the corporation choose to take it at the valuation the Probate Court of Caledonia county may fix upon it, I regard as equally objectionable and prejudicial to the rights of third persons, and too far inconsistent with the idea of ownership, to be affixed

to personal property created by special act of incorporation.

The provision in section three, that "No taxes shall be assessed upon the stock of said corporation to the individual owner thereof," is, if possible, still more objectionable in my judgment. It is exempting the owners of stock in this corporation, from the general law of taxation of manufacturing corporations, and substituting a special mode of taxation by special grant, to this corporation. The provision of the general law as to manufacturing corporations, is, chapter eighty-three, section fourteen, that "all machinery employed in any branch of manufacture, and belonging to any corporation or company, shall be assessed to such corporation or company in the town where such machinery may be situated or employed; and in assessing such stockholders for the stock in any manufacturing corporation or company, there shall first be deducted from the value thereof, the value of the *machinery* and real estate belonging to such corporation or company."

I cannot see why this corporation should be singled out from all other manufacturing corporations, and have a special grant exempting it from the general law of taxation of such property, and a different mode of taxation substituted, exempting the stock entirely from taxation. I am unable to see why any other manufacturing corporation, whether manufacturing scales or other property for market, may not with equal propriety ask for the same exemption. If the general law of taxation of the stock or other property of manufacturing corporations is not just and proper it may easily be changed, but if it is just and proper, this corporation should be subject to it, and I can come to no other conclusion than that this special grant, exempting the stock of this corporation from taxation, is unjust to other manufacturing corporations and other taxpayers, unwise, and establishing a precedent of special legislation of dangerous and mischievous tendency.

I therefore return the bill, without the executive approval, to the House in which it originated.

ASAHEL PECK,

Governor's Veto Sustained
H.171, 1874

The Governor's veto was sustained in the House:
Yeas 0 **Nays** 186

Sources: Journal of the House, November 20, 1874 (pages 410-412)

Veto Message: Governor Peck
1874 (H.127)
An act to incorporate the Vermont Mortgage Company.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 24,1874

The Speaker laid before the House a communication from His Excellency, the Governor, as follows:

To the Speaker of the House of Representatives:

SIR: I have the honor to return to the House of Representatives, House bill number one hundred and twenty-seven, entitled "An act to incorporate the Vermont Mortgage Company," without approval. The act incorporates certain individuals by name, their associates and successors, by the name of "The Vermont Mortgage Company," for the purpose of loaning its money upon mortgage securities, and taking mortgages, securing the payment thereof and of selling mortgage securities, and of making, issuing and selling bonds or other obligations and loaning the proceeds upon real estate securities, or applying the same to the redemption of prior bonds of the corporation, and of buying, selling, owning and dealing in any real estate or personal property necessary or convenient for the prosecution of said business: and generally doing all things incidental to said business and the proper management thereof, and it may guarantee payment of securities based upon real estate, but none other; provided, the corporation shall not transact banking business."

By the act the corporation may commence and prosecute the business when *fifty thousand* dollars of capital stock is paid in.

To say nothing about the questionable policy of incorporating particular individuals to transact the business named in the act,

which may be regarded as worthy of deliberate consideration, there is an objectionable feature in the bill, if I correctly interpret it. It contains a provision that "If the indebtedness of said company shall at any time exceed the amount of their capital stock actually paid in, and invested it the business of the company, the directors and stockholders of said corporation, shall be personably liable for such excess, to the creditors of said corporation, to the amount of their respective shares in said corporation." This would afford some security to creditors in such case, if it were not practically nullified by the provision immediately following, that *"No transfer of said shares within six months preceding the commencement of any action to recover on said liability shall be a release therefrom."*

This implies there can be no recovery on this individual liability of stockholders, if the stockholders, who are such when debts are contracted, transfer their stock six months before a creditor learns of the indebtedness of the corporation beyond its capital, and actually brings his suit within six months after the transfer of the stock by the stockholders. This makes it easy for the stockholders to escape this liability by transferring their stock. The debt of a creditor against the corporation might not become payable till more than six months after the transfer of the stock, so that he could not bring a suit within the six months; or, if his debt was due, he might be ignorant of the fact that the corporation was indebted to the extent of making the directors and stockholders personally liable. Again, this corporation is a moneyed corporation within the General Statutes on that subject, and the bill makes this corporation subject to certain sections of the General Statutes relating to private corporations, but omits those sections specially applicable to moneyed corporations. For these objections, I return the bill without my approval.

ASAHEL PECK,
Governor

Governor's Veto Sustained **
H.127, 1874

The Governor's veto was sustained in the House:

Yeas 0 **Nays** 126

****** At the time of the original vote from the House there was no quorum present and voting so the vote was stated a second time when a quorum was present.

Sources: *Journal of the House*, November 24, 1874 (pages 526-529)

Veto Message: Governor Peck
1874 (H. 381)
An act to incorporate the Burlington Banking Company.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 24,1874

To the Speaker of the House of Representatives:

SIR: I have the honor to return to the House of Representatives, House bill 381, entitled "An act to incorporate the Burlington Banking Company," without my approval. Section *one* of the act incorporates such persons as shall become subscribers to the stock, by the name of the Burlington Banking Company. Section *two* provides that the capital stock shall be divided into shares of one hundred dollars each, and that after the organization of the company, the capital stock may be invested to an amount not exceeding three hundred thousand dollars, under such regulations as the corporation may prescribe.

The act gives to the corporation comprehensive powers to receive money on deposit and in trust, on interest, and to accept and execute trusts of almost every description, embracing property, both real and personal, on terms that may be agreed upon; to accept deposits when public officers or municipal or private corporations are authorized or required by law to deposit in bank; to accept from and execute trusts for married women, in respect to their separate property; to receive, for safe keeping, stocks, bonds and other valuable property, and that no bond or other collateral security shall be required from the corporation when acting as receiver or depository. It is a corporation having for it's object a division of profits among the stockholders, and therefore, is a private corporation, within the meaning of chapter eighty-six, General Statutes.

Section thirteen provides that ten dollars on each share shall be paid at the time of subscribing, and that the corporation shall not commence business further than to organize, until at least twenty-five percent of the capital stock *subscribed* shall have been paid in, and that at least fifteen *percent* of the capital stock subscribed shall be paid in yearly, until the whole shall have been paid; and it is provided in section twelve, that if, at any time, the capital stock paid in shall be impaired by losses or otherwise, the directors shall forthwith repair the same by assessment upon the stockholders. But there is no provision in the act requiring any particular sum or amount of capital stock to be subscribed, either before entering upon the business of the corporation or at any time thereafter, further than that the directors shall be stockholders to the amount of one thousand dollars.

The corporation may, consistently with the charter, commence and carry on their business and contract debts, and incur liabilities to any amount, with only an amount of stock subscribed merely nominal; thus affording, practically, no fund on which the creditors of the corporation can rely for their security, and no provision making the stockholders or directors in such case reliable, and no limitation to the amount the directors or stockholders may be indebted to the corporation. I deem this such objection as justifies the withholding of my assent to the bill, and, therefore return it without my approval.

ASAUEL PECK,
Governor

Governor's Veto Sustained
H.381 1874

The Governor's veto was sustained in the House:
Yeas 4 **Nays** 126

Sources: *Journal of the House*, November 24, 1874 (pages 478-480)

Veto Message: Governor Proctor
1878 (S.121)
An act relative to arrears of pay due the soldiers of the late war.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 16, 1878.

To the President of the Senate:

SIR: I have the honor to return to the Senate, where it originated, Senate bill number one hundred and twenty-one, entitled "An act relative to arrears of pay due the soldiers of the late war," without the Executive approval.

The bill reads as follows:

SEC. 1. All claims against the State of Vermont for arrears of State pay or allotted pay due to the soldiers of the late war shall be presented with the proper proof to the State treasurer on or before June 1st, 1879, or the same shall be forever barred.

SEC. 2. The State treasurer is hereby directed, prior to the first day of February, A. D. 1879, to give notice of the provisions of this act by publication, three weeks successively, in one weekly newspaper in each county in the State.

The amount now due to 1,732 soldiers, is $10,969.19. Eighteen claims have been paid since August 1st, amounting to $208.76. Twenty-eight claims were paid during the fiscal year, ending July 3d. The granting of the State pay was an act of great liberality on the part of the State, and was fully merited by the soldiers. But the payment of the balances now due is no question of gift or bounty, not a matter for the exercise of liberality or discretion, but merely one of fulfilling a contract.

This State pay was offered as an additional inducement to the soldiers to enlist, and they entered the service under the plighted faith of the State to make this payment. The soldiers have performed their part of the contract, and we have no more right to this money than to any other which happens to fall into our hands for safe keeping. The money, in each case, has belonged to the soldier ever since he performed the service, and is just as much a debt owed by the State as if it were evidenced by a bond or a note.

I will not discuss the question of our moral right to make such a law. A mere statement of the case seems to be sufficient. The only argument adduced in favor of the bill, is one of mere convenience and expediency, and even on this narrow ground the arguments against it, seem to be overwhelming.

It is true that, in most cases, the amounts are small, one thousand of them not exceeding three dollars each, but many are larger, some running up to one and nearly two hundred dollars each.

But, however small the amount, I am sure it was not the intention of the legislature to withhold payment, or delay or embarrass the soldier or his heirs in collecting their dues.

Quite a part of this money was due to soldiers who were killed or died in the service and whose heirs, through ignorance of the facts or the smallness of the amount, have not called for it. Much of it probably will never be called for, but the State is not paying interest on it, it is not set aside to pay these debts and lying idle, but it is in the treasury, in use as if belonging to the State. Where a soldier or his heirs prove their identity and title, the money due them is paid from any funds in the treasurer's hands. I trust the time may never come when a statute of limitation, passed after the debt is contracted, shall be thrust in the face of a soldier or his family to bar an honest claim, however small. Such a claim should be outlawed only when the memory of the services of our soldiers has entirely faded from the minds of the people; and that time has not come in Vermont. I believe the sense of justice in our people is so strong that, if this bill should become a law, all just claims would still be paid by future legislatures, but the expense

of presenting them would be more than the claim in most cases, and the cost to the State of examining and passing upon them would be much more than it is now. It is said that fraudulent claims are made on the treasurer. This is, no doubt, true, but none such have been paid as far as known, and it is part of his duty to examine and investigate these cases. He has full authority to reject improper claims, and is every way competent, and, I am sure, does not wish to be relieved of any duty which clearly belongs to his office. The fear that we may in some case pay the wrong man is hardly sufficient excuse for refusing to pay the right one.

I have been recently informed and believe it to be true that frauds, to quite an extent, were practiced upon soldiers a few years since in this class of cases.

If the State is not directly responsible for these frauds, they ought to have been guarded against and prevented.

In some instances, I am informed, when perhaps one hundred dollars was due the soldier, he would not receive more than one-half or one fourth of it. It may be too late now to correct these mistakes, but the recollection of these should cause us to jealously protect the rights of those who are still unpaid.

I can only conclude that the bill must have passed both branches without a full understanding of its features. Therefore, I return it without my approval.

REDFIELD PROCTOR,
Governor

Governor's Veto Sustained
S.121 1878

The Governor's veto was Sustained in the Senate:
Yeas 0 **Nays** 21

Sources: *Journal of the Senate*, November 16, 1878 (pages 199-204)

Veto Message: Governor Farnham
1880 (H.2)
An act relating to the duties of State's attorneys.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., December 16, 1880

To the Speaker of the House of Representatives:

SIR:- I have the honor to return to the House of Representatives, where it originated, House bill number two, entitled "An act relating to the duties of State's attorneys," without my approval.

Section one of the bill provides that "The State's attorney, upon leave of the presiding judge endorsed thereon, may prosecute by information all crimes and misdemeanors; and may prosecute by information in all cases where grand jurors, empanelled before the several county courts, may find indictments."

This proposes a fundamental change in the prosecution of high crimes and misdemeanors.

Section one of chapter one hundred and twenty of the General Statutes provides that "The State's attorney may prosecute by information all crimes not capital and where the punishment is by imprisonment in the State Prison for a term not exceeding seven years."

This statute goes quite as far as the Constitution will permit. It allows prosecution for the minor crimes and offences by information, but the higher ones are still reserved to be dealt with by indictment by a grand jury.

This bill number two, in effect, puts an information by the State's attorney in the place of an indictment found by the grand jury in

all cases approved by the presiding judge, and quite likely would result in the power of the State's attorney superseding the powers and duties of the grand jury in nearly all instances.

This may be desirable; may diminish court expenses and facilitate the prosecution of criminals, but I do not think it Constitutional.

Section X of Part First of the State Constitution says: "Nor can any person be justly deprived of his liberty *except by the laws of the land*, or the judgement of his peers."

What does this expression, *By the laws of the land*, mean? Does it mean such statute laws as may be enacted after the adoption of the Constitution, or does it mean the common law of England as in force throughout the country at the time of the adoption?

Chancellor Kent says, "It may be received as a self-evident proposition, universally understood and acknowledged throughout the country, that no person can be taken or imprisoned * * * * * or deprived of his life, liberty or property unless by the law of the land or the judgement of his peers. The words *by the law of the land*, as used in *magna charta*, in reference to this subject, are understood to mean due process of the law—that is, by indictment or presentment of good and lawful men: 'and this,' says Lord Coke, 'is the true sense and exposition of these words.'"

This construction of the meaning of the words, *by the law of the land*, is sustained by the courts in New York, Massachusetts, North Carolina, Tennessee, Maine, the United States and Vermont.

Chief Justice Story, in his Commentaries on the Constitution, says that this clause *per legem terroe* (by the law of the land), as found in *magna charta*, means by due process of law; that is, due presentment or indictment, so that this clause in effect affirms the right of trial according to the processes and proceedings of the common law.

In our own State the question has been raised in relation to the prosecution of minor offences without indictment; and the supreme court have decided in three instances that minor offences

may be prosecuted without indictment, but both of the learned judges who delivered the three opinions, Chief Justice Redfield and Judge Bennett say, in effect, that the words in section ten of the Bill of Rights, "by the laws of the land," mean the same as *due process of law*; that is, by indictment or presentment of good and lawful men, and that consequently the higher crimes should be prosecuted by indictment only.

From these considerations there seems to me but one conclusion—that the bill is unconstitutional.

Therefore I withhold my assent and return the bill without my approval.

ROSWELL FARNHAM,
Governor

Governor's Veto Sustained
H.2, 1880

The Governor's veto was sustained in the House:
Yeas 8 **Nays** 153

Sources: *Journal of the House*, December 16, 1880 (pages 397-399)

Veto Message: Governor Barstow
1882 (S.43)
An act to pay the Rutland County National Bank the sum therein named.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov.13, 1882

To the President of the Senate:

I herewith respectfully return the bill entitled Senate Bill No. 43, "An act to pay the Rutland County National Bank the sum therein named," without my approval.

The Statutes provide that certain expenses incurred in the pursuit, capture and transportation of criminals may be allowed by the Auditor of Accounts. Other claims of this kind come before the Legislature, and their allowance has for years been substantially guarded by certain rules based on experience.

A portion of the amount embraced in this bill is to reimburse the claimant for the expenses of a person who accompanied an officer on his journey to receive upon requisition, and bring to Vermont, an alleged criminal, already under arrest at Denver, Colorado. So far as I am able to learn, this is the first case where a claim of this kind against the State has been allowed by the Legislature. If allowed, it will establish a precedent for paying the expenses of two persons instead of one in such cases. For this and other reasons, I am constrained to withhold my approval of the bill.

JOHN L. BARSTOW,
Governor.

Governor's Veto Sustained
S.43, 1882

The Governor's veto was overridden in the Senate:
Yeas 17 Nays 10

The Governor's veto was sustained in the House:
Yeas 57 Nays 155

Sources: *Journal of the Senate*, November 13, 1882 (page 156, 166); *Journal of the House*, November 16,1882 (page 244)

Veto Message: Governor Pingree
1884 (H.185)
An act relating to school district number four in St. Albans.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 17th , 1884

Hon. JAMES K. BATCHELDER,
Speaker of the House of Representatives:

SIR: --I herewith return to the house of representatives, without my approval, "House bill Number 185," entitled "An act relating to school district number four in St. Albans."

The sole object and purpose sought to be attained by this act appears to be to change the time of holding the annual school meeting of said district from the last Tuesday in March, --the time now fixed by law, --to the third Tuesday in June of each year, --an object eminently proper, and which should be made attainable beyond possible controversy or doubt under the terms of any act designed for that purpose.

I feel reasonably certain from the language of section three of the act as now presented, that this purpose is likely to be frustrated, or, at least, rendered the subject of doubt and possible complication and legal controversy, if the voters of the district shall undertake to avail themselves of the benefits contemplated by the act in the way provided. This section provides that the act shall take effect when accepted by a majority vote of *the legal voters of said district* at a meeting duly warned and holden for that purpose.

It is a difficult matter to determine ordinarily the number of legal voters in a school district so populous and subject to a constant change as the one in question, at any given time; and, if definitely

known, it would ordinarily require a subject matter of special public importance to insure the attendance of the legal voters, so as to have the expression of a majority of the whole in favor of the change contemplated by this act.

I think that it must have been the intention of the legislature to require only a majority of the legal voters present at such meeting to enable the district to avail itself of the object sought by the act.

And for this reason I return the bill for further consideration, that some more definite enabling clause may be incorporated in a new bill for the purpose, if such shall be the pleasure of the honorable legislature.

SAMUEL E. PINGREE,
Governor

Governor's Veto Sustained
H. 185, 1884

The Governor's veto was sustained in the House:
Yeas 3 **Nays** 143.

Sources: *Journal of the House*, November 17, 1884 (pages 260-261)

Veto Message: Governor Pingree
1884 (H.328)
An act to to protect highways in Springfield village.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 24th, 1884

Hon. James K. Batchelder, Speaker of the House of Representatives:

SIR--I herewith return to the house, without my approval, house bill No. 328, entitled "An act to protect highways in Springfield village."

This bill in one respect clearly prohibits the owners of lands along and including the brook from improving and utilizing their real estate as they otherwise might. And it also provides for the control by the town, through the selectmen, of the land through which this stream runs for a distance of two miles, to the extent at least of removing the existing fences, or compelling their removal and replacing them by wire fences, and this in some cases may be at the expense of the land owners.

All this may be a necessity for the safety of the village of Springfield, but I do not regard it lawful or just to thus interfere with the property rights of the citizen without providing in the same act, by the usual legislation in such cases, for a proper appraisement and compensation to the land owners for the property so taken or interfered with for the public use, as in the case of lands taken for highways and other purposes.

I am confident that an omission of so great consequences for the protection of the property rights of the citizen, which cannot even be touched by the legislative authority without a just compensation being provided for, is not the purpose of the

legislature and is wholly unintentional on its part.

And for this reason I return the bill for the further consideration of the general assembly, and that such provisions for insuring a fair compensation for the property condemned to public use, as is usual in such cases, may be incorporated in a new bill, if such may be the pleasure of the honorable legislature.

SAMUEL E. PINGREE,
Governor

Governor's Veto Sustained
H.328, 1884

The Governor's veto was sustained in the House:
Yeas 3 **Nays**, 99.

Sources: *Journal of the House*, November 24, 1884 (pages 403-404)

Veto : Governor Pingree
1884 (H.463)
An act to to incorporate the Morrisville Aqueduct Company.

No text of the Governor's Veto Message is available and there is no record to override the veto.

Sources: *Journal of the House*, November 25, 1884 (page 410)

Veto Message: Governor Ormsbee
1886 (H.60)
An act repealing section six hundred and ninety-six of the Revised Laws limiting the jurisdiction of the court of chancery.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 6, 1886

Hon. josiah grout,
Speaker of the House of Representatives:

SIR: -- I herewith return to the house without my approval, house bill No. 60, entitled "An act repealing section six hundred and ninety-six of the Revised Laws limiting the jurisdiction of the court of chancery."

The section of the Revised Laws, sought to be repealed by this bill, provides that:

"A suit concerning property, except a foreclosure of a mortgage, where the matter in dispute exclusive of costs does not exceed fifty dollars, shall not be entertained by such (chancery) court, but shall be dismissed with costs to the defendant."

This has been the law of the state, as to the matter to which it appertains, since A. D. 1839, and the object or purpose of it was clearly to discourage, and to a certain extent prevent expensive litigation, as to matters of comparatively little value, --a purpose both desirable and commendable.

That it has not served its purpose, will, I am certain, not be claimed by any. To repeal this section, would, in my opinion, be making progress in the wrong direction.

The limitation fixed by the section sought to be repealed is, in my

judgment, particularly desirable and wholesome, in consideration of the fact that in the court of chancery the right of appeal to the supreme court is unlimited and unrestricted, and not subject save in foreclosure cases, to the discretion of the court.

There may have been, and may be cases, where the property rights may seem to be sacrificed by means of the limitation in question, but, when the fact is taken into consideration that it is hardly possible for a party to get into, and out of the court of chancery without an expense of fifty dollars or more, this seeming sacrifice is more fancied than real.

The learned Chancellor Kent in a reported case, in commenting upon the subject, said, "The true objection to the cognizance of small causes by this (chancery) court, is that the litigation would necessarily be vexatious and oppressive to the suitor and exhaust more than the subject in controversy." This commentary so well expresses my views on the subject, that I adopt them as an embodiment of my objections to the bill in question.

For these reasons I return the bill for further consideration.

EBENEZER J. ORMSBEE,
Governor

Governor's Veto Sustained
H.60 1886

The Governor's veto was sustained in the House:
Yeas 88 **Nays** 119.

Sources:*Journal of the House*, November 6, 1886 (pages 171-172, 186)

Veto Message: Governor Ormsbee
1886 (S.56)
An act to legalize the grand list of the town of Bloomfield for the year 1886.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 19, 1886

The president laid before the senate the following communication from His Excellency, the Governor:

To His Honor, Levi K. Fuller, President of the Senate:

SIR:— I have the honor to return to the senate, where it originated, senate bill No. 56, entitled an act to legalize the grand list of the town of Bloomfield for the year 1886, without the executive approval.

This proposed enactment belongs to that class of which it is often said, "It will do no harm and may do good." I have sought by enquiry and such examination of the subject as I have been able to make, for some good and sufficient reason for the approval of the bill in question, but have failed to discern any such reason. From such information as I am able to get, it would appear that the listers of said town made an illegal assessment as to one or more tax-payers of the town--illegal in matters of substance rather than of form — and that this proposed legislation is asked for the purpose of making such assessment valid. Passing the question of doubt whether the act in question, if approved, would be of any avail as against the legal rights of a tax-payer, I respectfully submit that the proposed legislation is unwise, to say the least. I can only conclude that I am either misinformed in the matter, or that the bill passed both branches of the legislature without a full understanding of it. Therefore I return it without my approval.

EBENEZER J. ORMSBEE,
Governor

Governor's Veto Sustained
S.56, 1886

The Governor's veto was sustained in the House by unanimous vote in the negative.

Sources:*Journal of the Senate*, November 19, 1886 (pages 240-241)

Veto Message: Governor
1886 (H.329)
An act to to legalize the grand list of Newport for the years 1884, 1885, and 1886.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 20, 1886

Hon. Josiah Grout,
Speaker of the House of Representatives:

SIR: — I herewith return to the house of representatives, without my approval, house bill No. 329, entitled "an act to legalize the grand list of the town of Newport for the years 1884, 1885, and 1886."

An examination and enquiry as to the purpose of the proposed legalization of the grand lists in question fails to disclose any sufficient reason for this legislation and reveals the fact that one of the reasons why this proposed legislation is desired is, for that the listers of the said town did not make oath to these lists on one or more of them. I respectfully suggest that the legislation covered or sought by the proposed act is unwise and would furnish an unwholesome precedent and would furnish listers of the future an excuse for a neglect of a sworn and important public duty.

EBENEZER J. ORMSBEE,
Governor

Governor's Veto Sustained
H.329 1886

The Governor's veto was sustained in the House:
Yeas 6 **Nays** 142

Sources: *Journal of the House*, November 22, 1886 (pages 360, and 377)

Veto Message: Governor
1886 (H.219)
An act to incorporate the Springfield Railroad Company.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 22, 1886

Hon. Josiah Grout, Speaker of the House of Representatives:

SIR: — I herewith return to the house, where it originated, house bill No. 219, entitled "an act to incorporate the Springfield Railroad Company," without my approval.

I am unable to discover any reason why this company may not be formed under the general law in that behalf provided; but if the bill in question was so drafted as to conform to the provisions of the general law as to taking land and assessment of damages and other like essentials, and was in *form* otherwise correct, I should give my approval.

Under the general law a certain limitation is fixed as to width of land that may be taken--and in my judgment all special acts should contain a like provision; this bill only limits the width of the proposed road to the *necessities* of the corporation and makes no provision as to who shall be the judge of the extent of such necessity. This might be determined by an application to the courts, and standing alone this objection might not be deemed sufficient to justify the withholding of my approval.

Section eleven of the bill provides: "The directors of the company may require payment of the sums subscribed to the capital stock in such proportions and at such times as they shall deem best, but not exceeding ten dollars at one time, and one hundred dollars upon any one share, under the penalty of the forfeiture of all previous payments thereon."

I respectfully submit that there is such an uncertainty as to the meaning of the language above quoted that it ought not to have the sanction of law, especially as it has reference to an important subject matter of the bill and involves a forfeiture of moneys.

And in several minor particulars the draftsman has provided means of procedure different to a greater or less degree from that provided by the general law; and thus a want of uniformity of procedure would follow; and this is objectionable.

For these reasons I return this bill without executive approval.

EBENEZER J. ORMSBEE,
Governor

Governor's Veto Sustained
H.219, 1886

The Governor's veto was sustained in the House:
Yeas 1 **Nays** 149

Sources: Journal of the House, November 22, 1886 (pages 378 and 409)

Veto Message: Governor Ormsbee
1886 (S.79)
An act to to provide for the study of scientific temperance in the public schools of the State of Vermont.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 23, 1886

The President laid before the senate a communication from His Excellency, the Governor, in writing as follows:

To the President of the Senate:

SIR: I have the honor to return to the senate, where it originated, senate bill No. 79, entitled "an act to provide for the study of scientific temperance in the public schools of the State of Vermont," without the executive approval.

It is a matter of great regret that an act, having for its purpose an object and end of great merit and applicable to a subject of unequaled public solicitude and concern, should be so framed as to be obnoxious to well founded principles of law; but believing it to be so obnoxious, and being so advised by the best authority at hand, my course in the premises is plain and inexorable.

Passing over many minor objections that might be well taken to other parts of the bill, I confine my objections to section three.

There is no provision as to how the alleged offender is to be cited before judges, or whether the complaint shall be written or oral.

The tribunal before which the trial is to be had is not known to our system of law or our constitution. A judge of the Supreme Court is not of himself a court.

This section contemplates a summary hearing by a judge without ordinary process, and apparently without jurisdiction. A party alleged to have violated a statute is entitled to a jury trial, which this act denies him. There is no provision for any record of the process, the pleadings or the proceedings; there is no clerk of the court provided, but the judge is to decide the matter off-hand, construe the law according to his best judgment, without revision or right of appeal, and is to punish disobedience of his own order as in cases of contempt.

In a proceeding of contempt there is no limit upon the amount of fine or the extent of imprisonment, which a judge may impose. Proper cases for the exercise of this power are rare, and it does not naturally or properly apply to the enforcement of statutes. Such a method of administering justice might perhaps be sufficient in respect to all our laws; it would apparently be as proper in respect to other statutes as to this, but it would be decidedly novel in form and rather in accordance with oriental methods than with the principles of constitutional government.

These considerations are of especial weight in view of the fact that the first and second sections are certainly susceptible of a construction which would require the pupils of primary classes to be furnished with text-books before they have mastered the alphabet; and that these text-books should be kept in their hands, and in daily use year after year, in every grade of the school system.

As I have before said, the object of the bill is highly commendable, but I believe it is encumbered by a provision that is unconstitutional and which is certainly a violation of well recognized principles which lie at the foundation of our government.

I can but conclude that the bill as to the features and provisions to which your attention is hereby called, passed the two houses without a full understanding of them.

Therefore I return it without my approval.

EBENEZER J. ORMSBEE,
Governor

Governor's Veto Sustained
S.79, 1886

The Governor's veto was sustained in the Senate:
Yeas 2 **Nays** 22

Sources: *Journal of the Senate*, November 23, 1886 (pages 280-281)

Veto Message: Governor Dillingham
1888 (S.45)
An act defining the duties and powers of the state and local boards of health, of health officers and others.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 27th, 1888

To the President of the Senate:

I have the honor to return to the senate, where it originated, senate bill No. 54, entitled "An act defining the duties and powers of the state and local boards of health, and health officers and others," without the executive approval.

The bill comes to me at a late hour in the session, and I have time to state only one or two of the many reasons for my action.

The provisions of the bill are so many, so remarkable in character and so burdensome in operation that they should not be adopted without the careful consideration of both branches of the legislature, and I am informed that in the house of representatives the bill was read by its title only.

Another objection lies in the fact that by the provisions of section three, all of the regulations which may be promulgated by said board are declared to be legal enactments.

I am of the opinion that the legislature has not the authority to delegate such powers, and if such authority exists, I am of the opinion that it should not be exercised.

WILLIAM P. DILLINGHAM,
Governor.

Governor's Veto Sustained
S.54 1888

The Governor's veto was sustained in the Senate:
Yeas 0 **Nays** 23

Sources: *Journal of the Senat*e, November 27, 1888 (pages 326-327)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Fuller
1892 (H.205)
An act to incorporate the Ludlow Savings Bank and Trust Company

STATE OF VERMONT
Executive Department,
Montpelier, Vt., November 18, 1892

To the Speaker of the House of Representatives:

I have the honor to return to the House of Representatives, where it originated, House bill No. 205, entitled, “An act to incorporate the Ludlow Savings Bank and Trust Company,” without executive approval.

A savings bank is supposed to be a place where people of moderate means may deposit their savings against the time of need, and they should be invested so as to be free from risk as possible, while a bank that does an ordinary banking business is operated upon an entirely different and clashing theory. Now when the two are brought together and the savings deposits made subject to commercial hazard of this kind, it should be under more than ordinary scrutiny, and freed from sources of temptation.

This clause contains the germ that in the future may result in harm, and therefore I return it without my approval.

LEVI K. FULLER,
Governor

Governor’s Veto Overridden
H.205, 1892

Governor’s veto overridden in the House:
Yeas: 204 Nays: 0

Governor’s veto overridden in the Senate:
Yeas: 22 Nays: 6

Sources: ***Journal of the House,*** November 19, 1892 (pages 347-348); ***Journal of the Senate,*** November 21, 1892 (pages 255-256)

Veto Message: Governor Stickney
1900 (H.242)
An act to amend No 159 of the acts of 1898, entitled 'An act to incorporate the Central Vermont Railway Company'.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., November 27, 1900

A message was received from His Excellency, the Governor, by Mr. Sargent, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to return herewith without his approval, with his objections in writing, a bill originating in the House, entitled.

H.242. An act to amend No. 159 of the acts of 1898, entitled "An act to incorporate the Central Vermont Railway Company."

The Speaker laid before the House a communication from His Excellency, the Governor, as follows:

To the House of Representatives:

I have the honor to return herewith without my approval House bill No. 242 for the reason that the same is in my judgement unconsitutional and unjust as an endeavor to settle by legislation conflicting claims which are purely judicial questions and properly determinable in the courts where the interests of all the paries can be equitably conserved and protected.

WILLIAM W. STICKNEY,
Governor

Governor's Veto Overridden
H.242, 1900

The Governor's veto was overridden in the House:
Yeas 163 **Nays** 5

The Governor's veto was overridden in the Senate:
Yeas 23 **Nays** 5

Sources: : *Journal of the House*, November 27, 1900 (pages 501-502); *Journal of the Senate*, November 27, 1900 (page 442)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Bell
1904 (S.105)
An act to amend section 5394 of the Vermont Statutes, relating to fees of witnesses.

STATE OF VERMONT
Executive Department,
Montpelier, Vt., November 17, 1904

To the Honorable Senate:

I return herewith Senate bill, entitled

S. 105. An act to amend section 5394 of the Vermont Statutes, relating to fees of witnesses;

Without my approval, for the following reasons:

The fees should never be so large as to render it profitable to become a witness. Such fees would tend to increase litigation by raising up an army of professional witnesses.

Every citizen owes a duty to the public which calls upon him, when controversies arise, to appear and give evidence of what he knows in relation to the matter in controversy, to the end that justice be done. This duty should be performed without other reward than sufficient to cover necessary expenses.

C. J. BELL
Governor

Governor's Veto Overridden
S.105, 1904

Governor's veto overridden in the Senate:
Yeas: 24 Nays: 6

Governor's veto overridden in the House:
Yeas: 177 Nays: 25

Sources: ***Journal of the Senate,*** November 17, 1904 (page 242); ***Journal of the House,*** November 18, 1904 (pages 312-313)

Veto Message: Governor Mead
1910 (H.30)
An act in amendment of and in addition to No. 128, of the Acts of 1874, entitled "An act to incorporate E. & T. Fairbanks and Company as amended by No. 219 of the Acts of 1884; No. 261 of the Acts of 1894 and No. 419 of the Acts of 1906

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Nov. 7, 1910

The Speaker laid before the House a communication from His Excellency, the Governor, as follow:

To the Speaker of the House:

This bill, House bill No. 30, entitled, An act in amendment of and in addition to No. 128, of the Acts of 1874, entitled "An act to incorporate E. & T. Fairbanks and Company as amended by No. 219 of the Acts of 1884; No. 261 of the Acts of 1894 and No. 419 of the Acts of 1906", is hereby returned to the House without my approval. This bill apparently takes away from the corporation all its powers except such as are contained in the amendment. I do not think this was intended by the Legislature and I therefore return the bill without my signature.

JOHN A. MEAD,
Governor.

Governor's Veto Sustained
H.30, 1910

The Governor's veto was sustained in the House by a unanimous vote in the negative.

Sources: *Journal of the House*, November 8, 1910 (pages 176-177)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Mead
1910 (H.63)
An act relating to the heating and ventilation of factories.

STATE OF VERMONT
Executive Department.
Montpelier, Vt.,

The Speaker laid before the House a communication from His Excellency, the Governor, as follows:

To the Honorable Speaker and the members of the House of Representatives:

The above bill provides that the state board of health shall have authority to prescribe regulations for the heating and ventilation of all mills, factories, shops and other buildings in which ten or more persons are employed. It further provides that any person or corporation failing to comply with such regulations within four months of the notices thereof, shall be fined not more than $500 nor less than $10. This bill in effect, gives to the state board of health the arbitrary right to exercise functions which have heretofore belonged exclusively to our courts of law. I would respectfully suggest that in my judgment the courts of this state are the proper medium through which the necessity and reasonableness of such regulations as are contemplated above, should be tested. As the bill now stands, the courts have no discretion in these matters. A fine as provided in this bill, if collected would amount in my judgement to depriving a person, persons or corporation of their property without due process of law. Such a deprivation is in direct violation of the 14th amendment of the constitution of the United States of America. Hence, the bill in my judgment is unconstitutional.

I therefore respectfully return H. 63 to the House of Representatives without my signature.

John A. Mead,
Governor.

Governor's Veto Sustained
H. 63, 1910

The Governor's veto was sustained in the House by unanimous vote in the negative.

Sources: *Journal of the House*, November 14, 1910 (pages 211-212)

Veto Message: Governor Mead
1910 (H.342)
An act to provide for the ascertainment of damages in the event of the change of motive power by railroad corporations and street railroad companies.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., December 5, 1910

The Speaker laid before the House a communication from His Excellency, the Governor, as follows:

To the honorable Speaker and Members of the House of Representatives:

The bill entitled, H. 342, "An Act to provide for the ascertainment of damages in the event of the change of motive power by railroad corporations and street railroad companies," seeks to delegate the right of eminent domain to the railroads operating under the provisions of this bill. But the bill makes no provisions for ascertainment of damages as a condition precedent to the exercise of such power. Further, the bill contains no provision for the payment of damages when the property rights are taken.

Therefore, in my judgment, the bill is in violation of Article Two of the Constitution of the State of Vermont and hence, unconstitutional. I therefore respectfully return this bill to the House of Representatives without my signature.

JOHN A. MEAD,
Governor

Governor's Veto sustained
H.342 1910

The Governor's veto was sustained in the House by unanimous

vote in the negative.

Sources: *Journal of the House*, December 5, 1910 (pages 314-315)

Veto Message: Governor Mead
1910 (S.73)
An act to amend section 581 of the Public Statutes relating to the examination of tax inventories and the production thereof in court.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., December 6, 1910.

To the Honorable Senate:

The phraseology of bill entitled

"S. 73. An act to amend section 581 of the Public Statutes relating to the examination of tax inventories and the production thereof in court," allows a commission authorized by the General Assembly, a member of such commission, the attorney general, the commissioner of State taxes, the State's attorney of the county and persons thereby designated in writing to inspect tax inventories in the hands of town clerks, but prohibits such officials and persons from disclosing except for official use any data obtained by an examination thereof, or of the contents of any abstract or copy thereof made by them in such manner as to reveal the identity of the taxpayer making such inventory.

The bill also allows the listers, selectmen, treasurer, collector of taxes, town grand jurors and attorneys for the town wherein such inventories are lodged to inspect the same, but does not prohibit such town officials from disclosing the contents thereof. No apparent reason exists for restricting such disclosures on the part of state officials and permitting them on the part of town officials.

I therefore respectfully return this bill to the Senate without my signature.

JOHN A. MEAD,

Governor's Veto Sustained
S.73 1910

The Governor's veto was sustained in the House by unanimous vote in the negative.

Sources: *Journal of the Senate*, December 6, 1910 (pages 244-245)

Veto Message: Governor Mead
1910 (H.265)
An act to establish a state board of examiners of embalmers and to repeal sections 5428, 5429, 5430, 5431and 5432 of the Public Statutes relating to the practice of embalming.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., December 8, 1910

The Speaker laid before the House a communication from His Excellency, the Governor, as follows:

To the Honorable Speaker and Members of the House of Representatives:

H. 265. "An act to establish a state board of examiners of embalmers and to repeal sections 5428, 5429, 5430, 5431and 5432 of the Public Statutes relating to the practice of embalming." This bill contains a clause exempting from its provision bonafide employees of registered embalmers, so that the State is deprived of all the rights of criminal action against such employees in certain cases, which it has against registered embalmers. Also by the wording of the last section of the bill, the State may lose the right of criminal action for violations under the present law. I thoroughly approve of the intent of the bill as a whole, but unfortunately, the law does not permit me to approve a portion of the bill and disapprove another portion. Therefore, I have no alternative but to return H. 265 to the House of Representatives without my signature.

JOHN A. MEAD,
Governor.

Governor's Veto Sustained
H. 265, 1910

The Governor's veto was sustained in the House by unanimous vote in the negative.

Sources: *Journal of the House*, December 8, 1910 (pages 366-367)

Veto Message: Governor Mead
1910 (H.126)
An act in amendment of section 5695 of the Public Statutes relating to homicide.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., December 15, 1910.

The Speaker laid before the House a communication from His Excellency, the Governor, as follows:

To the Honorable Speaker and Members of the House of Representatives:

I return herewith House Bill No. 126, without my approval, not because of any objection to the bill fundamentally, but for the reason that I have grave doubts as to its application to pending causes, and as to offenses committed prior to February 1, 1911. The bill contains no saving clause as to such offenses and causes. Therefore as it stands I feel it my duty to return this bill without my signature.

The temper of the Vermont Legislature has been thoroughly tested in regard to qualified capital punishment, and I am fully satisfied that it is the sense of your Honorable body that such should be the policy of the State.

If the saving clause suggested had been incorporated in the bill it would have received my immediate sanction.

I would therefore recommend that another bill be introduced containing the additional provisions, that the act shall not apply to pending causes or to homicides committed prior to February 1, 1911, and that the same be passed.

JOHN A. MEAD,

Governor's Veto Sustained
H.126, 1910

The Governor's veto was sustained in the House by unanimous vote in the negative.

Sources: *Journal of the House*, December 15, 1910 (pages 420-421)

Veto Message: Governor Mead
1911 (H.394)
An act to regulate the service of process.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Jan. 25, 1911

The Speaker laid before the House a communication from the Governor as follows:

To the Honorable Speaker and Members of the House of Representatives:

House No. 394. An act to regulate the service of process.

Under the provisions of this bill, where the officer's return alleges personal service, a defendant may before judgment attack the return by a motion to dismiss or a plea in the action and upon proof of failure of the officer to have made personally actual delivery of the writ to the party, the suit will abate; and further a defendant may, even after judgment, upset that judgment upon similar proof. It is apparent therefore that an officer attempting to make personal service must make actual travel to the place of service, thus increasing the costs in an action by ten cents per mile for the distance of such travel. It may be easily seen that in many cases and, especially in a case where there are several defendants widely separated throughout the state, the creditor will hesitate before he incurs such an increased bill of costs. It is doubtful whether the bill does not make it impossible to serve a party by delivery of the writ to his agent, in as much as the bill requires *actual* delivery to the *defendant* or other *party* against whom the writ is directed. This would, of course, render it impossible to serve a foreign corporation or partnership and prevent the state as well as private parties from collecting their just claims. It may also be questioned whether the bill does not

prevent service of a summons by lodging a copy, as now allowed, by section 1443 of the Public Statutes, inasmuch as the bill reads all other manner of service when personal service is required shall be void. If this is the intended effect, the section mentioned should be repealed lest confusion result. If this is not the effect the party attempted to be served by having a copy lodged at his house has as great need and should have equal opportunity of contesting the officer's return as the party attempted to be served personally. The bill is also subject to the interpretation that a party may thwart service and prevent himself being sued by refusing to accept the writ, for the bill requires actual delivery of the writ.

Acts relating to court procedure and rights of parties should be clear beyond question that there may be a minimum of litigation and that just claims may not be imperilled.

For these reasons I herewith return H. 394 to the House without my signature.

Dated at Montpelier, Vt., this 25th day of January, 1911.

JOHN A. MEAD,
Governor

Governor's Veto Sustained
H.394 1911

The Governor's veto was sustained in the House by unanimous vote in the negative.

Sources: *Journal of the House*, January 25, 1911(pages 748-749)

Veto Message: Governor Mead
1911 (H.691)
An act relating to the taxation of personal property and establishing a uniform rate on monies and securities.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., January 28, 1911

The Speaker laid before the House the following communication from His Excellency, the Governor:

To the Speaker and Members of the House of Representatives of the State of Vermont:

House No. 691. "An act relating to the taxation of personal property and establishing a uniform rate on monies and securities."

Section 8. of this bill wherein it provides that deposits in savings banks, savings institutions, and trust companies, in this state, over two thousand dollars ($2,000) shall be deducted from the appraised value of personal estate subject to the general property tax virtually nullifies the effect of House bill No. 690, entitled "An act to amend sections 744, 745,746,510,512,537, and 549 and to repeal section 584 of the Public Statutes relating to taxation of deposits in savings banks and trust companies, and to amend section 64 of an act entitled "An act to revise the law relating to savings banks and trust companies," approved January 27, 1911, which bill was approved January 28, 1911.

House bill No. 690 removing the limit from the amount of savings banks deposits subject to state tax was enacted with the full understanding that it was for the purpose of raising revenue to meet the increased expenditures provided to be made by the many large special appropriations made at this session of the General Assembly.

I feel that to now enact legislation depriving the state of that revenue so raised would be a serious mistake, and one that ought not to be made.

I therefore return House bill No. 691 without my approval.

Dated at Montpelier, Vermont, this 28th day of January, 1911.

JOHN A. MEAD,
Governor.

Governor's Veto Sustained
H.691, 1911

The Governor's veto was sustained in the House:
Yeas 76 **Nays** 60

NOTE: Though a majority of representatives voted to override the veto, the Speaker noted that the constitution required two-thirds of the members present for votes on tax bills. Lacking the required quorum, the Speaker ruled the veto sustained.

The Speaker's ruling was upheld by a vote of the House : Yeas 99 Nays 31

Sources: *Journal of the House*, January 28, 1911 (pages 765-766)

Veto Message: Governor Fletcher
1913 (H.371)
An act to amend No. 416 of the Acts of 1910, relating to the charter of the E. and T. Fairbanks and Company.

STATE OF VERMONT
Executive Department.
Montpelier, Vt.,

The Speaker laid before the House a communication from His Excellency, the Governor, as follows:

To the House of Representatives:

I have the honor to return herewith without my approval House bill No. 371, "An act to amend No. 416 of the Acts of 1910, relating to the charter of the E. and T. Fairbanks and Company" for the reasons that:

The effect, if not the intent of this bill, is to create a holding company without limitation and to legalize a trust. A result contrary to the spirit and the letter of the law as laid down in the decisions of the United States Supreme Court in the recent Northern Securities Co.'s case, The American Tobacco Co. and Standard Oil Co. cases.

It may be that the result desired by the advocates of this bill is a just and legal one, but it should be reached without the infringement of the laws in relation to combinations of business.

If the intent were confined to the purchase or holding of the stocks and bonds of the St. Johnsbury Aqueduct Co. there might be no objection, but that Company has been owned by E. and T. Fairbanks and Company for some time as shown by previous charter amendments. But the grant in this bill is extended by the broad words "or of any other corporation", and those words open

the field for the investment in other corporations of any sort, to any amount, and the creation of a monopoly in violation of the Sherman Law and the best interests of the state.

It is true that amendments to the charter of this corporation have been made at various times tending toward this end but the grants have been limited both in scope of the business to be engaged in and as to the amount to be invested. Without attacking the action taken by past legislatures, it seems to me that the time has come to call a halt in the pursuance of such a policy which if carried out would only result in the establishing of a dangerous precedent and great injury to the public.

ALLEN M. FLETCHER,
Governor.

Executive Chamber,
Montpelier, Vt., Jan. 16, 1913.

Governor's Veto Sustained
H.371, 1913

The Governor's veto was sustained in the House, it was decided unanimously in the negative.

Yeas: 0 **Nays:** 116

Sources: *Journal of the House*, January 16, 1913 (Pages 594-595)

Veto Message: Governor Fletcher
1913 (S.79)
An act to authorize and provide for the sterilization of imbeciles, feeble-minded, and insane persons, rapists, confirmed criminals and other defectives.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., January 31, 1913

To the Honorable Senate:

I have the honor to herewith return without my approval, Senate bill No. 79, entitled "An act to authorize and provide for the sterilization of imbeciles, feeble-minded, and insane persons, rapists, confirmed criminals and other defectives", for the reasons set up in an opinion of the Attorney General which is hereto attached, January 31, 1913.

ALLEN M. FLETCHER,
Governor.

Re Senate Bill 79.
To His Excellency, the Governor:

In response to your request I report as follows regarding the measure.

Referring to section 2 of this act, you will notice that the act applies only to those of the unfortunate class named, who are unfortunate enough to be actually confined "In the hospitals for the insane, State Prison, reformatories and charitable and penal institutions in the State". Those equally unfortunate except in the matter of actual confinement including criminals whose sentences have been completed, and all having greater opportunity to perpetuate the evil which this bill seeks to guard against, are immunes from the operation of this act.

In my judgment this is an unfair, unjust, unwarranted and inexcusable discrimination which ought not to *be*, and cannot be tolerated under the supreme law, the Constitution of this State.

If there be anything of merit in the claims made by the advocates of this measure, and I do not attempt to say there is not, just why the feeble-minded or imbecile wife of a kind hearted and tolerant husband should be permitted to give birth to offspring, is quite beyond my comprehension, and yet instances of this kind are within the knowledge of almost every person of mature years. Instances of this kind are not confined to cases of the imbecile wife, but the suggestion applies equally to cases of the degenerate and imbecile husband of the kind hearted and tolerant wife who has sufficient means and sufficient pride to in a measure conceal the actual condition of her husband.

In short, the idea meant to be conveyed is this, that this section contains such an unreasonable discrimination and classification as renders the act void under the Constitution of this State.

Again referring to section 9 of the act, it is here provided that the act shall not apply to women of 'forty-five years of age or over' as a general rule do not conceive and give birth to children, it is an undisputed fact well known, not only to the medical profession, but in common experience that women of that age do conceive and give birth to children. Here again is an unwarranted and inexcusable discrimination and classification which renders the act in my judgment void under our Constitution.

In this connection permit me to say, that this discrimination would seem most unnecessary and unwarranted because if it be true as the act assumes that the conception in women of forty-five years or over is impossible, the execution of this law would not deprive the individual of a God given power or function.

Again calling your attention to the provisions in section 2, which perhaps I may be permitted to call the "machinery" for carrying the provisions of this act into effect, it seems apparent to me these provisions are wholly inadequate, unjust and insufficient. In

this connection it ought to be sufficient to call attention to the fact that this act applies to the insane and feeble minded confined in hospitals for insane and charitable institutions of this State and that the provisions for final hearing provides only for notice in writing delivered to such insane or feeble minded persons "Which shall plainly state, time, place and purpose thereof," and in case the person is a minor or under guardianship, a copy of such notice shall be mailed to such parent or guardian as the case may be, addressed to his last known residence at least six days before said hearing. There is also the further provision that the board provided for "Shall hear such person in his defense, if he appears and requests such hearing. And at such hearing such person shall have a right to introduce witnesses and proofs and be represented by counsel. Said board shall give such person a fair and impartial trial." Absolutely no provision is made to enable such insane person or persons confined in a charitable institution to appear before said board and secure such impartial trial, and the fact that such person is absolutely incapable of making a request or of performing any legal act, is utterly ignored. It is also provided that upon such proof as may be adduced said board may decide the question involved. From their decision no appeal of any kind is provided for. There is absolutely no provision regarding the quality of the evidence which said board may receive. In other words, under the provisions of this act, the decision of the board is absolute and final. In this respect an act of this kind is unheard of and unwarranted. Under such a provision, land could not be taken for a public highway, as has been repeatedly held by the Supreme Court of this State, it is not due process of law. Much less ought it to be enacted that individuals may be deprived of God given powers, functions and rights in such manner.

Perhaps I ought to also call your attention to section 6, of this act. It is in this section provided that "Persons who shall come within the provisions of this law as criminals and not otherwise, shall be those who have been convicted of the crime of rape or of such succession of offences against the criminal law as in the opinion of said board shall be deemed to be sufficient evidence of confirmed criminal tendency." Under this section and the other provisions of this act, it is in effect provided that this board may inflict an additional penalty for a crime long before committed and the legal

penalty as the presumes until further offence is committed. It seems hardly necessary to suggest that such a provision contravenes the Constitution.

But the climax of absurdity and inconsistency seems to have been reached in section 7 of this measure. Under the provisions of this section both lunatic and imbecile are permitted to do that which has never been permitted in any court of justice in this land, viz.: by agreement imposed upon themselves such penalty as under this act may be imposed upon criminals after full hearing and the introduction of evidence. To say that such a provision is unwarranted and absurd is putting it mildly.

Respectfully submitted,
R. E. BROWN,
Attorney General.

Governor's Veto Sustained
S.79, 1913

The Governor's veto was overridden in the Senate:
Yeas 13 **Nays** 10

The Governor's veto was sustained in the House:
Yeas 31 **Nays** 149

Sources: : *Journal of the Senate*, January 31, 1913 (pages 618-621) , *Journal of the House*, February 4, 1913 (pages 793-797).

Veto Message: Governor Fletcher
1913 (S.132)
An act to appropriate a certain sum in aid of the Brattleboro Retreat.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., February 6, 1913.

To the Honorable Senate:

I herewith return without my approval Senate bill, No. 132, "An Act to appropriate a certain sum in aid of the Brattleboro Retreat."

There are two questions of state policy involved in this bill: *First*, Shall the state subsidize by donation corporations which are not controlled by it and over which it has no jurisdiction whatever? In this connection, it may be said, that in furtherance of that policy, the legislature of 1910 appropriated fifty thousand dollars for the Austine Institution in Brattleboro, an institution over which it has no control whatever. And this present session of legislature has appropriated twenty-five thousand dollars in addition to that sum. It would seem to me that the state has gone far enough in this direction, both for that and other institutions of a kindred nature.

The second question of the state policy which is involved is, Shall the state appropriate money for an institution over which it has not control and in which it has no proprietory interests, when the institution is successful within itself and has, if I am correctly informed, property valued at over one-half million dollars. This latter proposition is the vital one at issue in this bill. It may also be said in this connection that the state is already paying for all services received from this institution.

ALLEN M. FLETCHER,
Governor

The Governor's Veto Sustained
S. 132, 1913

The Governor's veto was overridden in the Senate:
Yeas 15 **Nays** 12

The Governor's veto was sustained in the House:
Yeas 72 **Nays** 124

Sources: *Journal of the Senate*, February 6, 1913 (pages 686-687, 730); *Journal of the House*, February 12, 1913 (pages 924-925)

Veto Message: Governor Fletcher
1913 (H.429)
An act to establish an office of criminal identification.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., February 20, 1913

The Speaker laid before the House a communication from His Excellency, the Governor, as follows:

To the House of Representatives:

I herewith return House bill No. 429, "An act to establish an office of criminal identification" without my approval, for the following reasons:

First, if there is a need for records of this nature, it would seem that the only material of any value would be obtained at the House of Correction and State Prison. To have the work carried on in the county jails, would simply increase expense with no real beneficial result.

Second, it necessitates the creation of an office for which there is no need inasmuch as the work can be done by the heads of our penal institutions without any more than incidental expense to the state.

ALLEN M. FLETCHER,
Governor.

Governor's Veto Sustained
H.429, 1913

The Governor's veto was overridden in the House:
Yeas 119 **Nays**76

The Governor's veto was sustained in the Senate:
Yeas 11 **Nays** 19

Sources: *Journal of the House*, February 20, 1913 (pages 1066-1067); *Journal of the Senate*, February 20, 1913 pages 921-922

Veto Message: Governor Gates
1915 (S.86)
An act relating to the disposition of unclaimed deposits in savings banks and trust companies.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 17, 1915

Was taken up, and the President laid before the Senate the following communication from His Excellency, the Governor;

To the Honorable Senate:

I have the honor to return herewith, without my approval, an act originating in the Senate, entitled "Senate No. 86. An act relating to the disposition of unclaimed deposits in savings banks and trust companies" for the following reasons:

(1) Section one of the act provides that the "probate court, court of insolvency, or other court shall" after certain proceedings, order and decree that unclaimed deposits in savings banks and trust companies shall be paid to the state treasurer. The term "other court" is indefinite and may be taken to refer to the supreme court of the state, or to the county court, or municipal court, or court of justice of the peace. If every one of these courts is to have jurisdiction in this matter, and the reports of the proceedings are not kept in one place there will be great confusion and uncertainty.

(2) Section one of the act provides that the proceedings shall be taken upon the application of a person interested, or of the State's attorney. Section two which prescribes the method of making the application gives the right to the state's attorney only.

(3) Section one and two provides that public notice shall be given of any hearing under this act, and no particular manner of notice

is prescribed.

Section six provides that notice of hearing on an application of a person claiming to be entitled to the fund shall be given to them by property marked copies of newspapers containing advertisements of the hearing. I do not consider this to be a proper method of giving notice in legal affairs.

In conclusion I may say that the objects of the bill are worthy and should in my estimation be embodied in legislation, but this particular bill will, if enacted into law, produce uncertainty and confusion, because of the indefiniteness with which it is drawn.

CHARLES W. GATES,
Governor.

Governor's Veto Sustained
S. 86, 1915

The Governor's veto was sustained in the Senate by unanimous vote in the negative.

Sources: Journal of the Senate, March 17, 1915 (pages 432-433)

Veto Message: Governor Gates
1915 (S.106)
An act to extend the time within which the construction of railroads heretofore authorized may be commenced and finished.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 26, 1915

Was taken up, and the President laid before the Senate the following communication from His Excellency, the Governor:

To the Honorable Senate:

I have the honor to return herewith, without my approval, a bill entitled Senate No. 106, "An act to extend the time within which the construction of railroads heretofore authorized may be commenced and finished," for the following reason:

The powers granted to the public service commission by this bill are legislative in character, and are of such a nature that they cannot be delegated by the legislature. The effect of this bill is to provide for the amendment of the charter of various railroads wherein the time for the construction of the road has been limited. The granting of the charters of corporation is a matter of involving legislative discretion, and of course, the amendment of any corporative charter is equally a matter of legislative discretion which cannot here be delegated.

CHARLES W. GATES,
Governor.

Governor's Veto Sustained
S.106, 1915

The Governor's veto was sustained in the Senate by unanimous

vote in the negative.

Sources: *Journal of the Senate*, March 26, 1915 (pages 544-545)

Veto Message: Governor Graham
1917 (H.300)
An act to reorganize the state board of health.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 5, 1917

The Speaker laid before the House a veto message from His Excellency, the Governor, as follows:

To the House of Representatives:

I have the honor to return herewith, without my approval, House bill No. 300, entitled "An act to reorganize the state board of health", for the following reasons:

Section 4 of this bill in its original form imposed on the state board of health the duties heretofore imposed on the supervisors of the insane. Section 5 of this bill in its original form repealed sections 3441, 3442, 3445 and 6163 of the Public Statutes. These sections created the office of supervisors of the insane, provided for filling vacancies in such offices, required such officers to make reports and fixed the salaries of the supervisors. This bill was amended by striking out section 4; hence, if the bill became a law, the office of supervisors of the insane would be abolished and the duties heretofore devolving upon such officers would not be imposed upon any other officers.

Yours very respectfully,

HORACE F. GRAHAM,
Governor.

Governor's Veto Sustained
H.300, 1917

The Governor's veto was sustained in the House:
Yeas 2 **Nays** 196

Sources: *Journal of the House*, April 5, 1917 (pages 670-671)

Veto Message: Governor Graham
1917 (H.434)
An act to provide equipment and supplies for the military forces of the State.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 5, 1917

The Speaker laid before the House a veto message from His Excellency, the Governor, as follows:

To The House of Representatives:

I have the honor to return herewith, without my approval, House bill No. 434, entitled "An Act to provide equipment and supplies for the military forces of the State,'' for the following reason:

By virtue of House bill No. 441,entitled ‘‘An Act to provide for the support of the National Guard and persons dependent upon members thereof,'' approved by me March 31, 1917, one million dollars were appropriated for the support of the militia and persons dependent upon members of the militia; hence, there is now no reason for the enactment of the enclosed bill.

Yours very respectfully
HORACE F. GRAHAM,
Governor.

Governor’s Veto Sustained
H.434 1917

The Governor’s veto was sustained in the House by unanimous vote in the negative.

Sources: *Journal of the House*, April 5, 1917 (pages 673-675)

Veto Message: Governor Clement
1919 (S.8)
An act to to give women the right to vote for presidential electors.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., Feb. 20, 1919

The Senate proceeded to the consideration of Senate bill, entitled

S. 8. An act to give women the right to vote for presidential electors;_

Which had been returned by His Excellency, the Governor, without his approval and with his objections in writing, as follows:

I have the honor to return herewith without my approval Senate bill, No. 8, "An act to give women the right to vote for presidential electors," for the reason that:

This bill undertakes to prescribe qualifications for taking the freeman's oath and to confer upon women the right to vote for presidential electors.

Without considering the expediency or inexpediency, the desirability or undesirability of the measure proposed, or the possible benefit or mischief which may result from its passage, inasmuch as it undertakes to confer the elective franchise to he exercised at the presidential election, it is of paramount importance that its validity should be unimpeachable; and, if there is any reasonable doubt of its constitutionality, it should not become a law. It is an undertaking on the part of the legislature to prescribe the qualifications of voters at the election of presidential electors.

The Constitution of the United States, while it prescribes

specifically the class of citizens entitled to vote for members of the national House of Representatives and Senators of the United States does not undertake to prescribe the qualifications of voters for presidential electors, but does provide; "Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the Congress, etc;" and further provides, "The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.''

The Congress is not authorized to determine what shall be the qualifications of voters for presidential electors. The office is created by the United States Constitution, and the number of electors is determined in part by the population of the respective states, individually, and with reference to the fact that each state is entitled to representation as a state, in the Senate of the United States. Their function is a choice of the president and vice president of the United States, offices created by the Constitution of the United States, in which the people of this Country and this State have such interest, both in the choice of the individual and the stability of his tenure of office as to require the utmost caution in the exercise of the elective franchise. Both the national and state governments should exercise the powers which respectively belong to them, according to a fair practical construction of the rights of the state and rights of the United States, for they are essential to the preservation of our liberties and the perpetuity of our institutions.

The constitution and laws of Vermont treat the elective franchise as a sacred trust committed only to that portion of the citizens who come up to the prescribed standards of qualification, to be exercised by them at the time and place, and in the manner prearranged by public law and proclamations.

Vermont was the first new state admitted to the Union, and it came in under a constitution which conferred the right of suffrage only upon men.

In prescribing the qualification of voters for candidates to elective offices in the state and national governments the right to vote is restricted to freemen.

Pursuant to the power vested in it by the Constitution of the United States, the legislature of Vermont has provided the manner in which the election of electors of president and vice president shall be held, and, since the adoption of the constitution, that instrument alone has specified the qualification of voters at such election. Presidential electors have been voted for in Vermont since the admission of the State into the Union at every election, by voters for whose qualification to exercise their suffrage we must look to the constitution, and to that alone. It is a fundamental principle of law that the constitution of a state, framed by a convention elected for that purpose and adopted by the people embodies their supreme original will; and, wherever the constitution has prescribed the qualifications of electors, they cannot be changed or added to by the legislature otherwise than by an amendment to the constitution. The constitution of Vermont, from which the legislature derives its powers, in prescribing what those powers shall be, adds express prohibition: "They shall have no power to add alter, abolish or infringe any part of this constitution (Chap. II, Sec. 6.) It follows that the constitution, having determined what the qualifications of voters for presidential electors shall be, the legislature can pass no act which shall add to, alter or abolish any of those qualifications. I am advised that, for this reason, S. 8, inasmuch as it undertakes to add to the qualifications of voters for presidential electors, prescribed by the constitution, is unconstitutional and beyond the power of the legislature to enact.

It is no answer to the foregoing to urge that the qualification of voters as provided in the Constitution extends only to the offices created by the Constitution, for the reason that in their action at the several presidential elections from 1791 to the present time, the people of the State have treated the restrictions of the constitution in reference to the exercise of thus suffrage as applying to voters for presidential electors.

In this respect, if the question of the right of the legislature were

doubtful, it would be a sufficient reason for not passing this bill. It seems eminently appropriate that the people of the State, through their Constitution, should determine the qualification of voters for offices in the National Government, and for those who are to choose the chief magistrate and vice president of the United States. It is more properly a part of the permanent supreme law, than a subject for an act of the legislature, which may be repealed at any time, either during the same session of its passage, or any subsequent session; which may be the result of a wave of popular enthusiasm or hysterical impulse, instead of the mature product of the considerate judgment of the years required for the adoption of a constitutional amendment. The present is a time of abnormal conditions. Nothing seems sure. Nothing is settled. It is difficult for the most calm and sober mind to realize the actual situation and form satisfactory conclusion as to the legislation needed to relieve the existing chaotic uncertainty, whether in matters of finance, of industry, of education, of labor or of government The time appointed by the Constitution (Chap. 11, Sec 68) for the proposals of amendments to the Constitution very near, and it would seem wiser to postpone radical action in reference to the electorate of Vermont until that time has arrived. It may be noted, too, that, should this action of the legislature be held invalid as beyond its power, our State may be deprived of a voice in the election of the president of the United States.

PERCIVAL W. CLEMENT,
Governor

Governor's Veto Sustained
S. 8 1919

The Governor's veto was overridden in the Senate:
Yeas 18 **Nays** 19

The Governor's veto was sustained in the House:
Yeas 48 **Nays** 168

Sources: *Journal of the Senate,* February 20, 1919 (pages 226-230,377-378);

Veto Message: Governor Clement
1919 (S.67)
An act to amend sections 4372 and 4372 of the General Laws, relating to the issuance of bonds for county tuberculosis hospitals;

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 24,1919

Senate bill, entitled:

S. 67. An act to amend sections 4372 and 4372 of the General Laws, relating to the issuance of bonds for county tuberculosis hospitals;

Was taken up. The objections of His Excellency, the Governor, were read and are as follows:

To the Honorable Senate:

I have the honor to return herewith with out my approval, Senate bill, entitled S. 67. An act to amend sections 4372 and 4373 of the General Laws, relating to the issuance of bonds for county tuberculosis hospitals, for the reason that Section 2 thereof provides for the levying of a tax for the purpose of raising revenue to pay the principal and interest of said bonds as the same mature.

I would respectfully direct the attention of the Senate to Chapter II Section 6 of the Constitution of Vermont which provides that "all revenue bills shall originate in the House of Representatives,'' and I am advised that by reason thereof there is no valid provision for the payment of the principal and interest of the bonds provided for in said bill,

Percival W. Clement.

Governor's Veto Sustained
S.67, 1919

The Governor's veto was sustained in the Senate:
Yeas 0 Nays 29

Sources: *Journal of the Senate*, March 24, 1919 (pages 454-455)

Veto Message: Governor Clement
1919 (H.199)
An act authorizing the city of Burlington to issue bonds and notes for the purpose of aiding the state in constructing and maintaining by the state at the port of the city of Burlington a state barge terminal, and authorizing the city to sell certain land, wharf, and dock front situated near the foot of College street,"

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 4, 1919

To the House of Representatives :

I have the honor to return herewith, without my approval, House bill, entitled

H. 199. "An act authorizing the city of Burlington to issue bonds and notes for the purpose of aiding the state in constructing and maintaining by the state at the port of the city of Burlington a state barge terminal, and authorizing the city to sell certain land, wharf, and dock front situated near the foot of College street, " for the following reasons:

This act is an enabling act to permit the city of Burlington to perform certain acts in connection with the state barge terminal provided for in House bill 207.

Inasmuch as House bill 207 has been returned to the House without my approval, with my reasons therefor in writing, I am withholding my signature from House bill 199 because the bill would serve no good purpose unless House bill 207 becomes law.

PERCIVAL W. CLEMENT,
Governor.

Governor's Veto Sustained

H.199, 1919

The Governor's veto was sustained in the House:
Yeas 27 **Nays** 147

*Note: the vote was delayed until after the Governor's veto of H.207 was sustained in the House.

Sources: *Journal of the House*, April 7, 1919 (pages 634-636)

Veto Message: Governor Clement
1919 (H.207)
An act to appropriate a sum of money to build, maintain and operate a public barge terminal at the port of Burlington, on Lake Champlain, and creating a barge terminal commission.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 4, 1919

Whereupon, the Speaker laid before the House a veto message from His Excellency, the governor, as follows:

To the House of Representatives:

I have the honor to return herewith, without my approval, House bill, entitled H. 207 "An act to appropriate a sum of money to build, maintain and operate a public barge terminal at the port of Burlington, on Lake Champlain, and creating a barge terminal commission," for the following reason:

In view of the existing conditions of the state finances and faced as we are with a largely increased state tax to provide for the necessary expenses of government and the special appropriations already made by this General Assembly, it does not seem to me that it is the proper time for the state to embark in an enterprise of this character which requires the expenditure of so large a sum of money whether raised by bond issue or tax and the outcome of which is not only highly problematical but largely a speculation. I am advised that as yet there are no barges available for the transportation of any freight to this port and that at the present time it would be impossible for barges of the size and character required for the profitable operation of such a barge terminal to pass through the so-called "Narrows" of Lake Champlain, and there is no definite assurance that the conditions there existing will be remedied in the near future so as to permit such operation

nor is there any immediate prospect of freight available which can be economically transported by this means in an amount sufficient to warrant the state in adopting this kind of a policy.

However advantageous water transportation may be when the surrounding conditions and circumstances are such as to make it a profitable investment, I believe that it is time enough for the state to take up the question of the state barge terminal when such circumstances and conditions exist and it is admitted that they do not exist today.

PERCIVAL W. CLEMENT,
Governor.

Governor's Veto Sustained
H.207, 1919

The Governor's veto was sustained in the House:
Yeas 59 **Nays** 116

Sources: *Journal of the House*, April 7, 1919 (pages 634-636)

Veto Message: Governor Clement
1919 (S.95)
An act to amend section 5294 of the General Laws, providing that the public service commission may initiate proceedings for the alteration of railroad grade crossings.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 4, 1919

To the House Senate :

I have the honor to return herewith, without my approval, Senate bill entitled

S. 95. An act to amend section 5294 of the General Laws,- providing that- the public Service commission may initiate proceedings for the alterations of railroad grade crossings, for the following reasons:

The public service commission while not in the strict sense a court yet it exercises quasi judicial functions and for all practical purposes in the matter of elimination of railroad grade crossings it sits as a judicial tribunal to hear and determine facts upon evidence produced before it render judgment thereon. The power to initiate proceedings ought not to be extended to a body before whom such proceedings must of necessity under the law be determined, otherwise the rights of parties to have such questions determined by a fair and impartial tribunal are not satisfied.

PERCIVAL W. CLEMENT,
Governor.

Governor's Veto Sustained
S.95, 1919

The Governor's veto was sustained in the Senate
Yeas 9 **Nays** 16.

Sources: *Journal of the Senate*, April 4,1919 (pages 608-609)

Veto Message: Governor Hartness
1921 (S.23)
An act in amendment of and in addition to section 3414 of the General Laws relating to a surviving husband's interest in the real estate of his deceased wife.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 2, 1921

To the Honorable Senate:

I have the honor to return without my approval, Senate bill entitled.

S. 23 An act in amendment of and in addition to section 3414 of the General Laws relating to a surviving husband's interest in the real estate of his deceased wife for the following reasons:

While the purpose of the act is undoubtedly set forth in Section 5 where it states 'Sections 1, 2, 3, and 4 of this act shall be so interpreted and construed as to effect its general purpose to make uniform and equal the rights of a surviving husband in his deceased wife's real estate with the rights of a widow in her deceased husband's real estate'. I believe we have reached a time at which we must go carefully in trying to equalize conditions that cannot be equalized. For instance, a poll tax imposed on women will bar many from voting, because in a large percentage of families the woman is not the money earner. Any attempt to equalize the voting privilege by imposing tax on the women members of the family is not in the direction of equalization; it is in the opposite direction. So, too, the present bill dealing with settlement of estates and the distribution of a wife's real estate, on the face of it would seem to be an equalizing measure. In the average family, however, the wife is closer than the husband to the children. She should have a right to will all of her property to her children. Her part in bearing, nurturing, protecting and

working for the family is distinctly different from that of the husband. Taking an example of a family in which the mother has had to bear the brunt of earning as well as the home cares and the father had been indifferent and shiftless, it would seem best to reserve the right of the mother to will her property to the children, but if these arguments fail to impress the assembly as they impress me, there is still reason for going slowly in matters of legislation that have a tendency to curtail rights which women should possess. I believe that the women's vote will register strongly against anything under the guise of equalization that makes it impossible or difficult for her to transmit her property to her children, for she, after all will vote first, last and all the time for the home. At the present time women would consider the enactment of this measure by men as taking an unfair advantage. The provisions of this bill, as now drawn, should not become operative without more consideration than the brief space of a year has made possible. This is one of the measures that should go over for at least two years in order to give the subject of equalization a more careful study. There is a further objection to the provisions of this bill which, if for no other reason, prompts me to return it without my approval. As I understand the rights of husband and wife owning real estate jointly, the survivor of them takes the entire estate. I think this is as it should be. Section 3 of the bill apparently interferes and modifies the law in respect to estates by the entirety. I do not approve of this change.

JAMES HARTNESS,
Governor

Governor's Veto Sustained
S.23, 1921

The Governor's veto was overridden in the Senate:
Yeas 23 Nays 0

The Governor's veto was sustained in the House:
Yeas 127 Nays 68

NOTE: Though a majority of senators and representatives voted to override the veto, the Speaker noted that the constitution

required two-thirds of the members present to vote as required by chapter II of the Constitution of Vermont. Lacking the required quorum, the Speaker ruled the veto sustained.

Sources: *Journal of the Senate*, March 3, 1921 (pages 319-320, 529-530); *Journal of the House* (pages 723-726)

Veto Message: Governor Hartness
1921 (S.22)
An act to amend the General Laws relating to a homestead.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 14, 1921

To the Honorable Senate:

I have the honor to return without my approval, Senate bill, entitled

S. 22. "An act to amend the General Laws relating to a homestead," for the following reasons:

I believe it is unwise to try to put through any satisfactory legislation aimed to equalize property rights and obligations of men and women. Since the right of suffrage has been granted to women there has not been sufficient time to find a satisfactory basis. Out of fairness to women we should defer such legislation to the 1923 session.

JAMES HARTNESS,
Governor

Governor's Veto Overridden
S.22, 1921

The Governor's veto was overridden in the Senate:
Yeas 23 **Nays** 5

The Governor's veto was overridden in the House:
Yeas 129 **Nays** 64

Sources: *Journal of the Senate,* March 14, 1921 (pages 404, and 529); *Journal of the House* (page 721)

Veto Message: Governor Hartness
1921 (H.360)
An act enabling minors to contract for and surrender insurance policies.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 24, 1921

The Speaker laid before the House a veto message from His Excellency, the Governor, as follows:

To the House of Representatives:

I have the honor to return, without my approval, House bill, entitled

H. 360. An act enabling minors to contract for and surrender insurance policies;

The provision of this bill, in my judgment, establishes a bad precedent in that it makes a serious and an unnecessary inroad upon the centuries-old rule of law in respect to the ability of minors to enter into valid contracts. I am credibly informed that life insurance companies are today issuing contracts upon the lives of minors, as well they may; that the difficulty, if there is any serious difficulty, with the present infirmity of such minors who are holders of life insurance contracts lies in the inability of such minors to execute a valid release or make valid surrender of the contract of insurance, or to enter other valid contracts in respect thereto. These difficulties, when they arise, can be remedied easily and adjusted through the usual avenues now provided by law. If it becomes necessary for some act to be done in respect to an insurance contract issued upon the life of a minor, a guardian may be appointed by the probate court to act in behalf of such minor. The minor children of a deceased parent are unable to execute necessary releases and discharges in the settlement of

such parent’s estate. For such purpose a guardian is appointed. I see no sound reason why a different rule should apply in respect to minors who are parties to life insurance contracts.

Further, I object to this bill for the reason that it opens the door to unscrupulous and designing persons to capitalize the lives of our young people without the approval or knowledge of their parents.

JAMES HARTNESS,
Governor

Governor's Veto Sustained
H.360, 1921

The Governor's veto was sustained in the House:
Yeas 4 **Nays** 165

Sources: *Journal of the House*, March 24, 1921 (pages 657-658)

Veto Message: Governor Hartness
1921 (S.85)
An act to amend section 1416 of the General Laws, relating to the expenses of mentally defective persons.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 25, 1921.

Which had been returned by His Excellency, the Governor, without his approval and with his objections thereto in writing as follows:

To the Honorable Senate:

I have the honor to return, without my approval, Senate bill, entitled

S. 85. An act to amend section 1416 of the General Laws, relating to the expenses of mentally defective persons.

The towns and cities of the State should be partners with the State in looking after the care of our idiotic, feeble-minded and epileptic persons. This bill wholly relieves towns and cities of responsibility for the care of such unfortunates when placed in a State institution. In my judgment this is not wise. This class of persons far exceeds the deaf, dumb and blind. To relieve towns wholly of obligation to care for such persons as public charges, casts upon the State a greater burden than it should be expected to bear. As the law now exists, a town may be required to bind itself to indemnify the State against expenses which may accrue in consequence of the sickness, clothing and transportation of idiotic, feeble-minded and epileptic persons, before the State assumes the burden of their care. This is a just and reasonable provision.

The decision of the officials of towns or cities to furnish bonds when required, as a prerequisite to assuming the care of these

unfortunate persons on the part of the State, in many instances sufficient warrant for relieving the towns of their care. Without such cooperation of the town and city authorities, it will become necessary in many instances, in investigation of cases, to expend in the aggregate a considerable portion of the appropriations available for the support of these persons in State institutions.

Unless the towns are willing to bear the smaller portion of expense, which now averages about thirty-five dollars per year for each inmate at our school at Brandon, it will be necessary for the State to provide an additional biennial appropriation of from ten to fifteen thousand dollars. This additional appropriation will be but the beginning of the creation of an expensive department, requiring numerous assistants to investigate the merits of each case as presented. Operating under the law as it now exists, the Governor is enabled through co-operation with the local authorities, to get first-hand, accurate and reliable information upon which to base a decision as to whether the State should assume the care of Applicants.

JAMES HARTNESS,
Governor

Governor's Veto Sustained
S.85, 1921

The Governor's veto was sustained in the Senate:
Yeas 0 **Nays** 27

Sources: *Journal of the Senate*, March 26, 1921 (pages 549-551)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Hartness
1921 (H.329)
An act to amend section 7427 of the General Laws, relating to registers' fees and fixing fees of County Clerks.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 31, 1921.

To the House of Representatives:

I have the honor to return, without my approval, House bill, entitled

H. 329. An act to amend section 7427 of the General Laws, relating to registers' fees and fixing fees of County Clerks,

For the reasons that the provisions of this bill in a large measure reverse the policy of the state to pay its public servants salaries commensurate with their service without fees. The principle involved in this method was settled upon some years ago after most careful consideration, and I am not convinced that a change should be made at this time.

I have already approved a bill increasing the salaries of our probate judges to an amount equaling $8150 annually, and our county clerks to an amount equaling $4100. I have also approved legislation granting probate judges the right to employ stenographic reporters at the expense of the state. If I were to approve this bill, I believe the salaries of probate judges, together with the fees which would accrue to them, would equal, in some instances even exceed, the salaries paid our supreme court justices. This is not right.

JAMES HARTNESS,
Governor

Governor's Veto Sustained
H.329, 1921

The Governor's veto was sustained in the House:
Yeas 4 **Nays** 152

Sources: *Journal of the House*, March 31, 1921 (page 781)

Veto Message: Governor Proctor
1923 (S.4)
An act to prohibit the introduction of foreign fats into milk and to regulate the sale of condensed and evaporated milk.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 14, 1923.

I am directed by the Governor to return herewith without his approval, with his objections in writing, a bill originating in the Senate, entitled

S. 4. An act to prohibit the introduction of foreign fats into milk and to regulate the sale of condensed and evaporated milk.

To the Honorable Senate:

I have the honor to return, without my approval, Senate bill, entitled:

S. 4. An act to prohibit the introduction of foreign fats into milk and to regulate the sale of condensed and evaporated milk;

For the reason that section 2,3 and 5 thereof seem to unnecessarily interfere with the manufacture and sale of what may be a wholesome food product.

Section 2 makes it unlawful to manufacture or sell milk, or any derivative of milk, to which has been added any fat or oil other than milk fat. Provided the oil or fat added is a wholesome food product and the package is properly labeled to indicate the exact nature of the substance added, I do not understand the necessity of a law prohibiting the sale.

Section 3 makes unlawful the sale of condensed, evaporated or

powdered skim milk in less than ten-pound containers. I cannot see the justice of this provision or the reason why less than ten-pound containers should be forbidden and ten-pound containers permissible.

Section 5 makes unlawful the first sale of filled milk products shipped into Vermont from another state. The result of this is to make it lawful for a merchant to buy such product from out of the State and resell in this State, but unlawful to both buy and resell in this State. This will give an unfair advantage to out-of-state wholesalers over Vermont wholesalers.

REDFIELD PROCTOR,
Governor.

Governor's Veto Sustained
S.4 1923

The Governor's veto was overridden in the Senate:
Yeas 22. **Nays** 8.

The Governor's veto was sustained in the House:
Yeas 62 **Nays** 162.

Sources: *Journal of the Senate*, March 14, 1923 (pages 327-328, and 383); *Journal of the House*, (page 564)

Veto Message: Governor Proctor
1923 (H.31)
An act to amend No. 338 of the Acts of 1908 relative to the sale of the real estate of the First Congregational Church of Winooski.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 31, 1923

Was taken up, and the Speaker laid before the House the following communication directed to the House from His Excellency, the Governor:

"To the House of Representatives:

I have the honor to return without my approval, House bill, entitled

H. 31. An act to amend No. 338 of the Acts of 1908 relative to the sale of the real estate of the First Congregational Church of Winooski,

For the reason that this bill appears to conflict with Chapter 2, section 65 of the Constitution which reads as follows;

"No charter of incorporation shall be granted, extended, changed or amended by special law, except in such municipal, charitable, educational, penal or reformatory corporations as are to be and remain under the patronage or control of the state; but the General Assembly shall provide by General Laws for the organization of all corporations hereafter to be created. All General Laws passed pursuant to this section may be altered from time to time or repealed."

Also for the further reason that there appear to be statutory provisions to enable said corporation to accomplish the purposes contemplated by this act.

REDFIELD PROCTOR,
Governor."

Governor's Veto Sustained
H.31, 1923

The Governor's veto was sustained in the House:
Yeas 14 **Nays** 182

Sources: *Journal of the House*, March 31, 1923 (pages 718-719)

Veto Message: Governor Billings
1925 (H.254)
An act relating to the taxation of certain personal estate known as intangibles.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 20, 1925.

Was taken up, and the Speaker laid before the House the following communication from His Excellency, the Governor:

To the House of Representatives:

I have the honor to return without my approval House bill, entitled

"H. 254. An act relating to the taxation of certain personal estate known as intangibles."

It is with much regret that I feel compelled to differ with the members of the General Assembly concerning such an important matter which has had patient and careful consideration throughout the session, but having some objections to the bill I think best to state them.

While the subject matter of taxation is one concerning which there is probably more divergence of opinion than concerning any other subject, and dissatisfaction with taxation laws is bound to continue and trouble people in the future as it has through past ages, yet it seems to me unwise to make such a radical change in our system as this measure attempts to do.

When the last comprehensive effort was made to improve our system in 1882 and the corporation tax law was evolved which now brings into the State treasury about $2,000,000 and more than $1,000,000 of that sum from the taxation of bank deposits, the general property tax was retained as the corner stone of our

taxation structure for the towns.

And notwithstanding attacks made against that system and the charge that it is archaic, it is still the backbone of the taxation systems of the several states.

It has been said that the situation of the poor man owning real estate and burdened with debt was more nearly just in comparison with his more well-to-do neighbors in the early ‘80’s following the adoption of the tax laws of 1882 than it has been since that time, for while the man owning real estate and owing money has had his offset abolished so that he now pays on what he owes as well as what he owns, his more well-to-do neighbor has been handed out exemptions and favors until the tax burdens in some towns have become intolerable.

The last change made about ten years ago went on the theory that by exempting money loaned at 5% the poor man would save 1% when he borrowed and so would be a gainer in the transaction. Recent investigations show that while the capitalist by that law has evaded taxation altogether, the less fortunate borrower has been unable to find much money available for 5% loans.

And now upon a plea to help out the poor widow who owns a few shares of bank stock, all the well-to-do bankers who are perfectly able and ought to pay as much tax as the owner of real estate and tangible personal property, and who can easily sell their bank stock when the taxation burden gets too heavy, are to be given a gratuity in a reduction in 50% of their tax so that when extra taxes are to be raised in their towns to build roads and school houses and to pay debts which are getting to be quite a municipal burden, the man struggling to pay for his real estate or business must absorb all of the extra burden. This seems to me unfair.

And notwithstanding the propaganda being put forward by the bankers and in their interest, the general property tax is still the measure of taxation for bank stock in several of the more progressive states of the Union.

We have had a chance to observe in the neighboring state of Massachusetts the results following an attempt to make bankers a preferred class for taxation when the rest of the taxpayers had to assume additional tax burdens to make up for refunds made to banks which had been taxed under unconstitutional tax laws.

And to my mind that same fundamental trouble may attach to this measure for it is well recognized that Congress has provided that stockholders of National Banks shall not be made to pay a larger rate of taxation than moneyed capital in the hands of individuals. Although it is said in this bill that moneyed capital in the hands of individuals shall be taxed the same rate as National Bank Stock; to wit, 2% yet when the classification of capital is made for the purposes of the tax in this measure, in Section 1 it is provided that all money loaned by an individual, except 5% money which is still made exempt, shall pay only four mills, or one-fifth the rate which owners of National Bank stock are compelled to pay. That is only one of the forms of moneyed capital in the hands of individuals which is taxed at the lower rate. As the law regards the substance rather than the form of legislation, it seems to me that the statement in section 2 (e) that "all moneyed capital in the hands of individual citizens of the State coming into competition with the business of National Banks", and so forth, does not cure the difficulty arising from explicit statements regarding money loaned by individuals just referred to. One of the claims seriously made in a recent tax suit in this State, which was finally compromised, was that the 5% exemption alone amounted to an unlawful discrimination by this State against National Bank stockholders.

In view of the fact that the banks as a whole are well able to earn enough to pay taxes as well as moderate dividends to their stockholders, it seems to me very unwise to transfer a part of their tax burden to the more unfortunate taxpayers as this bill in effect does.

That this is a substantial matter is indicated by the fact that the appraised value of bank stock is now over $8,000,000 or more than one-eighth of all the taxable personal property of the State. As the average rate of taxations is $3.43 throughout the State,

the reduction to a $2.00 rate on bank stock means a loss in taxation of around $100,000, and it would take $25,000,000 of bonds and cash on a basis of a four-mill rate to equalize this loss.

When it is realized that any loss which is not made up from intangibles means an additional tax on the real estate and tangible personal property of the State, the increased burdens on the latter classes of property are apparent. Added to this I am advised that the reduction from the local tax rate of taxation to four mills on commercial deposits in National Banks of this State and on deposits in banking institutions and trust companies outside the State will call for an additional amount of intangibles at the four mills rate to make up this difference, for it is recognized that the taxation of other corporate stock under this bill does not change the existing law.

I do not care to take time to discuss all the remaining items in the bill but there is one provision in Section 12 which I consider to be absolutely inconsistent with the plan of the bill. This is the adding of the grand list on shares of stock to the grand list on tangible property for the assessment of a state tax. As I understand the theory of this bill, it is to take intangibles out of the general property tax list and to definitely fix the rate such intangible property shall pay. It is proposed that the tax to be voted at town meeting shall be assessed only on the grand list made up of taxable polls, real estate, and personal property not taxed by this act. This is the list on which the tax rate varies according to local needs. This should be the list on which all direct state taxes should be assessed. I can see no logical reason why town and state taxes should not be assessed on the same list.

In closing I will state that in returning this bill without my approval I do so because in my judgment as a part of the Legislature it will not be for the good of the State that it becomes law.

I wish to thank the members of the General Assembly for the many courtesies extended to me during this session and to request that in any future consideration of this bill they act independently on their own good judgment.

FRANKLIN S. BILLINGS,
Governor

Governor's Veto Overridden
H.254 1925

The Governor's veto was overridden in the House:
Yeas 170 **Nays** 39

The Governor's veto was overridden in the Senate:
Yeas 22 **Nays** 5

Sources: *Journal of the House*, March 20, 1925 (pages 547-553)H. 254; *Journal of the Senate*, pages 442-443

Veto Message: Governor Weeks
1927 (H.21)
An act to regulate outdoor advertising and to repeal No. 44 of the Acts of 1921 and No. 32 of the Acts of 1925 an section 6949 of the General Laws.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 12, 1927

Was taken up, and the Speaker laid before the House the following communication from His Excellency, the Governor:

To the House of Representatives:

I have the honor to return without my approval House bill entitled,

"H. 21. An act to regulate outdoor advertising and to repeal No. 44 of the Acts of 1921 and No. 32 of the Acts of 1925 and section 6949 of the General Laws."

My reasons for this action result more from a consideration of the manner in which this proposed bill came into being rather than from a consideration of the bill itself or the facts disclosed by the record showing its journey through the two Houses.

Investigation of the matter discloses that there is now due the State of Vermont as fees under the present law approximately $4,000.00 from one of the larger billboard advertising companies of the country. Suit has been brought by the State of Vermont and is now pending in Washington County Court to collect these unpaid fees. The billboard company refuses to pay upon the ground that the present law is unconstitutional in that it is confiscatory and makes the further claim that the law is unconstitutional in that it is an attempt to regulate a matter of interstate commerce. As to the latter claim this bill is no improvement over the present law. As to the former claim this

company expresses a willingness to waive same and pay up their back indebtedness provided a law is passed giving them the relief to which they claim to be entitled. Our courts are the proper tribunals to pass upon these questions and it appears to me to be a dangerous policy to collect what is now due the State under the present law at the price of accepting for the future their interpretation of what the law ought to be instead of having the law passed upon by a court of competent jurisdiction. This proposed policy is contrary to our traditions and is a course to which I cannot conscientiously lend my approval. We should adhere to, and not recede from, these traditions.

JOHN E. WEEKS,
Governor."

Governor's Veto Sustained.
H.21 1927

The Governor's veto was sustained in the House:
Yeas 11 **Nays** 178

Sources: *Journal of the House*, March 12, 1927 (pages 402-403)

Veto Message: Governor Weeks
1929 (S.65)
An act to amend section 6558 of the General Laws, as amended by No. 204 of the Acts of 1921 and by No. 135 of the Acts of 1923, relating to the penalty for the sale of intoxicating liquor.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 15, 1929.

Which had been returned by His Excellency, the Governor, without his approval, and with his objections in writing as follows:

To the Honorable Senate:

I have the honor to return without my approval Senate bill, entitled

S. 65. An act to amend section 6558 of the General Laws, as amended by No. 204 of the Acts of 1921 and by No. 135 of the Acts of 1923, relating to the penalty for the sale of intoxicating liquor.

I do this because it is the purpose and intent of this bill to reduce the minimum penalty for violations of our laws relative to the manufacture of, or dealing in, intoxicating liquor, from $300 to $50.

However, under our present law, namely, General Laws, section 7301, if in the opinion of the court before whom a case is tried a fine of $50 should be imposed, this in effect can be done provided the respondent is placed on probation for such a period of time as to the court seems proper.

This bill, Senate 65, would permit the court to impose a minimum fine of $50 without putting the respondent on probation, and to this extent would decrease the penalty for violations of this class.

Therefore the intent and purpose of this bill is contrary to the policy of our federal laws as exemplified in recent action of Congress approved by the President of the United States March 4, 1929, and so is legislation counter to our national policy which is to increase the penalty for violations of this nature and not to decrease same. In my opinion our state should not follow such a course.

JOHN E. WEEKS,
Governor.

Governor's Veto Sustained
S.65, 1929

The Governor's veto was sustained in the Senate:
Yeas 0 **Nays** 26

Sources: : *Journal of the Senate*, March 15, 1929 (pages 375-377)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Wilson
1931 (H.21)
An act to pay Glenn E. Jackman the sum therein named.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 3, 1931

Was taken up, and the Speaker laid before the House the following communication directed to the House from His Excellency, the Governor:

To the House of Representatives:

I have the honor to return without my approval House bill entitled,

'H. 21. An act to pay Glenn E. Jackman the sum therein named.'

My response for this action are as follows:

I am advised by the Attorney General;

1. That there is no legal liability of the state for the claim presented.
2. That there is no established precedent, and in fact he is unable to find any precedent for the payment of a claim of this sort which might justify the making of the payment when not a legal liability.

I feel that the payment of this claim would create a dangerous precedent which would have a tendency to invite numerous claims against the state hereafter. The claim itself is small, but if it should be paid, such payment would inevitably be used by future claimants as a precedent to overcome objections raised to claims not based on legal grounds.

The general rule governing the allowance of claims by the legislature is that if the claim is one which would be valid against an individual, it should be paid by the state. Of course, the state cannot be sued upon a claim except by its own consent. Therefore the custom has developed of handling such claims through legislative committees. To allow claims outside of the legal bounds would open the door to all kinds of schemes to get the state to reimburse individuals for losses and damages for which the state is nor responsible.

STANLEY C. WILSON,
Governor.

Governor's Veto Sustained
H.21, 1931

The Governor's veto was sustained in the House:
Yeas 16 **Nays** 191

Sources: *Journal of the House*, April 3, 1931 (pages 823-825)

Veto Message: Governor Smith
1935 (H.25)

An act to appropriate certain sums to create further fish rearing pools, improve water supplies of same and enlarge fish propagation facilities in Essex County.

STATE OF VERMONT
Executive Department.
Montpelier, Vt.,February 27, 1935

Was taken up, and the Speaker laid before the House the following communication from His Excellency, the Governor:

To the House of Representatives:

I have the honor to return without my approval House bill, entitled

'H. 25. An act to appropriate certain sums to create further fish rearing pools, improve water supplies of same and enlarge fish propagation facilities in Essex County.'

Under section 867, 868, and 3582 of the Public Laws of the State of Vermont the funds raised from taxes in the unorganized Towns and Gores of Essex County are to be used for the construction and maintenance of highways. There is precedent for this act. Under No. 118 of the Acts of 1925 whereby $1200 was appropriated for a fish rearing pool in Essex County. A further appropriation of $2500 was made under No. 117 of the Acts of 1927 and a still further appropriation of $2500 was made under No. 147 of the Acts of 1929.

It does not seem wise to me to use the money other than for highways which are of general public use and in the interest of the public at large for some special project such as this bill contemplates. To approve this would impair the necessary functioning of the State Highway Department in maintaining the roads of the County.

CHARLES M. SMITH,
Governor

Governor's Veto Sustained
H.25, 1935

The Governor's veto was sustained in the House:
Yeas 0 **Nays** 234

Sources: *Journal of the House*, February 27, 1935 (pages 386-387)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Proctor
1945 (H.149)
An act relating to commitments to the Weeks school.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 29, 1945

Was taken up and the Speaker laid before the House the following communication from His Excellency, the Governor:

To the House of Representatives:

I have the honor to return without my approval House Bill Number 149 entitled:

'An act relating to commitments to the Weeks School,' which was presented to me March 27, 1945.

Article 13th of the Constitution of Vermont provides:

> 'That the people have a right to freedom of speech, and of writing and publishing their sentiments, concerning the transactions of government, and therefore the freedom of the press ought not to be restrained.'

Commitments to the Weeks School are transactions of government, and I have been advised by the Attorney General in a written opinion, a copy of which is attached, that the freedom of the press may not constitutionally be restrained by prohibiting the publicizing of such cases.

The First and Fourteenth Amendments of the United States Constitution are, in part, as follows:

> 'Article I. Congress shall make no law. . . . abridging the

> freedom of speech or of the press;. . . .'
>
> 'Article XIV. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of state wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; . . . . . .'

History tells us of the long struggle which took place in England between the government and the proponents of a free press. The two evils which were used to control the press were censorship and taxation. In the opinion of Mr. Justice Sturtevant in *State vs. Greaves*, 112 Vt. at p. 227, the following statements appear:

> 'It is evident that the restricted rules of the English law in respect of the freedom of the press in force when the Constitution was adopted were never accepted by the American colonists, and that by the First Amendment it was meant to preclude the national government, and by the Fourteenth Amendment to preclude the states, from adopting any form of previous restraint upon printed publications, or their circulation, including that which had theretofore been effected by those two well-known and odious methods.'

and again,

> 'The evils to be prevented were not the censorship of the press merely, but any action of the government by means of which it might prevent such free and general discussion of public matters as seem absolutely essential to prepare the people for an intelligent exercise of their rights as citizens.'

Moreover a prohibition against publicizing juvenile cases could result in improper or illegal commitments being innocently or secretly made. Such a prohibition, instead of protecting and shielding the juvenile, might operate to his disadvantage.

While it is true that this bill provides that a relative of the juvenile or his attorney may have access to the records, there still could be

no publicity of the facts of the case, no public discussion, no publicized criticism of the prosecution or of the officials responsible for an improper or illegal commitment. Crimes and offenses committed by juveniles would be unsolved so far as the public was concerned as no person could speak, write or print of such cases without violating the statute.

Publicity is a deterrent to crime and in some cases brings retribution to the parents who so often are primarily responsible for such delinquency.

The public should know how our juvenile courts, our probation and enforcement officers are functioning, and it is only by the spoken, written or printed word that such knowledge may be brought to public attention. Frank discussion should be encouraged and not throttled.

I quote from the opinion of the Attorney General:

> 'It is to the advantage of the court to permit acquaintance with its work that will win the understanding and cooperation of the community and free the court from the suspicious criticism of holding 'star chamber sessions.' Undue privacy may be as injurious to the work of the court as undue publicity. Privacy should not appear to be secrecy.'

I am in favor of the policy of committing a juvenile delinquent to the Weeks School without referring to any specific criminal violation so that such child may not acquire a criminal record. I am in accord with the provision that such commitments shall be construed as non-penal proceedings. The intent of the measure was well meaning in that its sponsor sought to protect the child from undue publicity and I commend him for his interest in child welfare. However, the objectionable features of the bill so outweigh the good provisions that a veto is necessary for the public good.

MORTIMER R. PROCTOR,
Governor

Governor's Veto Sustained
H.149 1945

The Governor's veto was sustained in the House:
Yeas 0 **Nays** 199

Sources: *Journal of the House*, February 27, 1945 (pages 230-232)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Gibson
1949 (H.138)
An act to amend Sections 1179, 1180 and 1181 of the Vermont Statutes, Revision of 1947, relating to peddlers.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 10, 1949

The Speaker laid before the House a communication from the Governor as follows:

To the Speaker of the House of Representatives:

I hereby return to the House, unsigned and without approval, House Bill No. 138 entitled 'An Act to Amend Sections 1179, 1180 and 1181 of the Vermont Statutes, Revision of 1947, relating to Peddlers.'

This bill has been given careful consideration. I have become convinced that section 1, in defining a peddler, is unconstitutional in that it is contrary to the Commerce clause of the Constitution of the United States, which is set forth in Article 1, Section 8, thereof.

The bill as passed by the legislature, in substance, changes existing law only in one way and that is by striking out the exemption of agents of those people having established places of business. By so doing, it is my conviction that the law has been made unconstitutional.

If such is so, we may well in the future have many people peddling in this state without any license. Under existing law these same people would be required to have a license.

The present peddler's law is not all that is desirable by any means. Nevertheless, I feel that the bill does not correct an undesirable

situation and may make it worse. It likewise appears to me that any automobile dealer, under this law, would have to secure a peddler’s license for any of his salesmen. What is said about an automobile dealer applies to many other merchandising establishments.

ERNEST W. GIBSON,
Governor.

Governor's Veto Sustained
H. 138, 1949

The Governor's veto was sustained in the House:
Yeas 1 **Nays** 186.

Sources: *Journal of the House*, May 10, 1949 (pages 788-789)

Veto Message: Governor Emerson
1953 (S.15)
An act to provide an appropriation for construction of a classroom building at the State Teachers College at Castleton.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 12, 1953

The President laid before the Senate the following communication from His Excellency, the Governor, which was read by the Secretary and is as follows:

To the President and Members of the Senate;

I am returning the enclosed bill, S. 15, to you, as the house in which it originated, without my approval for the following reasons:

This bill, if it were to be signed by me and become law would constitute the first major breach of my plan for financing the cost of state government for the next two years without the enactment of new tax measures. I have repeatedly stated I did not want to see any new taxes foisted on the farmer, the laboring man, or the business man during my administration, and that in fact there was no need for them if the legislature would be prudent in what it allowed for expenditures and adopted a sound plan for the same.

My philosophy was based upon three premises, viz:

1. We should cut the pattern to fit the cloth we have. In other words, we should not currently spend beyond the amount of the surplus for the next two fiscal years, estimated by me at 6.6 million dollars. The present state of demands upon that surplus show the wisdom of not calling a special session of the legislature to refund the 15 per cent surtax.
2. New proposals, if adopted, calling for recurring taxation to

support them would have to be paid for out of surplus during the next two year. Here a conflict of views presents itself. You know my own. It was clearly stated to the Joint Assembly on April 15 last, when I said;

"If a new proposal calling for continuing expenditures is in the best and highest interests of the state to adopt and is necessary, all right. Then let's adopt it. It should not be decided on the basis of whether it creates a headache for the next administration, but rather: do we need it at this time? If we do, then fortunately we have the money with which to pay for it for the next two years. If we do not need it, or if, although desirable, it is not absolutely essential at this time, then it should be defeated.

"The question should not turn on from which pocket you are going to take the pay for a project, but rather on whether the proposal is absolutely essential for the state to adopt now because its over-all good far exceeds the tax burden it would create."

Building projects, (such as that envisioned by S. 15) being in the nature of capital investments, would have to be bonded for. This point I emphasized in my budget message; it was reiterated in my special message to the Joint Assembly of April 15.

The legislative history of S. 15 indicates (S. J. 357) that when it came up for third reading in the Senate, it was proposed that the cost of construction be paid "from the unappropriated surplus.' This was agreed to by the Senate. Senator Orzel of Rutland County then moved the further amendment of the bill (S. J. 358 and 359) in two respects, both representative of my philosophy, outlined above, namely:

1. That the cost be paid out of the surplus as of June 30, 1953 provided other appropriations chargeable against the same, and adopted by the 1953 regular session of the legislature do not exhaust it, otherwise by bond issue as hereinafter provided,"
2. The addition of three sections to implement a bond

issue.

It is unfortunate the Senate failed to adopt the Orzel amendments. The only conclusions I can draw from its action are these, either

1. On April 6, (S. J. 363) when it passed S. 15, the Senate appropriations committee did not have a complete and clear picture of how bills carrying appropriations could be financed without a resort to new taxes. At that time, the financial statement (S. J. 497) had not been made up and furnished the members, giving the over-all picture, or
2. The Senate had resolved to use the surplus principally, if not exclusively for non-recurring items of expenditure, such as S. 15, thereby creating a situation where, if new proposals calling for recurring expenditures were adopted, they would have to be implemented by the enactment of new tax measures.

The adoption of new tax measure I am, just as firmly resolved shall not happen during my administration, barring the presently unforeseen. I likewise feel sincerely that I have responsibilities to the taxpayers of this state to see to it no new tax burdens are imposed upon them during the remainder of my administration.

A hasty rough estimate of possible prospective commitments can well illustrate we are approaching the danger point on the use of the 6.6 million of surplus.

Highways $2,100,000

Bonus 1,000,000

Schools and education 2,000,000

Excess of House

Appropriation

Committee

Allowances over my budget 1,000,000

$6,100,000

The above outlines my reasons for disapproval of S. 15. I favor the building of the classroom building at Castleton Teachers College, but disapprove of the method of financing provided for in the bill. My attitude on this bill, so far as financing is concerned, is typical of the same attitude I have on financing other state building projects, if the legislature seeks to pay for them out of the unappropriated surplus.

Since both the legislature and I are on record as being in favor of building the Castleton Teachers College classroom, it would appear that a way could be found to accomplish it. Without wishing to indicate in which of several ways this could be done, I have two suggestions which, in my opinion, will accomplish this desired result.

1. If it is possible, within the provisions of the Constitution, the Senate adopt the Orzel amendments as a part of S. 15.

   The constitution seems to provide that if the bill is returned without the governor's signature to the house in which it originated that such house "shall proceed to reconsider it." This provision in our constitution is almost identical with the Federal constitution.

   Cannon's Precedents of the House of Representatives (1936) Volume 7, page 186, seems to indicate that in the case of Federal legislation, such proceeding to reconsider means, within the rules of the Senate, that it would be proper thereunder to refer, commit, or postpone to a day certain. There might be some question as to the right of the legislature to amend S. 15 to meet

the objections I have made to it, but there would be no objection to introducing a new bill to meet the objections made by me hereunder.

2. If it is not possible to meet my objections to S. 15 because of constitutional limitations, then I suggest all state building projects, including S. 15, be made the subject matter of an omnibus bill providing for their construction and financing by bond issue, or that the cost be paid out of the surplus as of June 30, 1953,' provided other appropriations chargeable against the same, and adopted by the 1953 regular session of the legislature do not exhaust it.

This would mean that all bills providing for state building projects would be ordered to lie until the omnibus bill had been adopted and then they could be withdrawn, rejected or left to lie.

Respectfully submitted,
LEE E. EMERSON,
Governor

Governor's Veto Sustained
S.15, 1953

The Governor's veto was sustained in the Senate:
Yeas 16 Nays 14

Note the veto was sustained because the required two-thirds vote was not obtained.

Sources: *Journal of the Senate*, May 12, 1953 (pages 487-490, and 511)

Veto Message: Governor Johnson
1957 (H.106)
An act to appropriate a sum of money to the University of Vermont and State Agricultural College for the construction and equipping of a caretaker's house, a field laboratory and storage building for the College of Agriculture.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 29, 1957

The Speaker laid before the House a communication from the Governor as follows:

To the Speaker of the House of Representatives:

Sir:

I am returning to the House, unsigned and without my approval, House bill No. 106, entitled

"An act to appropriate a sum of money to the University of Vermont and State Agricultural College for the construction and equipping of a caretaker's house, a field laboratory and storage building for the College of Agriculture."

This bill calls for the expenditure of $50,000 from the General Fund. The Legislature has already appropriated a total of $4,308,670 to be expended at the University during the coming biennium. This is nearly $890,000 more than the last biennial appropriation for this institution and I believe represents as big an increase as the taxpayers of Vermont can afford at this time.

The Legislature has already appropriated from the General Fund nearly $1,300,000 more than we expect to receive in revenue. I do not believe these facilities are so urgently needed at this time that we should increase the anticipated amount called for in this

bill.

I am also taking similar action on a Senate bill which goes beyond the budgetary provisions.

JOSEPH B. JOHNSON,
Governor

Governor's Veto Sustained
H. 106, 1957

The Governor's veto was sustained in the House:
Yeas 57 **Nays** 127

Sources: *Journal of the House*, June 29, 1957 (pages 950-951)

Veto Message: Governor Johnson
1957 (S.73)
An act to authorize the establishment of a forestry camp school for the employment of certain offenders in reforestation, maintenance and development.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 29, 1957

The President laid before the Senate, a communication from the Governor as follows:

To the President of the Senate:

Sir:

I am returning to the Senate, unsigned and without my approval, Senate bill No. 73, entitled:

An act to authorize the establishment of a forestry camp school for the employment of certain offenders in reforestation, maintenance and development.

This bill calls for the expenditure of $150,000 from the General Fund. The Legislature has already appropriated nearly $1,300,000 more than we expect to receive in revenue.

As the Legislature has not provided new taxes to meet these expenditures, I do not feel that we should increase the anticipated deficit to provide these facilities at this time.

This can be a very important program, but I believe more detailed studies of our exact requirements are needed. I also believe more careful and professional planning must be done before venturing into this type of care for certain offenders.

I am also taking similar action on a House bill which goes beyond the budgetary provisions.

JOSEPH B. JOHNSON
Governor

Governor's Veto Sustained
S.73, 1957

The Governor's veto was overridden in the Senate:
Yeas 23 **Nays** 6

The Governor's veto was sustained in the House:
Yeas 122 **Nays** 97

* Note: Though the two-thirds majority was attained in the Senate, it was not attained in the House so the Governor's veto is ruled sustained.

Sources: *Journal of the Senate*, June 29, 1957 (pages 831-832);
Journal of the House, (page 966)

Veto Message: Governor Johnson
1957 (S.76)
An act to create the office of State Comptroller, and to provide the Method of Appointment, Duties and Salary.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 29, 1957

The President laid before the Senate a communication in writing from the Governor, as follows:

To the President of the Senate:

I hereby return to the Senate, unsigned and without my approval, Senate Bill No. 76 entitled "An Act to Create the Office of State Comptroller, and to provide the Method of Appointment, Duties and Salary," for the following reasons:

It is an encroachment upon the duties and responsibilities of the Governor. According to the Vermont Statutes the Governor is directed to study and review the budget of every state department or agency and by law has sole responsibility for preparation of the budget to be presented to the General Assembly of Vermont.

I believe there is unnecessary duplication of effort called for in the bill. The work outlined is an administrative function which can be best handled by the executive office and other elected officials of the State, as our laws provide.

I have made provisions in the executive budget for the employment of a person to work full-time on financial and budgetary problems. I am confident this employee would be of sufficient help to succeeding Legislative committees in explaining details of the budget and in compiling information which could be available to these committees.

JOSEPH B. JOHNSON,
Governor

Governor's Veto Sustained
S.76, 1957

The Governor's veto was sustained in the Senate:
Yeas 12 **Nays** 17

Sources: *Journal of the Senate*, June 29, 1957 (pages 804-805)

Veto Message: Governor Hoff
1965 (H.86)
An act act relating to tort liability in the rendering of emergency medical care.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 1, 1965

The Speaker read the following veto message from the Governor relative to House bill No. 86:

House of Representatives
Montpelier, Vermont

Re: H. 86. An act relating to tort liability in the rendering of emergency medical care.

I am informed that by action today the House declined to recall this bill upon request of the Senate. Thus a customary courtesy was denied. The Senate, by its Judiciary Committee, was in receipt of an urgent suggestion that the Vermont Trial Lawyers Association be permitted to testify on the Bill.

I assume that the Lawyers Association would have brought to the attention of the General Assembly a number of possibly meritorious technical considerations:

1. The Bill recites technical concepts in language such as may be of vague legal content and uncertain legal definition. Listed below by way of example only are some of the terms subject to this criticism:

a. "Good faith"—is the norm here subjective or objective?
b. "Emergency"—is the person who has had time to reflect on what steps should be taken be denied protection because his conduct is not spontaneous? Also, should

immunity be denied because minor injury only appears threatened?

c. "Voluntarily and gratuitously"—at what point in time does the failure to render a bill for service impose immunity? Also, must the expectation of no payment be limited to those persons who are not covered by our pauper laws—for the requirement of payment in most instances can be imposed on the Town of settlement of the injured indigent.
d. "At the scene"—why not extend the immunity until competent medical treatment rendered in expectation of payment is made available?
e. "Accident"—will the volunteer be immune even if the event has a known cause; even if the injured has been at fault?

2. The proposed statute contains expressed exemption for willful harm or gross negligence. According to William J. Curran, Director of the Law-Medicine Research Institute at Boston University, if these statutes cover only ordinary negligence, very little actual protection from suit is accorded to the Doctor.
3. The Bill in question is very broad; only seven States extend immunity this far. (Arkansas, Montana, New Mexico, Oklahoma, Tennessee, Texas, Wyoming.) This in turn brings to question the necessity or desirability of lowering our standard of care of our fellow human beings. Should we reduce our expectation of care of a human being below the conduct required of an ordinary prudent person?

I return herewith, unsigned, the above bill and I suggest to you that the foregoing considerations have prompted me to decline to sign the Bill into law.

Very truly yours,
Philip H. Hoff
Governor"

Governor's Veto Sustained
H.86, 1965

The Governor's veto was overridden in the House:
Yeas 186 Nays 43

The Governor's veto was sustained in the Senate:
Yeas 12 Nays 17

*Note although the Senate achieved the two-thirds majority to override the veto, the House did not achieve the two-thirds necessary and the bill was ruled sustained.

Sources: *Journal of the House*, June 1, 1965 (pages 553-554, and 568-569)
Journal of the Senate, pages 589-590)

Veto Message: Governor Hoff
1968 (H.386)
An act relating to time allowed respondent to plead and to amend 13 V.S.A. 6551.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., February 7, 1968

The Speaker laid before the House the following communication from the Governor:

To the Speaker of the House of Representatives:

Sir:

I am returning to the House, unsigned and without my approval, House bill No. 386, entitled

An act relating to time allowed respondent to plead and to amend 13 V.S.A. § 6551.

The bill would change the provisions of existing law by requiring a person charged with a misdemeanor to plead to an information or indictment upon his initial arraignment. Section 6551 of Title 13 V. S.A. as it presently exists provides a substantial procedural safeguard to rights of individuals charged with serious crimes which though not classified as felonies, nevertheless, may carry substantial terms of imprisonment as a penalty. It is clear that the provisions of section 6551, as they presently exist, were intended to insure that any person accused of a crime would have an opportunity to consult with counsel, and to reach a deliberate and considered decision with respect to the entry of a plea, outside of the tension and pressures necessarily attending his arrest and arraignment. The removal of such a procedural safeguard flies in the face of the trend of recent court decisions which have extended the scope and effect of the safeguards available to a

person charged with a crime. Although the enactment of H. 386 would no doubt result in a reduction of the amount of paper work and time required by our courts in the administration of the criminal law, such a result should not outweigh our responsibility to see that every person is afforded complete procedural due process.

Philip H. Hoff Governor"

Governor's Veto Sustained
H.386, 1968

The Governor's veto was sustained in the House:
Yeas 79. **Nays** 63

*Note despite the vote totals, two-thirds majority was not attained so the veto was ruled sustained.

Sources: *Journal of the House*, February 7, 1968 (pages 139 and 177)

Veto Message: Governor Davis
1971 (H.288)
An act to authorize the extensions of employment security benefits."

STATE OF VERMONT
Executive Department.
Montpelier, Vt.,April 26, 1971

The Speaker laid before the House a communication from the Governor as follows:

To the Speaker of the House of Representatives

Sir:

Under the provisions of Section 11, Chapter II of the Vermont Constitution, I am returning herewith House Bill 288, "An act to authorize the extensions of employment security benefits." For the reasons set forth below I must refuse to sign this Bill.

Unemployment benefits are a form of insurance, paid for solely by employers in the form of a wage tax. The taxes paid by employers constitute a benefit pool from which payments are made to qualified employees.

More than half of the states provide benefits to qualified employees for only twenty-six weeks. Vermont already provides benefits for thirty-nine weeks and if H. 288 were to become law, would be the only state in the nation to provide fifty-two weeks of unemployment benefits.

Such a level of benefits, supported by Vermont employers, clearly works to the disadvantage of Vermont. Those firms already doing business here would be put to a disadvantage with competitors in other states where the benefit period is considerably less. Similarly, firms looking for new locations would be less likely to

select a state in which unemployment taxes were required to support benefits at the fifty-two week level.

More importantly, the entire nation is in an economic slump. A high rate of unemployment is being reported throughout the nation, and it does not seem fair to penalize Vermont employers by further taxing them to support a benefit level which does not exist elsewhere in the United States. The effect of House Bill 288 is to substitute unemployment benefits for welfare payments.

I recognize that the Unemployment Compensation Trust Fund, in the approximate amount of $20 million, may appear sufficiently large to provide the additional benefits. It should be noted, however, that the fund has declined rapidly from a level of $25.5 million in only 3 ½ months, and a continuation of our present level of unemployment will cause the fund to decline further.

Commissioner Hackel has given me her views on House Bill 288. Her long experience in the field of unemployment compensation lends considerable weight to those views. Mrs. Hackel has concluded that the present Vermont unemployment compensation structure, including other bills already passed this year (H. 86, H.255 and H. 256), provides a responsible and comprehensive program for employees. She and the other two members of the Employment Security Board (Messrs. Huber and Hill) are opposed to a fifty-two week benefit program.

Any governor is reluctant to return to the legislative body a piece of legislation which it has enacted, but the constitutional process requires that both the legislative and the executive branches be satisfied with the wisdom and soundness of any new law. In this instance I consider that House Bill 288 is not in the best interests of the people of Vermont, and I must return it to the House. Some of those persons who remain unemployed after thirty-nine weeks may well require assistance. In such cases it should be supplied through the Department of Social Welfare and thus take advantage of partial federal funding.

Finally, I am well aware that extensions of benefits under H. 288 would occur only if the Employment Security Board so determined.

The importance of this issue is such, however, that I do not wish to avoid making a judgment on the merits of the Bill. For all of the above reasons, I have not signed the Bill and am returning it herewith.

Sincerely,
Deane C. Davis
Governor

Governor's Veto Sustained
H. 288, 1971

The Governor's veto was sustained in the House:
Yeas 3 **Nays** 134

Sources: *Journal of the House*, January 5, 1972 (pages 5-6) and January 11, 1972 (pages 40-41)

Veto Message: Governor Salmon
1973 (S.45)
An act relating to the termination of leases in Groton State Forest.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 25, 1973

The President laid before the Senate the following veto message in writing from the Governor relating to Senate bill entitled:

S. 45. An act relating to the termination of leases in Groton State Forest.

To the President of the Senate

Sir:

Under the provisions of Section 11, Chapter 11, of the Vermont Constitution, I am returning herewith Senate Bill 45, . An act relating to the termination of leases in Groton State Forest..

For the reasons set forth below, I must refuse to sign this bill:

For approximately one-half century, the State of Vermont has leased campsites on Groton, Marshfield and Rickers Ponds in the Groton State Forest. These leases on State land have invariably contained provisions of termination upon six months notice by either the State or the camp owner, and requirement of removal of the camp by the camp owner should this option be exercised by the State. This situation has been clearly understood by all parties concerned.

It has been the continuing policy of the State Board of Forests and Parks and the Department of Forests and Parks to oppose private leasing. Accordingly, a phasing out process of all lease renewals

was inaugurated by the Department, including a notice to private camp owners dated June 17, 1972, that leases would be terminated no later than December 31, 1982, representing the last date any individual lease would expire. This decision was made consistent with a continuing State Policy not to lease camp lots to private interests which is predicted on the philosophy that public land should be managed for the greatest good of the greatest number.

S. 45 would require the State of Vermont to abandon this policy. A close reading of S. 45 has raised so many legal questions in my mind that I have sought out the counsel of the Attorney General as to fundamental validity and Constitutionality. His opinion, No. 84, is attached to this veto message.

In a word, the bill raises far more questions than it answers. In providing for the sale of the individual lots to camp owners, it requires compliance with 29 V.S.A. Section 104b which sets up a mechanism for public auction of the campsites at a price representing that of the highest bidder. It is unclear whether the Purchasing Director may sell real estate as a reasonable price to a camp owner should no public bids be made on the property.

The more troublesome language appears in Section 1b of the bill which mandates that the lessees of the campsites form a non-profit corporation. As spelled out in the Attorney General. s opinion, it is vague and uncertain as to the rights of the lessees as a class in the event that any one or more should decline to join as incorporators. It is not clear that a joinder of all lessees for the purpose of this non-profit corporation is contemplated. The apparent requirement that they must form a corporation with whatever additional responsibilities and liabilities that this may involve has been construed by the Attorney General as violative of the due process clause of the United States Constitution and by making the lessees compulsory agents for the State without compensation may violate Article 1 of Chapter 1 of the Vermont Constitution.

A second legal problem lies in the purpose of the corporation in acquiring, managing and arbitrarily disposing of its campsites not

purchased at public auction. Presumably, this means the corporation is to acquire title to the lands in question. If so, there are no guidelines on what person or agency is authorized to convey title to the corporation and under what terms and conditions or for what consideration title may be passed. Nor is it clear whether the corporation would act as agent for the State in conveying of title or independent of the State on such terms as it sees fit. Nor does this language contemplate that sale of more than one lot could involve meeting of subdivision requirements of the State and to the extent that more than ten parcels were sold under this scheme minute ecological requirements of Act 250. All of these questions would be raised by knowledgeable conveyancers in certifying the marketability of the subject premises.

The bill raises additional concerns that do not require restating here.

In a word, this bill flies in the face of a well-developed policy of Vermont. s Department of Forests and Parks on the one hand, and has legal limitations broad enough to create gaping questions on validity, interpretation and Constitutionality. Any one of these conditions would justify Executive veto.

Sincerely,
/s/ Thomas P. Salmon
Thomas P. Salmon

Communication from Attorney General Louis P. Peck

April 30, 1973

His Excellency
Governor Thomas P. Salmon
Montpelier, Vermont

Re: Opinion No.84

Dear Governor Salmon:

You have requested an opinion as to the legal propriety of Senate Bill 45 as passed by the 1973 General Assembly, relating to the sale of certain lands located in the Groton State Forest.

In my judgment there are very obvious difficulties which are manifest even on the face of this enactment. I have particular reference to Section 1(b).

This section clearly mandates that certain lessees of the lands in question . shall form a nonprofit corporation. (for the purposes specified).

There are several problems with this requirement. In the first instance it is vague and uncertain as to the rights of the . lessees. as a class in the event that any one or more should decline to join as incorporators. In other words, may any number of lessees, of which, I am informed there are approximately forty, join to form the corporation notwithstanding the wishes and rights of others? On the other hand, may one or more lessees defeat the rights of others to form the corporation by refusing to participate as incorporators, assuming they have such an option.

If less than all lessees may form the corporation, will a majority satisfy the requirements of the Act? Under the provisions of the nonprofit corporations law, *one* person may form such a corporation (11 V.S.A. § 2401). It seems to me the possible difficulties are clear unless it can be said that *all* lessees must join as incorporators.

Assuming that a joinder of all lessees is contemplated, and I reiterate that the wording leaves the intent open to considerable speculation at best, the fact that the bill attempts to require them to form a corporation, with whatever attendant responsibilities and liabilities that may involve, violates at least the due process clauses of the United States Constitution, and by making the lessees compulsory agents for the State (if that is in fact the intent) without compensation, it may well violate Article I of Chapter I of the Vermont Constitution, thus rendering the bill unconstitutional.

I note too that a lessee is required to be an incorporator even though he has no interest and does not wish to exercise his rights under subsection 1 (a).

A second problem lies in the prescribed purpose of the corporation, . to acquire, manage and equitably dispose of. those campsites which are not disposed of under subsection (a) of the bill. This phraseology, particularly the obligation to . acquire. the property is again vague and confusing. I assume this means the corporation is to acquire title to the lands in question. This *seems* to be the intent since a subsequent clause mandates reversion to the State in 1982, of all land not purchased by that time.

But if the corporation is to acquire the title, there are no guidelines on several desirable if not essential considerations. First, no person or agency is authorized to convey title to the corporation. Secondly, under what terms, conditions, or for what consideration may title be passed?

Furthermore, this wording leaves the status of the corporation open to considerable doubt. It is not really clear whether it is to act merely as an agent for the State in the management and disposal of the property, or whether it will act independently of the State, bound only by vague and very broad limitations. If the former is intended, it will transfer title in the name of the State, in the latter case it will have title (although subject to reversion in 1982), which it would convey away in its own name and on such terms as it sees fit.

In either case, it appears to me that the power to . manage. , without more, and to dispose of the property with no more guide than that it be done . equitably. is too broad and vague and therefore may well constitute an improper delegation of the legislative power.

Subsection (b) is so uncertain as to the rights and responsibilities of all concerned, including potential purchasers, that it should at least be clarified to protect and afford certainty and security to those who act under it or who may be affected by it. I include in my thinking members of the general public who should be secure

in their rights to purchase as against those who have presently a more direct interest, and who stand in a position to control the land through participation in the corporation. And finally the same problem concerning Chapter 1, Article I, of the Vermont Constitution discussed above, appears applicable to the corporation as to the lessees.

There are several other issues in connection with this bill which concern me to a greater or lesser degree. These doubts involve primarily subsection 1(a), both alone and in relation to 1 (b), and Section 3. I will be glad to review them with you at any time, but from a general overview, I am satisfied that Subsection 1(b) is sufficiently bad in itself and when considered with other sections and subsections to taint the entire bill.

Very truly yours,
/s/ Louis P. Peck
LOUIS P. PECK
Assistant Attorney General
APPROVED:
/s/ Kimberly B. Cheney
Attorney General

* Note: This was is a pocket veto that the legislature responsed to in the adjourned session.

Governor' s Veto Sustained
S.45, 1974

The Governor's veto was overridden in the Senate:
Yeas 29 Nays 0

The Governor's veto was sustained in the House:
Yeas 51 Nays 94

Sources: *Journal of the Senate*, April 25, 1973 (page 579);

Journal of the Senate, January 3, 1974 (pages 13-16 and 24);
Journal of the House, January 17, 1974 (pages 95-97)

Veto Message: Governor Salmon
1974 (H.334)
An act to amend 17 V.S.A.§§ 62, 64, 201, 203, 204, 205, 206, 208, 210, 244, and 245, and 28 V.S.A. § 807; to add 17 V.S.A. § 1(10), (11), (12), and 212 and to repeal 17 V. S.A. §§ 65, 67, 209 and 241 and 24 V.S.A.§ 701 relating to elections.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., January 2, 1974

The Speaker laid before the House the following veto message from the Governor relative to House bill No. 334:

To the Speaker of the House of Representatives

Sir:

Under the provisions of Section 11, Chapter 11, of the Vermont Constitution, I am returning herewith House Bill 334, "An act to amend 17 V.S.A.§§ 62, 64, 201, 203, 204, 205, 206, 208, 210, 244, and 245, and 28 V.S.A. § 807; to add 17 V.S.A. § 1(10), (11), (12), and 212 and to repeal 17 V.S.A. §§ 65, 67, 209 and 241 and 24 V.S.A.§ 701 relating to elections."

For the reasons set forth below, I must refuse to sign this bill:

This is a most difficult decision. It is very difficult for me to veto a bill that apparently sparked no major controversy during its legislative tour. One of the hallmarks of the 1973 session has been the ability of this administration to work constructively with the Legislature.

However, pared to its basic essentials, H. 334 closes Vermont checklists a minimum of 24 days before a general or local election for all potential voters except those who became 18 before election day, and those Vermonters establishing another intrastate

residence during the cutoff period.

In a word, the bill proposes a form of durational residence requirement for some, but not for all. It would disenfranchise nonresidents moving to Vermont within the cutoff period together with otherwise eligible permanent residents who for whatever reason fail to meet voter eligibility requirements. It even creates additional burdens on Vermonters moving intrastate in the necessity of obtaining certificates of disenfranchisement from the town of their removal. Stated in the simplest possible terms, the bill makes it more difficult to become eligible to vote in the Green Mountain State, the first state in the Union to grant universal suffrage.

Importantly, the bill is vulnerable as a legal document. It would readily subject itself, in my judgment, to attack in our courts under the Equal Protection clause of our Fourteenth Amendment as it creates durational requirements for some, but not all. The 1972 U.S. Supreme Court case of Dunn vs. Blumstein appears to support conclusion.

This veto message is difficult because of features of the bill which would create a Board of Elections and an appeal procedure which represents an important component of any progressive election law. The bill points out the desirability for the uniformity in election procedures and the distinct advantages of appellate review.

Sincerely, /s/ Thomas P. Salmon,
Governor

Governor's Veto Sustained
H.334, 1974

The Governor's veto was sustained in the House:
Yeas 0 **Nays** 143

Sources: *Journal of the House*, April 25, 1973 (page 824); *Journal of the House*, January 2, 1974 (pages 20-21)

Veto Message: Governor Salmon
1975 (S.36)
An act to add 8 V.S.A. § 4089 relating to health insurance.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 23, 1975

The President laid before the Senate the following veto message in writing from the Governor relating to Senate bill entitled:

S.36. An act to add 8 V.S.A. §4089 relating to health insurance.

To the President of the Senate

Sir:

Under the provisions of Section 11, Chapter 11, of the Vermont Constitution, I am returning herewith Senate Bill 35, 'An act to add 8 V.S.A. § 4089 relating to health insurance'.

I am returning S-36 for technical reasons only. S-6 has two primary components: (1) a provision for establishing minimum standards of coverage for different types of health insurance, and (2) a provision concerning outlines of coverage to accompany health insurance policies.

I strongly support the objectives of S-36. I strongly endorse the provision establishing minimum standards. However, the provision on outlines of coverage would, for highly technical reasons, weaken present law and might work to the detriment of consumers.

The General Assembly this year passed, and I signed into law, H-88, which provides broad authority to require that insurers provide meaningful disclosure statements and clear outlines with any or all

insurance policies. Unfortunately the outline provisions of S-36 are not as strong as those in H-88 and could be used to weaken the strong consumer protections of H-88. It is to avoid this potential harm that I am returning S-36.

S-36 should be revised to be consistent with H-88. Because S-36 would not take effect until January 1, 1976, in any case, the revision can be made with a minimum loss of time. I will support legislation at the very start of the next session to promptly establish strong minimum standards for health insurance while preserving full disclosure requirements.

The sponsor of the bill concurs with this action

Sincerely,
/s/ Thomas P. Salmon,
Governor
TPS:nj

Governor's Veto Sustained
S. 36, 1976

The Governor's veto was sustained in the Senate: **Yeas** 0 **Nays** 29

Sources: *Journal of the Senate*, January 7, 1976 (pages 13-14)

Veto Message: Governor Salmon
1975 (H.51)
An act to amend 17 V.S.A 794, 795 and 1043 (a) relating to elections.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 30, 1975

The Speaker laid before the House the following veto message from the Governor relative to House bill No. 51:

To THE SPEAKER OF THE HOUSE

Sir:

Under the provisions of Chapter II, Section 11, of the Vermont Constitution, I am returning herewith House Bill 51, "An act to amend 17 V.S.A. §§ 794, 795 and 1043 (a) relating to elections."

A casual study of Vermont's voting trends over the past twenty years indicates distinct evidence of declining voter participation. This bill, which has been hailed by some as "election reform," would actually make it more difficult for Vermonters to vote.

Similar legislation in other states, abolishing straight party voting, has led to voter decline. This is particularly so in districts where voting machines are in use.

H. 51 would require the removal of the political party masthead at the top of the ballot. I believe this to be a serious mistake.

I hold the view that a political party should stand for something—that it represents certain principles, and that the two major parties are clearly distinguishable.

The party of Franklin D. Roosevelt is not the party of Herbert

Hoover.

The party of Harry S. Truman is not the party of Thomas E. Dewey.

The party of John Fitzgerald Kennedy is not the party of Richard Nixon.

In each case, there is no confusion with respect to the beliefs of those men or the creeds of their political parties.

H. 51 also has certain discriminatory factors that I find objectionable. The bill mandates that candidates stand on the ballot in alphabetical order. Studies indicate that political advantage accrues to those whose names appear earlier on the ballot, and indeed, some courts have found this to be constitutionally objectionable. Furthermore, an alphabet system was discarded by the General Assembly in a true election reform bill passed many years ago that requires a rotation of names on primary ballots.

With the *de-emphasis* on party and *emphasis* on name, H. 51 obviously favors the incumbent, and especially the incumbent with good name recognition. Money begets big name recognition, and so the bill favors those with money and those already in office—the ins over the outs, and the haves over the have-nots.

H. 51 affects every voter who resides within the borders of Vermont. Yet as I review the legislative history of the bill, I find that no public hearings of any kind were ever held by either of the committees in the House and Senate which considered the bill. There is no evidence that spokesmen for and of the established parties in Vermont, the Democratic Party, the Republican Party or the Liberty Union Party appeared, gave testimony or were given an opportunity to so appear.

In addition to the foregoing, this bill would clearly discriminate against minority parties.

I believe that those of us who hold public office should encourage, not discourage, people to go to the polls, and to otherwise

participate in the electoral process. In my first veto as Governor in April of 1973, I returned to the House H.334, a bill, which in my view, would have made it more difficult to become eligible to vote in the Green Mountain State.

In view of the foregoing, I veto this bill.

Sincerely,
Thomas P. Salmon,
Governor

Governor's Veto Sustained
H.51, 1976

The Governor's veto was sustained in the House:
Yeas 64 **Nays** 81

Sources: *Journal of the House*, January 7, 1976 (pages 20-22, 27-28)

Veto Message: Governor Salmon
1975 (S.12)
An act to amend 3 V.S.A. 802(b), 803(b), and 804(b) and add 3 V.S.A 817, 818 and 819 relating to the Administrative Procedure Act.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 30, 1975

To the President of the Senate

Sir:

Under the provisions of Chapter II, Section 11, of the Vermont Constitution, I am returning herewith Senate Bill 12, 'An act to amend 3 V.S.A. §§ 802(b), 803(b), and 804(b) and to add 3 V.S. A. §§ 817, 818 and 819 relating to the Administrative Procedure Act.'

I have little quarrel with the Legislature's desire to create review mechanisms for a growing body of administrative regulations adopted by Vermont's Boards, Departments and Agencies. The intentions behind Senate Bill 12 are desirable.

Many people, including this Governor, hope to see government streamlined and needless regulations and duplications of functions eliminated. This is why, for example, this year I appointed a Blue Ribbon committee to simplify and unify permit procedures in the state.

However, the bill as it comes to me would contribute to and compound the confusion and uncertainty already existing. It creates, in fact, a third legislative body with considerable inherent powers.

Under our existing processes, if a rule of an Executive agency is

unreasonable, arbitrary, or beyond the authority delegated to the agency, or contrary to the intent of the General Assembly, it may be struck down by our courts or invalidated by a subsequent statute of the General Assembly. This procedure takes into account the separate and distinct functions of each of the three branches government and protects against encroachment, one upon the other.

A totally new system is created by the bill which would allow a majority of a nine-member committee to declare void a rule favored by the Executive branch of the government--a rule upon which the views of the General Assembly itself may not be known.

As S. 12 passed through its final stages near the end of the Legislative session, some members of the General Assembly were under the impression that the veto power of the nine-member committee had been eliminated, but this was definitely not the case.

Moreover, S. 12 could be interpreted to mean that this new body also has the right to defer the effectiveness of any rule until an upcoming legislative session.

In summary, S. 12 interferes with the rule-making authority of the Executive; allows a legislative committee to perform a task that should be properly undertaken only by the Legislature itself; and allows this same committee to invade the province of the Judiciary to determine which rules promulgated by the Executive branch are in conformance with statutory law.

For these reasons, I am vetoing S. 12.

Sincerely,
/s/ Thomas P. Salmon
Thomas P. Salmon"

Governor's Veto Sustained
S.12, 1976

The Governor's veto was sustained in the Senate:

Yeas 0 **Nays** 26

Sources: : *Journal of the Senate*, January 7, 1976 (pages 12-13)

Veto Message: Governor Snelling
1977 (H.156)
An act to amend 12 V.S.A. § 519 (c) and to add 12 V.S.A. § 519 (d) relating to the emergency medical care.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 6, 1977

The Speaker laid before the House the following veto message from the Governor relative to House bill No. 156:

To the Speaker of the House
of Representatives:

Sir:

Under the provisions of Chapter II, Section 11 of the Vermont Constitution, I am returning herewith House Bill 156, 'Court procedure; ambulance and rescue squad; liability for actions'. I do so on the advice of the Department of Health and at the request of Mr. Smith of Derby, the originator of H.156.

H. 156 amends 12 V.S.A. § 519, the Good Samaritan law, which presently provides that a person has a duty to give reasonable assistance to other persons who are exposed to grave physical harm. The existing law also protects an individual rendering assistance by providing that there will be no liability in civil damages unless the acts complained of, constitute gross negligence or unless he will receive or expects to receive remuneration.

I support the purpose of the Bill to provide that gross negligence on the part of ambulance and rescue squad members must be proven before they can be held liable for damages resulting from the performance of their duties. However, H. 156, as amended,

limits protection to those members of voluntary emergency or rescue squads who possess 'current certificates from the American Red Cross that he has completed successfully, courses in advanced first aid and cardiac pulmonary resuscitation' as well as 'certified emergency medical technicians'.

Unfortunately, many rescue squads depend upon the volunteer services of individuals who do not possess such certificates or who are not certified emergency medical technicians. Included in their number are individuals who have commenced such training and who are assisting rescue squads prior to receipt of certification.

An additional adverse result would be that many persons who are protected under existing law might be deprived of any statutory protection whatsoever.

The courts could construe the amended law as providing protection for medical assistance only when rendered under the provisions of the new section 519 (c) by a person holding an appropriate certificate. The existing Good Samaritan law would thereby be weakened. The precise effect of the Bill is unclear, and holds the potential for increased litigation as courts are called upon to harmonize the new sections with existing law.

The effect of this veto is to leave intact the existing law. The existing law also benefits individuals sought to be protected by the House Bill 156. In order to avoid ambiguity and unnecessary litigation to the detriment of voluntary ambulance and rescue squads, I am vetoing H. 156.

Sincerely,
/s/ Richard A. Snelling,
Governor

GOVERNOR'S VETO SUSTAINED
H. 156, 1978

The Governor's veto was sustained in the House:
Yeas 1 **Nays** 143

Sources: *Journal of the House*, April 23, 1977 (page 767), January 4- 5, 1978 (pages 21-22, and 26-27).

Veto Message: Governor Snelling
1978 (H.740)
An act relating to parimutuel pools and greyhound and horse racing.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 31, 1978

The Speaker laid before the House the following veto message from the Governor relative to House bill No. 740:

The Honorable Timothy J. O'Connor, Speaker
Vermont House of Representatives
State House
Montpelier, Vermont 05602

Dear Mr. Speaker:

I have received for approval pursuant to the Vermont Constitution, Chapter 2, Section 11, House Bill 740, relating to parimutuel pools and greyhound and horse racing.

I believe H. 740 would be materially and substantially injurious to basic interests of the State, and I have, therefore, determined to return it to the House with my objections in writing, as required by the Constitution.

I must note, although it does not form a part of my reasons for feeling that this measure should be rejected, that in passing H. 740 the General Assembly chose to violate its own rules concerning the re-consideration of material already acted upon by the same General Assembly. The legislation proposes to amend the law adopted by this very same General Assembly and which was signed into law as Act No. 60 of the Public Acts of 1977.

H. 740 proposes to provide an additional substantial tax break to

the operators of the track. Its sponsors argue that such a tax break is necessary in order to maintain for Vermont and for the region the "economic benefits" of the track. The bill was initiated because the operators of the racetrack misjudged their ability to manage the track in a profitable way. Upon reaching this conclusion, the owners orchestrated a scenario which placed the General Assembly in a position wherein the only way in which the State could realize any of the benefits contemplated by Act No. 60 of 1977 was to give up a significant portion of those benefits. When faced with this choice, the General Assembly responded favorably only because it believed that it had no choice.

It must be understood that the legislation already adopted in the first year of this Biennium was an earlier capitulation by the State which resulted in a negotiated agreement between the track and members of the Ways and Means Committee of the House and the Racing Commission. Last year the Green Mountain Race Track agreed to request a license to race approximately 65 harness programs between January and April 1978, subject to the enactment of legislation which agreed to the demands of the track that it receive a larger share of the amount wagered.

I believe the principle which calls upon me to reject this legislation is far broader than the question of establishing an "appropriate" level of taxation for gambling or greyhound or horse racing.

1. The question is whether the State of Vermont shall legislate reasonable levels of taxation for activities it has a right and duty to regulate and then enforce such decisions uniformly, or, whether, alternately, the State shall establish a practice of reducing what it has determined to be reasonable until the demands of those who seek the privileges are met.

2. We must also question whether it is appropriate for the State of Vermont to demonstrate that agreements between it and private parties are binding only upon the State. It is hard to imagine the court to which the State might go if it wished to abrogate unilaterally the covenant it had made with the Green Mountain Race Track. If H. 740 should be passed over my objection, there is no reason why any party to any agreement with the State of

Vermont ought not to approach friendly legislators with incessant demands that those agreements and covenants be made more favorable to them and less favorable to the State.

3. I believe as a matter of conscience that the essential dignity of the State is diminished when it not once or twice, but many times, responds to threats of economic loss by capitulating on areas where it has already established a thoughtful position.

I share the concern for the economic well being of southern Bennington County which led the General Assembly to enact H. 740. There is, however, a larger principle at stake which must take precedence. The State has responded to threats and pressure from the track by enacting a succession of even more generous tax breaks, loopholes, and subsidies over the years, only to find the track back the next year, its promises broken and its demands increased.

There is simply no reason to believe that H.740 will provide a long term economic benefit to the region. In fact, in view of the refusal of the owners to keep their word just one year ago, I doubt that we will see even a short term benefit.

I have instructed those members of my Administration responsible for economic development to address their every effort to increasing the economic vitality of Bennington County so that we will never again be placed in the position of responding to crisis.

Sincerely,
Richard A. Snelling,
Governor

Governor's Veto Sustained
H.740, 1978

The Governor's veto was sustained in the House:
Yeas 80 **Nays** 59.

*Note: Two-thirds majority vote is necessary to override the Governor's veto. This was not achieved and the bill is ruled

sustained.

Sources: *Journal of the House*, April 1, 1978 (pages 882-884)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Snelling
1980 (S.248)
An act relating to administrative rulemaking.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 12, 1980

Honorable Madeleine M. Kunin
President of the Senate
State of Vermont
State House
Montpelier, Vermont 05602

Honorable Timothy J. O'Connor
Speaker, House of Representatives
State of Vermont
c/o 40 Western Avenue
Brattleboro, Vermont 05301

Dear Madam President and Mr. Speaker:

After careful study and consideration, I have concluded that I should not sign S.248, a bill which proposes certain changes in Vermont's Administrative Procedure Act. Although a veto message is not required when a bill is disapproved by the Governor after the two houses have adjourned, in the case at hand I am philosophically so favorable to the goals of the bill that I wanted to explain to the members of the General Assembly the reasons why I nevertheless felt compelled to veto it.

I agree that agencies of government have sometimes been thoughtless in establishing rules and regulations to implement legislation. As a member of the General Assembly, I supported the present Administrative Procedure Act for that reason. Certainly the existing statute is not perfect, and a number of the provisions of the measure at hand would improve the system by which state

agencies adopt their rules and regulations.

However, I really do believe that the merit of the bill's objectives led the General Assembly to enact a measure which has basic technical and constitutional flaws which make the measure, as it reached me, unworthy of its important mission.

Vermont's Constitution creates a government of three departments — legislative, executive and judiciary, and requires that those departments 'shall be separate and distinct, so that neither exercise the powers properly belonging to the others'. *Vermont Constitution*, Chapter II, Section 5. That provision has been a part of the Constitution since 1786, and in carrying out his duty to review legislation, a Governor has no higher obligation than to preserve and protect that separation of powers.

The Administrative Procedure Act, as amended in 1976, does not breach the separation of powers doctrine. The statute provides for review of *proposed* rules by the Legislative Committee on Administrative Rules. The power of that committee is limited to *recommending* that proposed rules be changed or withdrawn. But that statute preserves the separation of powers by providing that the regulatory agency may nevertheless adopt the rule if it believes the rule harmonious with the objectives of the Legislature. In such an event, the Legislative Committee on Administrative Rules is charged with recommending l*egislation* for adoption by the General Assembly, if it feels it is necessary to overrule the decision of the adopting agency.

The mechanics of S. 248 could easily work in ways I do not believe the General Assembly intends and which could have the effect of allowing a small group of legislators to function in a managerial role with extraordinary broad powers.

Under Sections 15 and 16 of the bill the committee may find that a regulation is 'unacceptable as to style'. The committee may also 'object' to the economic impact statement which is required to accompany each rule.

The effect of these huge ambiguous areas of discretion is to create

a hurdle which could prevent agencies of state government from meeting their statutory responsibilities, since, under Section 19, it would appear that the adopting agency must 'respond' or 'answer' each such objection in an acceptable way before it may adopt the rule.

The importance of this possibility is heightened by the co-existence of a separate but equally important constitutional concern that S. 248 represents an unjustifiable and excessive delegation of power to a minority of the General Assembly.

The joint legislative committee consists of eight members, of whom five constitute a quorum. Since action of the committee may be taken by a majority of those present and voting at a meeting, as few as three members of the committee might prevent the adoption of a proposed rule.

When the General Assembly is in session, it is clear to all how frequently even the conclusions of its own standing committees are overruled on the floor of the House or Senate and how frequently a bill acceptable to one chamber is changed or rejected by another. I would hope that the possibility that three representatives of the 180 would reach conclusions not at all representative of the entire body is clear enough as to cause the General Assembly, itself, to recognize the dangers inherent in S. 248. Such enormous power in the hands of a special legislative committee amounts to a veto power over actions not only of the Executive Department, contrary to the instructions of the Constitution which separate the legislative and executive responsibilities, but represents further an extra-legal potential for a small group of legislators to negate the conclusions of the entire body.

That is not to say that the legislature should not be in a position to control, in proper respects, the actions of the executive. The inherent constitutional powers of the executive, while important, are few, and in most respects the Executive Department acts only under authority granted by the legislature. It therefore follows that except as to those executive functions which derive from the Constitution, the legislature retains the power to adopt legislation

in response to executive actions. It is a principle duty of the Governor, 'to take care that the laws be faithfully executed'. *Vermont Constitution*, Chapter II, Section 20. And the legislature always has the power, subject to constitutional limitations, to make the laws.

The General Assembly may not, however, delegate its duty in that regard to a committee. Even the rules of the legislature itself forbid such a delegation. Mason's Manual of Legislative Procedure, which has been adopted by the General Assembly, contains this provision as Section 519 (1):

'The power of any legislative body to enact legislation or to do any act requiring the use of discretion cannot be delegated to a minority, to a committee, to officers or members or to another body.'

Aside from the fundamental constitutional infirmity of the bill, a number of its specific provisions would make the administrative rules process unnecessarily cumbersome, burdensome, and expensive.

Present law requires that each proposed rule be accompanied by a summary of its economic impact. The new bill would dramatically increase the burden of the economic analysis required for each proposed rule. While I will always insist that executive agencies carefully consider the economic consequences of their proposals, I am concerned that these provisions will provide new risks of delay and litigation around any policy which has opponents. Many Vermonters will recall that litigation over very similar procedural requirements of the National Environmental Policy Act prevented badly needed improvements to Route 7 for years.

The bill would create a new category of formal administrative action known as a policy statement. Section 7 of the act requires an agency to adopt and publish a policy statement to describe agency policy whenever requested to do so by even a single member of the public. In certain cases, the public good is best served by not making all policies public. For example, the fish and game laws are enforced primarily by a small group of game

wardens, who must enforce the laws throughout the State. Requiring a public announcement of their enforcement priorities and plans could amount to a *de facto* exemption from the fish and game laws in places where enforcement activities are not concentrated.

Present law requires public notice of all proposed rules, and requires the adopting agency to receive comments on each proposal. A formal hearing must be held, if requested by 25 people or an association having at least 25 members. The new bill would require a public hearing in the case of every proposed rule. Even in the Department of Social Welfare, which adopts rules affecting large numbers of people, public hearings were requested on only about 20 % of the rules proposed in the past year. To make the public hearing an automatic requirement for all rules, even those as to which there is no real need for such a hearing, is to impose a totally unnecessary additional burden and cost on state government.

As a legislator and as Governor, I have consistently supported efforts to make a state government more responsive, more responsible and more concerned about considering thoughtfully its action. I am sorry to have concluded that S. 248 will have the opposite effect. But having reached that conclusion, I have no choice but to refuse to sign the bill.

I hope that the next General Assembly will again seek ways to improve the effectiveness of the Administrative Procedure Act, but will avoid the problems that would result if this bill became law.

Sincerely yours,
/s/ Richard A. Snelling
Richard A. Snelling,
Governor
RAS:jo

*Note: Pocket Veto - The General Assembly adjourned April 22, 1980, the veto message was sent as a courtesy rather than a necessity.

Sources: *Journal of the Senate*, April 22, 1980 (pages 797-800)

Veto Message: Governor Snelling
1981 (H.217)
An act to add 32 V.S.A. § 9741 (28) relating to the sales and use tax.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 16, 1981

The Speaker placed before the House a communication from the Governor as follows:

The Honorable Stephan A. Morse
Speaker of the House of Representatives
Speaker's Office
State House
Montpelier, Vermont 05602

Re: H. 217

Dear Mr. Speaker:

Under the power vested in me by Section 11 of Chapter II of the Vermont Constitution, I return unsigned herewith H. 217.

The bill would add yet another special exemption to Vermont's general sales tax, to excuse from taxation rental charges for films rented for exhibition by movie theater owners. I believe there to be no valid reason for such an exemption and good reasons for opposing the addition of another special interest provision to the sales tax statute, which has no apparent public benefit.

The bill grows out of a dispute between the Vermont Department of Taxes and Merrill Theatre Corporation. In 1976 the Tax Department, apparently for the first time, assessed use taxes on the payments made by Merrill to film distributors. Merrill appealed to the courts, and Vermont's Supreme Court upheld the

department's decision. *In re Merrill Theatre Corporation Sales and Use Tax,* 138 Vt. 397 (1980).

I think it is important to note that each of the contentions raised in support of H. 217 was made and rejected in the Supreme Court. In particular, the Court expressly denied that the imposition of these taxes amounted to double taxation. In response to that claim, the Court said, "There are two completely different taxpayers in each instance, two separate and distinct privileges are being taxed."

The theater owners have contended that, because the cost of the film rentals is reflected in the price of tickets, the tax imposed on the ticket price is the only tax which should be due. But under our sales tax law there are innumerable similar circumstances in which taxes are collected. A bowling alley operator pays a tax on his pin setting equipment, and also charges a tax on admission.

Our law does have a specific exemption for manufacturing machinery and equipment, intended to help the state's economic development effort. The Supreme Court expressly denied the theater owners' contention that they were entitled to the benefit of that exemption.

Any exemption from tax has precisely the same effect as a cash payment to the beneficiary of the exemption. Estimates of the annual cost of this exemption range from $100,000 to $200,000. I simply do not believe that, in a year in which the General Assembly is struggling to find the money to pay for basic human needs, it is sound policy to grant what amounts to a subsidy to Vermont movie theater owners.

I believe that this administration's position with respect to sales tax exemptions has been clear since 1977. It should come as no surprise to any member of this General Assembly that I will view with great skepticism any attempts to reduce unfairly our tax revenues in these times.

Sincerely,
/s/ Richard A. Snelling,

Governor's Veto Overridden
H. 217

The Governor's veto was overridden in the House:
Yeas 114 **Nays** 27

The Governor's veto was overridden in the Senate:
Yeas 27 **Nays** 3

*Note two thirds majority vote is required to override the Governor's veto and this was attained in both houses therefore, the veto is rules Overridden and the bill passes.

Sources: *Journal of the House*, March 18, 1981, (pages 311-312, and 335); See also *Journal of the Senate*, March 27, 1981 (pages 338-339)

Veto Message: Governor Snelling
1982 (H.188)
An act relating to the minimum age for consumption of alcohol.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 21, 1982

The Speaker placed before the House the following veto message from the Governor relative to House bill No. 188:

The Honorable Stephan A. Morse
Speaker of the House
Vermont House of Representatives
State House
Montpelier, Vermont 05602
Re: H. 188

Dear Speaker Morse:

In the early 1970's, Vermont amended its statutes to establish a single age of majority for all citizens. 1 V.S.A. Section 173 provides "persons of the age of eighteen years shall be considered of age and until they attain that age, shall be minors. Whenever referred to in the laws of this State, a person who is an adult or has attained majority shall be a resident or non-resident person of eighteen years of age or more." Vermont took this action subsequent to and in harmony with the Twenty-sixth Amendment to the Constitution of the United States which lowered the voting age to the age of eighteen.

I have received H. 188 which proposes to replace that law, without any reference to it, by institution of a second and modifying definition of "majority" which would apply only to determination of the lawfulness of the consumption or purchase of alcoholic beverages. I cannot in good conscience accede to such a

double standard of majority or the rights of citizenship thus inferred.

Therefore, under the power vested in me by Section 11 of Chapter II of the Vermont Constitution, I return unsigned herewith H. 188.

I am very concerned about the problems of alcohol use and abuse. Members of the General Assembly know that I have acted on that concern in many ways, including in my most recent Inaugural Message and in my budget recommendations.

Last year, at my request, the tax imposed by the state on alcoholic beverages was increased specifically in order to provide additional money for alcohol treatment programs and for highway enforcement. There has already been a significant increase in the number of drunk driving arrests as a result of that initiative.

In addition, for a number of years, I have urged that the legal blood alcohol level be reduced, and that penalties for driving under the influence of alcohol be substantially increased.

Under our Constitution, so long as the General Assembly is still in session, the effect of a Governor's veto is to require that a two-thirds majority of each House if required to enact the bill. After the Senate took action on H. 188 this morning, I requested that it be messaged to me immediately, because I wanted to make sure that the opportunity would exist to seek that enhanced majority. I know that this is a matter on which legislators of good will and good reason have strongly diverging feelings. I also hope that the General Assembly will find a way, prior to adjourning, to enact those portions of H. 188 which increase the penalties for illegally providing alcoholic beverages to minors.

If the Legislature does indeed enact the bill by the majority required then it will, of course, be the law of Vermont. If not, I pledge to you my continued efforts to find constructive and appropriate ways to deal with the various serious problems addressed by H. 188.

Sincerely,

/s/ Richard A. Snelling,
Governor

Governor's Veto Sustained
H.188, 1982

The Governor's veto was sustained in the House:
Yeas 48 **Nays** 83

Sources: *Journal of the House*, April 21, 1982 (pages 809-811)

Veto Message: Governor Snelling
1983 (H248)
An act to add 7 V.S.A. § 2 (25) relating to the drinking age.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 19, 1983

The Speaker placed before the House the following communication from the Governor relative to the veto of House bill, entitled

An act to add 7 V.S.A. § 2 (25) relating to the drinking age:

The Honorable Stephan A. Morse
Speaker of the House
Vermont House of Representatives
State House
Montpelier, Vermont 05602
RE: H. 248

Dear Mr. Speaker:

I have received from the House H. 248. This legislation would change the age of majority from 18 to 19 solely for the purposes of the purchase and consumption of alcoholic beverages. Under the power vested in me by Section 11 of Chapter II, of the Vermont Constitution, I am herewith returning H. 248 unsigned.

In my veto message last year regarding a similar bill, I said, 'I cannot in good conscience accede to such a double standard of majority or of the rights of citizenship thus inferred.' My conscience has not changed.

I also stated I would pledge myself to continue efforts to find constructive and appropriate ways to deal with the very serious problems of alcohol abuse. Since that time, I have undertaken

several executive actions, and proposed to this Legislature the components of the comprehensive program I believe necessary to address effectively the long-term root causes of alcohol abuse through preventative and educational efforts in the schools, communities and homes.

In January, I issued Executive Order Number 69, establishing a special cabinet task force for the prevention, education and treatment of alcohol abuse. Since that time, the task force, chaired by Human Services Secretary, Dr. Lloyd Novick, has provided a thoughtful interim report with specific recommendations for action. Many of these recommendations are now being implemented, and others have been included in our legislative proposals.

I am heartened that both Houses have passed H.453, the most important and far-reaching of the legislative proposals, a comprehensive alcohol education program, which I recommended in both my Inaugural and Budget messages.

H.453 creates the Alcohol and Drug Council, which will replace the special cabinet task force. The Council, in conjunction with the Education Department, will continue development of the comprehensive alcohol education curriculum, and assure that it will be integrated in the public education program in grades one through twelve. H.453 also requires that all driver education classes include a specific program on the effects of alcohol and drugs on driving.

My budget recommendations included an additional $400,000.00 to the Agency of Human Services to fund the concepts of H.453 as well as other innovative prevention, intervention and treatment programs. H.453, when fully implemented, will provide our best opportunity to address the root problems of alcohol abuse.

Other measures that I have proposed to remove drinking drivers from our roads have yet to be adopted by this General Assembly. The addition of 50 state troopers would add significantly not only to the overall law enforcement capacity of our state police, but more specifically, would assure a higher rate of apprehension of

drinking drivers.

This Legislature can be proud that is has made distinct progress toward addressing the very serious concern of all Vermonters for alcohol abuse. I really do not believe the enactment of H.248 would have any appreciable additional positive effect. Moreover, it singles out 18 year olds for selective prohibition, when it is clear the problem affects a much broader age group.

Nothing has occurred since last year that makes it logical to raise the drinking age. In fact, continuing analysis of the results of raising the drinking age in other states makes it clear that such measures have not been effective.

It now also appears very likely that New Hampshire will revise its current 20-year drinking age to 21. Several other states have this year raised ages only recently raised and have stated that they did so because prior increases had proven ineffective. These actions are hardly evidence that Vermont should embark on a similar illogical 'search' for a safe drinking age.

Furthermore, should New Hampshire adopt age 21, Vermont will then be bordered by states with four different drinking ages-18 to the north, 19 to the west, 20 to the south and 21 to the east, making it clear that Vermont cannot logically raise its age for the purpose of establishing compatibility with its neighbors and must, therefore, establish a legal drinking age which is reasonable and fair rather than one which is like that of one of its four neighbors.

Additionally, I believe it is imperative that once apprehended, the drunk driver receives a fair, yet rapid, hearing to assure he is not able to postpone the loss of license through our current legal process. Rapid and sure loss of the right to drive is, perhaps, the strongest deterrent to those who will drink and drive.

Finally, I am pleased to note that after I vetoed H.188 last year, the enhanced penalty provisions for those underage who purchase alcoholic beverages and those who provide them, which were contained in H.188, were adopted in full by the Legislature.

I do know this is a matter on which men and women of good will and good intentions have strongly different feelings. We are each obligated to act in accord with our convictions. Although I cannot approve H.248, I will do all within the power vested in me as Chief Executive Officer of the State to assure that the problems of alcohol abuse continue to receive the highest priority of the Executive Branch.

Sincerely,
/s/ Richard A. Snelling,
Governor

Governor's Veto Sustained
H. 248

The Governor's veto was sustained in the House:
Yeas 89 **Nays** 55

Note: The two-thirds majority vote was not attained thus the veto was ruled sustained.

Sources: *Journal of the House*, April 19, 1983 (pages 547-549, 562-563)

Veto Message: Governor Kunin
1986 (H.249)
An act relating to open meetings.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 9, 1986

The Honorable Ralph G. Wright
Speaker of the House
Vermont House of Representatives
State House
Montpelier, Vermont 05602
Re: H. 249

Dear Mr. Speaker:

I am returning herewith to the House, unsigned and without my approval, House Bill 249, entitled:

An act relating to open meetings.

Vermont's Open Meeting Law is a cornerstone of Vermont's important tradition of open and democratic government. I am firmly committed to that law in both its symbolic significance and its practical application to daily governmental affairs on both a state and local basis.

It is my understanding that House Bill 249 was intended to strengthen and broaden the law. However, this bill would amend 1 V.S.A. § 312 to provide two new significant exceptions to the open meeting law which would have the effect of weakening, not strengthening, that law. Those exceptions are for the 'acts of a school board which will not have a direct impact on the establishment of policy provided such acts are not taken in connection with a quasi-judicial proceeding' and for the 'acts of

the board of selectmen which will not have a direct impact on the establishment of policy provided the municipality does not operate under the provisions of Chapter 37 of the Title 24 and such acts are not taken in connection with a quasi-judicial proceeding.'

Under present law, all meetings of boards of selectmen and school boards are open meetings, except those which are held in executive session. This bill could close many of these meetings to the public. Further, it could do so under the vaguest of standards: whether an act will have a 'direct impact' on the 'establishment of policy.' If an exception to the law is needed to provide for the accomplishment of minor administrative details without the burden of the open meeting law, I believe an exception must be drawn much more narrowly. Since the exceptions contained in House Bill 249 are so broad as to frustrate the basic purpose of the open meeting law, I cannot approve this bill.

Sincerely yours,
/s/ Madeleine M. Kunin
Madeleine M. Kunin,
Governor

*Note: Pocket Veto- The General Assembly adjourned May 3, 1986, 6 days before the veto message was received.

Sources: *Journal of the House*, May 3, 1986 (pages 1134-1135)

Veto Message: Governor Kunin
1986 (H.678)
An act relating to the Administrative Procedure Act.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 9, 1986

The Honorable Ralph G. Wright
Speaker of the House
Vermont House of Representatives
State House
Montpelier, Vermont 05602
Re: H.678

Dear Speaker Wright:

I am returning herewith to the House, unsigned and without my approval, House Bill 678, entitled:

An act relating to the Administrative Procedure Act.

Section 5 of this bill extends, from 30 days to 45 days, the time in which the legislative committee on administrative rules may object to a rule proposed by an agency of state government.

Section 8 of this bill extends, from 15 days to 30 days, the time in which a final rule promulgated by an agency becomes effective, after its adoption is complete.

The cumulative effect of this bill is to extend the state agency rulemaking process for as much as 30 days. I do not believe that such a delay is in the best interests of the people of Vermont. My commitment has been to streamline and expedite regulatory procedures whenever possible.

I am aware that the legislative committee on administrative rules does from time to time have a valid need for additional time for its review. Therefore, I intend to direct all state agencies to cooperate with the committee to the fullest extent by voluntarily permitting an extension of the review period when possible and appropriate.

I cannot, however, approve this change in the law, applicable in every case, which permits a general prolongation of an already lengthy rulemaking process.

Sincerely yours,
/s/ Madeleine M. Kunin
Madeleine M. Kunin,
Governor

*Note: Pocket Veto- The General Assembly adjourned May 3, 1986, 6 days before the veto message was received.

Sources:*Journal of the House* May 3, 1986 (pages 1135-1136)

Veto Message: Governor Kunin
1986 (H.751)
An act relating to waste-to-energy facilities.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 9, 1986

The Honorable Ralph G. Wright
Speaker of the House
Vermont House of Representatives
State House
Montpelier, Vermont 05602
Re: H. 751

Dear Mr. Speaker:

I am returning herewith to the House, unsigned and without my approval, House Bill 751, entitled:

An act relating to waste-to-energy facilities.

Under present law, every proposed electric generation or transmission facility must obtain a certificate of public good from the Public Service Board, after review by the Board pursuant to 30 V.S.A. Section 248 (Section 248 proceedings). The criteria for review, which are found in subsection (b) of Section 248, include both technical and non-technical criteria. Among the non-technical criteria are the following relating to the environment:

(b)(1) with respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions and the municipal legislative bodies;

(b)(4) with respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment and the public health and safety.

Section 8 of House Bill 751 would exempt two categories of electric generation facilities, waste-to-energy and wood-fired facilities, from review by the Public Service Board under the environmental criteria referenced above.

Section 7 of the bill proposes to amend 10 V.S.A. Section 6001(3), a section of 'Act 250.' Current law exempts from Act 250 electric generation or transmission facilities which require a certificate of public good from the Public Service Board. The amendment to Act 250 embodied in Section 7 was intended to eliminate waste-to-energy and wood-fired facilities from that exemption, placing those facilities under Act 250 jurisdiction for full environmental review. Thus, the effect of the bill, as intended, would be to transfer jurisdiction over environmental review of such facilities from the Public Service Board in a Section 248 proceeding to the Environmental Board in an Act 250 proceeding.

Regrettably, the language of the bill fails to accomplish its legislative intent. Because of the interrelationship between the newly drafted language and existing language of Act 250, there is substantial risk that Act 250 jurisdiction would apply only to waste-to-energy and wood-fired facilities involving more than ten acres of land, if those facilities are located in municipalities with permanent zoning and subdivision bylaws. Since I am advised that it is not impractical to design such plants for ten acres or less, this 'loophole' is significant. Facilities within the loophole would receive environmental review under *neither* Act 250 *nor* Section 248.

Thus, if House Bill 751 were to become law, it would create an unacceptable risk that certain waste-to-energy and wood-fired facilities would entirely escape full environmental review. I am confident that such a result would be directly contrary to the legislature's intent to provide for enhanced environmental review of all such facilities, regardless of the size of their sites. Because I believe that full environmental review of all waste-to-energy and wood-fired facilities is extremely important, I have chosen not to

approve this bill. The effect of my veto will be to preserve review of these plants under the environmental criteria of Section 248 until the legislature can again act on this issue. In so doing I am also calling upon the Public Service Board to ensure that any proposed plants receive full environmental review under the provision of Section 248, with an opportunity for effective public participation.

Finally, there are beneficial provisions found in the remaining sections of H. 751, notably those which amplify the state's policies on solid waste and those which provide for state government recycling procedures. I intend to effectuate, by executive order or other action, as many of the remaining components of the bills as are within my executive authority.

Sincerely yours,
/s/ Madeleine M. Kunin
Madeleine M. Kunin,
Governor

*Note: Pocket Veto- The General Assembly adjourned May 3, 1986, 6 days before the veto message was received.

Sources: *Journal of the House*, May 3, 1986 (pages 1136-1138)

Veto Message: Governor Kunin
1988 (H.45)
An act relating to the exemption of sailboards from requirements pertaining to flotation devices.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 27, 1988

The following communication relating to the veto of H.45 was received from the Governor:

The Honorable Ralph G. Wright, Speaker of the House
House of Representatives
State House
Montpelier, VT 05602

Dear Speaker Wright:

I am returning herewith to the House, unsigned and without my approval, House Bill 45, entitled:

An act relating to the exemption of sailboards from requirements pertaining to flotation devices.

If this bill were to become law, it would set sailboards apart from all other watercraft, and, for this type of watercraft alone, would announce that the use of personal flotation devices ("PFDs") is no longer required in Vermont.

I cannot in good conscience accede to such a policy change. Based upon research conducted by my office, I am convinced that, like seatbelts, PFDs offer important safety protections and can, indeed, save lives in collision or other emergency situations. The need to require PFD use by sailboarders is particularly great now that the sport is catching on in general popularity and attracting a wide

range of participants. While it may well be true that the strong, experienced swimmer is unlikely to need the extra assistance of a PFD, that is surely not the case for a novice.

I am aware that the greatest measure of protection for sailboarders is provided by their actually wearing PFDs, and that the current statutory provision, found in 23 V.S.A. § 3306(b), interpreted strictly, requires only that PFDs be "carr[ied]" on board sailboards. However, I understand that many sailboarders choose to comply with the carrying requirement by donning PFDs rather than strapping them to the mast. I am convinced that to allow H. 45 to become law would send a message that PFDs are unnecessary for the sport of sailboarding. Because of my strong concern for safety, that is a message I am unwilling to convey

The General Assembly has wisely determined through J.R.S. 81 that the entire body of Vermont's boating laws should be reviewed. Among the specific issues assigned to the committee for study is the "regulation of sailboards". This assignment provides an excellent opportunity to change the law regarding PFD use by sailboarders. It would make more sense to enact a statutory provision that tailors a sailboard-PFD requirement to fit the needs of this particular sport. I commend consideration of such a new enactment to the committee created by J.R.S. 81 which will report to the General Assembly on or before January 15, 1989.

In the meantime, I believe that current law should remain intact so as to avoid creating a hiatus through which human lives could slip. Accordingly, I am declining to approve H.45.

Sincerely yours,

/s/ Madeleine M. Kunin,
Governor

*Note: Pocket Veto- The General Assembly adjourned May 20, 1988, 7 days before the veto message was received.

Sources: *Journal of the House*, May 20, 1988 (pages 1316-1317)

Veto Message: Governor Kunin
1988 (H.533)
An act relating to the motor fuel tax and dealers.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 21, 1988

The following communication relating to the veto of H. 533 was received from the Governor:

The Honorable Ralph G. Wright
Speaker of the House
House of Representatives
State House
Montpelier, VT. 05602

Dear Speaker Wright:

I am returning herewith to the House, unsigned and without my approval, House bill 533, entitled:

An act relating to motor fuel tax and dealers.

The legislative intent in enacting this bill was to provide the Commissioner of Motor Vehicles with additional investigative and enforcement tools to assist in his efforts to ensure compliance with the motor fuel tax laws. I fully support this goal.

Unfortunately, one of the provisions in the bill contains a serious error that cannot be overlooked. Section 4 directs the Commissioner to impose a monetary penalty upon a motor fuel dealer if "upon examination of [his or her] books and records . . . , the Commissioner or his or her agents find that [the] dealer has obtained motor fuel without payment of the tax to distributor as required by 23 V.S.A. Section 3106." The problem with this

provision is that it penalizes dealers for failure to take action they are nowhere obligated to take.

The statutory provision referred to in Section 4, 23 V.S.A. § 3106, does not impose upon the dealer the obligation to pay the motor fuel tax — either to a distributor or to anyone else. Rather, it states that "each distributor shall pay to the Commissioner a tax of 13 cents per gallon upon each gallon of motor fuel sold by the distributor. . . .[or] used within the state by him or her" (23 V.S. A. § 3106(a)) (emphasis added). Nor does any other statutory provision impose a motor fuel tax obligation upon the dealer.

Moreover, nowhere in the statutes are dealers required to record in their "books and records" any information with respect to payment of the motor fuel tax. Although Section 3 of this bill would require dealers to keep records "of all purchases of motor fuel," the only information that dealers would be required to include in those records would be "the date of purchase, number of gallons, and the identity of the seller"; this provision would not require tax payment information to be recorded at all.

Yet, if this bill were to become law, a dealer could be penalized for not recording in his or her books payment of a tax the dealer is neither obligated to pay, nor obligated to record. Due process requires more. The United States Supreme Court has repeatedly struck down statutes under the Due Process Clause where the statute was not "sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties," Bouie v. City of Columbia, m 378 U.S. 347,351 (1963), quoting Connally v. General Construction Company, 269 U. S. 385,391 (1926). "The underlying principle is that no man shall be held...responsible for conduct which he could not reasonably understand to be proscribed." Bouie, supra, 378 U.S. at 351, quoting United States v. Harris, 347 U.S. 612,617 (1954).

Because this bill so clearly violates due process, I cannot permit it to become law. But I urge the Legislature to re-enact a similar bill next session to accomplish the bill's primary purpose of strengthening the authority of the Commissioner of Motor Vehicles to enforce the motor fuel tax laws.

Sincerely yours,
/s/ Madeleine M. Kunin,
Governor

*Note: Pocket Veto- The General Assembly adjourned May 20, 1988, 32 days before the veto message was received.

Sources: *Journal of the House*, May 20, 1988 (pages 1319-1320)

Veto Message: Governor Kunin
1989 (S.28)
An act relating to setting Medicaid reimbursement rates for nursing homes.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 17, 1989

The text of the communication from Her Excellency, the Governor, whereby she vetoed and returned unsigned Senate Bill No.28 to the Senate is as follows:

The Honorable Howard B. Dean
State House
Montpelier, Vermont
Re: S. 28

Dear Lieutenant Governor Dean:

I am returning herewith to the Senate, unsigned and without my approval,

Senate Bill 28, entitled:

An act relating to setting Medicaid reimbursement rates for nursing homes.

I will submit an alternative bill in January which will address in a more effective manner the problems facing nursing homes, including a new method of rate setting which will take into special consideration the nursing homes under greatest stress in the present system. I have a strong commitment to serving Vermont's elderly population in the most appropriate setting. Nursing homes are an essential part of our long-term care system. It is therefore critical that this industry be on a sound financial footing and that Vermont's elderly population receive excellent care.

This bill, unfortunately, does not assure these results and creates serious policy problems.

The bill is unacceptable in its current form for two reasons: It exceeds my spending ceiling, but more importantly, it will have long-term policy consequences on our entire health care payment system. My greatest concern is that S. 28 reverses current policy established by the Legislature and carried out by the administration to impose meaningful cost containment discipline on the nursing home industry. This bill, as written, will have the effect of paying the industry whatever costs are incurred, not only in Vermont, but in surrounding high-cost New England states. In no other sector of our economy do we use something called a 'New England market basket'.

We must address the problems in the industry, but we must do so in a way that is sound from a public policy perspective and that enhances our ability in the future to provide adequate services to the elderly and other Vermont citizens who rely on the state for assistance.

Vermont has made a generous commitment to its elderly population residing in nursing homes. We now spend $41 million per year on our nursing homes; that is 40 percent of the entire Medicaid budget, which provides health-related services to all needy Vermonters. In 1987, the Legislature added $380,000 to the Medicaid budget for a special payment to nursing homes, on top of the $988,000 increase I requested, making a total increase of $1,368,000. In 1988, we authorized a rebasing for the system, so that all the reasonable costs of operating individual homes would be reflected in their rates. In 1989, we budgeted $1.6 million for inflationary increases, and we authorized grants totaling $150,000 to nursing homes for quality of-care projects, which the legislature, at my request, has continued in the coming fiscal year. Our 1990 budget includes an additional $1.2 million for increased payments to nursing homes.

It is important to note that nursing homes are the only providers in the human services field that are guaranteed a rate increase every year, irrespective of economic conditions or other funding

needs of state government.

The impact of these efforts was summed up in a 1989 study by Peat Marwick,

a national accounting firm, that showed that Vermont is one of the most generous

states in the nation in its reimbursement policies for nursing homes.

The Peat Marwick study said:

‘According to a study conducted by the Institute for Health and Aging, Vermont

had the 9th highest reimbursement rate of the 48 continental states in 1986 and one of the ten highest rates since 1982 when Vermont implemented its prospective system.

‘In 1986 Vermont’s rate was $51.18 compared with a national average of

$44.84. In 1988 Vermont ranked 7th highest of 39 states in a Vermont Division of

Rate Setting study.’

Although ranking ninth in nursing home reimbursement rate, Vermont ranked 30th in per capita income. These conclusions indicate that Vermont has acted responsibly compared to other states and compared to our average income (94 percent of the national average). However, I recognize that within the overall reimbursement system, there are a number of nursing homes which are experiencing financial difficulties and need more assistance.

We are committed to maintaining a strong and healthy nursing home industry, particularly small homes in rural areas, while

containing costs. This was also the root of the Legislature's and our efforts to improve the reimbursement system.

For these reasons, I strongly support the policy goals of the bill as expressed in

Section 1:

'It is the policy of this state that rates determined under this chapter should:

(1) provide for quality of care and safety while reasonably containing Medicaid expenditures;

(2) encourage the economically-efficient operation of nursing homes;

(3) provide incentives for less costly, more efficient nursing homes...'

While I supported the Senate version of S. 28, the final version of the bill does not substantiate this policy because of the language in Section 2 ordering the Rate Setting Division of the Agency of Human Services to use a 'New England nursing home market basket' as the inflation factor for setting yearly per diem increases in Medicaid payments for nursing homes.

I consider the use of this market basket factor to be unacceptable public policy for three reasons. First is that the New England nursing home market basket is not constructed or published by the Federal Government— we would have to construct it ourselves. We have little idea of how such an index would have behaved in the past or will behave in the future. We would therefore be tying reimbursements to an index that has no track record.

The second reason is that a New England market basket of any kind gives great weight to those areas of New England that are most populous. Vermont, with four percent of the region's population and a per capita income that is three-quarters of the

regional average, would be forced to maintain an expenditure growth that is simply not reflective of its own economic conditions.

For example, in 1987 average annual pay in Vermont was only 73 percent of

Connecticut's and 79 percent of Massachusetts'. And pay increases in those states exceed increases in Vermont. Average pay rose by five percent in Vermont from 1986 to 1987, while in Connecticut and Massachusetts it rose by 7 1/2 percent — a full 50 percent higher.

Finally, using an industry-specific market basket as a method of determining reimbursements for that industry gives no incentive for cost containment. Any and all cost increases would be passed on and entirely paid for by increases in state reimbursement.

It is critical, in assessing this issue, to understand the important distinction between the inflation rate and a market basket index calculated from a specific industry. The inflation rate reflects the general movement of prices in our economy and for our purposes represents costs that cannot be avoided. The market basket for an industry reflects its overall cost structure, which includes both uncontrollable costs and costs that can — and must — be managed.

Mandating the use of the New England nursing home market basket as the inflation factor will mean that the Division will be forced to simply endorse whatever the industry happens to spend. In fact, the index set forth in S.28 could exceed spending patterns in the nursing home industry in Vermont by factoring in the potentially more rapid rates of cost increases in nursing homes in Massachusetts, Connecticut and Rhode Island.

Although I am returning this bill, I want to assure you that I am committed to working with the Legislature to find an acceptable alternative to the present system. To this end, I will take the following steps:

1. I have today instructed the Secretary of the Agency of Human

Services to establish immediately a program to provide extraordinary relief to any nursing home that is in danger of financial failure due to circumstances beyond its control.

2. I will instruct the Secretary to carry out a reassessment of the entire reimbursement program that will include, as a minimum, consideration of:

(a)The use of severity rating systems to distinguish differences in the severity of illnesses of patients that would generate differential cost pressures on the various homes. This would be similar to the DRG (diagnostic-related group) method used in assessing hospital costs.

(b)The implementation of quality-of-care standards to ensure that whatever the cost and other pressures on the industry, the patients in our homes will receive humane and excellent care.

(c)Formalizing the provision of extraordinary relief for homes in danger of financial failure due to circumstances beyond their control and to provide special assistance to those homes which are meeting essential community needs.

Finally, I want to comment on overall spending. During the session, I stressed the importance of keeping spending growth in Fiscal 1990 under 10 percent, and I indicated that I would take whatever steps were necessary to keep spending under control. Bills passed by the Legislature have appropriated a total of $600.9 million from the General Fund for Fiscal 1990— growth in spending that exceeds 10 percent. This veto reduces spending to $600.3 million and brings spending growth back under 10 percent.

I will submit a report and draft legislation to the General Assembly by January 15, 1990.

Sincerely yours,
/s/Madeleine M. Kunin
Governor

No record to override Governor's veto

S.28 1989

Sources: *Journal of the House*, May 7, 1989 (pages 992-997)

Veto Message: Governor Kunin
1990 (H.698)
An act providing adjustments in the amounts appropriated for state government.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 2, 1990

The Speaker placed before the House the following communication from the Governor, relating to the veto of H. 698:

The Honorable Ralph Wright
Speaker of the House
State House
Montpelier, Vermont 05602

Dear Speaker Wright:

I am returning herewith to the House, unsigned and without my approval, House bill No. 698, entitled

An act providing adjustments in the amounts appropriated for state government.

I cannot approve this bill at this time. Quite simply, I believe it is not in the best interest of the State to approve new spending without additional revenues. The result could create a deficit for fiscal year 1990.

This problem arises because I do not yet have before me all the revenue changes for fiscal 1990 which will finance these expenditures. Without knowing what the final revenue changes affecting fiscal 1990 will be, I cannot determine whether the spending level in this bill is appropriate and whether the State's fiscal 1990 budget is balanced. If the additional revenue changes presently under discussion are passed for fiscal 1990, I believe the State may be able to afford the spending levels reflected in this

bill. If these changes are not passed, the bill's spending levels are too high and must be reduced.

In addition, as I have repeatedly informed the General Assembly, the State's budgets for fiscal 1990 and for fiscal 1991 are closely intertwined. Since the General Assembly has not yet reached agreement on a budget for 1991, I cannot yet determine whether this bill will properly complement the 1991 budget.

I believe this problem can be addressed in an expedient and satisfactory manner if the revenues supporting these expenditures are promptly enacted, or alternatively, if spending is further reduced for fiscal year 1990.

I am confident that the General Assembly shares my concern for fiscal responsibility and will send back a bill which addresses these issues.

I look forward to continuing to work with you, with the other members of the House, and with the members of the Senate to complete a balanced budget for both fiscal 1990 and 1991.

Sincerely yours,
/s/ Madeleine M. Kunin,
Governor

Governor's Veto Overridden
H. 698, 1990

The Governor's Veto was overridden in the House:
Yeas: 128 **Nays:** 1

The Governor's Veto was overridden in the Senate:
Yeas: 25 **Nays:** 2

*Note: The veto is overridden by two-thirds majority in both the House and Senate

Sources: *Journal of the House*, May 4, 1990 (pages 1030-1031, and 1235-1236); *Journal of the Senate*, May 16, 1990 (pages 1133-1134)

Veto Message: Governor Kunin
1990 (H.767)
An act relating to the length of tractor-trailer trucks.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 27, 1990

The following communication relating to the veto of H. 767 was received from the Governor:

The Honorable Ralph Wright
Speaker of the House
State House
Montpelier, Vermont 05602

Dear Speaker Wright:
I am returning herewith to the House, unsigned and without my approval, Bill 767, entitled

An act relating to the length of tractor-trailer trucks.

I take this action because this bill, if enacted into law, would have an adverse impact on the safety of Vermont's state and town highways. I believe that the General Assembly passed this bill without fully recognizing the implications of the unrestricted nature of the increase in tractor-trailer length it would permit.

In simple terms, this bill would allow tractor-trailer combinations with an overall length of 65 feet to travel freely on all Vermont roads, regardless of the length of the trailer — and regardless of the width, grade, or curve of the road. Under current law, the same unrestricted freedom of travel is already available to tractor-trailer combinations in two circumstances: (1) when the overall length of the combination does not exceed 60 feet, regardless of the length of the trailer; and (2) when the overall length of the

combination is as long as 65 feet, but the length of the trailer 'does not exceed 45 feet' (23 V.S.A. § 1432(a)). Moreover, longer combinations, and even longer trailers, can also travel on Vermont's roads under current law, albeit only pursuant to special annual permits granted by the Commissioner of Motor Vehicles for pre-approved routes.

By adding a full five feet to the overall length of tractor-trailer combinations and eliminating all restrictions on trailer length, this bill would essentially invite trailers that measure as long as 48 feet or even 53 feet — a full three to eight feet longer than currently allowed — to travel unrestrictedly anywhere on any Vermont road, no matter how narrow, steep, or winding.

I am aware that trailers of these longer lengths are becoming common around the country and are considered more economically efficient. However, in New England, no other state has yet given carte blanche to 53-foot trailers, and even as to 48-foot trailers, only Connecticut has allowed their unrestricted use. Moreover, this bill, while recognizing the importance of these longer trailers, fails to include any measure that might minimize their impact on the safety of Vermont's roads. Indeed, it does not include any of the safeguards imposed in other states — with straighter, flatter and wider roads — such as restricting longer trailers to designated highways, or limiting the distance from the towing hitch to the rear axle of the trailer to minimize the roadway width required in negotiating curves or intersections.

Finally, I believe that this bill was voted upon by the General Assembly with the understanding that it would open Vermont roads to trailers that are 48 feet long — not with the understanding that it would give free rein to trailers five feet longer than that. Before Vermont embarks on this new course, I believe that the General Assembly should have a full opportunity to explore all safety implications and issues relating to the use of 53-foot trailers on our state's unique roads.

During the past several years, we have made significant improvements to road safety in Vermont, and passage of this bill would undermine those efforts. I cannot in good conscience

approve a bill that I believe would diminish the safety of Vermont's roads.

Sincerely yours,
/s/ Madeleine M. Kunin,
Governor

No record to override Governor's veto
H.767 1990

Sources: *Journal of the House*, May 16,1990 (pages 1247-1248)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Snelling
1991(H.536)
An act relating to simulcast racing.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 6, 1991

The following communication relating to the veto of H.536 was received from the Governor:

Robert L. Picher, Clerk
House of Representatives
Vermont General Assembly
State House
Montpelier, VT 05602

Dear Bob:

I herewith return unsigned and within the time limits set by Chapter II, Article 11of the Constitution, H.536, a bill to permit pari-mutuel betting on simulcast racing.

I have taken this action because I believe this bill will extend gambling activities in Vermont without any commensurate benefit to the State. Initially, when betting on horse racing was permitted by Chapter 13 of the Title 31 of Vermont Statutes Annotated, the goal was to support and encourage agricultural fairs and improve the breeding of horses in the State. Later, this objective was extended to greyhound dogs. Under H.536, I believe the legislature has lost sight of this limited objective.

I have other objections to this bill as finally presented to me for signature:

1. For the first time in Vermont, a portion of gambling proceeds are dedicated to a particular local community.

Although the actual dollars may be small to begin with, I do not think sound public policy is served by making local communities dependent on gambling for their revenues. In addition I believe this is the first time state revenues have been dedicated to a specific town, a very bad precedent in my opinion.

2. While the bill permits betting on simulcasts of non-Vermont races only at the Green Mountain Racetrack in Pownal, it does not limit such activity to times when the racetrack is otherwise open. Nor is there any logical reason why such simulcasting (and betting thereon) should only be permitted in Pownal. Thus, the bill invites extension of this type of wagering to off-track locations in other cities and towns in Vermont, especially if other towns and cities may expect to obtain additional revenue from the state through such activities.

3. In 1986 the General Assembly authorized interstate simulcasting of races (but without interstate pools, as permitted by H.536). The authority terminated on December 31, 1987, unless a new act of the legislature extended it. No such extension was granted. H.536 contains no such sunset provision.

Law enforcement professionals contend that increased gambling activities tend to increase criminal activity as well, and that gambling itself begets more gambling. While informal wagering among friends is an accepted practice, I do not believe--and have never believed--that institutionalized gambling is healthy over the long run for the body politic. Where the state has become involved in such activity, as in the State Lottery, the primary purpose has been, and should continue to be, to forestall the development of organized criminal gambling activity. I do not believe H.536 furthers that limited goal, and thus have returned it to the House in which it originated without my signature.

Sincerely,
/s/Richard A. Snelling,
Governor

Governor's Veto Sustained
H. 536

The Governor's veto was sustained in the House:
Yeas: 0 **Nays:** 143

*Note the veto was sustained lacking the two-thirds majority vote to override.

Sources: *Journal of the House*, May 19, 1991 (pages 889-890); *Journal of the House*, January 8, 1992 (pages 17-18)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Snelling
1991 (S.157)
An act relating to the import and export of domestic animals.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 28, 1991

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned Senate Bill No. 157 to the Senate is as follows:

State Senate
Vermont General Assembly
ATTN: Robert H. Gibson, Secretary
State House
Montpelier, VT 05602

Dear Bob:

I herewith return unsigned and within the time limits set by Chapter II, Article 11 of the Constitution, S.157, a bill to provide the Commissioner of Agriculture more flexibility in dealing with livestock import and export issues and to otherwise update existing law.

I have no disagreements with the substance of this bill, which initially was proposed by the present Agriculture Commissioner. It is the process by which the Legislature has directed that it be implemented that causes me to veto it.

Section 13(c) of the bill requires that the Commissioner, before adopting rules to implement the proposed law, "consult with representatives of the horse industry and, by September 1, 1991, present draft proposed rules to the committees on agriculture of the House and Senate for their approval."

The procedure outlined above for adoption of rules differs from the procedures set forth in the state's Administrative Procedures Act, specifically 3 V.S.A. § 842. In that section, the Legislative Committee on Administrative Rules may object to administrative rulemaking for only certain specified reasons, and even if it does so object, the Executive may nevertheless still promulgate the rules. The consequence of properly objecting shifts the burden of proof to the Executive to demonstrate that the part of the rule objected to "is within the authority delegated to the agency, is consistent with the intent of the legislature, and is not arbitrary." 3 V.S.A. § 842(b).

As written, S.157 gives the respective agriculture committees of both houses a veto over proposed rules. There is no limit on the exercise of their disapproval powers, as found in the Administrative Procedures Act. There is no time limit by which neither house has to act. Thus section 13(c) of S.157 violates the established rulemaking procedure.

In addition, I believe section 13(c) is an Unconstitutional infringement on the powers of the Executive. Chapter II, Section 5 of our Constitution prohibits one branch of State government from exercising "the power properly belonging to the others." Inherent in the powers of the Executive is the power to implement the laws; rulemaking not in violation of those laws is a necessary tool.

While it has not been specifically addressed in Vermont to my knowledge, at the federal level it has been understood for several years that the Congress may not veto administrative rules. *INS v. Chadha*, 462 U.S. 919 (1983); *Process Gas Consumers Group v. Consumer Energy Council of America*, 463 U.S. 1216 (1983). Under these cases, it has been said that Congress remains free to overrule administrative rules by legislation, or by revoking the agency's rulemaking authority. It simply cannot interfere with the actual decision-making process. See 1 Koch, *Administrative Law and Practice*, Section 4.115 (1985).

The Commissioner of Agriculture has said that the State's interests will not be vitally impaired by the failure to enact S.157 this year. I invite the Legislature to correct Section 13(c) and to

resubmit it to me next January.

Sincerely,
/s/Richard A. Snelling
Richard A. Snelling,
Governor

Governor's Veto Sustained
S. 157, 1991

The Governor's veto was sustained in the Senate:
Yeas: 0 **Nays:** 29

*Note the veto was sustained, the necessary override two-thirds vote *not* having been attained.

Sources: *Journal of the Senate*, May 19, 1991 (pages 840-841); *Journal of the Senate*, January 9, 1992 (pages 14-16)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Snelling
1991 (S.157)
An act relating to the import and export of domestic animals.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 28, 1991

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned Senate Bill No. 157 to the Senate is as follows:

State Senate
Vermont General Assembly
ATTN: Robert H. Gibson, Secretary
State House
Montpelier, VT 05602

Dear Bob:

I herewith return unsigned and within the time limits set by Chapter II, Article 11 of the Constitution, S.157, a bill to provide the Commissioner of Agriculture more flexibility in dealing with livestock import and export issues and to otherwise update existing law.

I have no disagreements with the substance of this bill, which initially was proposed by the present Agriculture Commissioner. It is the process by which the Legislature has directed that it be implemented that causes me to veto it.

Section 13(c) of the bill requires that the Commissioner, before adopting rules to implement the proposed law, "consult with representatives of the horse industry and, by September 1, 1991, present draft proposed rules to the committees on agriculture of the House and Senate for their approval."

The procedure outlined above for adoption of rules differs from the procedures set forth in the state's Administrative Procedures Act, specifically 3 V.S.A. § 842. In that section, the Legislative Committee on Administrative Rules may object to administrative rulemaking for only certain specified reasons, and even if it does so object, the Executive may nevertheless still promulgate the rules. The consequence of properly objecting shifts the burden of proof to the Executive to demonstrate that the part of the rule objected to "is within the authority delegated to the agency, is consistent with the intent of the legislature, and is not arbitrary." 3 V.S.A. § 842(b).

As written, S.157 gives the respective agriculture committees of both houses a veto over proposed rules. There is no limit on the exercise of their disapproval powers, as found in the Administrative Procedures Act. There is no time limit by which neither house has to act. Thus section 13(c) of S.157 violates the established rulemaking procedure.

In addition, I believe section 13(c) is an Unconstitutional infringement on the powers of the Executive. Chapter II, Section 5 of our Constitution prohibits one branch of State government from exercising "the power properly belonging to the others." Inherent in the powers of the Executive is the power to implement the laws; rulemaking not in violation of those laws is a necessary tool.

While it has not been specifically addressed in Vermont to my knowledge, at the federal level it has been understood for several years that the Congress may not veto administrative rules. *INS v. Chadha*, 462 U.S. 919 (1983); *Process Gas Consumers Group v. Consumer Energy Council of America*, 463 U.S. 1216 (1983). Under these cases, it has been said that Congress remains free to overrule administrative rules by legislation, or by revoking the agency's rulemaking authority. It simply cannot interfere with the actual decision-making process. See 1 Koch, *Administrative Law and Practice*, Section 4.115 (1985).

The Commissioner of Agriculture has said that the State's interests will not be vitally impaired by the failure to enact S.157 this year. I invite the Legislature to correct Section 13(c) and to

resubmit it to me next January.

Sincerely,
/s/Richard A. Snelling
Richard A. Snelling,
Governor

Governor's Veto Sustained
S. 157, 1991

The Governor's veto was sustained in the Senate:
Yeas: 0 **Nays:** 29

*Note the veto was sustained, the necessary override two-thirds vote *not* having been attained.

Sources: *Journal of the Senate*, May 19, 1991 (pages 840-841); *Journal of the Senate*, January 9, 1992 (pages 14-16)

Veto Message: Governor Dean
1992 (H.607)
An act relating to deer damaging crops.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 15, 1992

The following communication was received from the Governor giving his reasons for vetoing **House bill 607:**

Robert L. Picher, Clerk
House of Representatives
State House
Montpelier, Vermont 05602

Dear Mr. Picher:

I herewith return unsigned and within the time set by Chapter II, Article 11 of the Constitution, H.607, a bill affecting the taking of deer and moose for damaging crops and property.

I have decided not to sign this legislation because I believe it could seriously harm moose populations in regions of Vermont where the species has not sufficiently re-established itself. Although moose can damage fencing and sugarmaking equipment and although they have established strong population levels in some regions, particularly in Essex County, I object to this bill because it is not based on a sound moose management plan.

The Department of Fish and Wildlife's Moose Management Team earlier this year produced a draft five-year management plan calling for a moose hunting season with a limited number of licenses available. The plan says the State should attempt to stabilize the moose population in Essex County while encouraging its expansion elsewhere.

The Moose Management Team's draft plan recommends holding an initial moose hunting season only in Essex County and allowing the harvest of no more than 25 moose. The draft management plan states: 'Vermont's initial moose season should be extremely conservative until season experience provides tested data and known moose population responses.'

H.607, however, does not attempt to recognize the vast differences in moose populations across Vermont. Instead, it would treat moose, with a population in Vermont of maybe 1,500, the same as deer, which number more than 100,000.

The bill is flawed in that it fails to note one of the most serious and costliest types of damage caused by moose, the loss of livestock fencing. Destruction of livestock fencing allows cows and cattle to roam loose and can expose farmers to extensive liability.

Also, the bill would allow a landowner to take a moose for causing 'substantial damage', which provides vague guidance at best. Different landowners would have much different interpretations of what is 'substantial damage'.

Finally, the bill fails to recognize the nomadic nature of moose. Unlike deer, moose wander widely and stay close to a yard only in the winter months. Unless a landowner carries a gun at all times, he or she could have a difficult time proving the moose taken is the same animal which earlier destroyed a fence or other property.

It the next Legislature revisits this issue, I hope members of the General Assembly would consider establishing a controlled, limited hunting season, based on the Fish and Wildlife Department's proposed management plan, rather than pass another bill similar to H.607. Vermont may be ready for a limited moose season, but H.607 does not further the goal of sound moose population management, and thus I have returned the bill to the house in which it originated without my signature.

Sincerely,
/s/Howard Dean, M.D.

* Note: Pocket Veto - The General Assembly adjourned April 26, 1992, twenty days before the veto message was received.

Sources: *Journal of the House* < the of> April 26, 1992 (pages 1000-1001)

Veto Message: Governor Dean
1992 (H.344)
An act relating to sparklers.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 22, 1992

The following communication was received from the Governor giving his reasons for vetoing **House Bill 344:**

Robert L. Picher, Clerk
House of Representatives
State House
Montpelier, VT 05602

Dear Mr. Picher:

I am herewith returning unsigned without my approval and in the time permitted by the Constitution H.344, a bill relating to the sale of sparklers.

Although they appear innocuous and safe, sparklers--at least the type presently on the market and authorized under H.344--are in fact quite dangerous, particularly to children. They burn at between 1600 and 2000 degrees Fahrenheit. In a recent survey in Oregon, it was determined that 30 percent of all personal injuries from fireworks were caused by sparklers.

According to the Coalition of Fire and Rescue Services for the State of Vermont, sparklers nationwide caused more than a thousand emergency room visits in 1989 and are second only to large firecrackers in personal injury by fireworks. Sparklers account for three quarters of all firework injuries to persons under the age of five.

They also are a fire hazard. The Department of Labor and Industry, which supervises the state fire code, opposed this bill in the legislature, as did the Health Department.

Although the bill was amended in the Senate (where it passed by a very narrow margin) to prohibit sale to minors, there would be no prohibition against possession of sparklers by minors. In fact, one could predict that most usage would be by minors, the very individuals most suspect to serious injury.

Recent publicity has demonstrated the danger of fireworks in this State. The sale and possession of sparklers has been illegal here since 1953. It should stay that way.

Sincerely,
/s/Howard Dean, M.D.,
Governor

*Note: Pocket Veto -- The General Assembly adjourned April 26, 1992, fifty-eight days before the veto message was received.

Sources: *Journal of the House*, April 26, 1992 (pages 1005-1006)

Veto Message: Governor Dean
1993 (S.179)
An act relating to the town highway resurfacing and reconstruction program.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 23, 1993

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned Senate Bill No. 179 to the Senate is as follows:

Robert H. Gibson, Secretary of the Senate
Vermont General Assembly
State House
Montpelier, VT 05633

Dear Bob:

I herewith return S.179, which would establish a new paving program financed with state appropriations, that I have vetoed under the provisions of Chapter II, Article 11 [sic], of the Vermont Constitution.

The aim of the bill -- to assist municipalities at some point with financing for small to middle-sized paving projects-- is commendable, but my veto is based upon the conviction that the timing is wrong.

The recent session of the General Assembly produced an appropriations bill that requires almost every sector of state government to tighten spending-- for the fourth consecutive year. Recessionary pressures continue to place heavy caseload pressure on services.

The General Assembly dealt fairly this spring with municipal transportation programs, including approval of a new initiative of

mine that brings long-term benefits to every town or city that owns a strech of road connecting important state highways.

Through approval of H.535, legislators authorized the Agency of Transportation to pave about 130 miles of municipally-owned Class I highways. These local roads typically carry high volumes of through traffic, and tend to need expensive resurfacing more frequently.

In addition, the Legislature appropriated $1.8 million to the program that pays for improvements to small municipal bridge and culvert projects. And beyond that, the Appropriations Act sends more than $21 million directly back to communities in municipal highway aid.

Clearly, S.179 does not call for any state spending in fiscal 1994, but it also clearly establishes an intent to do so eventually. It is this intent that I find unsettling because of the continuing severe spending constraints placed on Vermont by the recession.

Again, the objective is worthy, but the means for fulfilling it simply are not there. At some point, it may make sense to consider expanding the bridge and culvert program to include state help for municipal paving needs, but I firmly believe that now is not the time.

Sincerely,
/s/Howard B. Dean
Howard B. Dean,
Governor

Governor's Veto Sustained
S.179, 1993

The Governor's veto was sustained in the Senate:
Yeas: 0 **Nays:** 30

*Note: The veto was sustained not having attained the two-thirds vote required to override.

Sources: *Journal of the Senate*, May 16, 1993 (pages 920-921); *Journal of the Senate*, January 5, 1994 (pages 28-30)

Veto Message: Governor Dean
1993 (S.107)
An act relating to the management and disposal of waste oil.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 25, 1993

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned Senate Bill No. 107 to the Senate as follows:

Robert H. Gibson, Secretary of the Senate
Vermont General Assembly
State House
Montpelier, VT 05633

Dear Bob:

I herewith return S.107, a bill affecting the disposal of waste oil, which I have vetoed under the provisions of Chapter II, Article [sic] 11 of the Vermont Constitution.

Although I support the underlying bill and its provisions related to curbside collection of waste crankcase oil, I have decided to veto it because major concerns with the amendment to exempt small fuel-burning equipment regulated under subsection 5-221(2)(f) of the Air Pollution Control Regulations from the provisions of 5-261 (related to hazardous air contaminents) of the regulations. This amendment was added to the bill late in the session with very little testimony.

There is much controversy surrounding the use of waste oil burners. According to the Air Pollution Control Division of the Department of Environmental Conservation, burning waste oil in waste oil furnaces results in the release of significant toxic air pollutants from low-level stacks, generally in urban areas. The

Division believes that just two waste oil burners of this type emit more PCBs, HCl, lead, arsenic, cadmium, chromium, barium and zinc than is emitted from a small waste incinerator.

I recognize that the State only a few years ago encouraged burning waste oil as the best use of the product. While we believe today that re-refining waste oil for use as a lubricant is the best and most environmentally responsible use, we need to acknowledge the financial investment of garage owners who heeded the State's advice in the late 1980's and purchased these burners.

For this reason, I have asked the Agency of Natural Resources to work with the industry on testing these burners prior to the Legislature's return in January. This testing should result in data upon which to base thoughtful, well-considered policy decisions related to waste oil burning in the future.

Until we know more about their emissions, I believe the State should grandfather existing waste oil burners. New burners, however, should be subject to section 5-261 of the Air Pollution Control Regulations.

The underlying direction of S.107 is environmentally sound. It is my hope the General Assembly will revisit this issue next year and enact the provisions related to the curbside collection of waste oil.

Sincerely,
/s/Howard B. Dean
Howard B. Dean,
Governor

Governor's Veto Sustained
S. 107, 1993

The Governor's veto was sustained in the Senate:
Yeas: 0 **Nays:** 30

*Note: The veto was sustained in the Senate lacking the two-thirds vote to override.

Sources: *Journal of the Senate*, May 16, 1993 (pages 921-922); *Journal of the Senate,* January 5, 1994 (pages 27-28)

Veto Message: Governor Dean
1993 (H.138)
An act relating to the 'Vermont Seal of Quality'.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., October 6, 1993

The Speaker placed before the House a communication from the Governor relating to the veto of H.138, as follows:

Hon. Donald G. Milne
Clerk of the House

Montpelier, VT 05602

Dear Mr. Milne:

I am herewith returning unsigned without my approval and in the time permitted by the Constitution, H.138, a bill relating to the 'Vermont Seal of Quality.'

The original intent of H.138 was to expand the membership of the Milk Commission. Language was added, however, which provided that fluid milk processed outside of the state might be eligible for the Seal of Quality. A final section of this legislation concerned the Vermont Milk Commission's support of the Northeast Interstate Dairy Compact.

I support both the expansion of the Vermont Milk Commission and the expenditure of funds for the Dairy Compact as determined by the Milk Commission. I do not, however, support the use of Vermont's Seal of Quality for any Vermont products processed outside the state.

To receive the Vermont Seal of Quality, a product must meet

restrictive state guidelines regarding the quality of the product and the fact that it is produced and made in Vermont. If the Seal is used on out-of-state processed products, Vermont loses the ability to ensure quality control to consumers.

The state has worked very hard to promote Vermont-made products. Nationwide, Vermont is known for high quality products and setting standards that far excel not only those of other states, but also those of the federal government. To use the Seal of Quality on out-of-state processed products would be to risk the reputation which Vermont has built. I will not allow this to occur.

As such, I am vetoing H.138.

Sincerely,
/s/Howard Dean,M.D.,
Governor

Governor's Veto Sustained
H.138, 1993

The Governor's veto was sustained in the House:
Yeas: 12 **Nays:** 124

*Note: The veto was sustained in the House lacking the two-thirds majority vote to override.

Sources: *Journal of the House*, January 4, 1994 (pages 4-5, and 26-27)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Dean
1994 (H.348)
An act relating to equine infectious anemia and the humane treatment of animals.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 13, 1994

The following communication was received from the Governor giving his reasons for vetoing **House bill 348:**

Hon. Donald G. Milne
Clerk of the House
State House
Montpelier, VT 05602

Dear Don:

I am herewith returning unsigned and in the time permitted by the Constitution, **H.348**, a bill relating to equine infectious anemia, transportation of livestock, and the definition of 'the business of farming' in the Working Farm Tax Abatement Program (WFTAP).

Although I strongly support the provisions relating to equine infectious anemia and the transportation of livestock, I cannot support expansion of WFTAP, a program which is already underfunded, to the boarding, breeding and selling of horses. If WFTAP were fully funded, the potential additional cost of such expansion could be as much as $480,000.00. With flat funding, the percentage proration would be reduced by as much as two percent. This is not the time for expansion of WFTAP.

For these reasons, I am vetoing **H.348.**

Sincerely,
/s/Howard Dean, M.D.,
Governor

*Note: Pocket Veto -- The General Assembly adjourned June 12, 1994, one day before the veto message was received.

Sources: *Journal of the House*, June 12, 1994 (pages 1602-1603)

Veto Message: Governor Dean
1994 (H.367)
An act which would change the jurisdiction of Act 250 over highway maintenance projects.

The following communication was received from the Governor giving his reasons for vetoing **House bill 367:**

"June 13, 1994

Hon. Donald G. Milne
Clerk of the House
State House
Montpelier, VT 05602

Dear Don:

I am returning herewith unsigned and within the time limits set by the Constitution, H.367, a bill which would change the jurisdiction of Act 250 over highway maintenance projects. This bill is intended to provide an exemption for highway maintenance or reconstruction projects which occur within the existing right-of-way, as long as the travelled portion of the roadway is not expanded by more than 50 percent.

All our efforts this year in the area of Permit Reform have been directed toward a more efficient and less litigious process. H.367 will invite litigation and may actually slow the time required to obtain a permit. The definition of 'highway reconstruction' as 'repair activities, including modifications' is confusing. A much simpler version of this bill was recommended by the Environmental Board but rejected.

The exemption in this bill is also too sweeping. I would sign a bill that exempts road projects which expand the traveled portion by the highway by 10 percent or less, which would parallel exemptions applicable to other municipal projects. I appreciate the need of towns and cities to carry on routine maintenance in a timely manner and I will work to accomplish this result in a way that also recognizes the need for environmental review of significant road projects.

Sincerely,

/s/Howard Dean, M.D.
Governor"

*Note: Pocket Veto -- The General Assembly adjourned June 12, 1994, one day before the veto message was received.

Sources: *Journal of the House*, June 12, 1994 (page 1603)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Dean
1994 (H.485)
An act establishing an interpreter referral service.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 13, 1994

The following communication was received from the Governor giving his reasons for vetoing **House bill 485:**

Hon. Donald G. Milne
Clerk of the House
State House
Montpelier, VT 05602

Dear Don:

I am returning herewith unsigned and within the time permitted by the Constitution, **H.485**, a bill establishing interpreter referral service.

I am committed to providing the interpreter referral services required by this bill. However, I believe that these services can be provided with $20,000 rather than the $35,000 authorized by the legislature. I have assurances from the Secretary of the Agency of Human Services that the necessary money will be made available from within the existing budget of the agency. Although I have decided not to sign this bill, I want to assure the people who are in need of referral services they require that they will be made available.

Sincerely,
/s/Howard Dean, M.D.,
Governor

*Note: Pocket Veto -- The General Assembly adjourned June 12,

1994, one day before the veto message was received.

Sources: *Journal of the House*, June 12, 1994 (pages 1603-1604)

Veto Message: Governor Dean
1994 (H.506)
An act relating to amendments to the private detective and security services practice act.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 13, 1994

The following communication was received from the Governor giving his reasons for vetoing **House bill 506:**

Hon. Donald G. Milne
Clerk of the House
State House
Montpelier, VT 05602

Dear Don:

I am returning herewith unsigned and within the time permitted by the Constitution, **H.506**, relating to amendments to the private detective and security services practice act.

Although this bill contains many important improvements to the private detective and security services act-- most notably exceptions for genealogists and persons conducting adoption searches-- I cannot support two provisions in the bill. The section of the bill authorizing the state board of private investigative and security services to hire its own legal counsel is inconsistent with other practice acts and a bad precedent.

Second, the authorization of administrative penalties, which are then deposited in the professional regulatory fee fund, are not acceptable. Although the Secretary of State has assured us that the administrative penalties assessed by the board will not be available for the operation of the board, this is a dangerous

precedent. I hope that the legislature will return next session to address the other provisions of the bill, particularly the exceptions to the jurisdiction of the board, but because of the objectionable provisions, I have decided to veto this bill.

Sincerely,
/s/Howard Dean, M.D.,
Governor

*Note: Pocket Veto -- The General Assembly adjourned June 12, 1994, one day before the veto message was received.

Sources: *Journal of the House*, June 12, 1994 (page 1604)

Veto Message: Governor Dean
1994 (H.866)
An act relating to alteration of village boundaries.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 13, 1994

The following communication was received from the Governor giving his reasons for vetoing **House bill 866:**

Hon. Donald G. Milne
Clerk of the House
State House
Montpelier, VT 05602

Dear Don:

I am returning herewith unsigned and within the time permitted by the Constitution, **H.866**, a bill relating to the alteration of village boundaries.

It appears the bill was intended to improve the public process involved in changing village boundaries, but it is not clear that it accomplishes the intended result. The confusing language of the bill is difficult to interpret and creates a serious potential for litigation. Therefore, I have decided to veto the bill.

Sincerely,
/s/Howard Dean, M.D.,
Governor

*Note: Pocket Veto -- The General Assembly adjourned June 12, 1994, one day before the veto message was received.

Sources: *Journal of the House*, June 12, 1994 (page 1605)

Veto Message: Governor Dean
1994 (S.33)
An act relating to repealing Act 200 provisions relating to confirmation of municipal planning processes and approval of municipal plans.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 13, 1994

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No.33** to the Senate is as follows:

Robert H. Gibson, Secretary of the Senate
Vermont General Assembly
State House
Montpelier, VT 05602

Dear Bob:

I herewith return unsigned and within the time limits set by Chapter II, Article [sic] 11 of the Constitution, S.33, a bill which would amend Title 24 of Vermont Statutes Annotated.

I have decided to veto S.33 because it would erode the efforts to build inter-municipal cooperation in planning as intended by the amendments to Title 24 enacted by the General Assembly 1988, commonly known as Act 200. S.33 would strip regional planning commissions of their ability to disapprove town plans. At this time, I do not see any compelling reason to take this action.

In 1990, the Legislature amended Act 200 to create a "breathing period," recognizing that towns would require time to write and adopt new plans ready for regional approval, by postponing any consequences for not having an approved plan until January 1, 1996. Until that time, regional planning commissions cannot

disapprove any municipal plan. Rather, plans can only be approved or conditionally approved. Extending this limited approval process permanently-- with a year and a half remaining in the breathing period--is unnecessary and destructive to the progress towns are making in the planning process.

The mechanism for regional commission approval is working. Participation in the process is voluntary and will remain voluntary after January, 1996. To date, 20 percent of the towns which have adopted municipal plans since 1989 have chosen to submit plans for approval; 33 have been approved, four have been conditionally approved. Municipalities in nine of the 12 planning regions have been sought and achieved. Other towns have chosen not to submit their plans for approval. That ability to choose is central to Act 200 and is being exercised.

Municipalities are submitting plans for approval at an increasing rate: Six plans were submitted in 1990; five in 1991; five in 1992; eleven in 1993; and twelve to date in 1994, a rate which would have 24 approved by the end of the year. As acknowledged by the General Assembly in 1990, municipalities have needed time to draft and adopt plans for submittal.

The approval process generally has not been contentious. The two exceptions were Rutland Town in 1990 and Stratton in 1993. Both cases demonstrated that there is a functioning conflict resolution process built into the regional approval process that works. Again, this is exactly what Act 200 was designed to do: Identify points of actual or potential contention between municipalities and resolve them before they become major permitting disputes.

The debate over regional approval sometimes clouds the public's real interest in better planning. The process used for regional approval is a tool for better coordination among cities and towns critical to any permit reform effort. The regional approval process creates an opportunity for towns voluntarily to identify and resolve lack of coordination with their neighbors and state agencies. How much better it is for Vermonters to resolve differences between municipalities before a regional planning commission rather than before a district environmental commission when an applicant's

money and time are on the table. At a time when there is great interest in improving the Act 250 permitting process, it's ironic that the General Assembly this year would seek to weaken coordination in planning among municipalities, and therefore drive more potentially controversial issues into the regulatory process.

In short, the evidence is substantial that the process for regional approval is working as intended, encouraging municipalities to take their neighbors into consideration when planning for future growth, and thus I have returned S.33 to the house in which it originated without my signature.

Sincerely,
/s/Howard B. Dean
Howard B. Dean,
Governor

*Note: Pocket Veto -- The General Assembly adjourned June 12, 1994, one day before the veto message was received.

Sources: *Journal of the Senate*, June 12, 1994 (pages 1378-1380)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Dean
1994 (S.101)
An act relating to pharmaceutical services and health insurance.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 13, 1994

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 101** to the Senate is as follows:

Robert H. Gibson, Secretary of the Senate
Vermont General Assembly
State House
Montpelier, VT 05602

Dear Bob:

I am herewith returning unsigned and without my approval and in the time permitted by the Constitution, S.101, a bill relating to pharmaceutical services and health insurance.

I have supported health care reforms aimed at controlling health care cost and improving health quality of Vermonters, but I do not believe that this bill furthers those goals. The bill would have a negative effect on the health care market and Vermont consumers. I believe that insurance costs will rise as a result of this bill. At a time when we are seeking to lower the cost of health insurance, this bill would undermine the gains we have made.

There is good reason that many employers, including the State of Vermont, have developed managed-care pharmacy plans. These plans keep costs down, and ensure proper utilization of prescription drugs. It is totally inappropriate for the state to tell the private sector that it cannot adopt what we have demonstrated to be an effective cost-containment policy. It is

even more inappropriate for the state to exempt itself from the burdens of this bill. Moreover, because self-funded employer plans covered by ERISA will be exempt from the provisions of this bill, the burden created by the bill will fall unduly on small employers, who form the backbone of the Vermont economy. This would exacerbate the cost-shifting that is fundamental to solving this problem in our health care system.

This bill has been represented as offering Vermonters "*Choice*". I believe it will actually restrict choice. In other areas of our economy, Vermonters have a choice between paying a little more for the convenience of a local market, or saving a few dollars by going out of their way to a large retailer. Under this bill, a consumer who is willing to accept some inconvenience will no longer be able to gain a price advantage.

Because it places an undue burden on Vermonters and Vermont businesses, I am vetoing S.101.

Sincerely,
Howard B. Dean,
Governor

*Note: Pocket Veto -- The General Assembly adjourned June 12, 1994, one day before the veto message was received.

Sources: *Journal of the Senate*, June 12, 1994 (pages 1380-1381)

Veto Message: Governor Dean
1994 (S.285)
An act relating to deferred sentences.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 13, 1994

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 285** to the Senate is as follows:

Robert H. Gibson, Secretary of the Senate
Vermont General Assembly
State House
Montpelier, VT 05602

Dear Bob:

I am herewith returning unsigned without my approval and in the time permitted by the Constitution, S.285, a bill relating to the imposition of deferred sentences.

I support certain provisions of the bill relating to determinations at the time of arraignment for certain misdemeanor offenses which pertain to the lack of incarceration as a result of conviction. These provisions, if enacted into law, could ease caseload pressures on those attorneys who provide representation to indigent criminal defendants. The same provisions could foster a more rapid processing of certain criminal cases through our court system.

The bill contains an unacceptable provision in that it changes current law and would permit the imposition of a deferred sentence without the consent of the prosecuting attorney. The prosecutor has made the charging decision and in some cases has access to information concerning a criminal defendant which might

not be available to a sentencing judge.

Given the fact that upon successful completion of a deferred sentence agreement the adjudication of guilt is struck and the record of the proceedings is expunged, it is imperative that the prosecuting attorney agree that a deferred sentence is appropriate before such a sentence is imposed.

For the above reasons, I am vetoing S.285.

Sincerely,
/s/Howard B. Dean
Howard B. Dean,
Governor

*Note: Pocket Veto -- The General Assembly adjourned June 12, 1994, one day before the veto message was received.

Sources: *Journal of the Senate* June 12, 1994 (pages 1381-1382); *Journal of the House*, June 12, 1994 (pages 1611-1612)

Veto Message: Governor Dean
1994 (S.326)
An act relating to the composition of the Fire Service Training Council.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 13, 1994

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 326** to the Senate is as follows:

Robert H.Gibson, Secretary of the Senate
Vermont General Assembly
State House
Montpelier, VT 05602

Dear Bob:

I am returning herewith unsigned and within the time permitted by the Constitution, S.326, relating to the composition of the Fire Service Training Council.

This bill removes the Commissioner of Education from the Training Council and replaces the commissioner with a representative from a public electrical utility. I can find no justification for this change. Therefore, I have decided to veto this bill.

Sincerely,
/s/Howard B. Dean
Howard B. Dean
Governor

*Note: Pocket Veto -- The General Assembly adjourned June 12, 1994, one day before the veto message was received.

Sources: *Journal of the Senate*, June 12, 1994 (page 1381)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Dean
1994 (H.867)
An act act relating to GIS mapping of wetlands.

STATE OF VERMONT
Executive Department.
Montpelier, Vt.,June 20, 1994

The following communication was received from the Governor giving his reasons for vetoing **House bill 867:**

Hon. Donald G. Milne
Clerk of the House
State House
Montpelier, VT 05602

Dear Don:

I am returning herewith unsigned and within the time limits set out in the Constitution, **H.867**, a bill relating to GIS mapping of wetlands.

It is unfortunate that I must veto this bill. I agree with the goal of providing GIS formatted mapping of wetlands, but I cannot agree with the restrictions imposed on the Agency of Natural Resources and the Water Resources Board who are required to enter onto private property in order to carry out their wetlands responsibilities.

This bill requires a complicated notice procedure and consent by the landowner before state officials can enter private land to collect information on wetlands. These requirements are more burdensome than other statutes governing entry onto private lands.

The administration is undertaking steps to begin GIS formatted mapping of wetlands. Therefore, in spite of this veto, the

worthwhile goal of this legislation will be accomplished without the unnecessary restrictions on ANR and the water Resources Board.

Sincerely,
/s/Howard Dean, M.D.,
Governor

*Note: Pocket Veto -- The General Assembly adjourned June 12, 1994, eight days before the veto message was received.

Sources: *Journal of the House*, June 12, 1994 (pages 1606-1607)

Veto Message: Governor Dean
1994 (S.78)
An act relating to water and sewer systems in mobile home parks.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 22, 1994

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 78** to the Senate as follows:

Robert H. Gibson, Secretary of the Senate
Vermont General Assembly
State House
Montpelier, VT 05602

Dear Bob:

I am returning herewith unsigned and within the time limit established in the Constitution, S.78, relating to water and sewer systems in mobile home parks.

This bill extends jurisdiction of the Agency of Natural Resources to water supply and wastewater facilities serving single family residences on their own individual lots and family day care homes, if the systems are creating an imminent or actual health hazard.

We are not aware of any testimony regarding this change and no resources were given to the agency to carry out its expanded duties. If the change was intentional, it is one that should have been debated. It appears that the change may have been inadvertent. The agency, however, is responsible for implementation whether the change is intentional or not, and permits will be required for systems that are not currently permitted.

The apparent purpose of the bill is to establish standards for water supply and wastewater systems serving mobile home parks, to be enforceable by ANR. Many of these systems are inadequate and unsafe, particularly in the older parks. The owner of a park will decide whether or not to upgrade a system, but it is the residents who are hurt when a system is unsafe or when a park is forced to close.

The several agencies and departments in state government who have an interest--principally, the Agency of Natural Resources, the Agency of Development and Community Affairs, and the Department of Health--will continue to work cooperatively to solve the very real problems of inadequate and unsafe systems with minimal disruption to tenants. I hope that better-drafted legislation designed to deal with this issue will be enacted quickly next year and I will support efforts to do this.

Sincerely,
/s/Howard B. Dean,
Governor

*Note: Pocket Veto -- The General Assembly adjourned June 12, 1994, ten days before the veto message was received.

Sources: *Journal of the Senate*, June 12, 1994 (pages 1384-1385)

Veto Message: Governor Dean
1995 (H.219)
An act relating to repealing provisions relating to regional planning commission confirmation of municipal planning processes and relating to the disapproval of municipal plans.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 15, 1995

The Speaker placed before the House a communication from the Governor as follows:

Honorable Donald G. Milne
Clerk of the House
State House
Montpelier, VT 05602

Dear Don:

I am returning herewith unsigned and within the time limits set out in the Constitution, **H.219**, a bill relating to regional approvals under Act 200.

Act 200 must be given a chance to work. There is no compelling evidence to show that it is not; in fact, there is good evidence that it is working as the legislature intended.

Some towns are submitting plans for approval by their regional planning commission, and each regional commission has applied its own process for making the approval decision. In the vast majority of cases the plans have been approved with no tension or dispute.

Other towns choose not to submit their plans for approval, as the laws allow. Forty municipal plans have been approved; seven have

been conditionally approved. Approvals have been sought and achieved in eleven of the state's twelve regions.

We should not penalize those municipalities that want to use the regional planning commission approval process to improve their plans and to better coordinate their plans with their neighbors and state agencies. It is not fair for towns that object to a voluntary process to demand that it be denied to towns that may find it useful or advantageous. If local officials find the process objectionable, the law allows them to choose not to participate.

The process used for regional approval of municipal plans is a critical local/regional/state coordination step toward good planning and permitting procedures. The regional approval process creates a voluntary opportunity for the towns to identify and resolve lack of coordination with their neighbors and state agencies. Such resolution of differences can, for example, avoid disagreements in the Act 250 process when an applicant's money and time are on the table.

Repealing the process for regional approval undermines the regional planning goals of Act 200 before we have given the process a chance to work. This is simply not acceptable. Therefore, I am vetoing H.219.

Sincerely,
/s/Howard Dean, M.D.,
Governor

Governor's Veto Sustained
H.219, 1995

The Governor's veto was sustained in the House:
Yeas: 90 **Nays:** 55

Sources: *Journal of the House*, March 17, 1995 (pages 611-612, and 640-641)

Veto Message: Governor Dean
1995 (H.434)
An act relating to municipal enforcement of motor vehicle laws on state highways.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., April 13, 1995

The Speaker placed before the House a communication from the Governor, as follows

Honorable Donald Milne

Clerk of the House
State House
Montpelier, VT 05602

Dear Don:

I am returning herewith without my signature and within the time limit set out in the Vermont Constitution, H.434, relating to municipal enforcement of motor vehicle laws on state highways.

While this bill has good intentions, it also has potential for harm which greatly outweighs the good. H.434 would authorize local enforcement of speed limits on state highways, and would allow municipalities to retain the fine revenue, except for a $6.00 administrative fee.

Allowing a law enforcement agency to retain the revenue from enforcement creates a great potential for abuse. I believe strongly that the motivation for enforcement of speed limits should be safety, not increased revenue.

This bill creates a public policy dilemma that I cannot support.

Sincerely,
//Howard Dean, M.D.,
Governor

Governor's Veto Sustained
H.434, 1995

The Governor's Veto was overridden in the House:
Yeas: 126 **Nays:** 18

The Governor's Veto was sustained in the Senate:
Yeas: 19 **Nays:** 10

Sources: *Journal of the House* , April 14, 1995 (pages 1159-1161); *Journal of the Senate*, April 14, 1995, (page 762-763)

Veto Message: Governor Dean
1996 (S.318)
An act relating to the nature and extent of offenses that may disqualify a person from being a waste management professional.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 3, 1996

The text of the communication from His Excellency, the Governor, whereby he *vetoed* and returned unsigned **Senate Bill No. 318** to the Senate is as follows:

Honorable Robert H. Gibson
Secretary of the Senate
State House
Montpelier, VT 05602

Dear Bob:

I am returning herewith unsigned and within the time limit set out by the Constitution, S.318, relating to the offenses that may disqualify a person from being a waste management professional.

I have decided to veto this bill because it is legislation directed at a single individual. It effectively 'pardons' a person who has been convicted of a crime involving illegal disposal of solid waste in spite of the fact that he continues to engage in the solid waste business and he has not yet complied with the conditions of probation which were ordered by the court almost five years ago.

Sincerely,
/s/Howard B. Dean
Howard B. Dean,
Governor

Governor's Veto Sustained
S. 318, 1996

The Governor's Veto was sustained in the Senate:
Yeas: 13 **Nays:** 8

*Note: The veto is sustained lacking the necessary two-thirds majority vote to override.

Sources: *Journal of the Senate*, May 3, 1996 (pages 1833-1834)

Veto Message: Governor Dean
2000 (S.237)
An act relating to minors and alcohol.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 29, 2000

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Kate O'Connor, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-ninth day of May, 2000, he returned without signature and vetoed a bill originating in the Senate of the following title:

S. 237. An act relating to minors and alcohol.

Text of Veto Message

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned Senate Bill No. 237 to the Senate is as follows:

May 29, 2000
David Gibson
Secretary of the Senate
State House
Montpelier, Vermont 05602

Dear David:

I am returning S. 237, An act relating to minors and alcohol, because of my objections described below.

Senate bill 237 contains some good provisions. License certificates and non-driver IDs of a person under the age of 2l must be a unique color. This would help prevent the sale of alcohol to those underage. Further, it requires that all photo licenses issued to operators under 30 must contain a magnetic strip identifying date of birth. There is mandated training for store clerks and a state sponsored study of what other states have done to stop underage purchasing. I want to commend the members of the Senate General Affairs and Housing Committee and the House General, Housing & Military Affairs Committee for their hard work on this bill to try to make it harder for minors to acquire alcohol.

I am concerned about some of the other provisions of this bill. The bill decriminalizes the penalties for the sale of alcohol to minors if the sale is made during a sting and if it is a first offense. It was always my understanding that this bill would only decriminalize some stings against grocery store clerks. At no time was it mentioned to me that this bill would also decriminalize stings against bars. It is clear, however, that Section 1 of this bill also decriminalizes stings against bars.

Although it may not have been intended that the decriminalization provision of this bill be extended to cover stings against bars, I have been informed that the language in the bill does exactly that. Section 1 of the bill decriminalizes certain stings against "an employee of a licensee." Title 7 V.S.A. §§ 2(10), 2(19), 2(22), and 2(28), define licensees by class. All stings against licensees, therefore, are affected by the decriminalization provisions of this bill. Section 1 of the bill as written therefore seems to minimize the seriousness of the sale of alcoholic beverages to minors in a bar at a time when we are continuously increasing enforcement efforts in this area.

Given my concerns about the provisions of S.237, I am returning this bill unsigned and with objections in writing to the Senate pursuant to Chapter II, § 11 of the Vermont Constitution.

Sincerely,
/s/Howard B. Dean
Howard B. Dean,
Governor
HD/dmr"

Governor’s Veto Sustained
S.237, 2000

The Governor's veto was sustained in the Senate:
Yeas 6, **Nays** 18
(the necessary override two-thirds vote not having been attained).

Sources: *Journal of the Senate Vol 2*, May 31,2000 (pages 1692-1694)

Veto Message: Governor Dean
2002 (S.151)
An act relating to abandoned motor vehicles.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 28, 2002

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Kate O'Connor, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fifteenth day of June, 2002, he returned without signature and vetoed a bill originating in the Senate of the following title:

S. 151. An act relating to abandoned motor vehicles.

Text of Communication from Governor

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned Senate Bill No.151 to the Senate is as follows:

June 14, 2002
David Gibson
Secretary of the Senate
State House
Montpelier, VT 05602

Dear David:

I am returning S. 151, an act relating to abandoned motor vehicles, because of my objections described below.

Senate bill 151, as passed by the Senate and as originally reported on the House floor, was a very good and much needed bill. I appreciate all the work that went into crafting this bill to address the issues identified by law enforcement and DMV to improve the current abandoned vehicle statute. I want to thank the House and Senate Transportation and Appropriations committees, the Senate Finance committee and the many people that worked on this bill. I am sure that the intended result of all was a better process to deal with abandoned motor vehicles. Unfortunately, the bill as passed does not achieve that result.

Under existing law, an abandoned motor vehicle is a "a motor vehicle without claimed ownership for thirty days." This statute provides a means to dispose of abandoned vehicles. Absent the statute, communities and landowners are stuck in the frustrating position of not having any way of moving or disposing of abandoned cars and trucks.

On the basis of recent experience, the number of abandoned vehicles processed by DMV will continue to increase. The average number of vehicles abandoned had been around 175 but, over the last two years, roughly 300 vehicles a year must be dealt with. Testimony before the various Legislative Committees suggested that there is a very high level of underreporting and that the actual number of abandoned vehicles towed would approach 1000. Finally, it is important to note that approximately ninety percent of abandoned cars and trucks are removed from private property.

In S. 151 as passed, the definition of "abandoned motor vehicle" was narrowed. It now would only include those vehicles remaining "on public or private property or on or along a highway without the consent of owner or person in control of the property for any period of time *if the vehicle does not have a valid registration plate or ascertainable vehicle identification number.*" (Emphasis added.)

Since virtually all motor vehicles have an ascertainable vehicle

identification number, there will be few, if any, vehicles that will fit this definition. As a result people could do nothing about most abandoned vehicles left on their property.

This bill specifically provides that its provisions do not preempt any municipal ordinances on the subject. The municipalities could continue to remove such vehicles; however, disposal of them would be complicated if not impossible.

Unfortunately, the bill as passed also repeals DMV's current authority to investigate ownership of the vehicle, notify the owner, and dispose of the vehicle. This would prevent removal and subsequent disposal of such vehicles. Rather than improving the present procedure, S. 151 now leaves the state with no process or authority to deal with this growing problem.

Although I do not believe it was the intent of the General Assembly to cause the bill to create these problems, given the problems created by S. 151, I am returning the bill unsigned and with objections in writing to the Senate pursuant to Chapter II, §11 of the Vermont Constitution.

Sincerely,
/s/Howard B. Dean
Howard B. Dean
Governor
HD/rr

Governor's Veto Sustained
S.151, 2002

The Governor's veto was sustained in the Senate:
Yeas 2, **Nays** 23
(the necessary override two-thirds vote not having been attained).

Sources: *Journal of the Senate Vol 2*, June 28, 2002 (pages 1673-1675, 1679)

Veto Message: Governor Douglas
2003 (H.26)
An act relating to candidate qualifications

STATE OF VERMONT
Executive Department.
Montpelier, Vt., May 21, 2003

Message from the Governor

A message was received from His Excellency, the Governor, by Mr. Neal Lunderville, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House of Representatives that on the twentieth day of May, 2003, he returned without signature and vetoed a bill originating in the House of Representatives of the following title:

H.26 An act relating to candidate qualifications

Communication from the Governor

May 20, 2003
Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, Vermont 05602

Dear Mr. Milne:

I am returning H. 26, An Act Relating to Candidate Qualifications because of my objections described below.

The Vermont Constitution, Chapter II, section 15, and Vermont's current election law pertaining to representatives, 17 V.S.A. §1892, state that "no person shall be elected a representative or senator until the person has resided in this state two years, the last of which shall be in the legislative district for which the person is elected." House Bill 26 proposes to clarify the residency requirement by adding a provision that precludes an individual from running for a seat in the General Assembly "until he or she has resided in this state for two years immediately preceding his or her election, the second of which shall be in a municipality in the senatorial district" or "in a municipality or that part of a municipality in the representative district."

Although intended to clarify the residency requirement found in the Vermont Constitution, my objection to H. 26 is that the addition of the "immediately preceding" language may have the effect of limiting the candidacy of individuals beyond what was intended by the framers of the Vermont Constitution. I am particularly concerned when I compare the §15 provision to §23 of Chapter II that establishes the qualifications of the Governor and Lieutenant Governor. Section 23 expressly provides that the four-year residency requirement for Governor and Lieutenant Governor must be for "four years next preceding the day of election." When the framers intended that a residency requirement run consecutiviely and prior to an election, that intent was clearly spelled out.

In my twelve year tenure as Vermont's Secretary of State, I adhered to the philosophy that ambiguity in the law with regard to candidate qualifications should be decided in favor of the candidacy. Such an approach is in keeping with Vermont's longstanding tradition of democracy and the constitutional provision that a citizen has both the right to elect officers and to be elected. By its clarification of the residency requirement, which is admittedly subject to differing interpretations, H. 26 errs on the side of restricting a candidate's ability to run. If a candidate should run and win an election, a challenge to the qualifications of the elected member because he or she may have resided in Vermont at some time in the past, but not immediately preceding the election, can be taken. The General Assembly, without

question. has the final authority to determine that election and the qualifications of the member elected. In my view, the voters should be afforded the first opportunity to discern the significance of the nature of one's residency on a candidate-by-candidate basis at the polls.

Based on my objections as outlined above, I am returning the bill unsigned and with objections in writing to the House pursuant to Chapter II, §11 of the Vermont Constitution.

Sincerely,

/s/James H. Douglas
Governor

Governor's Veto Sustained
H.26, 2003

The Governor's veto was sustained in the House:
Yeas 44 **Nays** 85
(a 2/3 vote of 86 needed to override the veto)

Sources: *Journal of the House*, May 21, 2003 (pages 1410-1412) and May 22, 2003 (pages 1487-1488)

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Douglas
2003 (S.114)
An act relating to access to juvenile proceedings

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 6, 2003

Message from the Governor

A message was received from His Excellency, the Governor, by Mr. Neale Lunderville, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fifth day of June, 2003, he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S.114 An act relating to access to juvenile proceedings

Text of Communication from Governor

June 5, 2003

David Gibson, Secretary
Vermont State Senate
State House
Montpelier, Vermont 05602

Dear Secretary Gibson:

I am returning S. 114, An act relating to access to juvenile proceedings, without my signature because of my objections described below.

First, however, I would like to commend the General Assembly for its work on S. 114 as it pertains to providing expanded access to victims in juvenile prodeedings. The bill found an appropriate balance between the rights of minors to confidentiality in those proceedings while providing victims with the important opportunity to address the court and the minor in the appropriate cases.

I am returning the bill without my signature because of the provisions of Section 9 that amend Vermont's current laws pertaining to the sealing of records in both delinquency proceedings and proceedings in which a minor is determined to be in need of care and supervison. I understand the intent of Section 9 was to simplify, for the minor, the procedure for the sealing of court records in these proceedings. S. 114 achieves its objective by changing the process from one that is presently initiated by the court or the minor who was the subject of the proceeding to one that is automatically initiated by the court in all cases. The changes in S. 114 will have other consequences that, although probably unintended, raise sufficient policy issues relating to child protection and law enforcement that I am unwilling to allow the law to go into effect without a more thorough examination of the implications of S. 114 than was afforded in conference committee when Section 9 was added.

Under current law, when the court orders these records of a juvenile proceeding to be sealed, it has the discretion to determine the scope of the order. In other words, the Court may order that the records to be sealed will be only the court's records or that the records to be sealed will include those enumerated in 33 V.S.A., sections 5536 and 5537. Section 9 of S. 114 removes this descretion and requires that the court order "shall" include all the records enumerated in sections 5536 and 5537 which include law enforcement records and arguably any records prepared by SRS in a child protection investigation. Any party to a proceeding to seal the records who may have a legitimate argument that the scope of the order should be limited will no longer have a basis to advance that argument under S. 114. Further, the court appears to no longer have the discretion to limit its own order in the

appropriate cases.

Juvenile court records, while confidential under current law, are nevertheless available to SRS and other state agencies for legitimate purposes. For example, the parties and the court in assessing a parent's prospects for rehabilitation often rely upon records in CHINS proceedings involving child abuse and neglect. Under S. 114, an order sealing these records would automatically be entered when the child turns 18 and that order would most likely prohibit the department from relying upon prior CHINS adjudications in any subsequent dealings with the parents that might arise with other minors in the household. It would also seem to deprive the court of access to information in its own records in subsequent child-custody proceedings. The most troubling outcome will be if SRS loses its ability to protect a child from abuse at the hands of a perpetrator with a past history of abuse that was once available to the department but is now lost because that record was automatically sealed under Section 9 of S. 114. It is most unlikely that the legislature intended this outcome when it passed this bill. It is an outcome that I am persuaded could occur and one I am unwilling to risk by signing this bill into law.

Based on my objections as outlined above, I am returning the bill unsigned and with objections in writing to the House pursuant to Chapter II, §11 of the Vermont Constitution.

Sincerely yours,

/s/James H. Douglas
Governor

Entered on the Calendar for Notice, June 19, 2003, first item of business when Senate reconvenes January 6, 2004.

Governor’s Veto Sustained

S.114 2003

The Governor's veto was sustained in The Senate :

Yeas: 0 **Nays:** 28

Sources: Journal of the Senate, May 30, 2003 (pages 1697-1699) and Journal of the Senate, Vol 1 January 7, 2004 *(pages 28, 32)*

Veto Message: Governor Douglas 2004 (H.780)
An act relating to insurance.

Communication from Governor

"Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, Vermont 05602

Dear Mr. Milne:

I am returning H. 780, *An Act Relating to Insurance,* without my signature because of my objections described below.

H. 780 proposes to amend 23 V.S.A. §941 pertaining to. insurance against underinsured motorists and to change Vermont law _to increase some individuals' access to greater underinsured motorist insurance benefits. This bill was in response to the Vermont supreme Court's decision in Colwell v. Allstate Insurance Co., 2003 Vt. 5,819 .2ND 727 (2003). There the Court relied upon the specific statutory definition of ":underinsured" motorist and a comparison of insurance limits to find that some otherwise insured persons, in rare instances, might not recover underinsured motorist damages despite the unavailability of liability insurance proceeds from the at-fault driver.

I support the policy decision by the General Assembly to redefine underinsured motorist coverage to provide more coverage to injured motorist through amendment of 23 V.S.A. §941(f) in those instances presented by the facts of the Colwell case. In the conference committee on H. 780, however, a series of additional amendments were proposed to 23 V.S.A. §941 that were intended to reduce the likelihood of litigated coverage disputes and simplify the adjustment and settlement of claims for consumers. These amendments may have an opposite and unintended result.

Two of the added provisions, subsections (g) and (h), were added in conference committee in an effort to clarify in law which insurance companies are responsible for paying an insured's damages when multiple insurance policies might apply to insure a claim. I applaud the General Assembly's goal of simplifying the claims procedure and bringing predictability to coverage decisions, as these efforts will ultimately benefit bringing predictability to coverage decisions, as these efforts will ultimately benefit consumers through the avoidance of delay, confusion and litigation. These two subsections, however, effectively abolish the long-recognized distinction in insurance contracts between primary and excess coverage in favor of a unique legal requirement that all policies pay a pro-rata share of damages in every instance in which more than one policy covers an injured person. These provisions also seem to contemplate the payment of damages by umbrella policies under circumstances in which a claim on those policies has, to date been one of last resort. Moreover, no detail is provided on how to allocate payment responsibilities in the event of coverage disputes or how best to assure prompt settlements. The likely impact of all these changes in the allocation of risk is to increase premiums and potentially reduce the availability of such critical insurance coverage for Vermont consumers while giving rise to more frustration, confusion and delay in claims processing for injured motorists.

Equally troubling is the proposed amendment to §941(a) that would raise the deductible for underinsured motorist property damage coverage from $150 to $250 for those persons without direct damage coverage. The effect of the proposed amendment on persons with direct damage insurance, however, is unclear. The revised §941(a) proposed to increase these deductibles to the same amount as an insured' s collision or comprehensible deductibles, yet fails to amend a subsequent contradictory subsection the prohibits a deductible for those with just such direct damage coverage. This language raises significant concerns as to how to reconcile the Legislature's intent with these distinctly contradictory provisions.

It is with regret that I return this bill without my signature. I thank the General Assembly for its work on this important issue. I have directed the Commissioner of Banking, Insurance, Securities and Health Care Administration to consult with interested parties prior to the next biennium and to advise the General Assembly and me on how best to address the concerns raised by the Colwell decision.

Sincerely,
/s/ James H. Douglas, Governor"

Governor's Veto Sustained

H.780, 2004

The Governor's Veto was sustained in the House:

Yeas: 5 Nays: 121

*Note: The veto is sustained lacking the necessary two-thirds (84) majority vote to override.

Sources: The Journal of the House, Vol 2, May 20 2004 (pages 1930-1931), and June 16, 2004 (pages 1934-1936).

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Douglas
2005 (S.74)
An act relating to the allocation of the assets of the state teachers' retirement system of Vermont, the Vermont state employees retirement system, and the Vermont municipal employees' retirement system.

STATE OF VERMONT
Executive Department.
Montpelier, Vt., March 17, 2005

Message from the Governor

A message was received from His Excellency, the Governor, by Mr. Neale Lunderville, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the seventeenth day of March, 2005, he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 74. An act relating to the allocation of the assets of the state teachers' retirement system of Vermont, the Vermont state employees retirement system, and the Vermont municipal employees' retirement system.

Text of Communication from Governor

The text of the communication from His Excellency, the Governor, thereby he voted and returned unsigned **Senate Bill No. 74** to the Senate is as follows:

March 17, 2005

The Honorable David A. Gibson
Secretary of the Senate
State House
115 State St., Drawer 33

Montpelier, VT 05633

Dear Mr. Secretary:

I am returning S.74, *An Act Relating to the Allocation of the Assets of the State Teachers' Retirement System of Vermont, the Vermont State Employees' Retirement System, and the Vermont Municipal Employees' Retirement System*, without my signature pursuant to Section 11 of Chapter II of the Vermont Constitution.

S.74 proposes to create the Vermont pension investment committee (VPIC), to oversee the investment of the assets of the three public retirement systems. The VPIC would be a nine member committee that includes representatives from each of the current retirement Boards. Under S.74, all of the trustees serving on the Board for the municipal system are authorized to vote for the trustee who will represent that system on the VPIC. But S.74 only allows one-half of the trustees serving on the Boards for the State employees' and Teachers' systems to select their respective representatives to the VPIC. I find this prospect to be counter to the fundamental democratic principle of one person, one vote.

At present, the State Employees' Board has eight trustees—four trustees who are either active or retired state employees, two Commissioners from the Administration, one Governor appointee, and the State Treasurer *ex officio.* Similarly, the Teachers' Board has six trustees--three who are either active or retired teachers, one Commissioner from the Administration, the independent Commissioner of Education, and the State Treasurer, *ex officio.* During my eight years as State Treasurer, I served on all three Boards as an *ex officio* trustee. I found that my fellow trustees understood the importance of their fiduciary duty to manage the pension assets and were able to work together in a non-political fashion as they discharged those responsibilities.

S. 74, however, proposes to create two distinct and unequal classes of trustees on two of these Boards--those who are eligible to select the VPIC members and those who are not. The bill provides that two members and one alternate are to be "appointed by the Vermont state employees' association and the Vermont retired state employees' association trustees of the board of the Vermont state employees' retirement system." This means that four of the eight trustees on the

State Employees' Board will have no say in the selection of the VPIC members.

Similarly, the bill provides that two members and one alternate are to be "appointed by the teacher and retired teacher trustees of the board of the state teachers' retirement system of Vermont," meaning three of the six trustees on the Teachers' Board will be denied the opportunity to select the VPIC members. Restricting the right to select the VPIC members to only those trustees who are either retired state employees, teachers or retired teachers reinforces a labor-management split on a committee where an individual trustee's fiduciary duty to the retirement system and to taxpayers should supercede his or her affiliation.

Service on any of the Boards requires a tremendous commitment of time and pre-meeting preparation. In my experience, not every trustee is willing to commit the necessary time to the task nor is every trustee equally interested in the investment management, as opposed to the benefits management, function of the Boards.

The selection of the VPIC members, however, is of paramount importance to the State of Vermont. This committee will oversee the investment of the assets of all three retirement systems, which comprise an investment portfolio in excess of $2.6 billion. Our objective should not be to force a particular politically motivated outcome for the Board representatives, which is exactly what S.74 does. Our objective should be for the full membership of the existing Boards to make this important appointment decision together and to choose the most qualified individual trustees to serve on the committee.

Some have argued that giving the full Boards a say in selecting the trustees to represent their respective Boards on VPIC will deny employees and teachers a seat on the committee. If one looks at the current composition of the Boards, however, it is clear that the employees and teachers hold 50% of the seats and that not all of the remaining seats are controlled by the Administration. For example, the State Treasurer, an independently elected state officer, serves on each Board, and I have no doubt his vote will reflect the independent nature of his position. Further, it was my experience that the Boards can work together well and are capable of ultimately reaching a decision that is in the best interest of the systems.

I wholeheartedly support the concept of unitization of the systems' assets for investment purposes. Over the years, the systems have "unitized" several of their common functions and generated substantial savings. Before I left the Treasurer's office, the systems had combined to contract with one actuarial firm, one custodian bank and one pension consultant firm. I understand that the Boards are currently working together to hire common money managers for certain sectors of investments. Simply put, legislation is not necessary for achievement of our common goal to reap savings through unitization. It is happening now without this bill.

Although S. 74 may result in a less cumbersome unitization process by placing it in a single committee, that efficiency does not outweigh the democratic principle of one person, one vote. I look forward to working with the General Assembly to continue to achieve savings for the retirement systems in a manner that does not deprive the current trustees of a voice in selecting their own representatives. This goal could be achieved with a simple amendment to the bill so that it does not restrict a trustee's ability to cast a vote for the VPIC members.

Sincerely,

/s/ James H. Douglas

James H. Douglas

Governor

Governor’s Veto Sustained

S.74 2005

The Governor's veto was overridden in The Senate:

Yeas: 24 **Nays:** 3

(a two-thirds vote attained)

The Governor's veto was sustained in The House:

Yeas: 87 **Nays:** 57

(a two-thirds vote of 96 required)

Sources: Journal of the Senate Vol 1 March 15, 2005 (pages 247-249 and March 23, 2005 (page 267); Journal of the House Vol 1, April 1, 2005 (pages 469-471).

Office of the Vermont Secretary of State

Vermont State Archives

Veto Message: Governor Douglas;
2005 (H.524)
An Act Relating to Universal Access to Health Care in Vermont

STATE OF VERMONT
Executive Department.
Montpelier, Vt., June 22, 2005

Message from the Governor

Governor Jim Douglas today issued a formal 17-page message to the Clerk of the House outlining 23 principal reasons for returning without his signature, H.524 to the General Assembly.

The full text of the Governor's veto message follows.

Text of Communication from Governor

June 22, 2005

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, Vermont 05633-5401

Dear Mr. Milne:

I am returning H.524, *An Act Relating to Universal Access to Health Care in Vermont*, without my signature because of my objections described herein.

I remain fully committed to working collaboratively with all interested parties to achieve thoughtful and lasting reform of our health care system. Our system does face many complex and difficult challenges, but we must meet these challenges.

Overall health care spending in Vermont and the nation is

increasing at an unsustainable rate. Unless we take time to enact contemplative and meaningful reforms, higher health care costs are likely to result in a dramatically reduced public capacity to offer coverage in existing programs like Medicaid. These same pressures are likely to result in reduced employee participation rates, fewer private options and greater numbers of uninsured Vermonters.

Slightly more than 90 percent of Vermonters are insured, and while Vermont's insured rate is among the highest in the nation, I will not be satisfied until all Vermonters have access to health care coverage they can afford.

There is much that is commendable about Vermont's health care system—most notably the efforts of our dedicated providers—but there is still much that can be done to improve quality, enhance safety and lower costs.

As we move forward with necessary reforms, it is important that the means chosen to address these problems are consistent with the values and expectations of the people of this state, and are financially sustainable for the employees, employers and families paying taxes.

Accordingly, last year I set forth the principles that should guide efforts to achieve meaningful reform of Vermont's health care system:

- Our efforts to achieve universal access to affordable health care coverage for all Vermonters must include policies that reduce costs for Vermonters who are currently insured and struggling to keep up with ever-increasing insurance premiums.
- Meaningful health care reform must be comprehensive and patient-centered, putting decisions in the hands of doctors and patients, not politicians and bureaucrats.
- Our reforms must increase choices and encourage a significant degree of personal responsibility.
- Reform of both public and private health care coverage systems must be financially sustainable and supportive of a

prosperous economy.

I am pleased that the General Assembly agreed with many of my Administration's initiatives, which will result in real progress and help Vermont turn its attention back toward the need to lower costs.

Two related initiatives included in the fiscal year 2006 budget—the Chronic Care and Health Care Information Technology initiatives—will positively impact both the cost and quality of care delivered in Vermont over time. Both efforts have tremendous promise for improving Vermont's health care infrastructure.

Two provisions included in H.524—the Healthy Lifestyles Discount and the Consumer Price and Quality Information Program—would provide incentives for individual Vermonters to engage in healthy behavior, give them the tools they need to make cost-effective choices about health care and also help drive down cost and improve quality.

I regret, however, that in most other respects H.524 falls far short of my Administration's goals and principles for meaningful health care reform.

H.524 would create a new, government-run, taxpayer financed health care program that would lead Vermont toward a system of fewer choices, fewer benefits and fewer health care providers.

H.524 would also impose new payroll taxes on small businesses and non-profit organizations, and a regressive income tax surcharge on the working poor to finance the limited health care coverage it proposes. Such a financing mechanism punishes low and moderate-income workers who are least able to afford these regressive taxes.

This health care tax proposal would be extraordinarily harmful to Vermont's small businesses and economy, and fails to account for the necessary revenue needed for its intended expansion in future years. Moreover, throughout the legislative process concerns of health care providers, private sector employers, individual

residents, and Executive Branch officials were ignored.

The bill also fails to address the so-called Wal-Mart issue.

In fact, the Legislature's proposal creates a tax scheme that benefits Wal-Mart sized multi-state and multi-national corporations at the expense of Vermont's small, homegrown businesses.

The measure fails to adequately define key phrases and intent, calls for unrealistic and unfunded demands on government personnel and leaves far too many questions unanswered.

In addition, and somewhat ironically, H.524 calls for a study commission intended to justify the millions of dollars in decisions the Legislature has already made, actions it has already taken and decisions is appears destined to make.

Such a study—with predefined outcomes—does not constitute the collaborative discussion required to achieve meaningful and lasting reform. Such a study is also, if nothing else, an indication that this legislation has been advanced in great haste.

Finally, the bill would impose inflexible caps on our regional hospitals. These caps might well force these important health care and economic resources to reduce services and eliminate jobs.

The bottom line is that the numerous technical deficiencies and conceptual flaws of H.524—including an effort to commandeer Executive Branch functions—render it incapable of achieving its publicly stated goals.

These principal deficiencies are enumerated in greater detail below.

I. H.524 Would Create a Government-Run Program that Limits Health Care Choices

H.524 proposes to create a new government-run program to provide taxpayer financed health care coverage to Vermonters. As a first step this program would begin in July 2006 by offering a "bare bones" policy of primary and preventive care for all

currently uninsured Vermonters.

The bill's schedule makes clear, however, that the legislation is intended to offer primary and preventive care for all Vermonters by July 2007, hospital and primary and preventive care to all Vermonters by October 2008, and comprehensive benefits to all Vermonters by July 2009.

The result of the legislation would therefore be a system of insurance dominated by the government that competes with, and eventually eliminates, private health insurance options—an outcome with particularly negative consequences for the thousands of Vermonters currently covered by comprehensive private insurance plans.

II. H.524 Would Increase Premiums for Vermonters with Private Insurance and Hurt Providers

During the three-year transition from the current coverage system to the full government-run program, Vermonters left in the private market will face higher and higher premiums as more and more costs are shifted from the Legislature's plan to individuals paying insurance premiums.

If, as expected, the government's provider payments are less than health insurance provider payments the difference will be cost-shifted to those Vermonters who pay premiums. Such an exacerbation of the cost shift is fundamentally unfair.

Notwithstanding the words in the legislation that promise not to exacerbate the cost shift by providing "reasonable payments to health care professionals," the history of the Medicaid and Medicare programs demonstrates that a public health care program always underpays health care professionals. Additionally , the word "reasonable" is not defined to guarantee reimbursements that would in fact approach market rates.

The notion that this proposal would reduce the cost shift related to uncompensated care is incorrect. Vermonters paying premiums will see no relief from the extra costs embedded in their premiums to pay for care for the uninsured. The Legislature's plan will not

offer hospital care until 2008 at the earliest, a date subject to available state revenues and contingent upon various conditions and benchmarks established in the bill.

As the Legislature's proposal expands, less competitive reimbursement rates will make the recruitment and retention of doctors and other health care professionals increasingly difficult. As a result, Vermonters will have fewer options when choosing a doctor or other provider, and greater limitations on treatment and benefits. Sacrificing access to quality care is not an effective or desirable way to reduce costs.

In the end, this proposal would worsen the cost shift, increase costs for Vermonters who are currently insured, and reduce treatment options for Vermonters. Such results are counter to my goal of lowering costs and increasing access, and therefore unacceptable.

III. H.524 Leads to Health Care Rationing

Concentrated power in a dominant government program, combined with the financial pressures to meet the annual costs of coverage, will result in government rationing of health care under this proposal.

While there is some measure of truth in the assertion that all health care coverage systems contain some degree of "rationing" because no system can afford to provide unlimited health care benefits, a system where all participants (including patients, providers, and payers) face constraints and must be accountable to other participants, is far more likely to be responsive than a single government agency with near absolute power constrained only by the General Assembly.

Presumably, the reason for the minimal coverage offered at the outset is because that is all the General Assembly believes it can afford to offer, given the program's dependence on public financing. However, offering a minimal preventive plan has a limited cost containment benefit considering the fact that a majority of health insurance spending is for specialty care and hospital claims.

Nevertheless, similar decisions and trade-offs regarding the scope of benefits can be expected in the future as the program is forced to reduce benefits and treatment choices to fit expenditures within somewhat unpredictable annual state revenues.

IV. H.524 Hurts Local Hospitals, Reduces the Quality of Care and Costs Regional Jobs

One of the primary cost containment tools authorized by H.524 is an inflexible, annual cap on hospital budgets.

Based on the Legislature's formula, the cap could be as low as 3 percent in some years. This could result in salary freezes and layoffs, as well as the possibility of not allowing any medical technology purchases like new dialysis equipment or other advances that improve quality.

Expenditures, such as financing health care information technology systems that might very well save money, as well as improve quality in the long run, could be prohibited under the spending cap. This is deeply flawed public policy and counter to our efforts to enact reforms that lower costs and increase access.

Since the spending cap is also to be applied on a statewide basis, it will pit hospital against hospital, and region against region every year. It is possible that the largest hospitals would fare the best, winning a disproportionate percentage of the limited resources.

Ironically, the legislation seems to acknowledge some of the flaws identified above by offering the agency charged with administering and regulating the spending cap system the authority to adjust an individual hospital's spending cap based on "exceptional or unforeseen circumstances," and a further exception is made for "significant unbudgeted increase in volume." This sizeable loophole illustrates the failed reasoning behind arbitrary and inflexible caps.

Under the Legislature's proposal, residents of each region of the state would face the prospect of not knowing from year to year how the hospital they rely on will fare in its annual competition for

resources with other regions. If the spending cap is administered as strictly as it appears in the bill, it is likely that hospitals will be forced to dramatically reduce their services—forcing Vermonters to travel long distances for necessary treatment.

V. H.524 May Limit Where Residents Can Go for Care

The legislation also proposes a "global hospital payment" and "organizational structures that integrate the delivery of care" on a regional basis.

A global payment would likely require a defined territory for each hospital. Carrying this to its logical conclusion, it would mean that a resident in one region would be required to go to the hospital serving that area, and to a physician practice also located there.

Vermonters want to be able to choose the hospital where their child is born, and where they see their doctor—unfortunately, H.524 fails to account for this.

VI. Ultimately, Cost Increases Would Render the Program Unsustainable

It is highly unlikely that the proposed program could achieve any reasonable cost containment without jeopardizing the viability of community hospitals, lowering reimbursements to providers and forcing Vermonters into rationed care plans.

The burden on taxpayers of maintaining the program would as a result become unsustainable. Given the history of Vermont's other public health care program, this scenario is very possible.

This year Vermont faced an $80 million deficit in the Medicaid program. The structural problems in Medicaid have been apparent for many years, but the General Assembly has been reluctant to act until the problem reaches a crisis level.

Plainly put, it would be irresponsible to impose on Vermonters another government health care system with similarly unpredictable and unsustainable management and structural designs.

VII. Policies of the Past are not the Solutions of the Future
For more than a decade, the Vermont Legislature enacted many health care mandates over the objection of state regulators and others who expressed concerns about the cost of health insurance.

Many of these decisions, as predicted by the same regulators, have resulted in fewer choices and higher health insurance costs—moving Vermont further from its goal of universal access to affordable health insurance coverage. In many ways, most notably in the intent to create a new government-run system, H.524 is a continuation of this failed public policy.

VIII. H.524 Imposes Punitive Payroll and Regressive Income Taxes
The health care coverage proposed by H.524 is financed by punitive payroll taxes on small businesses and non-profit organizations, and a highly regressive income tax surcharge on individuals who presently cannot afford health insurance.

While the tax rates may seem relatively low at the outset, the legislation makes clear that it will quickly expand its scope and offer broader benefits to all Vermonters by 2009. The Legislature's proposal would, at a minimum, need new tax revenue sufficient to pay for the cost of their yet to be defined health care benefits in 2009.

The greatest burden imposed by the individual income tax surcharge will be on those uninsured Vermonters least able to afford the tax. While some may not be covered because they have not yet enrolled in Medicaid, most are not covered because they simply cannot afford it. It therefore follows that they cannot afford a tax increase.

Many of the uninsured also work for small businesses that cannot afford coverage. It makes little sense to increase taxes on these low and moderate income Vermonters, and offer in return an extremely limited policy that fails to offer some degree of protection from catastrophic health care expenses.

IX. H.524 Helps Wal-Mart Size Business and Hurts Small

Homegrown Business
Small businesses are a crucial economic engine for Vermont's economy. They will suffer if unreasonable taxation stifles growth in this sector. Furthermore, imposing a payroll tax on small employers with slim profit margins is likely to result in lower wages for low and moderate-income employees, further exposing the regressive nature of the proposed tax.

Contrary to the oft-stated view of some legislators that large, retail employers are the primary culprits for the plight of uninsured Vermonters, survey data show that small businesses with fewer than 25 employees constitute the bulk of firms which do not offer coverage to their employees.

Consequently, a payroll tax on small businesses that can least afford to offer coverage and least afford to pay the new taxes will very likely force many of them to eliminate jobs, lower wages, or leave Vermont altogether.

Larger firms, like Wal-Mart, if they are even subject to this tax, are far more capable of paying it. As small homegrown companies close, larger multi-state and multi-national corporations stand to benefit significantly from the increase in market share.

State government cannot be all things to all people and still sustain a vibrant economy that allows individuals and small businesses the freedom and flexibility to pursue their own non-governmental pursuits and create jobs.

X. H.524 Jeopardizes Other State Services

The fiscal risks of the approach taken in H.524 for taxpayers and non-health care state programs alike are enormous. The Legislature's proposal would soon follow in the path of Medicaid and become the largest expense in the state budget, absorbing an ever-increasing share of tax revenues and denying resources to other priorities such as the environment, law enforcement and higher education programs, among others.

XI. H.524 Does Not Represent a True Consensus

H. 524 demonstrates a disappointing disregard for the need to

collaborate and reach a broad non-partisan consensus.

This bill would have benefited from the expert opinion and point of view of individuals, employers, health care providers and Executive Branch personnel. Instead, the Legislature chose to ignore much of this counsel.

For example, H.524 includes a provision mandating hospitals to charge uninsured Vermonters, no matter how wealthy, no more than the average discount rate of payment received from health insurers and other third party payers. This provision was approved by the General Assembly despite the apparent absence of formal committee testimony and deliberation.

If testimony from hospitals and hospital regulators had been taken, the General Assembly would have learned that there might be more appropriate and effective ways to address what the legislators believe to be a problem.

XII. H.524 Ignores the Technical Concerns and Sets Unrealistic Expectations of Executive Branch Agencies and Departments

Many other provisions of H.524 were approved by the General Assembly without serious consideration of the conceptual and technical concerns of the state agencies charged with implementing the bill.

For example, H.524 calls for the Office of Vermont Health Access (OVHA) to take the first steps needed to implement the new program in October 2005, to propose a budget for the plan in January 2006, to adopt payment methodology rules by February 2006, and to offer the benefit plan to uninsured Vermonters by July 2006.

The Tax Department is required by April 1, 2006 to create an entirely new tax system and program for the new payroll tax and the income tax surcharge, including the adoption of rules, the writing and printing of new and expanded forms, outreach and education to individuals and employers who would be paying the new tax, and actual collection of the new taxes.

H.524 calls for the Department of Banking, Insurance, Securities and Health Care Administration (BISHCA) to establish a new regulatory program to implement the hospital spending cap and global budget law, and to develop mechanisms to monitor whether employers are dropping coverage of employees because of the new government program.

Each of these agencies repeatedly expressed explicit concerns to the General Assembly that the time lines and expectations imposed by H.524 were unrealistic, and that the agencies charged with implementing the new programs had not been appropriated the resources needed to accomplish the intent of the legislation.

H.524 also includes an extraordinary grant of authority to the Legislative Commission on Health Care Reform. According to the bill, all Executive Branch agencies would be obligated to "report to the Commission at such times and with such information as the Commission determines is necessary to fulfill its oversight responsibilities." This constitutes unlimited power to demand whatever information, services and analysis the Commission wants from the Executive Branch, regardless of the cost or demands upon staff resources and implications for other essential programs.

These are not issues of health care policy debate, or matters of partisan dispute, yet the General Assembly refused to listen and ignored the facts, choosing instead to push ahead with great haste.

XIII. Provisions of H.524 Ignore the Traditional Separation of Powers

The Vermont Constitution, Chapter II, Article 3, provides that the Governor and his or her Executive Branch agencies shall exercise the executive power of the State of Vermont. Portions of H.524 appear to cross the line separating the legitimate lawful role of the Legislative and Executive Branches of government.

One section of H.524 confers on the Legislative Commission on Health Care Reform the power to use $20 million in taxpayer funds beginning in 2007 to issue requests for proposals, and to

administer grants for the development of “integrated systems of care” pilot projects. This section goes far beyond the traditional and appropriate role of the Legislative Branch.

H.524 also exhibits a desire by the General Assembly to discount the expertise of the Executive Branch in health care policy. The reform of Vermont’s health care system is too important to be left only to the Legislature. Real reform requires the collaboration of the Legislative and Executive Branches of government, employers, health care providers, and individual Vermonters who will be affected.

XIV. H.524 Refuses to Recognize the Role of the Executive Branch in Reform

H.524 creates the Legislative Commission on Health Care Reform and delegates to the Commission the critical functions of the Legislature’s plan, in particular a series of studies intended to justify decisions already made, actions they have already taken and decisions they intend to make.

The studies to be conducted by this Commission are crafted in a manner that would appear to have a preordained result—a new government-run, taxpayer financed health care rationing plan.

The economic impact study directs a comparison of their proposal with the effect of the current system, without including in the comparison more realistic and responsible reforms that have been proposed. Furthermore, it is irresponsible to hastily impose a new system of taxation without first studying its full economic impact.

The financing study is designed to focus on public, taxpayer financing as the preferred means of financing health care in Vermont and suggests a reluctance to consider alternatives.

In addition, the General Assembly had a choice of whether to include on the Commission members appointed by the Governor on an equal footing, and individuals from outside of government. The General Assembly chose to constitute the Commission with eight legislators.

The Executive will appoint two members, but these appointees are considered so insignificant that they are not given any authority to vote on the critical decisions of the Commission. No private individuals or health policy experts were included.

Broad representation and participation is not only fair, but also would have made the process of health care reform far more likely to succeed.

If the General Assembly seeks a health care reform outcome that will be successful, and that reflects a broad consensus among the many individuals and groups affected, it must include all interested parties in the dialogue.

Instead, the General Assembly has appropriated to itself $775,000 to create a legislative bureaucracy and fund a public relations campaign promoting the preordained outcome of its studies.

XV. H.524 Would Not Reduce Administrative Costs Because it Fails to Account for ERISA, Medicare & Medicaid

In 2003, 27 percent of Vermonters were insured by ERISA plans that are exempt from state regulation, and 35 percent of Vermonters were insured by Medicare or Medicaid.

Even if the Legislature's plan offers a comprehensive benefit to all Vermonters by 2009, federal ERISA law still allows large employers to design and fund their own employee benefit plans, and Medicare and other federal coverage programs will still exist.

As a result, there is unlikely to be any reduction in administrative costs at the level anticipated by advocates of new or consolidated government health care programs; a multi-payer system will still exist. For the same reasons, it is likely that cost shifting to other Vermonters will continue to be a problem.

XVI. H.524 Would Lead to Numerous Legal Challenges

The sections of H.524 outlining the limited benefit regime provide that "an individual aggrieved by an adverse decision" has a legal right to appeal the decision to the Human Services Board.

While the section lacks a reasonable degree of specificity as to the standards and process for review, presumably this means that any beneficiary who wants a health care service, or services, not covered by the Legislature's plan may appeal the decision to the eight-member Board.

In addition, any hospital or specialist physician that believes they should be paid more than the Legislature's plan allows can seek higher compensation through the same process. Likewise, any pharmaceutical company that wants its drugs to be covered by their proposal will also have a legal right to seek a better deal.

Needless to say such a process could result in unnecessary and unreasonable increases in the programs expenditures, and substantially higher legal fees for the state—an observation that further exposes the unrealistic cost containment claims of this proposal.

XVII. Definitions of "Uninsured" and "Resident" are Too Vague

In H.524 the definition of "uninsured" is very vague, and the definition of "Vermont resident" is very broad.

An uninsured Vermonter might include someone who decides to drop his or her existing coverage to join the artificially less expensive government plan. As a result, individuals with self-insured and private market plans will experience higher costs as Vermonters migrate to it. Unfortunately, as the limits of the government plan become apparent to those who switch, there will be fewer and fewer affordable options to return to—eventually the only option for those individuals may be the government's rationing program.

Also, if Vermonters insured in the private market decide to drop current coverage, or if businesses decide to drop coverage and pay the tax instead, or if residents from out of state decide to move to Vermont in order to receive expensive treatment not covered by insurance in their home state, there may be many more individuals enrolled in the program than estimated, and revenues may be inadequate to pay for their coverage without

raising tax rates.

XVIII. The Negotiated Payments Section is Flawed

H.524 contemplates that payment amounts will be "negotiated" with hospitals and health care professionals. The section as approved by the General Assembly is an unclear and flawed concept.

What if OVHA and the hospitals, and health care professionals cannot reach an agreement? It does not appear that the legislation delegates to OVHA the authority, at the end of failed negotiations, to set a payment amount.

Does this mean OVHA is obligated to pay providers whatever they want? Or does it mean that OVHA will set a payment amount, but the hospital or health care professional is authorized to appeal the decision to the Human Services Board? Could a basis for appeal be that OVHA failed to adequately consider the "actual costs" of the hospital or health care professional?

If so, this provision has the potential to be the source of significant medical inflation.

XIX. The Payroll Tax is Open to an ERISA Challenge

The payroll tax in H.524 is vulnerable to an ERISA challenge.

A plausible and persuasive claim can be made that because, as a practical matter, the tax will be imposed principally on businesses that do not offer health coverage, the tax is nothing less than a legal mandate to offer coverage, or to offer a higher level of coverage than the business would otherwise offer. ERISA prohibits states from requiring employers to offer health care coverage, or from requiring employers to offer a prescribed level of benefits.

XX. H.524 Payroll Tax Revenue Estimates are Incomplete

The revenue estimate of the health care tax on employers ($28.3 million in 2006) is a conservative approximation. The analysis is restricted only to private employers offering no health insurance, and should also include the application of the tax on entities that offer a low level of health insurance at a cost less than the 3

percent tax.

In addition, it is difficult to determine how many firms offering health insurance to their employees will be affected by the tax, and how much additional revenue will be collected. More time should be taken, and more in-depth analysis conducted, to evaluate the impact of the payroll tax on Vermont's small businesses and non-profits, and to develop a more accurate estimate of the revenue that will be raised from the tax.

XXI. H.524 Income Surcharge Tax Revenue is Likely Overstated

The administration has found that assumptions of income growth in the uninsured population are too high and the assumed growth in the base due to increases in the uninsured pool is likely to be far too generous. Therefore, the revenue estimate of $15.6 million from the income tax surcharge is very likely overstated.

By utilizing more conservative assumptions of income inflation (1 percent vs. 3.2 percent) and income growth resulting from increases in the number of uninsured (assuming only 80 percent of new uninsured have a positive Adjusted Gross Income), the revenue estimate could be overstated by as much as $2 million.

As with the payroll tax calculations, and other areas of this bill, this legislation would have benefited from a more complete analysis of the income tax surcharge on the low and moderate income Vermonters who would be obligated to pay it. Likewise, the Legislature should have developed a more accurate estimate of the revenue that will be raised from the tax.

A key unresolved question for the income tax surcharge is how it addresses the many individuals who are not required to file income returns. H. 524 would impose a health care tax filing requirement on virtually every resident who is subject to income tax, regardless of whether they are required to file under the current tax code.

Many individuals who work may not have a current requirement to file. Many individuals who file are not required to file except to

obtain a withholding refund. Also, many people with low Adjusted Gross Income are required to file because of low thresholds for certain types of income. For example, married couples are usually not required to file if their gross income is less than $15,900, but a couple with $400 of self employment income is required to file, even if they have no other income. More thought should have been given to these, and other, implications—and the resulting complications—before moving forward with a regressive income tax surcharge on the working poor.

XXII. H.524 Calls for an Unrealistic Insurance Policing System

H.524 directs BISHCA to "monitor whether persons who enroll in the Green Mountain Health insurance program were formerly covered by health insurance, and whether former insurance was self-paid or paid by an in-state or out-of-state employer."

The legislation does not, however, indicate how this monitoring activity is to be accomplished, what resources are available to conduct such activity, or what authority has been conferred on BISHCA to carry out this task.

XXIII. H.524 Contains Many Other Poorly Designed Provisions

The Pharmacy Cost Control section of the legislation, proposes a statewide preferred drug list (PDL) to include all Vermont health benefit plans. There is no certainty of any savings here, especially for the Medicaid program, because the number of Vermont-only lives will not generate the same rebates as the Medicaid pool that Vermont participates in that now includes ten states and 3.5 million lives.

In addition, Pharmacy Benefit Managers (PBMs) serving other Vermont insurers may not be able to duplicate rebates for all products in a single, Vermont PDL if they are not able to pool lives from other, out-of-state lines of business.

The legislation also proposes negotiating with manufacturers for lower prices including negotiating supplemental rebates. Approval of Vermont's supplemental rebates by the federal Centers for

Medicare and Medicaid Services (CMS) prohibited using Medicaid to leverage rebates in any other program including publicly funded programs. CMS has since allowed that they will consider permitting the inclusion of publicly funded programs but there has been no response to the formal request, and approval is unlikely for coverage for state employees or coverage under other state programs.

The Pharmacy Benefit Management section of the bill is modeled after legislation enacted in Maine. The Maine law is the subject of a pending lawsuit claiming that the statute violates the federal ERISA law. Litigation in Vermont can therefore be anticipated.

PBMs have been very effective at consolidating consumer and payer bargaining power to achieve cost savings through negotiations with pharmaceutical manufacturers. While many individuals argue that PBMs have abused their market power, PBMs claim that directives such as the Maine law will cost consumers more. It would be more responsible to take the time needed to fully evaluate the impact of this section on Vermont's health care costs.

Conclusion

We are indeed very fortunate to have a medical community that provides high quality care; and when we need them most, they are there for us. The doctors, nurses, nurse practitioners, aides, technicians, and the administrative staffs at our hospitals, practices and clinics are intelligent, competent, hardworking, and dedicated to providing the highest quality patient care possible.

Complementing our primary care system is a family of community health services, and pro bono services so that no one who needs immediate care is turned away for lack of insurance.

Vermont must, however, continue to confront a serious health care crisis. Health care costs are simply too high for many Vermonters. For working families and their employers, insurance premiums have skyrocketed while low cost options are being eliminated as insurance providers abandon Vermont's burdensome regulatory regime.

Patients are at risk of losing more direct control of their care and government is already failing to reimburse doctors and hospitals for the cost of treating the nearly one in four Vermonters covered by the state Medicaid program. As a result, those costs are shifted to the overwhelming majority of Vermonters who pay escalating private insurance premiums.

Vermont has the second most generous Medicaid program in the nation, and as a result we are headed for an unsustainable, multi-million deficit in the Health Access Trust Fund. This deficit represents a serious threat to the most vulnerable Vermonters who rely on this program and the taxpayers who fund it.

The worst thing we could do is rely entirely on expanded government programs for reform, a course that would cause Medicaid, and perhaps the health care system as a whole, to crumble under the burden of its own weight. Instead, we must save Medicaid in a responsible way and develop reforms that will lower costs, improve quality and achieve universal access to affordable health care coverage.

True reform must be comprehensive. We need to do more than just change the financing method. If costs continue to increase at the current rate, it won't matter what pocket the money comes from because they'll all be empty.

We need to tackle the root causes of rising health care costs, open our system up to low cost options, encourage healthy decisions and preventive care, and attack health concerns at their inception. And we need to maintain a patient-centered system that offers more individual choice and keeps health care decisions in the hands of patients and doctors, not government bureaucrats.

Working together, universal access to affordable health insurance is a goal we can achieve in our state, but H.524 moves Vermont in the wrong direction.

Therefore, based on my objections to H.524 as outlined above, and others, I am returning the bill unsigned to the House pursuant

to Chapter II, §11 of the Vermont Constitution.

Sincerely,

James H. Douglas
Governor

Sources: Governor's Office Press Release 6/22/05

Governor's Veto Sustained

H.524 2005

The Governor's veto was sustained in The House :

Yeas: 81 **Nays:** 63

(a two-thirds vote of 96 required)

Sources: Journal of the House Vol 2, June 4, 2005 (pages 1928-1945); and Vol 1, January 4, 2006 (pages 37-61)

Office of the Vermont Secretary of State
Vermont State Archives
Veto Message: Governor Douglas

2006 (S.18) An act relating to liability resulting from the use of genetically engineered seeds and plant parts.

Text of Communication from Governor

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 18** to the Senate is as follows:

"May 15, 2006

David Gibson, Secretary

Vermont State Senate

State House

Montpelier, Vermont 05602

Dear Secretary Gibson:

I am returning S.18, *An Act Relating to Liability Resulting From the Use of Genetically Engineered Seeds and Plant Parts*, without my signature because of my objections described herein.

I respect how passionate the arguments are around the issue of genetically engineered crops and the work of the Legislature in attempting a compromise. Rather than find a middle ground between the competing interests, S.18 may promote litigation between neighboring Vermonters and may saddle seed manufacturers and local distributors with greater business risk. If the history of commerce is any guide, those risks will be passed on to our farmers in the form of higher prices or restricted access to genetically engineered seeds. I cannot endorse such an outcome by signing S.18.

S.18 in its final form is particularly regrettable. The House-passed bill, predicated upon an actual Vermont court case involving a Vermont farmer and an out-of-state manufacturer of an agricultural input, was clearly a better path and one that I could have supported. The ruling by U.S. District Court Judge William Sessions in Mainline Tractor & Equipment Company, Inc., v. Nutrite Corporation, 937 F. Supp. 1095 (D. Vt. 1996) declares Vermont farmers to be consumers – an enviable status in a business contract dispute – and allows Vermont farmers to seek to recover "future economic losses" on any of the many products that they purchase for their operations. I speak in the present tense because the court's ruling still applies, and therefore still protects, Vermont farmers in any suit filed in federal court.

The House version would have settled unequivocally that the Mainline Tractor decision provides the same protection in any suit filed in state court. Had the conference committee recommended that option to the

General Assembly, we could have struck a true balance between the interests of conventional farmers and the interests of those opposed to the technology at issue. I would likely be signing a bill that would have protected the interests of all farmers, rather than rejecting one which seems intent on stigmatizing an emerging and promising technology, threatening to undermine our recently strengthened Right to Farm law, and encouraging expensive lawsuits against our farmers and those who sell them their seeds.

This disapproval should not be misinterpreted as a judgment of the worth and value of Vermont's organic farms and markets. I am proud of the nearly 400 certified organic farms in Vermont. Ten percent of Vermont's dairies and 36,000 acres of hay and pasture, as well as a high percentage of Vermont's vegetables, are now farmed or grown organically. Clearly, this form of production has worth and value to all who support a vibrant agriculture. As Governor, as a Vermonter, I want our organic farms to thrive and multiply.

I am equally proud of our conventional farmers who have adopted the use of genetically engineered seeds in order to increase their profitability and to further the environmental sustainability of their farms. These seeds improve crop yields and thereby reduce costs. They replace pesticides and thereby remove toxins from our environment. They allow less tillage during planting and thereby minimize soil erosion and the transport of phosphorous to our lakes and rivers. Less tillage also means a farmer has lower energy costs for diesel and gasoline.

Nearly all of Vermont's soybean acres and 29% of Vermont's corn acres were planted to some variety of genetically engineered seed last year. Our farmers have clearly demonstrated their need for these more expensive hybrids. Although the proponents of S.18 argue that it would not get in the way of farmers' choices, S.18 will, at a minimum, increase the business risk for manufacturers and thereby increase costs for Vermont's seed distributors and farmers.

I understand the arguments of those who claim that genetically engineered crops pose an economic risk to those who do not want to use them. The experience of organic farmers in the marketplace, however, does not support the fearful hypotheses of those who would restrict the use of these seeds. The public testimony before the General Assembly indicated that no organic farm has ever lost its U.S.D.A. certification, or its organic market, anywhere in the nation, because its crops were found to contain genetically altered pollen. The proponents have cited no actual case of physical or economic damage, and to sign this bill would ratify a claim that is, I believe, without substance.

The proponents of S.18 further claim that our conventional farmers need the protection of S.18 because the contracts that they sign when they purchase these seeds "force" them to accept "all of the liability for damages" and to indemnify the manufacturers of the seeds for any economic judgment. A review of a standard seed contract reveals no such "indemnification" language. These contracts are substantially similar to standard contracts for other agricultural products used by farmers. To sign into law a bill founded on a faulty legal premise and that might well encourage the very legal actions against which the bill pretends to protect farmers, makes no sense.

S.18 decrees that the mere presence of genetically engineered pollen on a neighbor's property shall constitute "substantial and unreasonable interference with the use and enjoyment" of that property if damages exceed $3,500. Although there is no credible scientific evidence to suggest that genetically engineered pollen is any more or less dangerous than pollen that is genetically modified through traditional hybridization, S.18 creates a novel standard for litigation akin to a "strict nuisance liability." In this case, the pollen has merely to drift onto a neighbor's property and cause some alleged damage to that neighbor's "use and enjoyment" of that property. Even though the bill attempts to create a barrier to frivolous lawsuits, our legal history suggests that no such barrier will prove to be an impediment for the determined.

Ironically, S.18 does not create a similar standard of strict nuisance liability for any of the myriad other arguably hazardous compounds, such as insecticides and herbicides, which we have, by law and custom, decided to allow in our society. The standard of "strict liability" has long been reserved for compounds or acts that are truly and inherently dangerous. The scientific and economic evidence regarding the use of genetically engineered crops is to the contrary. Despite this evidence, S.18 clearly implies that genetically engineered seeds pose a danger and applies this special standard inappropriately.

No one in Vermont wants our farmers to be the subject of litigation. Curiously, S.18 does not do the one thing that its proponents proclaim it will do--protect farmers from mischievous or depredatory lawsuits. S.18 targets the manufacturers of genetically engineered seeds by providing that "no person shall be liable to a manufacturer" because of the effect that genetically modified seeds, used properly, may have on the property of another. There is nothing in S.18 that explicitly protects Vermont farmers or Vermont seed distributors from being sued by a neighboring farm, or anyone else who may claim injury. Nowhere in the bill is there a bar to legal action against a farmer who uses GE seeds, or protection from liability should a suit be filed. Unfortunately, what S.18 has done, and would continue to do if enacted, is needlessly divide our farming community.

Genetically engineered crops and organically produced crops are both here to stay. We need to work to find ways for both production practices to thrive, rather than continue to battle over the assignment of liability for a "harm" that is, as yet, both scientifically and economically unproven.

There is much in S.18 that I believe would be a good addition to Vermont law, specifically those provisions that were the substance of the House-passed bill. I support the purpose and intent of S.18 to promote the fair treatment for farmers in legal controversies, to confirm that farmers are consumers for the purpose of economic legal disputes, and to provide that Vermont law and Vermont courts should be used to govern lawsuits involving Vermont farmers.

I also support the provisions that require that all disputes under contracts for agricultural goods be decided using Vermont law, in Vermont courts and in the county where one of the parties lives and that the protections of the bill cannot be waived by a contract. These provisions can help Vermont farmers. I do not, however, support singling out one farming practice – the use of genetically engineered seeds and plant parts by Vermont farmers – and application of a special legal standard to that practice. It is, in fact, this attempt that I find so troubling, and that inspires my disapproval.

Vermont agriculture, while changing, is still largely a dairy agriculture. The American dairy industry is famously dynamic and intensely competitive. Fortunately, our dairy farmers are very good at what they do, and have a strong competitive position, whether they milk 40 or 400 cows, whether they farm conventionally or organically, whether they ship milk raw or make a fine cheese. As a state, we do more than most to help our farmers compete with their peers. Since states have little power to influence the price that farmers receive for their milk, Vermont focuses on helping our farmers reduce their costs of production. We have, for instance, reduced their property taxes substantially through an aggressive "current use" program, and reduced their costs of improving water quality through my aggressive "Clean and Clear" program.

Our farmers are affected more by macroeconomic factors than by any state program. Any action that puts them at a competitive disadvantage, vis-à-vis their peers, contradicts our efforts to help them sustain their farms and Vermont's farming tradition. Genetically engineered seeds have become an important agronomic and economic tool for many of our farmers. So long as the scientific community endorses their safety and the several national governments regulate their use, we should do nothing that would hinder a farmer's choice to use this tool.

We should not, of course, promote any technology that is known to be harmful to human health or the environment. As they should be, genetically engineered seeds are subjected to exceptional scientific scrutiny during development and equally exceptional government regulation prior to release. Scientific communities in the United States, Canada and Europe have investigated claims that genetically engineered pollen is dangerous to human health or the environment, and have concluded that genetically engineered hybrids pose no more risk, on either count, than do hybrids that have been genetically modified through traditional means.

The American Dietetic Association (ADA) recently renewed its endorsement of genetically engineered foods. In the February issue of the *Journal of the American Dietetic Association*, it stated its position "that agricultural and food biotechnology techniques can enhance the quality, safety, nutritional value, and variety of food available for human consumption and increase the efficiency of food production, food processing, food distribution, and environmental and waste management."

Vermont farmers work hard, and generally ask little in return but the opportunity to make their own decisions, according to the law and their own consciences. The overwhelming preponderance of independent scientific inquiry finds that genetically engineered crops are a benefit to humans and the environment. The experience, to date, of those who use, and those who choose not to use, these crops has shown no adverse economic consequences from pollen drift. If there is no documented human or environmental danger to the use of genetically engineered seeds, no documented economic losses by those who farm without them, and if there is competent regulation of the companies that produce them, our State should not stigmatize this technology by adopting S.18 that could simply make it tougher for farmers to farm.

In sum, I believe that this bill will do nothing to actually promote the success of organic agriculture in Vermont, but will signal to the world that Vermont cares little about scientific opinion, legal precedent, and its conventional farmers' competitive position.

I believe that Vermont will forever be a diverse agricultural state, and is all the better for that diversity. To remain so, however, we must continue to allow our farmers to adopt new practices and technologies, whether they be organic methods or genetically engineered seeds. Years of successful experience by the seed industry have taught us that identity-preserved plants of many kinds – whether they yield certified seeds or organic foods – can indeed be produced in the same neighborhood. This requires a sense of shared responsibility amongst farmers.

On this matter, Vermont now has a choice before it, one that is entirely appropriate to the season. After several years of futile skirmishing, we must now move beyond this campaign and greet the prospects of a new crop season in Vermont with common sense and tolerance, just as farmers themselves have for countless generations. We can choose to continue this battle over a technology, or we can choose to sit down at the table, as we did early in my administration, and find a way to co-exist. I choose the latter.

Sincerely,

/s/ James H. Douglas
James H. Douglas
Governor

JHD/dsy"

No vote to override the Governor's Veto

The Senate and House met briefly on June 1, 2006. Aware that an override was not possible, the general assembly cast no vote and let the bill die.

Sources: The Journal of the Senate, May 10, 2006 (pages 1872-1877).

JAMES H. DOUGLAS
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 17, 2006

Donald Milne, Clerk
Vermont House of Representatives
State House
Montpelier, VT 05602

Dear Don:

I am returning H.865, *An Act Relating to Nondiscrimination*, without my signature because of my objections described herein.

Discrimination in Vermont is unacceptable and our state has a long, healthy and proud history of acceptance and tolerance. H.865 makes significant revisions to all of Vermont's anti-discrimination laws in order to include, as a protected class, individuals who do not conform to sexual stereotypes. The bill defines the protection as one based on "gender identity or expression," or, as described by its proponents, to individuals who express their gender in a non-traditional fashion, either through self-identification with a particular gender, or through appearance, expression or behavior regardless of one's sex at birth.

I am concerned that H.865 did not receive the kind of careful scrutiny and study that would be expected prior to making major modifications to Vermont's anti-discrimination laws—laws that not only afford protection to protected classes but laws that subject employers, public accommodations and others to legal liability. This concern was shared by a minority in the House who, on February 28, 2006, asked unsuccessfully that the bill be returned to the House Judiciary Committee for further study.

Our current anti-discrimination laws have, to date, provided protection to the individuals who would be covered by the provisions of H.865. The Vermont Attorney General's Office has filed charges alleging discrimination under current law in two cases where transsexual complainants have alleged discrimination on the basis of their gender identity. The jurisprudence around the country on this issue is developing and the Attorney General's position has found support from courts in other jurisdictions. Those cases, however, have addressed the issues in fact-specific scenarios involving either transsexual or transgendered individuals. The definition of gender identity and expression in H. 865 is ambiguous and potentially more far-reaching, however, and raises many questions with regards to its breadth, its implementation and its enforcement.

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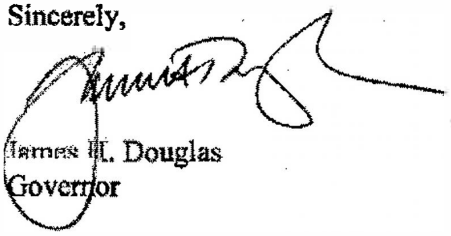
The proponents of H.865 argue that the bill is necessary to provide fair notice and clarity to Vermonters, Vermont businesses and employers, and Vermont's places of public accommodation, that it is unlawful to discriminate against an individual who may express his or her gender in a non-traditional manner. Whether H. 865 provides that clarity, or just raises more questions, is an issue with which some lawyers, and indeed, the Vermont Human Rights Commission responsible for its enforcement, are struggling. It would be inappropriate and unfair to every employer, landlord, provider of public accommodation, lender and school to put a law on the books that creates new obligations and liabilities, while many who would advise them are struggling with the bill's terms and scope.

Sincerely,



James H. Douglas
Governor

JHD/sy

2006

H.865 Veto Session:

Governor James Douglas vetoed House Bill 865, An act relating to nondiscrimination. The veto session was held on June 1, 2006. No action was taken on the veto by the House or Senate. Gaye Symington of Jericho presided as Speaker and Brian Dubie of Essex as Lieutenant Governor. The House session started at 10.00 A. M. and adjourned at 10.05 A.M.

Sources:

Office of the House Clerk website:
http://www.leg.state.vt.us/HouseClerk/Vetosessions.htm

H. 302 An act relating to fiscal year 2007 budget adjustment

Communication from Governor

"April 3, 2007

The Honorable Donald G. Milne Clerk of the House
of Representatives State House

Montpelier, VT 05633-5401

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.302, An Act Relating to Fiscal Year 2007 Budget Adjustments, without my signature because of objections described herein.

Achieving the prosperity and peace of mind we desire for every generation of Vermonters requires that we take steps now to moderate the cost of living in Vermont—including the cost of higher education.

Scholarships are immensely important to Vermont families, Vermont's institutions of higher learning, and Vermont's continued economic growth. Accordingly, for some time I insisted that funding for scholarships be included in the Budget Adjustment bill – which is the most appropriate and most timely vehicle for this initiative.

The reluctance of the controlling majority of this General Assembly to embrace scholarships has been both astonishing and disappointing. After more than a year of discussion, their unwillingness to pass scholarships expeditiously is equally astounding. Such intransigence reflects a fundamental, and widening, divide between the priorities of this majority and working families.

Scholarships are an important investment in the future of our state, and Vermonters have embraced this initiative. They make college more affordable and accessible for more working families and help address the enormous demographic challenges facing our state, by enticing college-bound students to stay in Vermont after college graduation.

Legislative leaders knowingly abandoned an opportunity to include funding for scholarships in the Budget Adjustment bill and ensure that scholarships are available to Vermont students who are now making their decisions about which college to attend this fall, or whether they can afford to attend college at all.

In order to ensure the economic security, prosperity and peace of mind we desire for every new generation of Vermonters, we must take more aggressive steps—like providing scholarships that make Vermont more affordable.

I respectfully request that the General Assembly immediately pass a new budget adjustment bill that provides scholarships for Vermont students. If you do so, I am confident that those students, their parents, and all who care about the security and prosperity of this great state will thank you.

Sincerely,
/s/James H. Douglas
Governor"

Governor’s Veto Sustained

H.302 2007

The Governor's veto was sustained in the House :

Yeas: 96 **Nays:** 52

(a two-thirds vote of 99 required)

Sources: The Journal of the House, April 3, 2007 (pages 484-485) and April 5, 2007 (pages 542-543).

OFFICE OF THE GOVERNOR

Official Statement of the Governor on S.164

An Act Relating to Campaign Finance

Wednesday, May 30, 2007

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am vetoing S. 164, An Act Relating to Campaign Finance.

I had hoped this session to sign a meaningful campaign finance reform measure and continue to support reforms that do not advantage incumbents, set reasonable contribution limits, establish timely and transparent reporting requirements and reflect Vermont's values and commitment to free speech. Unfortunately, a thorough analysis of this bill reveals considerable flaws that threaten to undermine the integrity of Vermont's election processes and the core values that for more than 200 years have governed them.

The proposed individual and party contribution limits extend a form of political protection to incumbents, establish an unfair and nearly insurmountable obstacle for challengers and would be a particular disadvantage to those of modest means who are unable to fund their own campaign. Vermonters want real reform that ensures truly level playing fields for incumbents and challengers alike a fundamental component of democracy.

At the statewide level, the political protection for down-ticket incumbents is very problematic. The contribution limits for these statewide offices are lower than those imposed for candidates for governor, even though the candidates must cover the same geographical area and have to reach the same number of voters. Additionally, increased restrictions on support for these candidates will make it extraordinarily difficult for a Vermonter who wishes to seek these public offices but who does not have significant personal wealth to mount a credible statewide campaign.

Vermonters run clean, honest and transparent elections and this bill would undermine that tradition by encouraging the swift proliferation of special interest political action committees (PACs). Unfortunately, this bill has the regrettable appearance of being written by special interest groups with their own self-interest in mind.

The proposed limits on the activity of parties will empower special interest groups whose independent actions and expenditures are unlimited and provide a platform for these well-financed, often out-of-state, organizations to run more ads and make more independent expenditures than ever before. An election system once predominantly financed by Vermonters would be influenced more significantly by special interest PACs. I do not believe this is the direction Vermonters want to move in or what anyone except the special interests would consider reform.

While I make no determination as to the constitutionality of S. 164, like the law rejected as unconstitutional last year by the Supreme Court of the United States, we can be certain that it would be challenged. The previous lawsuit took ten years to play out in court and may cost taxpayers nearly $1.5 million in fees to the prevailing attorneys alone. My decision today provides the Legislature with an opportunity to craft a measure that reflects a consensus among all stakeholders and makes further more costly litigation less likely.

I again extend to the Legislature my commitment to meaningful reforms that establish reasonable limits, establish fair campaign finance standards and enhance transparency. I look forward to working with the Legislature and all stakeholders next session to craft a bill that reflects the values of Vermont.

###

Jason Gibbs
Governors Communications Director

Governor’s Veto Sustained

S.164 2007

The Governor's veto was overridden in The Senate :

Yeas: 24 **Nays:** 5

(a two-thirds vote having been attained)

The Governor's veto was sustained in The House :

Yeas: 97 **Nays:** 50

(a two-thirds vote of 98 required; not attained)

Sources: The Journal of the Senate, July 11, 2007 (pages ?-?), and *The Journal of the House, July 11, 2007 (pages 1886-1887).*

JAMES H. DOUGLAS
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 6, 2007

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633-5401

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.520, *An Act Relating to the Conservation of Energy and Increasing the Generation of Electricity within the State by use of Renewable Resources* without my signature because of my objections described herein.

There is no question that doing our share to reduce carbon emissions is important. At the beginning of the session, I was hopeful that the Legislature-having joined me in identifying this issue as a priority-would put Vermonters first and work with me to pass bipartisan legislation that builds on the progress we have already made. Unfortunately, that was not the case.

H.520 as it passed the House was a good bill-a positive step forward for Vermont's energy future-and a bill that I would have signed into law. Unfortunately, despite my frequently voiced concerns, both public and private, an unnecessary and shortsighted tax was added to the bill. That tax is not in the best interest of Vermonters or the long-term economic and environmental security of our state.

***

Our small state is doing its part to combat climate change. Long before this Legislature began working on this bill my Administration had established climate change as a top priority. Joining the Regional Greenhouse Gas Initiative (RGGI); establishing new state energy and environmental purchasing policies; introducing hybrid technology and biodiesel into our vehicle fleet; pursuing clean air enforcement and strict automobile emissions standards in federal courts; expanding Vermont's renewable energy portfolio through grant programs and tax incentives; implementing green power pricing structures; and the work of my Commission on Climate Change are just a few examples of the steps we've taken.

In total, the work of my Administration to address climate change and promote environmentally responsible economic growth is more aggressive and far reaching than any previous Administration. It's about who we are-a clean, green, pro-business, pro-growth state. But I know there's more to do.

***

The vast majority of Vermont' s carbon emissions come from heating our homes and businesses and driving our cars and I began this session by introducing an agenda targeted at reducing these emissions[1].

Specifically, I offered an affordable and commonsense set of solutions to advance the use of biofuels in homes and businesses with a fuel rebate program and direct consumer incentives to purchase more fuel-efficient vehicles. Here we would have had a triple play: a kick -start to the bio- fuel industry, a reduction of carbon emissions and a reduction in our reliance on foreign oil. Unfortunately, and inexplicably, these proposals languished in the Legislature. Instead legislative leaders focused on creating a new, undefined government bureaucracy and levying an arbitrary tax to fund it.

The *Affordability Agenda* and my Administration's focus on fostering a favorable economic environment- one that embraces innovation, new investment and job creation in environmentally preferable industries - is central to securing our economic future. A major component of this bill-the tax proposal-is entirely inconsistent with these objectives.

A tax on the Vermont Yankee Nuclear Power Station in Vernon sends a chilling message to our current and prospective employers at the same time we are seeking to support and strengthen job creation. In addition, policymakers have an obligation to honor the commitments of previous Legislatures and treat all businesses fairly and honestly.

It is simply puzzling that the Legislature is proposing to tax a non-carbon emitting resource to pay for carbon producing efficiencies.

The Legislature has proposed that we risk increasing electric rates, undermining our power supply and damaging our business climate in the name of reducing carbon emissions. I reject the notion that environmental protection comes at the expense of economic development.

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[1] According to an analysis conducted by the Governor's Climate Change Commission, fuel use in homes and businesses in 2005 accounted for 30% of greenhouse gas emissions in Vermont, transportation accounted for 44% and electricity consumption accounted for 7%.

Our clean air and water and our commitment to environmental protection are integral to our economy—reasons many people want to live, work and raise their families in Vermont and why many people visit us each year. As I've said before, the choice we face today is not between jobs or the environment. It's a choice between both or neither. There has to be a better alternative to this tax—and I'm committed to finding it.

***

I cannot ignore the likely negative reaction by financial credit rating agencies that this arbitrary tax would trigger. All rating agencies use regulatory uncertainty as one of the metrics in evaluations.

The new and unanticipated predatory tax on a single company sends a chilling message not only to Vermont businesses but any company that might be interested in locating or even doing business here. Business people are smart, they expect that government policies will change in a macro sense over time but they cannot tolerate the unpredictability of a legislative body selecting an individual business, or even an entire industry cluster, and assessing a punitive tax against them. Business leaders cannot take a risk with a government partner they cannot trust; Wall Street cannot either.

***

I am also rejecting this bill because it creates an entirely new bureaucracy without sufficient deliberation or planning. Before rushing into the creation of a massive new bureaucratic entity—that might itself be inefficient and wasteful—analysis is necessary to determine its structure, costs and benefits.

Asking Vermont taxpayers to expend what could be an additional $15 million a year on an unknown and hastily planned bureaucracy is not sensible public policy. That is why my Administration offered during legislative deliberations to produce detailed recommendations on how best to achieve improved fuel efficiency. These recommendations would be based on a thoughtful methodology and involve stakeholders over the summer and fall. The unwillingness of the Legislature to engage in this process is startling. Nevertheless, my Administration will carry out this review. This is a far more responsible approach.

***

I recognize this legislation contains opportunities to move toward greater conservation and reduction of greenhouse gases. As I noted earlier, I support the House passed version

of the bill. That is why I have decided to implement the following items contained in H.520 administratively:

1. 25 x '25 — The Vermont Steering Committee for this national initiative will report Vermont' farm and forest capacity and work with the Administration to formulate recommendations for action to achieve our goal of having 25 percent of our energy produced from farms and forestland by 2025.

2. Smart Metering — In April, the Department of Public Service (DPS) requested the Public Service Board (PSB) to investigate opportunities for Vermont electric utilities to cost-effectively install advanced smart metering equipment. Workshops have been scheduled over the summer and deliberations before the board are scheduled this fall.

3. Conservation Rates — The Administration will review alternative rate designs within the context of the smart metering workshops underway by the PSB.

4. Self Generation and Net Metering — The Administration will request that the PSB consider the concepts of group net metering and size expansion in their current rulemaking on net metering.

5. Temporary Siting of Met Towers — The Agency of Natural Resources (ANR) will review and report on its current practices in siting meteorological towers under the Section 248 process.

6. SPEED — DPS will work with the utilities and other stakeholders to collaborate with neighboring jurisdictions to help ensure that the Sustainably Priced Energy Enterprise Development (SPEED) goals—a Vermont program run through the Public Service Board designed to encourage contracts for electricity between Vermont utilities and renewable project developers—are recognized as consistent and complementary to the Renewable Portfolio Standard (RPS) goals of neighboring states.

7. Technical Assistance — DPS will report on how best to assist those interested in developing renewable energy projects in dealing with the regulatory process.

8. Wind Assessment — The Agency of Administration and DPS will formulate a recommendation to meet the goal of creating a fair and predictable tax in lieu of the non-residential property tax for wind facilities while ensuring that there will be no negative impact on the Education Fund.

9. Business Energy Credit — The Agency of Administration and DPS will report on the best way to allow Vermont businesses to take advantage of the business energy credit component of the federal investment tax credit.

10. Permitting Small Hydro — DPS and ANR will provide a recommendation for a simple, predictable, and environmentally sound process for issuing a certificate of public good for mini-hydroelectric projects.

11. Water Quality Certification — DPS and ANR will provide a recommendation for a simple, predictable, and environmentally sound process for completing a water quality certification review for mini-hydroelectric projects.

12. Small Hydro Pilot — DPS and ANR will work with communities seeking to develop small hydro projects to facilitate those projects through the existing permit processes.

13. Report on SPEED — DPS will provide a status report on SPEED resources and the likelihood of bringing them into service in time to meet the standards.

14. Solar System Specialist — The Department of Public Safety will work with the Plumbers Examining Board to create a separate special category for people working in the solar heat collection trade.

15. Weatherization Report — The Agency of Human Services will work with stakeholders to create a five-year strategic plan with the purpose of improving the comfort, safety, and affordability of low-income housing and to reduce fuel use and greenhouse gas generation in that housing.

16. Electric Plan — DPS will take into consideration the environmental impacts, including those involved in the generation of greenhouse gases, in Vermont's existing Electrical Energy Plan.

7. State Energy Policy — Vermont's Energy Plan will consider environmental impacts and continuing reductions in the generation of greenhouse gases in the production or use of energy.

18. State Comprehensive Energy Plan — The plan will continue to include a comprehensive analysis and projections regarding the use, cost, supply, and environmental effects of all forms of energy resources used within Vermont and regarding all pollution, including greenhouse gases generated within the state and the state's progress in meeting greenhouse gas reduction goals. It will also include strategies to increase the efficiency in new buildings, to facilitate

weatherization in multiple dwellings, and to encourage the disclosure of a building's energy efficiency and weatherization needs prior to a sale.

19. Biodiesel Use — The Agency of Transportation (AOT), the Agency of Administration and DPS will provide recommendations on how to increase the use of biodiesel blends in state buildings and garages and in the state transportation fleet.

20. Energy Efficiency Mortgages — DPS will work with the Vermont Housing Finance Agency (VHF A) and the Vermont Economic Development Authority (VEDA) to report on the feasibility of establishing programs to support energy efficiency mortgages for residential and commercial buildings.

21. Study on Efficient Transportation — AOT will study ways to provide incentives for more efficient transportation.

22. Right to Conserve — The Agency of Commerce and Community Development (ACCD) will report on the extent to which private covenants within the state restrict the use of solar collectors, clotheslines, or other energy saving devices.

23. Workforce Development — The Department of Labor (DOL) will develop a green building, energy efficiency, and renewable energy workforce development plan in conjunction with current planning.

***

Additionally, I am committed to working with the Legislature next January to enact legislation that contains the following:

1. An amendment to the definition of "farming" to include the on-site production and sale of fuel or power from agricultural products or waste.

2. An expansion of the use of Agriculture Development funds to include wind and solar[2].

3. The creation of fair liability standards for Commercial Building Energy Standards for builders, architects and designers.

[2] These funds are currently designated to assist farmers in purchasing equipment, technology, or other assistance to produce agricultural energy mostly relating to biomass.

4. An addition of net metered systems to a list of alternative energy sources allowing residents to seek municipal tax exemptions for alternate energy sources.

5. An amendment to the definition of "new renewables" to include capacity expansion.

6. Language directing a retail electricity provider to pay the Vermont Clean Energy Development Fund an amount per kilowatt-hour as established by the PSB in lieu of purchasing renewable energy credits (REC's) to satisfy a RPS that would be applicable if SPEED goals are not met.

7. Direction for all Vermont utilities to implement a renewable energy pricing program or offer customers the option of making a voluntary contribution to the Vermont Clean Energy Development Fund.

***

It is truly regrettable that H.520 was poisoned by an ill-defined bureaucracy and an unnecessary tax that would undermine our economic security. There remain, however, opportunities for the Legislature to join me in advancing the conservation and renewable energy initiatives outlined above, as well as others.

There is also an opportunity to pursue improved fuel efficiency without creating a poorly contemplated, cumbersome bureaucracy funded by an arbitrary tax. There has to be a better way to achieve this shared goal and I am committed to finding it.

While we are already a national leader in energy conservation and efficiency and our emissions are a tiny fraction of those emitted by other states, we will continue to do more to combat climate change. That's the Vermont Way.

Sincerely.

James H. Douglas
Governor

JHD/jg

Governor’s Veto Sustained

H.520 2007

The Governor's veto was sustained in The House :

Yeas: 86 **Nays:** 61

(a two-thirds vote of 98 required)

Sources: Journal of the House, July 11, 2007.

Text of Communications from Governor

Re: AN ACT RELATING TO THE ELECTION OF U.S. REPRESENTATIVE AND U.S. SENATOR BY THE INSTANT RUNOFF VOTING METHOD

As it appears in the Journal of the Senate: *Tuesday, April 8, 2008.*

"April 4, 2008

The Honorable David A. Gibson
Secretary of the Senate
State House
115 State St., Drawer 33
Montpelier, VT 05633

Dear Mr. Secretary:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning **S. 108**, *An Act Relating to the Election of U.S. Representative and U.S. Senator by the Instant Runoff Voting Method*, without my signature because of objections described herein.

There are serious flaws with this proposal to alter Vermont's system of elections. This system has served the people of Vermont well for more than 200 years and is one I had the privilege of administering for a dozen years as Secretary of State.

This bill circumvents the fundamental democratic principle of one person, one vote. That is entirely unacceptable. The authors of our Constitution applied this standard – compelling each voter to choose the candidate for each office that she or he deems most qualified – to ensure that elections are in fact a clear choice.

The Attorney General's office has confirmed in a formal, written opinion that attempts to amend the law in order to apply the so-called Instant Runoff Voting (IRV) process to races for Governor, Lieutenant Governor and Treasurer would, in fact, be unconstitutional. While S. 108 would apply to the election of our U.S. Representative and U.S. Senator, this does not render the attempt to legislatively impose IRV democratically sound.

Our state Constitution provides a clear and effective mechanism for changes to its provisions. Voter approval, through the process set forth in our Constitution for its amendment, necessitates a statewide ballot that includes the voices of all Vermonters. If the Legislature proposes to fundamentally alter our election process, this is the procedure Vermont should follow.

Moreover, voters should not be asked to cast their ballots based on a wide range of hypothetical, theoretical or imaginary outcomes. Elections have always been, and ought to remain, contests among individual candidates and their ideas. Voters have always, and should continue to, cast their constitutionally protected vote for the individual for each office they believe would best serve Vermont.

In addition, the process offered by this bill cannot result in a candidate being the top choice of a majority of voters. It is mathematically impossible for the candidate chosen by the IRV process to receive a majority of first votes cast. In other words, use of an IRV system requires a significant number of second and third choices – not the voter's *real* choice – to be counted. It is therefore not valid to conclude, as the advocates and special interest groups do, that the winner of an IRV election would receive a majority of the vote.

Finally, this system would undoubtedly lead to backroom deal-making between candidates who urge supporters to vote for or against a second choice candidate if no one receives a majority. This would erode public confidence in the process.

This proposal would cause a deterioration of our time-tested, democratic and egalitarian electoral process. The current system has served the people of Vermont well for more than 200 years. There is no basis to make the democratically unsound change this bill proposes.

Sincerely,

/s/James H. Douglas

James H. Douglas
Governor”

Text of Communications from Governor

Re: AN ACT RELATING TO FINANCING CAMPAIGNS

As it appears in the Journal of the Senate: *Tuesday, April 8, 2008.*

"April 4, 2008

The Honorable David A. Gibson
Secretary of the Senate
State House
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Mr. Secretary:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning **S. 278**, *An Act Relating to Financing Campaigns,* without my signature because of objections described herein.

I was optimistic that after last year's veto we could come together to craft meaningful campaign finance legislation that establishes reasonable and responsible limits on contributions to candidates for public office – limits that do not favor incumbents whose advantage over challengers is undeniable. It is with great disappointment that I am unable to support this legislation because it does not address the flaws contained in last year's bill.

I continue to support campaign finance laws that do not give an advantage to incumbents and that set reasonable contribution limits, establish timely and transparent reporting requirements, and reflect Vermont's values and commitment to free speech. This bill still contains among its flaws a provision that would restrict political party contributions and therefore allow our elections to be controlled by outside special interest groups. I cannot allow that to happen.

After hearing from lawmakers that they wished to have my administration more directly involved during this session, I answered that request. While I have expressed a number of concerns with this legislation, I focused on two of the most problematic provisions. Unfortunately, the area of greatest concern – the limits on party contributions to candidates – was not addressed and remains at the core of my objection to this bill.

The proposed party contribution limits extend unfair political protection to incumbents by establishing an obstacle for challengers. These limits would be of particular disadvantage to potential candidates of modest means who are unable to fund their own campaigns. Vermonters want and expect real reforms that ensure a truly level playing field for incumbents and challengers alike – a fundamental component of democracy. This bill falls short of meeting that goal.

I had the privilege to serve as Secretary of State – Vermont's top election official – for 12 years and understand well the impacts of our election laws. While this bill does not directly affect me as a candidate for Governor, it would have unfair consequences for other candidates, especially those for the Legislature. Because of my continued commitment to protecting our election process, I cannot support this bill.

I am proud that Vermonters run clean, honest and transparent elections. This bill would undermine that tradition by limiting party involvement and encouraging the swift proliferation of special interest political action committees (PACs). PACs, by design, represent special interests. Political parties, however, are the very framework around which individuals of similar political beliefs can work together toward a common goal, a common good. Unfortunately, this bill favors the special interest over the common good. It has the regrettable distinction of being influenced by special interest groups with their own self-interest and not the public's interest in mind.

One of the bill's findings states that "in Vermont, campaign expenditures by persons who are not candidates have been increasing and public confidence is eroded when unidentified expenditures are made, particularly during the final days of a campaign." The proposed limits on the activity of parties would not lessen the amount of money spent in a particular race. Instead it would create a vacuum that candidates themselves would be unable to fill. The result would be the empowerment of special interest groups who are poised to fill this void. Their independent actions, fundraising and expenditures without the input, and worse, without the approval of the candidate, are unlimited. This provision would ensure that these well-financed, often out-of-state, organizations to run more attack ads and make more independent expenditures than ever before.

An election system once predominantly financed and organized by Vermonters would be influenced more significantly by special interest PACs. No candidate should be at the mercy of these groups. I do not believe that the voice of a candidate should be drowned out by the noise of special interests.

While I make no determination as to the constitutionality of S. 278, like the law rejected as unconstitutional by the Supreme Court of the United States, we can expect that it would be challenged. In fact, the winning attorney in Randall v. Sorrell has testified that this bill contains provisions that – in his legal opinion – are most certainly unconstitutional and would result in a challenge. The previous lawsuit took ten years to resolve in court and cost taxpayers nearly $1.5 million in fees to the prevailing attorneys alone. It is only prudent that as we face challenging economic times we not ignore the possible fiscal impacts of legislation we consider.

I do not believe this is the direction Vermonters want to move in or what anyone except the special interests themselves would consider reform. I again extend to the Legislature my commitment to establish campaign finance standards that are fair and enhance transparency.

Sincerely,

/s/James H. Douglas

James H. Douglas
Governor"

Governor’s Veto Sustained
S.278 2008

The Governor's veto was overridden in the Senate :

Yeas: 26 **Nays:** 4

Successfully obtained two-thirds vote necessary for override.

The Governor's veto was sustained in the House :

Yeas: 99 Nays: 51

Failed to obtain two-thirds vote necessary (100) for override.

Sources: Journal of the Senate, April 22, 2008, and Journal of the House, April 25, 2008.

JAMES H. DOUGLAS
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 7, 2008

The Honorable David A. Gibson
Secretary of the Senate
State House
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Mr. Secretary:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.373, *An Act Relating to Full Funding of Decommissioning Costs of a Nuclear Plant* without my signature because of my objections described herein.

The safety, reliability and affordability of the Vermont Yankee Nuclear Power Station (the Yankee Station) are the most important issues related to its continued operation.

I remain unwavering in my commitment to ensuring Vermont's best interests are represented and that in every discussion of our energy future the safety and reliability of this facility come first. That is why I called for an independent safety assessment and look forward to signing legislation supporting a comprehensive audit of the Yankee Station.

Vermonters need affordably priced power to grow the economy and create more and better paying jobs. As Vermont's employers have made abundantly clear, they oppose this legislation because it would unnecessarily and substantially increase the future cost of electricity on both businesses and families. I agree.

There is no doubt that increases in electricity costs slow economic growth and impair job creation, but rising electricity bills also impair the ability of working families to make ends meet.

Achieving prosperity through affordability will remain a core focus of my administration. At a time when growing the economy must be state government's top priority, I will not allow this legislation—or any other irresponsible legislation—to become law that would slow economic growth, or make our families less prosperous.

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I fully support ensuring that there is adequate funding for the total decommissioning of the Yankee Station by Entergy Nuclear Vermont Yankee (VY) whenever that should occur.

There are, however, existing procedures to accomplish this goal, and many of my additional objections to S.373 are directed at the intrusion of the General Assembly in a matter better left to the expertise and procedures of the regulatory system and to the quasi-judicial Public Service Board (PSB). Indeed, S.373 can be characterized as legislative activity that risks blurring the lines of Government at the state and federal level, resulting ultimately in an unnecessary duplication of time and resources.

Vermonters should know that VY is currently operating under a PSB order issued in 2002 that holds it responsible for the complete decommissioning of the Yankee Station. The anticipated cost of decommissioning is currently estimated to be $893 million. Today, approximately $425 million of that amount is in an established decommissioning trust fund.

Because the PSB anticipated that the decommissioning fund might not be fully funded at the time the Yankee Station ceased operation, the PSB authorized VY in that 2002 order to use a decommissioning method, referred to as SAFSTOR, in which the nuclear facility is placed and maintained in a safe storage condition while the decommissioning fund grows and the facility is decontaminated. SAFSTOR is a decommissioning method approved by the Nuclear Regulatory Commission (NRC).

Entergy Corporation, VY's parent corporation, is also obligated by that same PSB order to guarantee $60 million of operating costs after the Yankee Station's removal from commercial operation. This guarantee is Entergy's only responsibility for decommissioning type activities under the PSB order currently in effect.

S.373 purports to legislatively *after the fact* change the nature of this PSB order and to direct the outcome of a pending PSB docket, opened in January 2008, in which Entergy is seeking PSB approval to transfer the Yankee Station to another corporation, NewCo. The PSB's responsibility is to determine whether this proposed transfer is in the public good. The PSB is required by law to review several factors, including the financial stability and soundness, technical knowledge and competence, and generally the effect on Vermont if the transaction were to be approved.

The PSB has the authority and responsibility to impose conditions if the transfer is ultimately approved to ensure the public is protected. S.373, however, requires that the PSB determine, without the benefit of evidentiary hearings, "that the nuclear plant's decommissioning fund and other funds and financial guarantees available solely for the purpose of decommissioning are adequate to pay for complete and immediate decommissioning at the time of the acquisition..."

In other words, S.373 sets out to ultimately change the balance of public good in the pending PSB docket by demanding a payment in excess of $450 million, or its financial equivalent, if the transfer is approved. The General Assembly has substituted its judgment for that of the PSB and the NRC -- the two regulatory bodies that have the ultimate authority regarding these matters and who have not deemed it to be in the public's interest to order these payments to date.

The consequences of such a mandate are many. First and foremost, S.373 is built upon several false premises. Key among them is that S.373 is merely cementing in statute an obligation already owed by Entergy Corporation. This is simply not accurate. As noted above, the current PSB orders hold VY, not Entergy, fully responsible for the Yankee Station's decommissioning while Entergy is only responsible for a $60 million guarantee of funds to be committed to this process. In fact, if the NewCo transfer is approved by the PSB, responsibilities for decommissioning will remain with VY and Entergy's $60 million guarantee will be converted to letters of credit from an investment grade banking institution.

In addition, when the PSB allowed the sale of the facility in 2002, its order recognized that a great financial risk was being transferred *away* from Vermont ratepayers onto VY. The PSB stated:

> In today's Order, we approve the sale of Vermont Yankee and the associated commitment for the present owners to purchase 510 MW of power from the station until 2012. We do so for two primary reasons. First, we conclude that ENVY and ENO will be likely to operate the plant as well as, or better than, the current owners. Second, we find that, under most reasonably foreseeable scenarios, the transactions are highly likely to produce an economic benefit for Vermont ratepayers. Together, these findings lead us to conclude that the sale will promote the general good. . . In addition, the sale has the advantage of transferring to ENVY significant financial risks associated with continued ownership of Vermont Yankee. If the costs of operation increase (due to equipment failures, increased security or other reasons), ENVY will bear the additional expenses; Green Mountain, Central Vermont, and Vermont ratepayers will be shielded. Similarly, increases in the contributions needed to ensure decommissioning upon shutdown will not be passed on to Vermont consumers.
>
> - *Docket 6545, Order of 6/13/2002 at 3-4.*

In exchange for the transfer of risk to VY and the ability for it to use the SAFSTOR method to ensure funds are available for full decommissioning, Vermont ratepayers benefited by a $180 million sale price and a favorable Power Purchase Agreement between VY and Green Mountain Power Corporation and Central Vermont Public Service Company.

The Power Purchase Agreement has, and will, save Vermonters approximately $743 million from 2003-2012 based on past market prices and future market forecasts. It is reasonable to conclude that had Vermont regulators required Entergy Corporation to make contributions to the fund at the time of the sale instead of transferring the risk to VY, the terms of the Power Purchase Agreement would have been far less favorable to Vermonters.

S.373 also prematurely characterizes the decommissioning fund as "underfunded." Just last year, the Legislature mandated several studies in Act 160 that are currently being undertaken by the Department of Public Service. The studies will analyze the decommissioning fund to determine if there are any material weaknesses in the fund prior to the State's negotiations with VY when and if the Yankee Station is relicensed. These studies will be completed by year's end, and then we will have a factual basis for understanding the status of the decommissioning fund and acting in an informed fashion.

The Department has retained an independent financial expert who will study the many aspects of the financial obligations and capacity of VY to meet their commitments. The conclusions and recommendations from the responsible due diligence required by these studies is unknown because they are not yet complete. Instead of allowing the studies to conclude, the General Assembly chose to short-circuit a careful determination of the facts that may prove detrimental to Vermonters in the end. Whether it is prudent to require VY to make additional payments than those currently anticipated is a determination that I agree must be made--but not until all the facts are available on safety, reliability, and decommissioning.

Another reason that I will not approve S.373 is because of the General Assembly's unprecedented attempt to enact a new law that in fact would apply to an ongoing case before the PSB. Although it is not unusual for the General Assembly to share their concerns and opinions on matters pending before the Board through letters and public statements, I believe the General Assembly should not have attempted to go so far as to actually change the law, and hence the rules of the game, in the middle of an open docket.

Finally, the PSB was created by the Legislature to delve into highly technical matters and the intricacies of transactions like NewCo to determine whether they serve

the public good. It is through the evidentiary process, the written and oral testimony by experts in the field, and the crucible of cross-examination that the PSB makes its determinations. S.373 removes an important quasi-judicial decision from the body with the expertise, resources and authority to make it and instead allows legislative action to determine the outcome.

After careful consideration of the facts, I am returning S.373.

Sincerely,

James H. Douglas
Governor

JHD/pbb

* Note: Pocket Veto – The General Assembly adjourned May 3, 2003, 4 days before the veto message was received.

JAMES H. DOUGLAS
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 16, 2008

The Honorable David A. Gibson
Secretary of the Senate
State House
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Mr. Secretary:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.270, *An Act Relating to the Agreement Among the States to Elect the President by National Popular Vote* without my signature because of my objections described herein.

S.270 would fundamentally alter the presidential election method prescribed in the U.S. Constitution by having Vermont join an interstate compact requiring our Electoral College votes be awarded to the candidate who wins the most support nationally, rather than the candidate who wins the most votes in Vermont. I am not willing to cede Vermont's voice in the election, and ultimately in the operations of our federal government, to the influence and interests of larger states that would most assuredly prevail in all but the rarest occasions. This is precisely the imbalance the framers of our U.S. Constitution sought to avoid.

The U.S. Constitution unified sovereign states of diverse interests, and different sizes, as a single great nation. This achievement was the product of great intellects and great compromise. Over the course of the Constitutional Convention of 1787, every state parted with some demands. The least populated states, however, succeeded in ensuring that the influences of the most populated were not left unchecked. S.270 would contribute to the undoing of the delicate balance that the Electoral College maintains among the states.

The framers recognized the political imperative of equality among states in the processes governing the selection of officers in each branch of the federal government. They settled on, for example, a bicameral legislative branch with each member of one chamber representing the same proportion of Americans while giving each state an equal voice in the other. They sought the same balance in election of the executive.

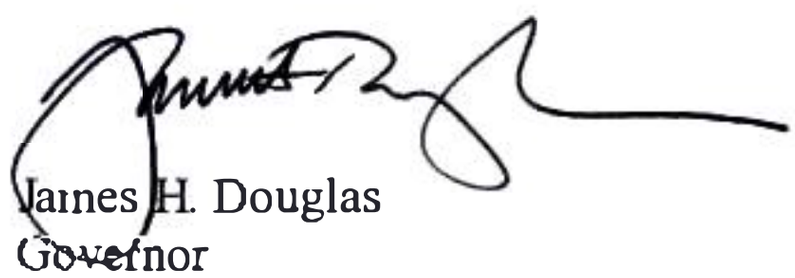
The Electoral College prevents the creation of a political aristocracy among states. The U.S. Constitution provides every state the sovereign power to determine how it selects its electors. It ensures that each state's point of view is accurately and fairly accounted for in a presidential election.

Presently, candidates seek popular support in every state, rather than just a simple national majority, and we are assured that campaigns will reach beyond states with the most voters. This bill would undermine the influence of small states and would inevitably focus the attention of candidates in only that combination of larger states where a majority of the national popular vote is virtually assured.

In addition, an interstate compact intended to circumvent the intentionally laborious process of amending the U.S. Constitution further undermines the world's most effective governing document.

Our nation is a coalition of states—each with a voice in the direction of the central government. The election of the president should be based on the decisions of each state. Ifwe retreat from this system, federalism the rights and influence of individual states will erode and move America closer to a single, centralized government where Vennont's values are drowned out by the voices and influence of more heavily populated areas.

Sincerely,



James H. Douglas
Governor

JHD/gkp

*Note: Pocket Veto – The General Assembly adjourned May 3, 2008, 13 days before the veto message was received.

JAMES H. DOUGLAS
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 22, 2008

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633-5401

Dear Mr. Milne:

Pursuant to Chapter II, Article 11 of the Vermont Constitution, I am returning H. 203, *An Act Relating to the Disposition of Property Upon Death, Transfer of Interest in Vehicle Upon Death, and Homestead Exemption*, because of my objections described below.

H. 203 revises and updates Vermont laws that determine the distribution of the assets of a deceased individual. I have no objection to the substance of the bill as I believe it makes positive changes and adds clarity to the rights of survivors and beneficiaries.

Unfortunately, H. 203 contains an anomaly, by operation of its effective date, that inadvertently creates a void in Vermont law for a six month period. It is for this reason that I must reject H. 203. Section 1 of the bill repeals three chapters of Title 14 of the Vermont Statutes Annotated. It then replaces those chapters with its new provisions in section 2 that are expressly made effective for the estates of persons dying after January 1, 2009. There is no effective date expressed in the bill for the remaining sections, including the section that repeals current law. By operation of 1 V.S.A. §212, a law takes effect on July 1 following the date of passage "unless it is otherwise specifically provided."

If H. 203 were signed into law, the repeal of current law will be effective on July 1, 2008 but the provisions that would replace it will not be effective for another six months, or January 1, 2009. Fortunately, this is an error that can be easily corrected and I encourage the General Assembly to take action to do so when it convenes in January, 2009.

Sincerely,

James H. Douglas
Governor

JHD/psy

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*Note: Pocket Veto – The General Assembly adjourned May 3, 2003, 17 days before the veto message was received.

JAMES H. DOUGLAS
Governor

State of Vermont
OFFICE OF THE GOVERNOR

April 6, 2009

The Honorable David A. Gibson
Secretary of the Senate
State House
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Mr. Secretary:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.115, *An Act Relating to Civil Marriage,* without my signature because of my objections described herein. I do so recognizing that this is an issue that is intensely personal, with strongly held beliefs and convictions on both sides. But I am charged by our Constitution to act on this legislation and by its return, I have fulfilled that responsibility.

The question of same sex marriage is an issue that does not break cleanly as Republican or Democrat, rural or urban, religious or atheist. The decision to support or oppose is informed by an amalgam of experience, conviction and faith. These beliefs are deeply held, passionately expressed and, for many legislators, infinitely more complex than the ultimate 'yea' or 'nay' required to fulfill the duty of their office.

On such an intensely personal issue as this, all members must do as their individual conscience dictates, with the best interest of their districts in mind. It is for those reasons that I have not sought to lobby members of my own party, or asked opponents to sustain my veto.

This legislation does not address the inequalities espoused by proponents. Regardless of whether the term marriage is applied, federal benefits will still be denied to same sex couples in Vermont. And states that do not recognize same sex marriage or civil unions will also deny state rights and responsibilities to same sex couples married in Vermont. This bill will not change that fact.

Vermont's civil union law has afforded the same state rights, responsibilities and benefits of marriage to same sex couples. Our civil union law serves Vermont well and I would support congressional action to extend those benefits at the federal level to states that recognize same sex unions. But I believe that marriage should remain between a man and a woman.

I hope that when the legislature makes its final decision, we can move our state forward, toward a bright future for our children and grandchildren. We still have a great deal of work ahead of us to balance our budget and get our economy going again and Vermonters are counting on us to work together to get the job done.

Sincerely,

James H. Douglas
Governor

JHD/pdc

Governor's Veto Overridden
S. 115, 2009
The Governor's Veto was overridden in the Senate:
Yeas: 23 **Nays:** 5
The Governor's Veto was overridden in the House:
Yeas: 100 **Nays:** 49
*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources: *Journal of the Senate*, April 7, 2009 [page 656 - 657 (online)]; *Journal of the House*, April 7, 2009 [page 605 – 607 (online)].

JAMES H. DOUGLAS
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 22, 2009

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633-5401

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.436, *An Act Relating To Decommissioning Funds of Nuclear Energy Generation Plants*, without my signature because of my objections described herein.

Many Vermonters are struggling as a result of the current recession and all are facing pressure from rising costs. While I do believe there are opportunities for operational improvements at Vermont Yankee, this legislation does nothing to increase protections for Vermonters, ratepayers or our state's economy. Rather, H.436 threatens our economic recovery by unnecessarily increasing electric rates for consumers and businesses. Further, this legislation substitutes an objective process with political calculations, it breaks a promise made by the state of Vermont to a private entity and it exposes taxpayers to certain litigation.

***

The safe and reliable operation of Vermont Yankee nuclear power station remains the most important issue surrounding the plant's future. To support that goal, my administration is working diligently with the Nuclear Regulatory Commission (NRC), stakeholders and the plant's owners to ensure the highest standards are achieved. Additionally, in the relicensing case currently underway, the Public Service Department (DPS) has filed a plan to provide funding into the decommissioning fund that adequately protects Vermont interests while not excessively penalizing the owners.

The NRC has completed a lengthy examination and review of the conditions in the plant, and concluded that, subject to some modifications in procedures, it meets the standards necessary to ensure safe operation moving forward.

Similarly, the State of Vermont recently completed a Comprehensive Reliability Assessment of the plant. With the help of consulting experts and under the scrutiny of a Public Oversight Panel, the plant's reliability has been deemed to meet the standards necessary for continued reliable service if the recommendations of the Comprehensive Reliability Assessment and Public Oversight Panel are carried out by Entergy Nuclear Vermont Yankee.

As we ensure the highest levels of safety and reliability at Vermont Yankee, we must also consider the conditions under which Vermont Yankee is allowed to conduct business. It is critical, therefore, that we consider the financial benefits that are provided by the plant's operations – namely, affordable power, a favorable revenue sharing agreement, and economic support for the region and state.

Finally, we must not lose sight of the fact that Vermont Yankee provides a source of power with relatively low carbon emissions, thus helping to limit our greenhouse gas emissions. Now that the cost of carbon is a part of the price that consumers pay for electricity, losing this source of power from our regional portfolio would likely lead to higher costs for ratepayers.

***

Vernon, Vermont has been home to the Vermont Yankee nuclear power station since 1972, and it currently provides approximately one-third of the state's power. Initially owned by a consortium of Vermont utilities, Vermont Yankee was later sold to Entergy Corporation in 2002 during which time all the financial parameters of the plant's operation until March 21, 2012 in relation to the state were established by order of the Public Service Board (PSB). The plant was sold for $180 million and the output of the plant was sold back to Vermont utilities under an economically favorable long-term power purchase agreement.

It was understood that Entergy, pursuant to an NRC finding of fund adequacy, would not make financial contributions to the decommissioning trust account and that the SAFSTOR method of extended decommissioning was permissible. The PSB ruled that there was significant value to ratepayers by getting a lower price for power as opposed to continued contributions to the fund and in transferring the risk of increased decommissioning costs away from ratepayers.

Beyond the sale and associated benefits to ratepayers, Vermont Yankee supports the region with over 600 high paying jobs, helping to infuse money into the local, state and regional economies, as well as additional tax revenue for the state. The Clean Energy Development Fund receives millions of dollars each year from Entergy to fund renewable projects throughout the state. In addition to local impacts, Vermont Yankee is responsible for providing power to neighboring states through the regional grid.

Our state has one of the greenest and cleanest energy portfolios in the nation. Our forested lands remove more carbon than we produce. Vermont is a leader in reducing carbon emissions because of our efforts in encouraging energy efficiency and renewable energy production, along with the power purchase agreements with Hydro Quebec and Vermont Yankee.

***

At the end of the last biennium, the general assembly passed S.373, *An Act Relating to Full Funding of Decommissioning Costs of a Nuclear Plant,* which called for the total funding

for decommissioning of the Vermont Yankee nuclear power facility by 2012. At that time, I sent the legislation back without approval because the legislation was a substantial deviation from standards observed by nuclear power stations across the nation. It was clear that creating such a requirement for total decommissioning in 2012 would result in a significant increase in rates for consumers, and further threaten our already tenuous economic position.

Unfortunately, H.436 made little attempt to change the fundamental flaws in policy and substance in this iteration. Instead, it has aggravated the situation by creating unnecessarily burdensome financial pitfalls for electric ratepayers today and into the future and placing Vermont at great risk for civil liability. This legislation circumvents the existing quasi-judicial process and shortcuts an established fact-finding process, instead substituting legislative politics in their places.

***

Our reputation as a state is on the line. Our willingness to honor our agreements not only goes to our future business relationships, but speaks volumes of the ethical standard to which we ascribe. During my many years of public service I have seen the consequences when the state attempts to go back on its commitments. I speak of the past power purchase agreements our utilities had with Hydro Quebec, and the attempts to undo them. When all was said and done, the state was required to honor its agreement, but our relationship with a valuable trade partner was damaged, and our motives suspect. It appears the lessons learned from that experience have been forgotten, or worse – ignored. Now I need to step forward and defend the actions of a previous administration that agreed to the use of SAFSTOR as an acceptable decommissioning strategy in the name of honoring the State's commitments.

***

This legislation appears to have tried to avoid a breach of contract or franchise claim by making the full funding of the fund take place one day after the current license period ends. This attempt, however, is unlikely to be successful. Making the full funding provision date one day later, even if the plant shuts down, does not excuse the state from its obligations under the Memorandum of Understanding agreed to by preceding administrations. Attorneys for the State of Vermont have opined that the state will likely face litigation for breach of contract or breach of a franchise by Entergy if this legislation becomes law. Vermont Yankee's owners very likely would claim that, since the Memorandum of Understanding was breached, the current power purchase agreement is no longer valid, which would cost ratepayers up to $356 million.

The full funding language in this legislation, whether as a "balloon payment" or a "parental guarantee," would require substantial financial resources, all at once. This is problematic because the amount Entergy is required to pay into the decommissioning fund may come out of the power price we will receive for consumers from a new power purchase agreement. In other words, ratepayers will get a much less favorable price on the power. The requirements of H.436 severely threaten our goal of retaining the option for Vermont consumers

to get the best possible price for power generated by Vermont Yankee, subject of course to regulatory and legislative approval.

***

H.436 does not achieve a greater level of accountability for Entergy. Rather, it is the original sale order, the NRC, and the current case on continued operation now before the PSB that are the means to achieve accountability. This legislation's approach is a direct threat to the Vermont ratepayer and our state's prosperity.

The department's plan currently before the PSB is a far more constructive approach that protects ratepayers. It calls for Entergy to make payments into the decommissioning fund over the course of 20 years instead of immediately. This approach preserves ratepayer benefits by lessening the effect on the power purchase agreement. Further, the department's plan mandates fund review and adjustments every two and a half years, allowing the fund to grow in a steady fashion over the license renewal period.

In contrast to the department's plan, this legislation has purposely removed the authority of the PSB to offer even a preliminary finding in this case. This approach appears designed to prevent the use of a venue that relies on objective fact-based proceedings, replacing it with biases and political consideration.

***

It is clear that Vermont Yankee will eventually be decommissioned, whether in 2012 or afterward. How it is decommissioned is a question of great importance. This legislation's approach is to extract money in any way possible, creating a hostile business environment. I propose that we work together constructively, observe our own laws and procedures, and design a balanced solution that allows for all parties to benefit.

The question of Vermont Yankee's continued operation remains, and that should be decided by the regulatory process and legislative deliberation of the merits of an additional 20 years, not as an indirect result of ill-conceived legislation. Because this legislation threatens ratepayers, increases long-term electric rates, risks potential job losses, and creates unnecessary liability for the state – while failing to adopt a viable, workable solution – I cannot support this legislation and must return it without my signature.

Sincerely,

James H. Douglas
Governor

JHD/hsw

JAMES H. DOUGLAS
Governor

State of Vermont
OFFICE OF THE GOVERNOR

June 1, 2009

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.441, *An Act Making Appropriations for the Support of Government*, without my signature because of my objections described herein.

The task of building a balanced, responsible and sustainable budget that addresses the needs of Vermonters and their ability to afford their government is the most important duty of the General Assembly. Today, we find ourselves in the midst of a global recession making this task more difficult than in previous years. The path we choose will have a dramatic effect on future years. We cannot and must not sacrifice fiscal prudence and long-term sustainability to patch together a budget that leaves Vermont and Vermonters exposed to the perils of this recession.

***

In a few short months my Administration will begin work on the fiscal 2011 budget and by this time next year, legislators will have again cast their votes on a spending plan. According to the Legislature's Joint Fiscal Office (JFO), H.441 will leave a $67 million General Fund deficit that must be addressed at that time. Further, JFO estimates an even greater $141 million deficit for fiscal 2012 – when federal stimulus dollars will no longer be available to help fill the hole. Together, the fiscal 2011 and fiscal 2012 deficits account for a staggering $208 million shortfall if H.441 becomes law.

As early as January, when the American Recovery and Reinvestment Act (ARRA) was being debated in Washington, I warned of the risks of an over-reliance on federal recovery money. While these funds are intended to preserve services and avoid state and local tax increases, we cannot allow them to be an excuse to pass business-as-usual spending plans. Indeed, we are in unusual economic times.

I warned lawmakers that using federal money to pass a budget that keeps spending on an upward trajectory would lead to huge challenges when ARRA funds run out. Unfortunately, H.441 does just that. Under this budget, spending increases by over 3% – well above the current rate of inflation – using one-time federal stimulus money. Spending in human services grows by nearly $150 million, or 5.6% – though we already have the most generous social safety net in the nation, according to a recent *New York Times* study.

I cannot support a budget that increases spending and, thereby, leaves such large shortfalls in future years, which Vermonters know will have to be filled by deeper cuts, higher taxes or a combination of both. And I cannot support a budget that shifts our challenges to tomorrow, when the consequences of our decisions will be even greater.

***

In addition to large deficits, the tax increases contained in H.441 compound the already significant struggles facing the people of our state. Vermonters are among the most heavily taxed people in the nation and it has often been observed that we have little capacity for higher taxes. Vermont native David Hale, a highly respected global economist, said in a recent news report that Vermont should, "... avoid tax increases that would undermine [the State's] ability to compete for jobs, compete for investment, compete for business." Yet, this budget asks Vermonters to contribute over $26 million in higher taxes – $9.3 million in higher income taxes on senior citizens, small business owners, farmers and loggers – from a combination of changes in how we tax capital gains, the elimination of the state and local tax deduction and other measures.

I support a change in our capital gains exemption to treat earned and unearned income the same for tax purposes. However, I have been clear that any proposal must be revenue neutral and used to lower our very high marginal income tax rates – not to support increased government spending. The Legislature's plan fails to meet this test as it does not use every dollar from changes to the capital gains exemption to lower income tax rates. Further, it does not exclude seniors who depend on capital gains in their retirement or farmers and loggers who take capital gains as a course of business. And it makes these changes retroactively, with no advance notice or warning, changing our tax structure after Vermonters have already made decisions about their money.

What is so concerning about these tax proposals is that many of the changes did not receive a public hearing and will result in consequences that many lawmakers, and most Vermonters, do not fully understand. Changes to the capital gains exemption and the elimination of the state and local tax deduction will hit small businesses and farms particularly hard. In fact, more than 2,000 businesses will see an average income tax increase of more than $3,000. At a time when small businesses are struggling to make ends meet, these taxes will be devastating for them and their employees.

Changes to the estate tax are also worrisome. This tax increase will have a dramatic impact on Vermont agriculture. Farmers seeking to pass their farms to their loved ones may be forced to sell a large portion of the farm to pay the higher death tax.

The tax increases in H.441 are counter to Vermont's successful emergence from this recession. These increased taxes hurt those we depend on for a robust economic recovery – farmers, small businesses and working Vermonters. I will not support increased taxes on our people so that state government can grow at an unsustainable rate.

***

As Vermont seeks to emerge from this recession it is critical that we make serious investments in economic development. Unfortunately, the Legislature failed to act on important initiatives and investments that are needed to create jobs and ensure a quick and strong recovery. In this economic crisis, there is no greater social welfare program than a good-paying job to give a struggling family hope and economic independence.

Through ARRA, $17.1 million was made available to Vermont for flexible uses from the State Fiscal Stabilization Fund (SFSF). Earlier this year, I proposed spending these funds, over a two-year period, exclusively on economic development initiatives as part of a program called *SmartVermont*. I outlined a plan to spend the maximum amount available for fiscal 2010, $11 million, and the remaining $6 million in fiscal 2011. The SFSF dollars can leverage over $150 million in economic activity and job creation. H.441 dedicates only $4.1 million for job creation and, instead, uses $4.4 million of this one-time money to fund ongoing expenditures of state government – building up base spending that will exacerbate our challenges in the coming years.

As we strive to bolster our economy and compete for jobs in the 21st century, we need a highly educated and trained workforce. In recent years we have made substantial investments to meet this objective. H.441, however, takes us backward in our efforts to provide workforce training and higher education opportunities to the people of our state. This budget reduces workforce training funds, jeopardizing up to $7.2 million in federal stimulus funds, and zeroes out Next Generation scholarships for over 600 Vermont students – tomorrow's nurses, engineers, police officers and inventors. Approximately $500,000 was cut from the Agency of Commerce and Community Development's Vermont Training Program, which will eliminate training opportunities for over 2,200 Vermonters and deny the state an important economic development tool.

H.441 also reduces funding for the Vermont Telecommunications Authority (VTA) by $500,000 – effectively shutting down the VTA by September. I will not support a budget that leaves this important economic development work unfinished. To provide economic opportunities for Vermonters in every corner of our state, we must continue to work toward the goal of universal broadband and cell phone coverage by the end of next year.

***

This budget fails to address the significant deficits we face in our Unemployment Insurance (UI) Trust Fund. There is broad consensus that the need to address the downward trajectory of the fund is urgent. While employers are understandably concerned about increased unemployment insurance taxes, especially in these difficult economic times, they recognize that a balanced approach that also makes reasonable adjustments to benefits is in the best long-term interest of all Vermonters. Failure to take action leaves a $160 million deficit in the fund by the end of next year. Vermont will be forced to borrow more money from the federal government that will have to be paid back with interest from the General Fund – placing another burden on the backs of Vermonters and Vermont businesses.

Any plan to address UI must be balanced and comprehensive. It is not enough to raise taxes on businesses and not make a reduction in our incredibly generous benefits structure. While some have suggested that freezing the maximum weekly benefit is a good start, that will not be enough. We must ask benefit recipients to take a modest $16 reduction in their maximum weekly benefit from $425 to $409, helping us begin to bend the curve and shore up this fund.

***

H.441 contains language that threatens the separation of powers among the branches of government and unduly burdens the Executive Branch as it carries out its constitutional responsibilities.

One of the most troubling language additions interferes with the relationship between the Administration and the Vermont State Employees Association (VSEA). Legislative micro-management impairs the State's ability to carry out the necessary work that Vermonters demand and deserve of their government.

H.441 prevents the Administration from implementing reductions in force without the approval of a legislative committee of 10, should negotiations be unsuccessful. It is the obligation of the Executive branch and its department heads to use their expertise and familiarity with their departments to manage the workforce and to make reductions in the least disruptive manner possible. The budget language impedes this responsibility to carry out the Executive's constitutionally-assigned function.

H.441 also requires the Administration to conduct an incredible 40 new studies and reports, more than double the 17 required last year. Each of these reports and studies requires hardworking state employees to take time away from the programs they administer and the people they serve. Additionally, there are 4 legislatively-led studies that will require a minimum of 15 legislators to continue their work into the summer. Not only do these reports and studies take staff away from more pressing work, but they will cost Vermonters tens of thousands of dollars.

In an effort to increase legislative control over the Vermont Housing and Conservation Board, language unrelated to the budget has been added that will change the composition of the

board and eliminate economic development involvement. Such a policy change should be vetted through the normal committee process so that all legislators can understand the implications of this action.

Further, within these very sections is a provision that ostensibly became effective "upon passage by the house and senate." This is either a blatant disregard for, or a fundamental misunderstanding of, the Vermont Constitution that requires, "[e]very bill which shall have passed the Senate and House of Representatives shall, before it becomes a law, be presented to the Governor…."

***

H.441 is a budget that fails the most basic test: it is not in the best interests of Vermonters. It needlessly increases taxes, it does not adequately address our economic development needs, and, perhaps most importantly, creates a more than $200 million deficit in future years. For those reasons and others, I cannot allow H.441 to become law with or without my signature.

If this veto is overridden, legislative leaders shall carry the responsibility of this bill's effects squarely on their shoulders. Because my Administration must begin work on the fiscal 2011 budget shortly and because we still must address a more than $200 million deficit in the next two years, I will request from the Speaker of the House and the Senate President Pro Tempore their plan to address these shortfalls.

If this veto is sustained, I will continue to listen to the ideas and concerns of lawmakers so that we can find common ground to craft a compromise budget in the coming days that meets the very real needs of Vermonters.

Sincerely,

James H. Douglas
Governor

JHD/dc

Governor's Veto Overridden
H. 441, 2009
The Governor's Veto was overridden in the House:
Yeas: 100 **Nays:** 50
The Governor's Veto was overridden in the Senate:
Yeas: 23 **Nays:** 5

*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:
2009 Special Session –
Journal of the House, June 2, 2009 [page 5 - 15 (online)];
Journal of the Senate, June 2, 2009 [page 45 – 46 (online)].

JAMES H. DOUGLAS
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 27, 2010

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633-5401

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H. 485, *An Act Relating to the Use Value Appraisal Program*, without my signature because of objections described herein.

Earlier this year, I recommended full funding of the Use Value Appraisal Program – otherwise known as Current Use – as a part of my proposed FY 2011 budget. I did so because Current Use is critically important to maintaining our working landscape. Current Use allows agricultural and managed forest lands to be taxed on their use value as opposed to their fair market value, thus relieving the pressure on farmers and foresters to remove land from agriculture and forestry and develop it to pay the taxes. While some see this as simply a benefit to enrolled landowners, the entire state is the beneficiary of keeping farms as farms and forests as forests.

H. 485, however, greatly undermines the original intent of the Current Use program, is complicated, highly nuanced, difficult to understand, administratively complex, and needlessly and unfairly increases three taxes. I am disappointed that, in spite of many opportunities to compromise, the Legislature chose to move forward without addressing any of the objections and concerns raised by my Administration and many other Vermonters.

Just when Vermont's agriculture and forest products industries are facing the most daunting economic times in modern history, H. 485 imposes additional taxes and burdensome bureaucracy on the owners of our state's farm and forest land. This approach is in direct opposition to helping our traditional industries prosper in the 21st Century. We should find ways to lower costs for farmers and foresters rather than dump additional taxes and requirements on an already fragile sector of our economy.

Dedicated, long-term participants, who entered into an agreement with the state under one set of provisions, are facing significant changes when they can least afford the impact. Difficult, far-reaching, permanent ownership and enrollment decisions that will affect struggling farm and forest owners must be made in a very short time frame, and may well result in a serious negative impact on Vermont's working landscape. The bill punitively increases the Land Use Change Tax (LUCT) which, among other things, would require farmers to pay the penalty for development of a farm labor housing site and punish parents who wish to provide some land to their children by requiring them to pay a high penalty to do so.

In the FY 2010 budget, the Legislature set a target for themselves to "save" $1.6 million in the Current Use program. Instead they created a new "one-time" $128 assessment on all enrolled landowners. Charging a fee to allow continued enrollment in a program that is designed to make land ownership affordable is both ironic and counterproductive.

H. 485 increases a second tax – the property transfer tax. The bill increases the tax in some cases by 150 percent – from .5 percent to 1.25 percent.

The third tax increase – the increase in the LUCT – is a significant policy change and perhaps the most troublesome aspect of H. 485. While those who support this redesign of Current Use say it will "strengthen" the program, I believe it will have the opposite effect. The current penalty calculation motivates participants to stay in the program by reducing the penalty percentage after ten years; the new calculation would not provide any benefit for long periods of enrollment.

Further, by changing from the enrolled per acre value as the basis for the LUCT to the parcel value of the removed land, the penalty on a small parcel is likely to be very large. An unintended consequence of H. 485 is that people who remove a parcel will likely take out more land than they would otherwise, so that the assessment per acre will be lower.

Some have claimed that the LUCT increase is necessary to prevent abuses, such as putting land in Current Use for a short period (called "parking") to reap tax benefits prior to development. While there are a few anecdotal instances of this behavior, it is a small problem as roughly two-tenths of one percent of the total land in the program has been subject to the LUCT annually over the past five years. If, in fact, the object is to address the "parking" problem, the penalty should be structured to accomplish that goal, and not to penalize all participants.

Above and beyond its intent, the LUCT will affect far more landowners than those who plan to sell land. Although H. 485 includes a so-called "easy out" option, it is clear there's nothing easy about it. The limitation cited in Section 8b that any parcel that has been developed as defined in 32 V.S.A. § 3752(5) will not be eligible for the "easy out" is especially problematic and raises troubling issues.

For example, cross referencing to the definition of development includes activity such as cutting trees contrary to a forest management plan. The increased penalty will apply, as a result, to forest landowners who have been found to have "cut contrary" to their forest management plan – even if unintentional. This is a severe penalty for what can be a small mistake. H. 485 is clear that the penalty is due "at the time of development," thereby unfairly increasing the penalty for landowners.

Because there is no database for parcels that have been "cut contrary," county foresters will need to review paper files, chewing up precious time and creating an unnecessary administrative burden. How this limitation is defined and/or interpreted will be important and will require further refinement prior to application on a parcel-by-parcel basis. Ultimately, this provision raises more questions than it answers. Does it apply to any parcel that had a "portion" developed? What if the parcel was sold and subdivided? What if the parcel was found in

violation of its management plan, removed from the program, and then re-enrolled after 5 years? What if the parcel is now under new ownership?

Section 6 is fundamentally unfair to the pending program applicants, who filed their applications under the old rules. With the new LUCT, it is expected that some may want to amend their applications, but they can't do so without paying a penalty. Common sense and basic fairness dictate that an applicant should be able to amend an application based on a major change in the program.

H. 485 requires that the Department of Taxes provide timely notice to all program participants of the changes to the current use penalty and the participant's options in terms of continued enrollment of some or all of their current use property. Those applicants who have applied to enroll some 900 parcels in 2009 must be informed of their option to choose not to enroll under the new penalties, taxes and fees. They must respond by July 1, 2010—an unworkable and unfair time frame of just over a month in which timely notification and responses must occur.

In addition to the notice provisions there are a number of difficult administrative issues associated with the implementation of H. 485. In order to assess and collect the $128 per owner surcharge through municipal property tax bills, electronic information systems will have to be developed and in place by July 1, 2010, as electronic files must be transmitted from the State to towns identifying which properties within each municipality are to be assessed the surcharge. Changes to the New England Municipal Resource Center (NEMRC) tax billing and collection software modules to get the assessment on all tax bills will be necessary for Towns to account for the surcharge and issue reports on collection status.

Collectively, the administrative issues in H. 485, given the timeframe within which they have to be accomplished, would make it extremely difficult, if not impossible, to implement. Not only would implementation issues associated with H. 485 be problematic for the Tax Department, they would result in a significant burden for municipal listers and treasurers to change the grand list values and revise tax bills to be consistent with changes required by the bill.

Prior to the legislative session, the Tax Commissioner warned legislative leaders about the inevitable confusion and cost that would be involved in the implementation of broad changes to the Current Use program for FY 2011. In his letter, he suggested that a more realistic timeframe that would allow all parties to be engaged and to do the necessary education and outreach would be for any changes to become effective in FY 2012.

The change in the LUCT is clearly a policy issue that deserves a full and open public discussion, along with other aspects of the Current Use program. Section 8 of the bill raises important issues that need to be thoughtfully considered. In addition to those, other facts must be gathered and other issues must be discussed more fully prior to making any major changes to the program. These include: the identification and analysis of parcels/acres removed from the program for the last five years and the subsequent use of those parcels; the level of productivity expected from smaller parcels; review of the eligibility standards in Title 32 § 3752 to determine

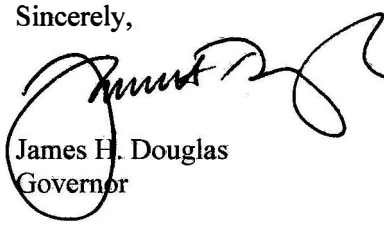
if they need to be revised or updated; the need to monitor the actual use of enrolled farm structures; consideration of a per acre cap for municipal reimbursement; and the advisability of decentralizing the calculation of fair market value when assessing the LUCT by transferring that responsibility from the state to the towns in which the property is located.

Any revenue implications from not implementing this legislation can be addressed if necessary in the FY 2011 budget adjustment or supplemented through contingent appropriations or excess FY 2011 revenue.

I continue to support the Current Use program, and believe that it has provided great benefits to our state. It is unfortunate that the General Assembly chose to raise taxes unnecessarily and punitively on the stewards of Vermont's working landscape in an effort to address the perceived misuse of the program. A more calibrated approach is required to achieve the desired objectives.

Therefore I am returning H. 485 without my signature.

Sincerely,



James H. Douglas
Governor

JHD/pem

PETER SHUMLIN
Governor

State of Vermont
OFFICE OF THE GOVERNOR

Message from Governor

The Governor has informed the Senate that on the twenty sixth day of May, 2011, he returned a bill originating in the Senate of the following title without his signature:

S. 77 An act relating to water testing of private wells.

The Governor provided the following explanation:

"We have a responsibility with every bill that we pass to ensure that we are not imposing costs on hardworking Vermonters in rural areas. Every mandate from Montpelier must be balanced with this reality. Vermonters, on average, are earning what they made ten years ago. The vast majority of Vermont's well water is clean and safe. The General Assembly's desire to promote safe drinking water is one we all share, but I don't believe the government should mandate the testing of every single new well, with the cost and burden on individual private property owners that this bill would impose."

May 26, 2011

AM/rm

#13

PETER SHUMLIN
Governor

State of Vermont
OFFICE OF THE GOVERNOR

Message from Governor

The Governor has informed the House that on the fifteenth day of May, 2012, he returned a bill originating in the House of the following title without his signature:

H.290 An act relating to adult protective services.

The Governor provided the following explanation:

"Coming from a private sector background, I have always been frustrated by unnecessary bureaucracy and paperwork that exists in state government. Instead of focusing on outcomes, these impediments to progress cost taxpayers too much money and deliver little by way of results.

This bill, H. 290, is an example of misplaced good intentions. By requiring expensive, time-consuming, and duplicative reports by the Agency of Human Services to the legislature, this bill distracts AHS from doing its job: protecting our most vulnerable Vermonters. I am vetoing this bill because it does nothing to advance the goal of protecting those vulnerable Vermonters, adds yet another layer of bureaucracy to state government, and wastes taxpayer dollars."

May 15, 2012

AM/dr

#38

109 STATE STREET ♦ THE PAVILION ♦ MONTPELIER, VT 05609-0101 ♦ WWW.VERMONT.GOV
TELEPHONE: 802.828.3333 ♦ FAX: 802.828.3339 ♦ TDD: 802.828.3345

PETER SHUMLIN
Governor

State of Vermont
OFFICE OF THE GOVERNOR

Message from Governor

The Governor has informed the House that on the twentieth day of May, 2016, he returned a bill originating in the House of the following title without his signature and veto:

H.518 An act relating to the membership of the Clean Water Fund Board.

The Governor provided the following explanation:

"I have reviewed H.518 and consulted with my Secretaries of Administration and Natural Resources. Both have raised concerns about this measure and its potential negative effects on our efforts to ensure clean water statewide. In enacting the most comprehensive clean water legislation in Vermont's history last year, we took an important step towards cleaning up Vermont's lakes and waterways, which have been neglected for too long.

An important part of that is the Clean Water Board, which is responsible for taking public comment and steering funding to targeted projects that achieve the goals of the law. The makeup of that Board was a known and negotiated part of the overall bill that I signed. The Board was constituted to be an entity with the ability to act thoughtfully and expeditiously to move us towards cleaner water in Vermont. The Board has been in existence for less than a year, and I believe we should give it time to work before we contemplate making any changes. Therefore, I have decided to veto this bill."

May 20, 2016

SA/jd

PETER SHUMLIN
Governor

State of Vermont
OFFICE OF THE GOVERNOR

Message from Governor

The Governor has informed the Senate that on the sixth day of June, 2016, he returned a bill originating in the Senate of the following title without his signature and veto:

S.230 An act relating to improving the siting of energy projects.

The Governor provided the following explanation:

"I have carefully reviewed S. 230, which is a bill designed to give communities more say as we plan for our renewable energy future together. The core of this bill is something I strongly support and desire to see move forward. S. 230 was finalized very late in the legislative session, and unintended changes were made at the last minute. After consulting with legal experts at the Public Service Department and the Public Service Board, I have determined that in a few critical instances the language in the bill does not match what I understand to be the intent of the Legislature.

There are four issues with the bill that need to be fixed. First, in seeking temporary rules for new wind sound standards the bill unintentionally invokes a provision in 3 V.S.A. § 844(a) that would make Vermont the first state in the country to declare a public health emergency around wind energy, without peer-reviewed science backing that assertion up. Second, in setting a ceiling for new temporary wind sound standards, the bill unintentionally relies on a standard used in a small 150 kilowatt project as the standard for all wind, large and small, going forward. That standard, a complex and variable formula that would require no sound higher than 10 decibels above ambient background, could have the clearly unintended effect of pushing wind projects closer to homes where the background noise is higher. In addition to these two problems, a third concern is a provision in the bill requiring notice of certificates of public good to be filed with land records, which could create problems for residential solar customers when they go to sell their home. Finally, $300,000 in planning funds for communities was unintentionally left out of the bill.

I believe that taken together, the emergency declaration and the restrictive sound standards will make it impossible to continue to sensibly site renewable wind power in Vermont.

Through the policies passed by this Legislature, we have made great progress on building renewable energy. We have created 17,700 clean energy jobs which represents 6 percent of the Vermont workforce and makes us the highest per capita on clean energy jobs in the nation.

Signing S. 230 as drafted would take us backwards and take an important renewable energy technology off the table. I cannot support that action, and therefore I am vetoing S. 230. I believe, however, the limited number of issues identified in the bill can and should be remedied by the Legislature during a veto session scheduled for June 9. My Administration will do whatever we can to assist the Legislature to make the fixes necessary to produce a bill that I can sign."

June 6, 2016

SA/jd

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 24, 2017

The Honorable John Bloomer, Jr.
Secretary of the Senate
State House
Montpelier, Vermont 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.22, *An Act Relating To Eliminating Penalties for Possession of Limited Amounts of Marijuana by Adults 21 Years of Age and Older*, without my signature because of my objections described herein:

With a libertarian streak in me, I believe that what adults do behind closed doors and on private property is their choice, so long as it does not negatively impact the health and safety of others, especially children. I also have compassion for those for whom marijuana alleviates the symptoms of debilitating diseases. That is why I have previously supported, and continue to support, medical marijuana laws and decriminalization.

We cannot ignore the fact that marijuana is a widely-consumed substance, and more states, as well as an entire nation to our north, are making marijuana legal and regulating it. I am not philosophically opposed to ending the prohibition on marijuana, and there is a clear societal shift in that direction. However, it is crucial that key questions and concerns involving public safety and health are addressed before moving forward.

We must get this right. That means letting the science inform any policy made around this issue, learning from the experience of other states, and taking whatever time is required to do so. Policymakers have an obligation to Vermonters to address health, safety, prevention and education questions before committing the State to moving forward.

More specifically, before we implement a commercial system we need to know how we will detect and measure impairment on our roadways, fund and implement additional substance abuse prevention education, keep our children safe and penalize those who do not, and measure how legalization impacts the mental health and substance abuse issues our communities are already facing.

This legislation does not yet adequately address these questions. However, there is a path forward to work collaboratively that will take a more thorough look at what public health, safety and education policies are needed before Vermont pursues a comprehensive regulatory system for an adult-use marijuana market.

I will provide the Legislature with recommended changes, and if we can work together, we *can* move forward on this issue.

Those recommendations include the following:

First, this legislation creates confusion around which penalties for the sale and dispensing of marijuana to minors should apply. This legislation opens the door for litigation over which are the appropriate penalties. I believe this legislation must be clear that penalties for the dispensing and sale of marijuana to minors and on school grounds remain severe. These changes must be made to ensure no leniency is intended for those who sell or dispense marijuana to our youth. Weakening these protections and penalties should be totally unacceptable to even the most ardent legalization advocates.

Second, we must aggressively penalize consumption while driving and usage in the presence of minors. For example, while this legislation states that one cannot use marijuana in a vehicle if an adult is smoking with a child in the car, there is *only* a small civil fine equal to the penalty for an adult having an open container of alcohol.

How we protect children from the new classification of limited amounts of what is otherwise a controlled substance is incredibly important. This is not just a concern about impaired driving. According to the best science available, and our own Department of Health, secondhand marijuana smoke can negatively impact a child's brain development. Therefore, if an adult is smoking marijuana in a car or a confined space with a child this should be severely penalized.

Third, we must be sure we are not impeding the ability of public safety officials to enforce remaining drug laws.

Finally, the Marijuana Regulatory Commission proposed in this legislation must have broader membership to include key stakeholder communities who will be faced with the everyday impacts of a fully regulated and taxed system, such as representatives from the Department of Public Safety, the Department of Health, the Department of Taxes, and substance abuse prevention professionals.

At a minimum, the Commission must determine an appropriate regulatory and taxation system; an impairment threshold for operating a motor vehicle; the options for an impairment testing mechanism; an education and prevention strategy for minors; and a plan for continued monitoring and reporting on impacts to public health. The Commission must also produce a

detailed estimate of the revenue required for the adequate regulation, enforcement, administration, and education and prevention recommendations it shall make.

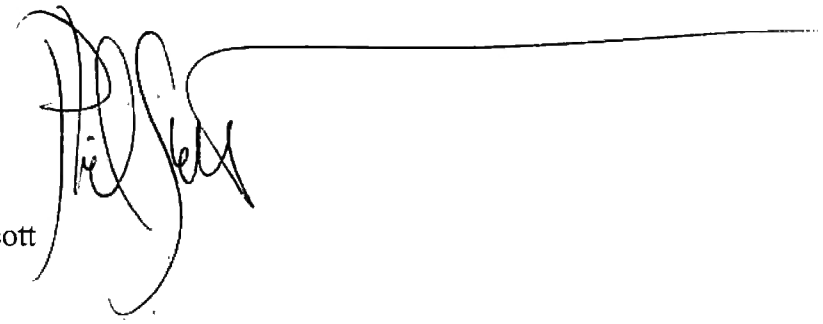
As S.22 currently stands, legislation for a regulated system will be introduced before the personal possession and cultivation laws have even changed. The Commission should have more time to thoughtfully complete its work on this complex issue. Given the gravity of this policy change, the Commission must have at least a year before making final recommendations.

We can all work together on this issue in a comprehensive and responsible way. I have already reached out to the Coalition of Northeastern Governors (CONEG) to engage our neighboring states in a discussion about creating a regional highway safety standard. Information gathered and progress made with CONEG will be shared with the Commission to support the goals detailed above.

If the Legislature agrees to make the changes I am seeking, we can move this discussion forward in a way that ensures that the public health and safety of our communities and our children continues to come first.

As noted, based on the outstanding objections outlined above I cannot support this legislation and must return it without my signature pursuant to Chapter II, §11 of the Vermont Constitution.

Sincerely,



Philip B. Scott
Governor

PBS/jj

Governor's Veto Sustained
S.22, 2017

The Governor's veto was sustained in the Senate
Yeas: 0 **Nays**: 30

(the necessary *override* two-thirds vote not having been attained).

Sources:
The Journal of the Senate, June 21, 2017 (pages 1868-1871); January 24, 2018 (page 72).

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

June 6, 2017

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.509, *An Act Relating to Calculating Statewide Education Tax Rates* without my signature because of my objections described herein.

Please note, the following also addresses objections to H.518, *An Act Relating to Making Appropriations for the Support of Government*, as the two bills are inextricably linked and their relationship factors heavily into my decision to return both bills. H.518 will be returned to you in a separate message containing the same objections.

At the beginning of the session, I challenged the Legislature to give residents and businesses a break from new or higher taxes and fees in all bills passed this year. I also urged the Legislature to join me in the work of making Vermont more affordable in every way we can. H.509 and H.518 fail to achieve these goals and, as a result, I cannot support them as written. We must not be afraid to think, and legislate, differently in order to reverse our challenging demographic trends, grow the economy, and make Vermont more affordable. I have made a number of proposals to generate savings in the Education Fund, beginning with my first budget presentation. To date, the Legislature has rejected all such proposals and instead has passed H.509, which, together with and intrinsically linked to H.518, only worsens the unsustainable trajectory towards higher property taxes to support an education system with declining enrollment and extremely high per pupil costs. Instead, we have an opportunity to moderate those rates by rebasing school budgets through the transition to new plans in the Vermont Education Health Initiative (VEHI); and without asking school employees to pay more for healthcare.

Although H.509 appears to provide property tax relief for residential tax payers, it does so through an unequal allocation of the tax burden to other Vermont property taxpayers and the unsustainable, irresponsible allocation of one-time revenue sources. More specifically, H.509 increases the nonresidential property tax rate from $1.535 per $100 of assessed value, to $1.555. Property taxes are not only an impediment to living in Vermont, but also a barrier to creating jobs in our state. Most of the "nonresidential" tax actually falls on Vermonters, like employers, renters and camp owners. In fact, the Department of Taxes reports that about 60 percent of the

property that is classified as "non-residential" has a Vermont owner. Small and medium sized businesses are the backbone of our economy, and we must make Vermont a more affordable and attractive place to do business to increase opportunities for all Vermonters. I remain determined to achieving level property tax rates for all payer groups.

Also concerning is that buying down the average residential rate from $1.527 to $1.505 in H.509 is achieved in H.518 through two sources of one-time money. First, H.509 reduced the Education Fund's stabilization reserves by $9.2 million to the Fund's statutory minimum. Second, $26.1 million in the unallocated and unreserved balance in the Education Fund was applied as it has been over the past few years.

Although the unallocated/unreserved balance in the Education Fund has been used in previous sessions to buy down tax rates, it has been done so under the assumption that the balance will not be guaranteed year after year. According to the Agency of Education, the majority of this surplus was generated as the result of the consolidation of special education administration to the supervisory district level, from the local level, in 2010 through Act 153. Overbudgeting for this expense created a surplus in the Education Fund over the past several years. However, in H.518, the anticipated special education expenditures were budgeted to more accurately reflect actual costs and it is unlikely the surplus, if any, will be realized to the extent it has in the past, for use in future fiscal years. Achieving savings through the transition to the new VEHI health insurance benefits is critically important to filling the gap that will inevitably occur in Fiscal Year 2019 when this surplus is no longer generated.

This anticipated shortfall coupled with the decision to use $9.2 million of one-time money from the Education Fund stabilization reserves creates a steep cliff for taxpayers to make up in Fiscal Year 2019. These decisions, without a sustainable plan in place to fill the shortfall, expose taxpayers unnecessarily to the risk of an increase in property tax rates, could be of concern to the rating agencies, and are difficult to understand in a political climate where federal funding for school districts could be drastically reduced. This issue alone is sufficient to justify a veto. The use of the stabilization reserve coupled with the continued reliance on one-time funds predicated on prior year reversions that may not materialize in future fiscal years ensures the likelihood of future property tax increases. I cannot support a budget that makes expenditure choices that knowingly result in higher property tax rates in future years.

Moreover, the Legislature in H.509, Section 3, passed an additional one percent transfer of sales and use tax to the Education Fund which creates a General Fund shortfall in Fiscal Year 2019 and beyond. In H.518, Section D.101.1(a), the Legislature budgets a one-time Fiscal Year 2018 fund transfer of $3.3 million. Year after year the Legislature must reconcile a growing gap between what we want to provide Vermonters and what we can afford based on our incoming revenues. Taking steps today that do not account for known future shortfalls puts the Legislature on a trajectory to increase the tax and fee burden on Vermonters. We should be taking steps to curb education spending instead of continuing to increase non-property tax sources in the Education Fund, which in Fiscal Year 2018 total $525.1 million.

Section 5 of H.509 creates a Health Benefits Commission that I believe is set up to ensure impasse. Vermont's school boards have clearly articulated over the past several months their need for a simplified process for negotiating the increasingly complex health insurance system.

Additionally, thus far the VT-NEA has shown great resistance to any change in the bargaining dynamic and to sending savings back to taxpayers. I agree it would be advantageous for these groups to be able to work through this issue without legislative interference. However, by including five representatives from labor organizations and five representatives from school boards and superintendents' organizations, it is unlikely that these conversations will be fruitful. Additionally, the State will likely have a hand in administering a statewide health benefit if legislation is introduced, and has no representation on the Commission.

While I appreciate the Legislature's willingness in H.509 to revisit this issue in the future, such as receiving findings from the Health Benefits Commission this November, and reopening contracts in September 2019, Vermont faces an immediate and growing crisis of affordability, and recapturing the available savings – without asking school employees to pay more or cutting programs for kids – can only happen during the unique set of circumstances at this moment. The reopening of contracts in September 2019 will not allow the Legislature to revisit this issue comprehensively, as contracts that settle prior to July 1, 2017 will be exempt. As we have seen from settlements to date, there is a wide range of healthcare coverage, and contracts range in length from 1 to 3 years. Therefore, this is setting up an unfair scenario for those negotiating parties that are currently at impasse, and an incentive for those who are still at the table to settle quickly. Without more explicit expectations set by the State, many agreements will likely include premium cost-sharing and out of pocket costs that eat away the available savings and, therefore, our ability to lower property tax rates.

It is essential to remember the alternatives which I have proposed, and which could have been taken up by the Legislature, to put Vermont on a new and more sustainable economic footing. Beginning with my recommended budget in January, I encouraged legislators to look for savings in the Education Fund, specifically in health care costs for school employees, to keep property tax rates for all payer groups level. During the 2015-2016 Biennium, in the context of Act 46, we heard it was nearly impossible to control education spending, despite declining student enrollments, due to the uncontrollable rising cost of health care for educators. This resulted in legislative action to remove allowable spending growth thresholds originally applied in Act 46. Acknowledging healthcare costs are a driver in education spending, in my proposed budget I included an 80/20 premium split to achieve savings in school employees' healthcare costs and introduce equity among public sector employees. This is not only the same premium split that our State employees and eligible retired teachers pay, but would bring parity across the system for all active educators and other school employees.

My original mechanisms, level funding school budgets coupled with the premium split, to achieve savings in the Education Fund and level property tax rates, were met with much resistance, as well as opposition from stakeholder groups including the Vermont School Boards Association (VSBA) and the Vermont Superintendents Association (VSA). At the same time, my Administration began to learn more about a unique opportunity to save money in the Education

Fund through changes in the VEHI healthcare plans. It is important to note that VEHI is an intermunicipal trust made up of State municipalities, including school districts, and administers a standard offering of healthcare benefits to over 90 percent of Vermont schools. Vermont school employees constitute a single statewide risk pool insured through the VEHI offerings. VEHI healthcare plans offered to school employees for Fiscal Year 2018 have been restructured to cost substantially less than the old plans to avoid the Affordable Care Act's "Cadillac Tax." Discussions in the State House outlining plan changes, and the opportunity for savings, began in the 2015-2016 Biennium with representatives from VEHI testifying in the Senate Finance and House Education Committees.

After the introduction of my recommended budget, legislators began asking my Administration for an alternative, and I began pointing to the opportunity for savings from these VEHI plan changes. Unfortunately, it became clear that neither the House nor Senate Appropriations Committees were planning to take advantage of this once-in-a-lifetime opportunity to rebase school budgets and save Vermonters millions on an ongoing basis. Therefore, to propel this conversation forward, I introduced a policy proposal – through collaboration with the VSBA and the VSA – that ensures there is a mechanism to recapture up to $75 million in available savings. In my proposal, I recommend reinvesting nearly $50 million back into school employees to make sure they don't pay more for out of pocket expenses, and returning the remaining $26 million to all classes of property taxpayers to keep all property tax rates the same as Fiscal Year 2017. I also suggested investing in other education priority areas, such as early care and learning, higher education, and shoring up the Vermont State Teachers Retirement Health Insurance Program.

My proposal calls for the State to negotiate with the school employees' unions for the VEHI health benefit. Other states, like Massachusetts which has an opt-in state health plan, have started moving in this direction. My proposal does three things: First, it maintains the right of school employees to bargain this valuable benefit through a joint body representing all school employees with a single voice and an opportunity to maximize benefits for all school employees equally. Second, my proposal assumes sharing the cost savings with school employees through the creation of a health savings or health retirement accounts (HSA or HRA) funded with a majority of the VEHI plan savings. Third, it creates a mechanism for recapturing the VEHI cost savings built into the existing school budgets and returning those savings to Vermont property taxpayers. This makes particular sense because school employees participate in a statewide insurance risk pool now.

While my goal is not a statewide teachers' contract, elevating benefits to the State level has been floated numerous times in the Legislature, as recently as 2014, when it was included in a December 12, 2014, report from then-Speaker Shap Smith's Education Finance Working Group, which included current Speaker Mitzi Johnson and House Education Chair David Sharpe (see pg. 3, number 8: "*Have the Agency produce a model teachers' contract that districts could use during labor negotiations. Explore the idea that districts could opt-in to a statewide contract*").

Under my proposal, local school boards would still bargain with school employees over all other compensation and benefits. Healthcare benefits would be bargained one time, instead of more than 60 times, which would give the maximum potential to realize up to $75 million in savings (noting that contracts which have been ratified to date will not be reopened).

Despite our differences, I remain fully committed to working with the Legislature on a solution in H.509 and H.518 that meets the following core principles:

1. *Maximize Savings* – Any alternative must maximize the savings opportunity of the transition to these new healthcare plans;

2. *Keep Teachers Whole & Provide Parity* – Any alternative must hold educators harmless and provide parity and uniformity across the system; and

3. *Simplify Negotiations for School Boards* – Any alternative must reduce the burden currently on school boards negotiating these new, more complex insurance plans.

I am encouraged there is agreement between the Administration and the Legislature that the transition to the new VEHI plans provides an opportunity to save millions of dollars. While I first and foremost prefer a negotiated statewide health benefit, I am willing to consider negotiations remaining at the local level. However, it will require a policy mechanism in H.509 that mandates the parameters of the benefit plan, or provides a strong and equitable financial incentive for both school boards and unions to reach settlements that are within the constructs of the Gold CDHP VEHI model. That model includes an 80/20 premium split with at least the first $400 out of pocket cost borne by the employee through an HSA or HRA.

As noted earlier, I am also willing to return 100 percent of savings to all classes of property taxpayers to further bring down property tax rates, which is a primary advantage of seizing this opportunity, rather than reinvesting equal portions into early childhood and higher education and shoring up the Vermont State Teachers Retirement Health Insurance Program, in addition to tax relief, as was originally proposed. It is worth noting that at adjournment on May 18, 2017, an agreement with House and Senate leadership was within reach.

Again, H.509 and H.518 are fundamentally tied. The appropriations made from the Education Fund in H.518 are contingent upon the revenue provided by H.509. If the funding raised through H.509 changes, the allocation of funding in H.518 needs to be updated to reflect a change in the amount of available funds. For reference, the specific line item in H.518 is B.505, Education – adjusted education payment. It would also eliminate the need for the transfer from the Education Fund's stabilization reserves, as discussed above.

Given the opportunity I have outlined to save taxpayers millions of dollars through the new VEHI healthcare plans, the education payments in the budget should be adjusted by the amount of savings expected from transitioning to the new VEHI healthcare plans.

I promised Vermonters I would listen to any idea to make Vermont more affordable, and that is what I'm doing. We have been losing, on average, six workers from our workforce, and three students from our schools every day. We literally cannot pass up this opportunity to put a dent in property tax growth. My education savings proposal allows us to bring down property tax rates while not requiring education employees to pay more or cuts to programs for kids.

Under my proposal teachers will not be exposed to higher out of pocket costs and will still enjoy robust healthcare plans with higher than average actuarial values. Neither H.509 nor H.518, as presented for my approval, takes any steps to provide a mechanism to recapture the available savings for the Fiscal Year 2018 budget, which could be as much as $13 million, or alleviate the property tax burden on all rate payer groups.

As noted, based on the outstanding objections outlined above I cannot support H.509 or H.518 and must return both bills without my signature pursuant to Chapter II, §11 of the Vermont Constitution. If the veto is sustained, I know we can come to an agreement, and when we do, H.509, H.518, and Vermonters will be better for it.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Sustained House Rollcall:
Yeas 83, Nays 56,
***93 needed to override.**

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

June 6, 2017

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.518, *An Act Relating to Making Appropriations for the Support of Government* without my signature because of my objections described herein.

Please note, the following also addresses objections to H.509, *An Act Relating to Calculating Statewide Education Tax Rates* as the two bills are inextricably linked and their relationship factors heavily into my decision to return both bills. H.509 will be returned to you in a separate message containing the same objections.

At the beginning of the session, I challenged the Legislature to give residents and businesses a break from new or higher taxes and fees in all bills passed this year. I also urged the Legislature to join me in the work of making Vermont more affordable in every way we can. H.509 and H.518 fail to achieve these goals and, as a result, I cannot support them as written. We must not be afraid to think, and legislate, differently in order to reverse our challenging demographic trends, grow the economy, and make Vermont more affordable. I have made a number of proposals to generate savings in the Education Fund, beginning with my first budget presentation. To date, the Legislature has rejected all such proposals and instead has passed H.509, which, together with and intrinsically linked to H.518, only worsens the unsustainable trajectory towards higher property taxes to support an education system with declining enrollment and extremely high per pupil costs. Instead, we have an opportunity to moderate those rates by rebasing school budgets through the transition to new plans in the Vermont Education Health Initiative (VEHI); and without asking school employees to pay more for healthcare.

Although H.509 appears to provide property tax relief for residential tax payers, it does so through an unequal allocation of the tax burden to other Vermont property taxpayers and the unsustainable, irresponsible allocation of one-time revenue sources. More specifically, H.509 increases the nonresidential property tax rate from $1.535 per $100 of assessed value, to $1.555. Property taxes are not only an impediment to living in Vermont, but also a barrier to creating jobs in our state. Most of the "nonresidential" tax actually falls on Vermonters, like employers, renters and camp owners. In fact, the Department of Taxes reports that about 60 percent of the

property that is classified as "non-residential" has a Vermont owner. Small and medium sized businesses are the backbone of our economy, and we must make Vermont a more affordable and attractive place to do business to increase opportunities for all Vermonters. I remain determined to achieving level property tax rates for all payer groups.

Also concerning is that buying down the average residential rate from $1.527 to $1.505 in H.509 is achieved in H.518 through two sources of one-time money. First, H.509 reduced the Education Fund's stabilization reserves by $9.2 million to the Fund's statutory minimum. Second, $26.1 million in the unallocated and unreserved balance in the Education Fund was applied as it has been over the past few years.

Although the unallocated/unreserved balance in the Education Fund has been used in previous sessions to buy down tax rates, it has been done so under the assumption that the balance will not be guaranteed year after year. According to the Agency of Education, the majority of this surplus was generated as the result of the consolidation of special education administration to the supervisory district level, from the local level, in 2010 through Act 153. Overbudgeting for this expense created a surplus in the Education Fund over the past several years. However, in H.518, the anticipated special education expenditures were budgeted to more accurately reflect actual costs and it is unlikely the surplus, if any, will be realized to the extent it has in the past, for use in future fiscal years. Achieving savings through the transition to the new VEHI health insurance benefits is critically important to filling the gap that will inevitably occur in Fiscal Year 2019 when this surplus is no longer generated.

This anticipated shortfall coupled with the decision to use $9.2 million of one-time money from the Education Fund stabilization reserves creates a steep cliff for taxpayers to make up in Fiscal Year 2019. These decisions, without a sustainable plan in place to fill the shortfall, expose taxpayers unnecessarily to the risk of an increase in property tax rates, could be of concern to the rating agencies, and are difficult to understand in a political climate where federal funding for school districts could be drastically reduced. This issue alone is sufficient to justify a veto. The use of the stabilization reserve coupled with the continued reliance on one-time funds predicated on prior year reversions that may not materialize in future fiscal years ensures the likelihood of future property tax increases. I cannot support a budget that makes expenditure choices that knowingly result in higher property tax rates in future years.

Moreover, the Legislature in H.509, Section 3, passed an additional one percent transfer of sales and use tax to the Education Fund which creates a General Fund shortfall in Fiscal Year 2019 and beyond. In H.518, Section D.101.1(a), the Legislature budgets a one-time Fiscal Year 2018 fund transfer of $3.3 million. Year after year the Legislature must reconcile a growing gap between what we want to provide Vermonters and what we can afford based on our incoming revenues. Taking steps today that do not account for known future shortfalls puts the Legislature on a trajectory to increase the tax and fee burden on Vermonters. We should be taking steps to curb education spending instead of continuing to increase non-property tax sources in the Education Fund, which in Fiscal Year 2018 total $525.1 million.

Section 5 of H.509 creates a Health Benefits Commission that I believe is set up to ensure impasse. Vermont's school boards have clearly articulated over the past several months their need for a simplified process for negotiating the increasingly complex health insurance system.

Additionally, thus far the VT-NEA has shown great resistance to any change in the bargaining dynamic and to sending savings back to taxpayers. I agree it would be advantageous for these groups to be able to work through this issue without legislative interference. However, by including five representatives from labor organizations and five representatives from school boards and superintendents' organizations, it is unlikely that these conversations will be fruitful. Additionally, the State will likely have a hand in administering a statewide health benefit if legislation is introduced, and has no representation on the Commission.

While I appreciate the Legislature's willingness in H.509 to revisit this issue in the future, such as receiving findings from the Health Benefits Commission this November, and reopening contracts in September 2019, Vermont faces an immediate and growing crisis of affordability, and recapturing the available savings – without asking school employees to pay more or cutting programs for kids – can only happen during the unique set of circumstances at this moment. The reopening of contracts in September 2019 will not allow the Legislature to revisit this issue comprehensively, as contracts that settle prior to July 1, 2017 will be exempt. As we have seen from settlements to date, there is a wide range of healthcare coverage, and contracts range in length from 1 to 3 years. Therefore, this is setting up an unfair scenario for those negotiating parties that are currently at impasse, and an incentive for those who are still at the table to settle quickly. Without more explicit expectations set by the State, many agreements will likely include premium cost-sharing and out of pocket costs that eat away the available savings and, therefore, our ability to lower property tax rates.

It is essential to remember the alternatives which I have proposed, and which could have been taken up by the Legislature, to put Vermont on a new and more sustainable economic footing. Beginning with my recommended budget in January, I encouraged legislators to look for savings in the Education Fund, specifically in health care costs for school employees, to keep property tax rates for all payer groups level. During the 2015-2016 Biennium, in the context of Act 46, we heard it was nearly impossible to control education spending, despite declining student enrollments, due to the uncontrollable rising cost of health care for educators. This resulted in legislative action to remove allowable spending growth thresholds originally applied in Act 46. Acknowledging healthcare costs are a driver in education spending, in my proposed budget I included an 80/20 premium split to achieve savings in school employees' healthcare costs and introduce equity among public sector employees. This is not only the same premium split that our State employees and eligible retired teachers pay, but would bring parity across the system for all active educators and other school employees.

My original mechanisms, level funding school budgets coupled with the premium split, to achieve savings in the Education Fund and level property tax rates, were met with much resistance, as well as opposition from stakeholder groups including the Vermont School Boards Association (VSBA) and the Vermont Superintendents Association (VSA). At the same time, my Administration began to learn more about a unique opportunity to save money in the Education

Fund through changes in the VEHI healthcare plans. It is important to note that VEHI is an intermunicipal trust made up of State municipalities, including school districts, and administers a standard offering of healthcare benefits to over 90 percent of Vermont schools. Vermont school employees constitute a single statewide risk pool insured through the VEHI offerings. VEHI healthcare plans offered to school employees for Fiscal Year 2018 have been restructured to cost substantially less than the old plans to avoid the Affordable Care Act's "Cadillac Tax." Discussions in the State House outlining plan changes, and the opportunity for savings, began in the 2015-2016 Biennium with representatives from VEHI testifying in the Senate Finance and House Education Committees.

After the introduction of my recommended budget, legislators began asking my Administration for an alternative, and I began pointing to the opportunity for savings from these VEHI plan changes. Unfortunately, it became clear that neither the House nor Senate Appropriations Committees were planning to take advantage of this once-in-a-lifetime opportunity to rebase school budgets and save Vermonters millions on an ongoing basis. Therefore, to propel this conversation forward, I introduced a policy proposal – through collaboration with the VSBA and the VSA – that ensures there is a mechanism to recapture up to $75 million in available savings. In my proposal, I recommend reinvesting nearly $50 million back into school employees to make sure they don't pay more for out of pocket expenses, and returning the remaining $26 million to all classes of property taxpayers to keep all property tax rates the same as Fiscal Year 2017. I also suggested investing in other education priority areas, such as early care and learning, higher education, and shoring up the Vermont State Teachers Retirement Health Insurance Program.

My proposal calls for the State to negotiate with the school employees' unions for the VEHI health benefit. Other states, like Massachusetts which has an opt-in state health plan, have started moving in this direction. My proposal does three things: First, it maintains the right of school employees to bargain this valuable benefit through a joint body representing all school employees with a single voice and an opportunity to maximize benefits for all school employees equally. Second, my proposal assumes sharing the cost savings with school employees through the creation of a health savings or health retirement accounts (HSA or HRA) funded with a majority of the VEHI plan savings. Third, it creates a mechanism for recapturing the VEHI cost savings built into the existing school budgets and returning those savings to Vermont property taxpayers. This makes particular sense because school employees participate in a statewide insurance risk pool now.

While my goal is not a statewide teachers' contract, elevating benefits to the State level has been floated numerous times in the Legislature, as recently as 2014, when it was included in a December 12, 2014, report from then-Speaker Shap Smith's Education Finance Working Group, which included current Speaker Mitzi Johnson and House Education Chair David Sharpe (see pg. 3, number 8: "*Have the Agency produce a model teachers' contract that districts could use during labor negotiations. Explore the idea that districts could opt-in to a statewide contract*").

Under my proposal, local school boards would still bargain with school employees over all other compensation and benefits. Healthcare benefits would be bargained one time, instead of more than 60 times, which would give the maximum potential to realize up to $75 million in savings (noting that contracts which have been ratified to date will not be reopened).

Despite our differences, I remain fully committed to working with the Legislature on a solution in H.509 and H.518 that meets the following core principles:

1. *Maximize Savings* – Any alternative must maximize the savings opportunity of the transition to these new healthcare plans;

2. *Keep Teachers Whole & Provide Parity* – Any alternative must hold educators harmless and provide parity and uniformity across the system; and

3. *Simplify Negotiations for School Boards* – Any alternative must reduce the burden currently on school boards negotiating these new, more complex insurance plans.

I am encouraged there is agreement between the Administration and the Legislature that the transition to the new VEHI plans provides an opportunity to save millions of dollars. While I first and foremost prefer a negotiated statewide health benefit, I am willing to consider negotiations remaining at the local level. However, it will require a policy mechanism in H.509 that mandates the parameters of the benefit plan, or provides a strong and equitable financial incentive for both school boards and unions to reach settlements that are within the constructs of the Gold CDHP VEHI model. That model includes an 80/20 premium split with at least the first $400 out of pocket cost borne by the employee through an HSA or HRA.

As noted earlier, I am also willing to return 100 percent of savings to all classes of property taxpayers to further bring down property tax rates, which is a primary advantage of seizing this opportunity, rather than reinvesting equal portions into early childhood and higher education and shoring up the Vermont State Teachers Retirement Health Insurance Program, in addition to tax relief, as was originally proposed. It is worth noting that at adjournment on May 18, 2017, an agreement with House and Senate leadership was within reach.

Again, H.509 and H.518 are fundamentally tied. The appropriations made from the Education Fund in H.518 are contingent upon the revenue provided by H.509. If the funding raised through H.509 changes, the allocation of funding in H.518 needs to be updated to reflect a change in the amount of available funds. For reference, the specific line item in H.518 is B.505, Education – adjusted education payment. It would also eliminate the need for the transfer from the Education Fund's stabilization reserves, as discussed above.

Given the opportunity I have outlined to save taxpayers millions of dollars through the new VEHI healthcare plans, the education payments in the budget should be adjusted by the amount of savings expected from transitioning to the new VEHI healthcare plans.

I promised Vermonters I would listen to any idea to make Vermont more affordable, and that is what I'm doing. We have been losing, on average, six workers from our workforce, and three students from our schools every day. We literally cannot pass up this opportunity to put a dent in property tax growth. My education savings proposal allows us to bring down property tax rates while not requiring education employees to pay more or cuts to programs for kids.

Under my proposal teachers will not be exposed to higher out of pocket costs and will still enjoy robust healthcare plans with higher than average actuarial values. Neither H.509 nor H.518, as presented for my approval, takes any steps to provide a mechanism to recapture the available savings for the Fiscal Year 2018 budget, which could be as much as $13 million, or alleviate the property tax burden on all rate payer groups.

As noted, based on the outstanding objections outlined above I cannot support H.509 or H.518 and must return both bills without my signature pursuant to Chapter II, §11 of the Vermont Constitution. If the veto is sustained, I know we can come to an agreement, and when we do, H.509, H.518, and Vermonters will be better for it.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Sustained House Rollcall:
Yeas 84, Nays 55
***93 needed to override.**

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

April 16, 2018

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.103, *An act relating to the regulation of toxic substances and hazardous materials*, without my signature because of my objections described herein:

During the second half of this Legislative Biennium, I have been consistent in my commitment to support legislation that makes Vermont more affordable, grows the economy, and protects the most vulnerable. My concerns with this bill center around these priorities, because – while it aims to protect Vermonters – it is duplicative to existing measures that already achieve its desired protections. In my view S.103 will jeopardize jobs and make Vermont less competitive for businesses. However, as I detail below, we have a path forward to work together to enact this bill if the Legislature desires.

The State has taken clear and decisive action since the discovery of PFOA in the drinking water of Bennington and North Bennington in 2016 to address this public health crisis, hold the responsible parties accountable, and provide stronger protections from this happening again. This includes the enactment of Act 55 of 2017, which I proudly signed in to law last June. Act 55 has helped strengthen the State's response to PFOA contamination by establishing a process to hold parties that contaminate groundwater responsible for connecting impacted Vermonters to municipal water. We will continue to stand with the affected communities, and act forcefully, until we reach a complete resolution for those affected. This has resulted in one settlement agreement which provides a substantial although partial resolution. This case will be completely resolved either through an additional settlement agreement or as a result of litigation. Either way, we will ensure the polluter is held responsible for the contamination and the cleanup.

No community should have to endure what the impacted communities are going through. The patience and perseverance of these communities, as we work together to resolve this crisis, has been amazing. We will continue to ensure all Vermonters have clean drinking water, however S.103 does nothing to enhance our ability to hold violators accountable, reconnect water lines, or

directly address our ongoing response to the Per- and Polyfluoroalkyl Substances (PFAS) contamination. The bill ultimately has many negative unintended consequences, threatening our manufacturers' ability to continue to do business in Vermont, and therefore, our ability to retain and recruit more and better paying jobs.

In July of 2017, I established, via Executive Order, the Interagency Committee on Chemical Management (ICCM) and the Citizens Advisory Panel (CAP). My primary intent behind establishing these bodies was to better coordinate chemical management and identify gaps in management. Through the ICCM we continue to work to prevent future contamination and minimize the risk of harmful chemicals. This is one of several reasons many of the State's manufacturing employers have expressed opposition to this legislation. The ICCM and CAP in EO 13-17 have similar membership and responsibilities to those envisioned by S.103, making these sections duplicative. Instead of creating a redundant body, I propose we work together to align Sections 1 and 2 of S.103 to the existing ICCM and CAP membership and charge. That way the ICCM, which has been meeting for the better part of a year, can continue this important work unabated.

Further, to the extent this Executive branch entity has been given the resources of the Legislature's Council for legislative drafting and Joint Fiscal Office for fiscal and economic analyses with the goal of recommending legislation to the Legislature, this bill presents a separation of powers issue by improperly allocating legislative resources to the Executive branch and charging the Executive branch with doing the work of the Legislature. Pursuant to Chapter II, Section 20 of the Vermont Constitution, the Governor has independent authority to bring such business before the Legislature as he deems necessary. Pursuant to Chapter II, Section 6, the Legislature has separate Constitutional authority to prepare bills and enact them into laws. The Legislature does not have the authority to enlist the Executive branch to provide services necessary to the Legislature for purposes of developing its own legislative initiatives. Also, since the bill originally created an "intergovernmental" hybrid Committee, which the Legislature must have recognized was constitutionally suspect under our tripartite system of government, the bill still includes unnecessary language on meeting structure and operations, which hampers the ability of the committee to effectively carry on its work.

The existing ICCM has already conducted a thorough review of current state chemical management, evaluated what it would take to create a unified chemical reporting system and which programs make sense to participate. It has also identified proposed changes to the Toxics Use and Hazardous Waste Use Reduction Act, and has identified a proposed process to conduct ongoing review of chemical management to ensure dynamic responses to changing health and use information. That work has been proposed to the CAP, and the CAP is scheduled to provide written comments by April 25. The ICCM is due to report its first round of recommendations to me on July 1, which if we align and codify the Committee in statute, can also be presented to the Legislature.

It is possible to continue to keep Vermonters safe without harming the economy or costing the state good jobs. We cannot afford to give manufacturers another reason to look elsewhere for their location or expansion needs. In Vermont, this sector has not rebounded as well from the Great Recession as compared to other parts of the country, and other states are more aggressively recruiting good paying manufacturing jobs. We must pursue policies that enhance and encourage the possibility for more production and jobs for Vermonters, not fewer. Section 8 of this bill puts the growth of this sector at risk by creating more uncertainty and unpredictability for business operations by disturbing a process laid out in Act 188 of 2014. Act 188 creates a robust regulatory process that requires manufacturers of children's products disclose to the Department of Health whether a product contains any of the 66 chemicals listed in the law. The Department has collected millions of lines of data since the enactment of Act 188 and asks for more information than any other state. This information is maintained in a public database for interested consumers and parents. While it took Washington State eight years to get such a program up and running, it took Vermont only two and a half years; manufacturers started reporting on January 1, 2017.

In addition, Act 188 addresses how to review other chemicals that may be added to the list by rule. The law directs the Commissioner of Health to provide to an established Working Group no fewer than two listed chemicals every year, for review, to determine whether that chemical should be labeled and/or banned from sale in children's or consumer products in Vermont. It would be virtually unprecedented when compared to other states with similar authority for there not to be a secondary review from a technical and practicality standpoint providing a check and balance when evolving the list. This Working Group met for the first time in July of 2017; its work is underway with a collaborative approach to responsible regulation. The regulatory process is working and should proceed as originally envisioned. With a robust process in place, children will not be any safer as a result of the proposed changes contained in this bill.

Additionally, the changes contained in Section 8 to the "weight of credible scientific evidence" and exposure requirements will make Vermont an outlier. Vermont will be a less friendly place for the manufacturers to locate and sell their products here. Furthermore, there are many federal laws and safety standards which are relevant to the regulation of chemicals. Our economy is diverse but still very small. We must not put ourselves at another competitive disadvantage versus other states in the region and nation.

In 2016 the manufacturing sector alone accounted $1.67 billion in Vermont wages. As of the last reported quarter (3rdq17), it accounted for $418 million in wages with 29,584 Vermonters employed in the manufacturing sector. If we add the natural resources and mining, and construction sectors to the above it would represent $658 million in wages and 50,300 persons total working in the goods producing domain.

There is an economic multiplier for these sectors since most of the manufactured product is exported out of state thereby bringing more dollars into Vermont than a limited local market for the goods. To put these producers at risk without giving the ICCM, CAP and Act 188 Working Group time to do their work and formulate recommendations puts the employees engaged in those activities, and the state's overall economy, at greater risk.

If the Legislature agrees to make the changes I am seeking – simple codification of EO 13-17 in Sections 1 and 2, and removal of Section 8 – we can together enact legislation that will continue to contribute to public health and safety. Sections 3 through 6 will enable consumers to have greater information about potential contaminants that may affect their health while at the same time not impacting the marketability of people's homes. I believe greater knowledge and understanding of threats to people's drinking water will help protect the most vulnerable Vermonters.

As noted, based on the outstanding objections outlined above I cannot support this legislation as written and must return it without my signature pursuant to Chapter II, §11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Sustained
House Rollcall:
Yeas 94, Nays 53,
***98 needed to override.**

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 22, 2018

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State Street
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.40, *An act relating to increasing the minimum wage*, without my signature because of my objections described herein:

I know what it's like to be a working Vermonter struggling to make ends meet. I have worried about putting food on the table and experienced winters when I had to buy heating oil one 5-gallon bucket at a time to keep my family warm. I know the struggles of running a small business striving to make payroll and stay afloat, in the face of seemingly never-ending tax and fee increases, expensive mandates and duplicative regulations. And I know for many years the costs of living have been rising faster than wages, and many families, and most of our state, haven't fully recovered from the Great Recession.

On my first day in office, I signed an Executive Order outlining the strategic priorities of my Administration: to grow the economy, make Vermont more affordable, and protect the most vulnerable. Improving the economic opportunities of those struggling to ascend the economic ladder is central to all three of these outcomes. My Administration is measuring our progress in meeting these priorities through key performance indicators defined in the State strategic plan, which include organic job and wage growth by region and reducing the percent of household income spent on housing, healthcare and taxes and fees, among other metrics.

By taking a strategic, results-based approach, we can position Vermont's economy and the wages of workers to grow faster than the cost of living; we can make our state *measurably* more affordable each year for families and businesses; and we can meet our obligations to the most vulnerable and make additional investments in priorities Vermonters' value. To achieve these outcomes, however, we need to take actions that are based on real, evidence-based public policy.
As Vermonters, we share a deep desire to improve the economic security of every community and every family. As a member of the Vermont Senate, I voted to increase the minimum wage and tie annual increases to inflation.

So, while I agree with the spirit of S.40, I believe the bill is more likely to harm those it intends to help, weaken small businesses and the economy as a whole, and deepen the economic inequality that exists between Chittenden County and other counties in the state.

The Weight of Evidence Indicates S.40 is Bad Economic Policy

What we *want* the outcome of a new law to be is sometimes very different than what the analysis and evidence indicates the results will be. This is one of those cases. Unfortunately, the evidence available to us – much of it from the Legislature's own economist –indicates that the mandated wage increase proposed in S.40 will result in negative outcomes for job seekers, current employees, job creators and our economy as a whole.

More specifically, according to the bill's fiscal note,[1] as well as memoranda[2] from the Legislature's economist, many of the assumed economic gains of a mandated minimum wage increase will be offset by negative economic consequences. Job losses resulting from mandated wages increase of this scope are likely, and the cited data also indicates reductions in hours, reduced employee benefits, price increases, and more.

As reported by Vermont employers in 2016, the number of hours worked per week decreased 2.9 percent since 2008. The population of long-term unemployed, a large number of who have entry-level skills, has been rising. This population of Vermonters is having the most difficult time gaining economic traction because they need more skills to meet the demand for available jobs. And over the last four years since the last mandate to ratchet up the base minimum wage was implemented, the labor force participation rate has declined. Forcing employers to raise the mandated minimum wage faster than the current law requires will reduce entry-level opportunities.

Additionally, according to a study on the effects of a minimum wage increase in Seattle,[3] the data suggests the hours worked in low-skill jobs fell by 9.4 percent. Alternative measures suggest that the number of entry-level jobs actually declined by 6.8 percent. Perhaps most strikingly, total net payroll for low-wage workers fell by an average of $125 per month—that equates to a $1,500 decline in income annually. Put very simply: while hourly wages increased, actual annual income decreased – meaning mandating a higher minimum wage had the opposite impact it was intended to have.

S.40 Fails to Address & Expands the 'Benefits Cliff'

We all share the goal of providing Vermonters the resources they need to thrive, but we can't do that if we do not also fully consider net value of wages, benefits and prices of goods and services, and their inseparable relationship.

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[1] Fiscal Note
https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20Ways%20and%20Means/Bills/S.40/S.40~Joyce%20Manchester~Fiscal%20Note~4-4-2018.pdf

[2] May 2018 JFO Memorandum, page 7
https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20Appropriations/Bills/S.40/S.40-MINIMUMWAGE~Tom%20Kavet,%20Legislature's%20Economist,%20Kavet,%20Rockler%20and%20Associates,%20LLC~Memo%20-%20Minimum%20Wage%20Review%20-%20May%202017~4-19-2018.pdf

[3] UW Study, pages 28, 35-36
http://www.leg.state.vt.us/jfo/Minimum_Wage_Study_Committee/MWSC%20-%20Background/NBER%20Working%20Paper%20Series%20-%20Minimum%20Wage%20Increases.pdf

S.40 will push many Vermonters over the "benefits cliff," which could result in a total decline in their resources. According to the Vermont Legislative Joint Fiscal Office, roughly 2,000 families—with 3,000 children—could potentially lose child care assistance because of these changes[4] in S.40. The current "fix" contained in the bill for this loss in benefits falls unacceptably short of real reform. It only states that the sliding scale for the Child Care Financial Assistance Program shall be adjusted, contingent on "the extent funds are appropriated."

While it is positive that some thought, albeit incomplete, was given to the impact on this policy change to childcare assistance recipients, S.40 also fails to adequately assess the net impact on Vermonters receiving assistance from Medicaid, LIHEAP, Section 8 Housing, 3SquaresVT, the Earned Income Tax Credit (EITC), SSDI, and SSI.

These reasons alone constitute sufficient reason to veto this proposal.

S.40 Hurts Small, Local Businesses the Most

Ninety percent of all Vermont businesses have fewer than 20 employees.[5] These businesses are the backbone of our economy. They employ 29 percent of our employed population and pay 26 percent of wages. Under current law, these businesses will already have to raise the minimum wage every single year in perpetuity. This alone is a challenge—not counting other mandates State government has imposed on them in recent years. Our small businesses simply cannot afford this legislation.

Take, for example, Caleb Magoon of Power Play Sports in Morrisville and Waterbury Sports in Waterbury, who said, "My heart is 100 percent behind raising the minimum wage. I understand the want and need to raise up those at the bottom of the pay scale. But my head knows better; the numbers simply don't add up for businesses like mine." [6]

Similarly, David Anderson, owner of Maple Hill Residential Care Home, said, "We operate at the line between profit and loss every day. The minimum wage increase will create an environment in which it will be impossible to staff our home adequately to support the residents we have."[7]

These are just two examples, among many.

Most Regions in Vermont Cannot Absorb Impacts of S.40

The effects of a mandated minimum wage increase beyond the currently scheduled increases will be drastically different by region. Vermonters and small businesses in Benson will be impacted differently

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[4] Deb Brighton, The Benefits Cliff and S.40 https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20General/Bills/S.40/S.40~Deb%20Brighton~The%20%E2%80%9CBenefits%20Cliff%E2%80%9D%20and%20S.40~3-22-2018.pdf

[5] http://www.leg.state.vt.us/jfo/Minimum_Wage_Study_Committee/MWSC%20-%20September%202017/VSJF%20testimony_Min%20Wage%20Study%20Committee%209.6.17.pdf

[6] https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20General/Bills/S.40/Written%20Copies%20of%20Testimony/S.40~Caleb%20Magoon~Copy%20of%20Testimony~4-4-2018.pdf

[7] https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20General/Bills/S.40/Public%20Comment/S.40~David%20Anderson%20~Comments%20from%20Maple%20Hill%20Residential%20Care%20Home~4-12-2018.pdf

than those in Burlington. Those in Essex Town will be affected differently than those in Essex County. Rural areas of Vermont—which are struggling economically under a growing crisis of affordability compounded by years of a one-size fits all approach in Montpelier—will be hit the hardest by this proposal.[8]

Employers on the eastern border of our state will also be hurt more by this measure than employers further from the border. Vermont small businesses on the Vermont-New Hampshire border are already in tight competition with New Hampshire, which has no state sales or income tax. If this legislation were to be implemented, the minimum wage differential between Vermont and New Hampshire would rise from 38 percent to a shocking 107 percent.[9] Vermont small businesses—the staples of our rural communities—would simply be unable to compete.

Real Economic Growth & Real Wage Growth is a Better Path Forward

Vermont has the sixth highest minimum wage in the country and it is scheduled to increase each year based on a mandated cost of living adjustment. As announced by the Vermont Department of Labor on May 18, the seasonally-adjusted statewide unemployment rate for April was 2.8 percent and overall Vermont's unemployment rate was tied for fifth lowest in the country.

The fact is the labor market is competing aggressively to recruit and retain skilled and reliable workers. As a result, we are seeing employers increase wages above the rate of inflation to be more competitive. In 2017, the average wage in Vermont increased by 2.4 percent over the year versus the general level of inflation as measured by the CPI that grew by 2.1 percent for the same time period.

There are also many good paying jobs available right now in Vermont. There's also a shortage of skilled labor. Through our focus on labor force expansion, and efforts like the newly created "Returnship Program," we are training more workers so they can reenter the workforce or move into better paying jobs. We've held the line on taxes and fees; passed the largest housing package in state history; increased support for childcare and state colleges; and more. Yet, there is much more work to do to change the economic trajectory of our state.

Here's the bottom line: We can continue to encourage higher wages and more take home pay without the negative economic consequences of policies that contributed to our economic challenges and the current crisis of affordability facing many families and businesses.

To do this, we must more aggressively prioritize policies – like technical education and trades training – that help low-wage workers move up the economic ladder, and help employers create more good jobs. We must continue the hard work of making Vermont measurably more affordable for families and businesses each year. And we must continue to modernize government and eliminate the "benefits cliff" that is preventing many families from making more money and achieving economic independence.

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[8] VT Digger August 15, 2017
https://vtdigger.org/2017/08/15/economists-debate-impact-15-hourly-minimum-wage/#.WZ8lhCiGNaQ

[9] October, 2017 JFO Memo, page 6
http://www.leg.state.vt.us/jfo/Minimum_Wage_Study_Committee/MWSC%20-%20October%202,%202017/Kavet%20-%20Memo%20Minimum%20Wage%20100217%20(2).pdf

In conclusion, for these reasons and more, I cannot support S.40 and return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

The House and Senate Journals are silent on any legislative response to the governor's veto of S.40.

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 22, 2018

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State Street
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.105, *An act relating to consumer justice enforcement* without my signature in the time permitted by the Constitution because of my objections described herein.

I am proud that Vermont is already known as a leader in consumer protection. It is essential, however, that such protections are fair, carefully defined regulations to avoid unintended consequences that disadvantage Vermont consumers and businesses when compared to laws of other states. To have a strong economy that provides Vermonters with good jobs, and ensures we have the revenue needed to invest in vital programs and services, Vermont must be able to compete, not only regionally and nationally, but globally.

Since its passage by the Legislature, my office has heard from a significant number of businesses and non-profits alike, with serious concerns about the detrimental impacts of this bill. This feedback has come from entities ranging from charitable organizations and community groups, to Vermont's outdoor recreation sector (vital to our economy and our state's identity) and our burgeoning tech industry. While I do not believe the Legislature intended to adversely impact such a diverse group of organizations in our state, the unintended consequences of this policy are pervasive and unacceptable.

Vermont's outdoor recreation economy and non-profit organizations, like the YMCA, Run Vermont, and the Vermont Special Olympics who offer recreational services to the community, have voiced opposition to provisions in this bill, noting it will greatly inhibit the use of standard waivers, which are central to daily operations.

The outdoor recreation industry helps to generate $2.6 billion and brings 13 million visitors through our tourism economy. This legislation would hamper the ability of Vermont's outdoor recreation businesses and non-profits to exist, much less grow, and jeopardize the significant tax revenues and direct spending that tourism and outdoor recreation generate.

By weakening the enforceability of waivers and releases, S.105 increases liability exposure for many Vermont businesses and non-profits. Cross country and alpine ski areas, guide services, trail-based organizations, recreational event providers, environmental and educational programs, college outing groups, land owners, and summer camps all use waivers for protection under the law when a participant in the activity has agreed to assume the associated risks. These entities depend on strong legislation to help enforce waivers. This bill would make it easier for recreation participants to sue and more difficult for recreation providers to secure liability insurance.

With this bill, Vermont would – yet again – be an outlier, making us less competitive with other states. States like New York, Connecticut and Illinois, have proposed model consumer bills like S.105, which have been rejected. On the other hand, New Hampshire and Colorado – states like Vermont, that are highly dependent on recreation – have passed language to enforce waiver forms and strengthen inherent risk laws, moving in the opposite direction of this bill.

While S.105 is intended to protect consumers from unfair terms in standard-form contracts, it will apply to most, if not all, e-commerce transactions, and includes any Vermont business selling goods or services online. E-commerce has proven to be a powerful tool and opportunity for both Vermont businesses and consumers. As we work together to grow the tech industry in Vermont, this legislation will adversely impact these entrepreneurs and inhibit growth and expansion in this important sector.

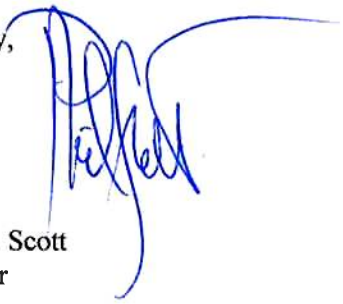
This bill does not express an intent to address particular types of transactions or particular industries affected. It would discourage the use of certain contract terms without any consideration of legitimate needs to employ them. Rather than directly addressing consumer protections in cases of bad actors or specific consumer abuses, this bill presumes an anti-consumer intent in all instances where an agreement limits certain claims or remedies. And it does it in a way that would be very detrimental to our economy and to the not-for-profit organizations that enrich our quality of life.

Further, Vermont courts already have the discretion to address the issue of unconscionable terms in contracts. The Vermont Supreme Court has already applied a test in determining whether waiver clauses are enforceable. The decision of the Vermont Supreme Court in *Dalury v. S-K-I, Ltd* stated that "we recognize that no single formula will reach the relevant public policy issues in every factual context... [W]e conclude that ultimately the determination of what constitutes the public interest must be made considering the totality of the circumstances of any given case against the backdrop of current societal expectations," which could be used when evaluating if a waiver clause would be unconscionable under this bill.

Clearly, current law already protects consumers in this arena. We'd therefore be making it more difficult and less appealing for businesses in sectors vital to our economy to do business in Vermont and eroding the ability of not-for-profit organizations to provide programs and services, without significantly improving consumer protections beyond what's already achievable through current law.

As noted, based on the outstanding objections outlined above, I cannot support this piece of legislation and must return them without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,



Philip B. Scott
Governor

PBS/kp

No attempt to override recorded.

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 22, 2018

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State Street
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.197, *An act relating to liability for toxic substance exposures or releases*, without my signature because of my objections described herein:

The State has taken clear and decisive action since the discovery of PFOA in the drinking water of Bennington and North Bennington in 2016 to address this public health crisis, hold the responsible parties accountable, and provide stronger protections against this happening again. This includes the enactment of Act 55 of 2017, which I proudly signed in to law last June. Act 55 has helped strengthen the State's response to PFOA contamination by establishing a process to hold parties that contaminate groundwater responsible for connecting impacted Vermonters to municipal water. We will continue to stand with the affected communities, and act forcefully, until we reach a complete resolution for those affected. So far this has resulted in one settlement agreement which provides a substantial although partial resolution. This case will be completely resolved either through an additional settlement agreement or as a result of litigation. Either way, the polluter will be held responsible for the contamination, the cleanup, and for the health and well-being of Vermonters.

No community should have to endure what the impacted communities are going through. The patience and perseverance of these communities, as we work together to resolve this crisis, has been amazing. We will continue to ensure all Vermonters have clean drinking water.

I recognize the intent of this bill is to help ensure those exposed to harmful chemicals, like PFOA, can access financial resources for medical monitoring to increase early detection, diagnosis, and treatment of diseases that may occur because of such exposure. However, it is important to note that there is nothing that currently keeps an individual from seeking judicial recourse to gain medical monitoring from an entity. The level of liability this legislation creates for Vermont businesses is unprecedented and counter to my Administration's goal to make Vermont more affordable.

The level of liability and uncertainty this legislation creates for employers could prove catastrophic for Vermont's fragile economy and the bill establishes a standard that does not exist anyplace else in the country. Under the extremely broad definitions within S.197, any individual exposed to a chemical—who

may have an indistinguishable change in risk compared to the general public—would be able to receive unlimited medical monitoring, without any proof that a medical condition is even likely to develop due to the exposure.

Put simply, enacting this bill would sacrifice provable and scientific evidence in favor of claims that are speculative, conceptual, abstract, and subject to very low levels of proof. Employers –law-abiding members of our communities who want to do what is best for their employees and our state– would see their liabilities skyrocket overnight, courts could find themselves loaded with claims, and insurance companies and markets would be stressed. Costs would rise for employers, and consumers. And Vermont would become a substantially less attractive place to create jobs and run a business. Some employers – including many we've heard from – might have reason to pull up stakes and leave.

Moreover, S.197 will also make insurance significantly more expensive and less available in Vermont. Subjecting manufacturers and other businesses in the state to large uninsured losses will, in effect, slowly drive them out of business. A single medical monitoring claim could be significant enough to drain all of a company's resources.

Based on the objections outlined above, I must return this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

There is, however, a reasonable path forward that would improve employee protections, without the devastating impacts S.197 would have on our economy.

Should the Legislature want to take this issue up again in the next biennium, I would recommend the following to ensure the legislation achieves the goals of added protections without the unintended consequences to our economy:

- Increase the burden of proof to a clear and convincing standard;
- Before damages are awarded and attorneys are paid, show that the employer has acted negligently or recklessly;
- Pursue an objective and scientifically-based test for the definition of toxic substances and an objective and scientifically-based standard for the need of testing; and
- Consider narrowing the bill specifically to unpermitted activities.

Again, I believe there is a way to move forward on this issue that will benefit Vermonters without unduly harming our economy. Unfortunately, as written S.197 would have extremely negative consequences for Vermont's economy.

Sincerely,

Philip B. Scott
Governor

PBS/kp

No attempt to override recorded.

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 30, 2018

The Honorable John Bloomer
Secretary of the Senate
State House
Montpelier, VT 05633

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.222, *An act relating to miscellaneous judiciary procedures*, without my signature because of my objections described herein.

This bill purports to make several technical amendments related to civil and criminal procedure statutes. However, it makes substantive changes to the laws regarding video conferencing of arraignments and other appearances before a Court officer, and modifies regulations for marijuana dispensaries, and sealing and expungement of records.

Of primary concern are the changes to video conferencing of arraignments and other appearances before a Court officer. I understand the Judiciary was quite clear with both the Senate and House Judiciary Committees regarding its desire to proceed with this tool to facilitate Court administration. I am concerned the Legislature has disregarded the obvious separation of powers issue. Chapter II, Section 30 of the Vermont Constitution provides, in relevant part: "The Supreme Court shall have administrative control of all the courts of the State…" The Vermont Supreme Court has held the "Judiciary must control the 'management of the courts' to fulfill its function of providing justice to those who appear before us." Wolfe v. Yudichak, 153 Vt. 235, 255 (1989). One of the necessary aspects of court administration is the discretionary aspect of allocating judicial resources and this bill removes this tool from the purview of the Judiciary.

In 2015, the Judiciary was asked by the Legislative and Administrative branches to come up with structural savings to address anticipated budget shortfalls. The Judiciary identified the high cost, risk to safety, and scheduling challenges of prisoner transports in Vermont as factors calling for innovation regarding prisoner appearances.

The Judiciary undertook a pilot project to conduct video appearances in the Chittenden County criminal division and associated Department of Corrections facilities. In December of 2017, the pilot project expanded to the Bennington court and Marble Valley Correctional Facility and I understand expansion is currently underway in the Windham court and the Southern State Correctional Facility.

In the interim, these pilot projects have reduced the costs and risks associated with transporting individuals between correctional facilities and the courts. The system has been in effect for almost three years without a single court challenge, and the numbers show since July 1, 2017, when defendants were given the option of in-person or video arraignment, they overwhelmingly chose video. I understand the Judiciary has worked to address the concerns of the defenders regarding their ability to communicate with their clients and made improvements to both the technology and confidentiality in the facilities.

This bill would eliminate the ability of the Judiciary to provide video conferencing as an effective tool for improving efficiencies and allocating scarce resources unless either the Defender General and the Executive Director of the Department of States Attorneys and Sheriffs jointly certify the video conferencing program in use at a facility adequately ensures attorney-client confidentiality and the client's meaningful participation in the proceeding or with the approval of defense counsel, or in the case of an unrepresented defendant, consent. This effectively enables two Executive Branch officers to usurp the authority of the Judiciary to effectively manage Judiciary resources; this constitutes an unacceptable violation of the separation of powers.

Video arraignments have been challenged on a variety of constitutional grounds in a number of states, including New Hampshire, and have been upheld as a reasonable allocation of scarce court resources. The appropriate venue for a constitutional challenge to video conferencing is in the courts of this State, not through the legislative process.

As noted, based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

No attempt to override recorded.

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 30, 2018

The Honorable John Bloomer
Secretary of the Senate
State House
Montpelier, VT 05633

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.273, *An act relating to miscellaneous law enforcement amendments*, without my signature because of my objections described herein.

This bill restructures the Vermont Criminal Justice Training Council and could affect the operation of the Vermont Police Academy in a way which substantially weakens the Council and unnecessarily politicizes this essential link between improving the quality of law enforcement and protecting Vermonters. The Council's purpose is to maintain a uniform standard of recruitment and in-service training and certification of state, county and local law enforcement professionals in the State of Vermont.

Specifically, this bill removes the authority of the Governor to appoint five members to the Council to provide broad representation of the law enforcement community and the public. I, as well as prior Governors, have recognized the importance of the representation of Sheriffs, State's Attorneys and Police Chiefs on the Council. Unfortunately, this bill eliminates representation of the elected State's Attorneys on the Council.

State's Attorneys are independently elected prosecutors who work closely with the law enforcement community, the defense bar and the courts. The inclusion of the State's Attorneys is critical to the operations of the Council and to the members of the law enforcement community the Council is responsible for training.

As noted, based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

No attempt to override recorded.

PBS/kp

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 30, 2018

The Honorable John Bloomer
Secretary of the Senate
State House
Montpelier, VT 05633

Dear Mr. Bloomer:

I support without reservation the goal of this bill to ensure State governance is conducted in an unbiased, open, inclusive and welcoming manner.

Unfortunately, pursuant to Chapter II, Section 11 of the Vermont Constitution, I must return S.281, *An act relating to mitigation of systemic racism*, without my signature because of significant constitutional concerns given separation of powers violations described herein. Importantly, to ensure the intent of the legislation is fulfilled without delay, I have signed Executive Order 04-18. This Executive Order is modeled after S.281 but goes further in our effort to ensure racial, ethnic and cultural diversity, equity and equality – and avoids the unconstitutional provisions included in the bill.

I instructed the Agency of Administration to draft the order modeled after S.281 and to seek input from the Vermont Partnership for Fairness and Diversity and other stakeholders. Specifically, the order establishes the position of Chief Racial Equity and Diversity Officer, to be nominated and vetted by a five-member panel selected in consultation with the Judiciary, the Legislature and the Chair of the Human Rights Commission. The Chief Racial Equity and Diversity Officer will be housed in the Office of the Secretary of Administration. The duties and responsibilities of the Chief Racial Equity and Diversity Officer include those reflected in S.281.

Additionally, Executive Order 04-18 goes beyond what was contemplated in S.281 and mandates training of appointed leaders in all agencies and departments on implicit bias and related issues that contribute to inequity or inequality as well as recruitment for increased racial, ethnic and cultural diversity in State jobs and on boards and commissions. It also directs the Officer to evaluate existing State Executive Orders, which are designed to address equity and diversity issues and recommend updates, modifications or sunset provisions to ensure these Executive Orders and the bodies created therein are effective and getting meaningful results.

It is unfortunate that I must return S.281 when the Legislature and the Administration share the same goals on this critical issue. I appreciate the work of the Legislature in drafting this bill – much of which is adopted in my Executive Order – and the work of many to address the constitutionality concerns during the Legislative process. Unfortunately, during the last days of the session, language was added that would usurp the executive's Constitutional authority to remove a cabinet member responsible for performing an executive function. The new executive branch official contemplated in this bill is both appointed by and accountable to the Governor. The removal power, incidental to the appointment power, is essential for a Governor to take care that the laws be faithfully executed in accordance with the Constitution. The exercise of executive authority by an inter-branch entity over a Governor violates the separation of powers dictated by the Constitution.

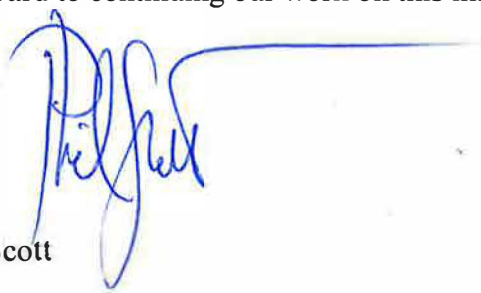
While several specific alternatives to the unconstitutional provision were proposed – which included removal with notice to, and consultation with, the Panel; and a term of office and termination by the Governor for cause only – the Legislature passed the bill with the unconstitutional language on the last day of the session and over the clear objection of my Administration.

It is important to note that, to date, the State of Vermont has demonstrated leadership in this area. For example, the Department of Public Safety's Fair and Impartial Policing Initiative, the Agency of Transportation's Office of Civil Rights, and the Agency of Education through partnerships with professional associations in anti-bias efforts. This is important progress, but as we have discussed there is still much more work to do. That's why I felt it was important to issue Executive Order 04-18.

With this Executive Order in place, there will be no delay in important work ahead of us, and the Legislature can take additional time to resolve the unconstitutional separation of powers violations detailed above.

I look forward to continuing our work on this important issue.

Sincerely,



Philip B. Scott
Governor

PBS/kp

No attempt to override recorded.

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 22, 2018

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.196, *An act relating to paid family leave*, without my signature because of my objections described herein:

First, I support the goal of providing Vermonters with a program that allows workers time to take care of family and bond with new children. Over the course of the Biennium, I have repeatedly voiced that I would be – and still am – open to working to create a State-run, voluntary system which provides this type of benefit for individuals who choose to invest a portion of each pay check, while allowing others to opt-out. Unfortunately, the Legislature decided to pursue a program that increases taxes taken out of the paychecks of all Vermonters at a time when we're just starting to confront the crisis of affordability facings families and businesses.

On my first day in office, I signed an Executive Order outlining the strategic priorities of my Administration: to grow the economy, make Vermont more affordable, and protect the most vulnerable. Helping every family to ascend the economic ladder and be more economically secure is central to all three of these outcomes. My Administration is currently measuring our progress in meeting these priorities through key performance measures defined in the State strategic plan, which include job and wage growth by region and the percent of household income spent on housing, healthcare and taxes and fees, among other important metrics.

By taking a strategic, results-based approach we can help Vermont's economy grow faster than the costs of living; make our state measurably more affordable each year for families and businesses; meet our obligations to the most vulnerable; and make additional investments in Vermont's priorities. To achieve these outcomes, however, we need real, evidence-based public policy that regards tax increases as financing options of last resort.

I don't believe H.196 meets this test. Unfortunately, the majority in the Legislature spent no time considering my Administration's point of view, particularly our willingness to collaborate on a voluntary program.

Vermonters Need a Break for Ever-Increasing Taxes
I have been clear since I announced I was running for Governor, and throughout the Biennium, that I cannot support legislation which raises taxes on Vermonters. After years of constantly-increasing taxes and fees, Vermonters need a break. They need the opportunity to keep more of what the earn. While businesses need a stable and predictable environment in which they can invest, grow and create more good jobs.

While the goals of this legislation are admirable, it simply is not responsible to impose a new $16.3 million payroll tax on Vermonters —further exacerbating the crisis of affordability – without even contemplating a voluntary option. Moreover, as I'll detail below, I believe the startup costs of this program, and the payroll taxes required to fund it, are significantly understated.

H.196 Significantly Understates Implementation Costs
As subject-matter experts from the Department of Labor and Department of Taxes testified during the committee process that, to implement this policy well, would require adequate funding to support the design of a new insurance system, similar to building a variation of Vermont Health Connect for paid leave. Despite the guidance of the Departments that would be responsible for implementation and administration of the program, the Legislature funded it at the bare-minimum, creating a program that will likely run a large deficit in the future requiring additional tax dollars. Simply, the $16.3 million in new taxes H.196 would raise, would not be enough to start and operate the program.

Again, according to analysis and testimony from analysts at both the Department of Labor and Department of Taxes, the Legislature's estimations of start-up and ongoing costs are severely understated. Overlooking expert testimony resulted in downplaying the actual startup costs of a complex entitlement program and lower cost projections when presenting the required payroll tax increase. In addition to being a disappointing sleight of hand, underestimating the costs of implementing this program would jeopardize the program's administration and functionality.

Even with the modest assumptions for startup costs, and according to the Vermont Legislative Joint Fiscal Office fiscal note, the paid family leave fund would run a deficit for 4 of the next 5 years. Using just slightly larger cost assumptions run by my Administration (not even the full cost we estimate), the fund is not solvent.

Undoubtedly, in future years, the payroll tax would need to increase substantially to sustain the program conceived in H.196. Essentially, this bill establishes a tax rate which is known to be insufficient and there would be no way to avoid increases. That involuntary rate increase in future years stands in direct conflict with the goal of making Vermont more affordable for working families.

We Must be Pragmatic
We have numerous programs in Vermont that help Vermonters, and each year we have difficult conversations about their sustainability and funding. We must take greater care when creating new programs and fully consider the implementation, sustainability, and future costs to taxpayers and the very people these programs are designed to help.

We must also consider the statewide impacts, as the ability to sustain continually rising costs and higher taxes vary greatly from region to region, county to county and town to town. Most communities in the state have not fully recovered job losses from the Great Recession. Implementing the payroll tax required to fund it would slow the recovery in these areas at this time.

For years, Vermonters have made it clear to me, and to many of their elected officials in the Legislature, they cannot afford new taxes. We cannot continue to make the state less affordable for them and less appealing for families and businesses—even for well-intentioned programs like this one.

In this case, I believe we can craft a voluntary program that avoids the economic disadvantages of higher payroll taxes on already overburdened working Vermonters. I hope to work collaboratively with a future Legislature to consider such a voluntary option, in which individuals could choose to invest in, or opt-out of, and that would offer similar benefits to those envisioned in H.196.

As noted, based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

No attempt to override recorded.

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 25, 2018

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.911, *An act relating to changes in Vermont's personal income tax and education financing system*, without my signature because of my objections described herein.

Please note, the following also addresses objections to H.924, *An act relating to making appropriations in support of government*, as the two bills are inextricably linked and their relationship factors heavily into my decision to return both bills. H.924 will be returned to you in a separate message containing the same objections.

My primary objection to the bills – and the reason that, following the Legislature's decision not to schedule a veto session, I've called the Special Session – is that together they result in an unnecessary and avoidable $33 million increase in statewide property tax rates.

We have, in this fiscal year, approximately $160 million more in revenue than last year. This additional revenue breaks down as follows:

- $82 million more from organic economic growth and federal tax reform;
- $34 million in unanticipated funds from the Attorney General's tobacco settlement; and
- $44 million in surplus revenue recently added to the budget.

Having collected far more revenue from Vermonters than expected, as well as additional revenue from other sources, we do not need to raise statewide property tax rates on Vermonters to fully fund school budgets.

I have been clear as a candidate, and throughout this term in office, that I cannot support legislation which adds or increases taxes on Vermonters. On my first day in office, I signed an Executive Order prioritizing affordability, economic growth, and protecting the most vulnerable.

After years of constantly-increasing taxes and fees, Vermonters need a break. They need the opportunity to keep more of what they earn. At the same time, our businesses need a stable and predictable environment in which they can invest, grow and create more good jobs.

Therefore, I cannot support raising the statewide property tax rates – especially in a year when we have other options for fully funding school budgets. Homeowners, those who rent homes and apartments, employers of all types and sizes – everyone who lives, works and invests in Vermont – deserves a more stable, predictable and affordable property tax system.

Many of the decisions that impact individual property tax bills – and whether they go up, down or stay flat – occur at the local level or are impacted by other economic factors. But at the State level, we can have an impact through setting the statewide rates and establishing a "yield" to determine the resulting education tax rates. As you know, H.911, as presented for my signature, raises both the non-residential rate and the average statewide homestead education tax rate, raising $33 million in additional property taxes for FY19. As the primary mechanism the State uses to influence the property tax burden on Vermonters, I cannot accept an increase to these statewide rates in a year that we have better options.

To be clear: if the Legislature wants to raise statewide property tax rates at a time when we have significant surplus revenue that could be returned to Vermonters, it will have to override a veto.

However, I believe we are much closer to an agreement than the continued political rhetoric indicates. I've detailed how close we are – and how we can very easily reach a true consensus – in more detail further below.

Working Family Taxpayer Protection Act (H.911, Sections 1-9)
When it became clear that the Federal Tax Cuts and Jobs Act had a widespread financial impact on Vermonters, I proposed my Working Family Taxpayer Protection Act in February. The goal of this plan is to give back the net $30 million State personal income tax increase the federal changes would cause to Vermonters. The hardest hit by the federal changes were middle-income families with children.

I am grateful that H.911, as passed, includes nearly every element of my proposal. The major difference is the inclusion of a $20,000 cap on the five percent charitable contribution tax credit; as you may recall, I recommended a five percent credit without a dollar limit. I believe, over time, the Legislature may want to reconsider this cap, given the impact it may have on large charitable contributions to Vermont's non-profit sector.

Nevertheless, the tax credit will provide an incentive to those 90 percent of Vermonters who are not expected to itemize deductions this coming year, and is a new tax advantage to all Vermonters, whether they itemize or not.

Altogether, this portion of H.911 achieves my goal of moderating the tax burden, with an emphasis on low to moderate income Vermonters who receive Social Security. It also promotes charitable giving by reducing the tax liability of those who choose to give. I respect and appreciate the Legislature's work in this area and I will not pursue any changes to the Working Family Protection Act sections of H.911 during the Special Session.

Five-Year Plan to Stabilize Education Tax Rates and Reinvest Savings

Earlier in May, in an effort to reach consensus, I presented a comprehensive five-year plan, built on the many ideas and concepts that have been presented throughout this Biennium. None of the core elements of the proposal were new. The plan would:

- Fully fund the school budgets local voters have approved for next year;
- Close the FY19 Education Fund gap and prevent recurring deficits;
- Stabilize (keep level) or lower statewide property tax rates for five years;
- Generate almost $300 million in total net savings over five years that can be reinvested in systemic changes to create a cradle-to-career continuum of learning. This includes more and better early education, K-12 education, technical education, higher education opportunities;
- Allow education spending to grow sustainably each year based on the average projected increase (the consensus forecast) in grand list value of 3.25 percent; and
- Set Vermont on a stable and predictable five-year trajectory allowing local school districts to take full advantage of the governance changes made under Act 46.

The plan achieves gross savings of over $450 million – as projected by the Administration's analysts and cross-agency policy team – if all the components of the plan are passed as outlined. **It is important to know that three have already been achieved and a fourth was being considered in the Senate Education Committee before adjournment**:

- **Special Education Census Model**: Changes to the method for delivering special education services in Vermont, **as passed in H.897**, *An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support*;

- **Staff-to-Student Ratios**: Savings through natural attrition (vacancies and retirements), which can be achieved while still filling, on average, four of five of those vacancies over the next five years. I want to be very clear, this is not a mandated ratio target. Rather it builds off the incredible efforts of local school boards in developing their FY19 budgets at an aggregate growth rate well below the targets I communicated in November 2017, in anticipation of substantial increases in the statewide property tax rates, if we did nothing.

  I agree with legislators and members of the education community who report that Act 46 will result in progress to staffing ratios more aligned with our enrollment realities and

best practices in education management, and I trust that school boards will continue that important work, supported by the help and recommendations of a student-to-staff ratios task force, **as passed in Section 17 of H.911**. I believe we can achieve this goal while improving outcomes for our students and we will likely still retain our position as having the lowest student to staff ratio in the nation;

- **Tax Rate Computation**: Lower the excess spending threshold gradually from 121 percent to 110 percent over the next five years and reduce allowable aggregate exclusions to 50 percent;

- **Property Tax Adjustments**: Decrease the maximum house site value from $500,000 to $400,000 in FY19 and the $250,000 to $200,000 reduction in FY20 **(H.911, Section 14)**; and reform the property tax adjustment calculation for new homesteads after July 1, 2018; and

- **Statewide School Employee Health Care Benefit**: Establish a statewide school employee health care contract, as discussed in FY18, endorsed by the Vermont Educational Health Benefits Commission, and discussed during the 2018 legislative session. If stakeholders cannot agree on the statewide negotiation dynamic at this time, the benefit should be put in session law for two years while a viable plan, supported by all stakeholders, is achieved in the next Biennium.

As you can see, we are very close. With a little more constructive dialogue during the Special Session, I am confident we can deliver to Vermonters a full package, informed by the additional perspective below, that meets my goals of affordability and movement towards a cradle-to-career continuum of education.

An additional benefit of this plan is its 5+ year horizon. The rating agencies caution that Vermont's declining demographics are one of Vermont's primary weaknesses, along with it pension liabilities. One agency noted that although state spending growth on education is "somewhat offset" by our current education funding reliance on property taxes as its source of revenue, it also noted that those taxes "collected by localities on behalf of the state" do not "fully mitigate spending increases... exposing the state to a level of ongoing expenditure growth as reflected in the steadily growing annual state general fund appropriation to the education fund." (Fitch Ratings report, August 11, 2017). The rating agencies applaud Vermont for our ability as a state to manage budget pressures, and they value multi-year management plans. My plan does exactly that.

Below is what remains to be done, from my point of view.

Property Tax Yield, Adjustments and Structure (H.911, Sections 10-16)
My primary objection to the property tax provisions of H.911 are the resulting increases in the average homestead property and non-residential property tax rates. The bill results in an average homestead tax rate of $1.526, a 2.6-cent increase from the 2018 rate. The non-residential rate is set at $1.59, an increase of 5.5 cents from 2018.

I appreciate the work done by the Legislature to reduce the amount needed to close the Education Fund deficit through a combination of one-time money and changes to property tax adjustments that reduced the statewide tax rate increase to $33 million. But again, I will not sign a bill that raises statewide property tax rates mentioned above.

H.911, as passed, achieves $13 million dollars in avoided tax increases in two ways:

- First, it reduces the house site value eligible for a downward property tax adjustment from $500,000 to $400,000, consistent with my proposal, saving approximately $2 million in each of the next five years for a projected five-year savings of almost $10 million. We have no differences on that provision in H.911; and
- Second, the bill as adopted by the conferees achieves $11 million in savings through changes to income sensitivity in FY19 by lowering the eligible house site value from $250,000 to $200,000 for households who earn over $90,000.

I am very concerned about the widespread and immediate impact the $250,000 to $200,000 change will have on some Vermonters. This change may impact as many as 21,000 households immediately, the vast majority of whom have already filed for an adjustment with the Department of Taxes. This seems unreasonable.

If the Legislature pursues this change, I propose it be deferred until next fiscal year. With at least $160 million in additional revenue, we can work together to find the $11 million to offset the Legislature's proposal in FY19 – allowing us time to communicate the change and allowing taxpayers to plan for this change.

My proposal also includes a "go forward" change to the income sensitivity program that will not affect any current Vermont homeowners, and will better focus the program on those living in homes valued near the Vermont average. This is a similar approach used in many pension reforms, which limits the impacts to new employees after a date certain. Vermonters establishing a new homestead after July 1, 2018 would receive property tax adjustments where the maximum house site value used in the computation will be $250,000 minus household income. This system will moderate some of the adjustments going to higher income recipients and those living in homes valued well in excess of the statewide average. There will also be an enhanced benefit for many new homeowners by allowing a deduction of the claimants' exemptions in computing household income, many families will enjoy a greater benefit than the current system.

Finally, the Legislature did not include my proposal to reduce the excess spending threshold and allowed aggregated exclusions gradually over five years beginning in FY20. This step is a cost containment provision that, when implemented gradually over time, will result in concrete savings over the course of the five-year plan. Understanding the Legislature's hesitancy to discuss staff-to-student ratios, this is an additional tool that will potentially help avoid the need to set ratios in statute and give districts the guardrails they need to navigate the additional work necessary to achieve the goals of Act 46.

In summary, while there is a fair amount of detail here, the changes needed to the property tax provisions are limited and straightforward:

- The property tax adjustment change of eligible house site value from $250,000 to $200,000 in Section 14 should be deferred to an effective date of July 1, 2020;
- Reform the property tax adjustment calculation for new homesteads after July 1, 2018; and
- The excess spending threshold could be reduced over time.

I realize there are alternative proposals supported by legislators, which could achieve the same result. I am willing to consider all alternative paths forward if they achieve level property tax rates and contribute to long term cost containment.

Transition to Statewide Health Care Bargaining

Creation of the staff-to-student ratio task force in H.911, coupled with the passage of H.897 – which restructures the delivery of special education services – are key non-tax policy components of a multi-year plan. The final component is to move to a statewide health care benefit for school employees – one that, if achieved last year, would have saved districts up to $26 million in health care costs while bringing certainty and parity to teacher and staff plans.

This change was recommended by the Vermont Educational Health Benefit Commission, created by the Legislature in Act 85 of 2017, which worked diligently over the fall. I believe we all now agree this change is necessary, especially considering the wide disparities and increased costs that resulted from the last round of bargaining at the local level.

I applaud the Vermont-NEA for stepping forward and recognizing the need for this change and the work late in the session by the Senate Education Committee devoted to design and implementation of a statewide negotiated benefit. As I have advocated since the start of the session that this important step should be taken by placing the benefit into law for two years providing time for a viable plan supported by all the stakeholders to be achieved.

Staff-to-Student Ratio Task Force

As mentioned above, I am very pleased that the Legislature created a staff-to-student ratio task force in H.911. There seems to be some lingering misinformation being presented that I am

currently championing placing mandated ratio targets in statute. Instead, I have proposed achieving an established staff-to-student ratio over time through sound management of the naturally occurring vacancies, many expected through the final stages of implementation of Act 46, with the help of a task force to develop recommended strategies for schools. It is crucial that this task force also consider that there is no "one size fits all" approach because of our different school sizes and configurations. The task force will provide critical input on how to best achieve optimal target ratios and will inform the work of school districts as they prepare their FY20 budgets and the work of the Legislature next session.

H.924 An Act Relating to Making Appropriations for the Support of Government

In general, I'm pleased to see the Legislature included most of the priorities outlined in my budget proposal in January. While I would have preferred a slightly lower level of spending growth – H.924 grows the General Fund by almost $6 million more than the budget I submitted – and I would have made different choices on a few specific appropriations as outlined in the Administration's May 8, 2018 letter to the budget conferees, I commend the House and Senate on the body of work they have done.

As was the case last year, however, the budget and yield bill are intrinsically linked. The appropriations made from the budget to the Education Fund are contingent on the tax rates set by the statewide yields. While I do not expect the level of the appropriation to change this year, we can reduce our current dependence on property taxes to fund them. This will require some combination of different decisions on General Fund surplus money and tobacco settlement money than those made in H.924.

Specifically, the $34.5 million in appropriations to Vermont State Teachers Retirement System from both tobacco settlement money and surplus General Fund money should be redirected to the Education Fund. While making an extra payment on the unfunded liability this year will yield long-term savings in avoided interest, Vermonters won't see this savings until 2038 when the final payment is made under the current plan to pay down the debt.

In addition to reversing the transfer of the surplus to retirement, an additional $9.2 million in surplus revenue is available so that the property tax adjustment made in H.911 can be deferred to give taxpayers time to plan for it in FY20. The $7.1 million contingency in FY18, appropriated in the event Medicaid revenues fall short, could be redeployed considering the $10 million of additional drug rebates and the $7 million underspending in claims with less than six weeks to go in the fiscal year. Finally, there is an additional $2.1 million set aside as part of a $3 million contingency should sales tax revenue to the Education Fund fall short in FY18.

To achieve your goals for the Teachers' Retirement Fund, in addition to amending H.924 to reflect the above transfers, the bill could be further amended to provide the surplus be returned to the General Fund as savings accrue and then transferred to the Retirement Fund. This would meet the Legislature's goal of paying down the unfunded liability in the Teachers' Retirement

Fund faster than currently laid out in the Treasurer's amortization schedule and save interest costs in the long run.

Proposal to Amend H.911 and H.924 As-Passed

To summarize, I currently see a consensus path forward with the following actions:

Amend H.911 as follows:

- Defer the effective date of the $250,000 to $200,000 house site value change to FY20;
- Include a reduction of the excess spending threshold over five years; and
- Reform the property tax adjustments for new homesteads after July 1, 2018.

Amend H.924 as follows:

- Reverse the transfer of $34.5 million in surplus funds to the Teachers' Retirement Fund;
- Transfer $43.7 million in surplus funds to the Education Fund in FY19;
- Provide for reimbursement of the surplus funds to the General Fund from the savings achieved through the policy and tax changes reflected in the tax stabilization plan I proposed;
- Transfer those savings to the Teachers' Retirement Fund at the time of reimbursement; and
- Define a health care benefit in session law in the budget, allowing time for the Legislature to complete its work to design and implement a structure for a statewide bargained benefit.

My commitment to reaching an agreement that stabilizes tax rates and improves the operational efficiency of our education system, so we can direct more spending directly toward the education of our kids, is unwavering. Growing operational inefficiency is eroding quality and expanding inequality between our schools – even while taxes and spending have increased to record highs and student enrollment has declined by an average of 3 students per day for 20-years and counting.

As noted, based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Thank you for considering my thoughts on how to achieve a consensus plan that will strengthen our education system without raising property taxes in a year of unprecedented surplus revenue.

Sincerely,

Philip B. Scott
Governor

No attempt to override recorded.

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 25, 2018

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.924, *An act relating to making appropriations in support of government*, without my signature because of my objections described herein.

Please note, the following also addresses objections to H.911, *An act relating to changes in Vermont's personal income tax and education financing system*, as the two bills are inextricably linked and their relationship factors heavily into my decision to return both bills. H.911 will be returned to you in a separate message containing the same objections.

My primary objection to the bills – and the reason that, following the Legislature's decision not to schedule a veto session, I've called the Special Session – is that together they result in an unnecessary and avoidable $33 million increase in statewide property tax rates.

We have, in this fiscal year, approximately $160 million more in revenue than last year. This additional revenue breaks down as follows:

- $82 million more from organic economic growth and federal tax reform;
- $34 million in unanticipated funds from the Attorney General's tobacco settlement; and
- $44 million in surplus revenue recently added to the budget.

Having collected far more revenue from Vermonters than expected, as well as additional revenue from other sources, we do not need to raise statewide property tax rates on Vermonters to fully fund school budgets.

I have been clear as a candidate, and throughout this term in office, that I cannot support legislation which adds or increases taxes on Vermonters. On my first day in office, I signed an Executive Order prioritizing affordability, economic growth, and protecting the most vulnerable.

After years of constantly-increasing taxes and fees, Vermonters need a break. They need the opportunity to keep more of what they earn. At the same time, our businesses need a stable and predictable environment in which they can invest, grow and create more good jobs.

Therefore, I cannot support raising the statewide property tax rates – especially in a year when we have other options for fully funding school budgets. Homeowners, those who rent homes and apartments, employers of all types and sizes – everyone who lives, works and invests in Vermont – deserves a more stable, predictable and affordable property tax system.

Many of the decisions that impact individual property tax bills – and whether they go up, down or stay flat – occur at the local level or are impacted by other economic factors. But at the State level, we can have an impact through setting the statewide rates and establishing a "yield" to determine the resulting education tax rates. As you know, H.911, as presented for my signature, raises both the non-residential rate and the average statewide homestead education tax rate, raising $33 million in additional property taxes for FY19. As the primary mechanism the State uses to influence the property tax burden on Vermonters, I cannot accept an increase to these statewide rates in a year that we have better options.

To be clear: if the Legislature wants to raise statewide property tax rates at a time when we have significant surplus revenue that could be returned to Vermonters, it will have to override a veto.

However, I believe we are much closer to an agreement than the continued political rhetoric indicates. I've detailed how close we are – and how we can very easily reach a true consensus – in more detail further below.

Working Family Taxpayer Protection Act (H.911, Sections 1-9)
When it became clear that the Federal Tax Cuts and Jobs Act had a widespread financial impact on Vermonters, I proposed my Working Family Taxpayer Protection Act in February. The goal of this plan is to give back the net $30 million State personal income tax increase the federal changes would cause to Vermonters. The hardest hit by the federal changes were middle-income families with children.

I am grateful that H.911, as passed, includes nearly every element of my proposal. The major difference is the inclusion of a $20,000 cap on the five percent charitable contribution tax credit; as you may recall, I recommended a five percent credit without a dollar limit. I believe, over time, the Legislature may want to reconsider this cap, given the impact it may have on large charitable contributions to Vermont's non-profit sector.

Nevertheless, the tax credit will provide an incentive to those 90 percent of Vermonters who are not expected to itemize deductions this coming year, and is a new tax advantage to all Vermonters, whether they itemize or not.

Altogether, this portion of H.911 achieves my goal of moderating the tax burden, with an emphasis on low to moderate income Vermonters who receive Social Security. It also promotes charitable giving by reducing the tax liability of those who choose to give. I respect and appreciate the Legislature's work in this area and I will not pursue any changes to the Working Family Protection Act sections of H.911 during the Special Session.

Five-Year Plan to Stabilize Education Tax Rates and Reinvest Savings

Earlier in May, in an effort to reach consensus, I presented a comprehensive five-year plan, built on the many ideas and concepts that have been presented throughout this Biennium. None of the core elements of the proposal were new. The plan would:

- Fully fund the school budgets local voters have approved for next year;
- Close the FY19 Education Fund gap and prevent recurring deficits;
- Stabilize (keep level) or lower statewide property tax rates for five years;
- Generate almost $300 million in total net savings over five years that can be reinvested in systemic changes to create a cradle-to-career continuum of learning. This includes more and better early education, K-12 education, technical education, higher education opportunities;
- Allow education spending to grow sustainably each year based on the average projected increase (the consensus forecast) in grand list value of 3.25 percent; and
- Set Vermont on a stable and predictable five-year trajectory allowing local school districts to take full advantage of the governance changes made under Act 46.

The plan achieves gross savings of over $450 million – as projected by the Administration's analysts and cross-agency policy team – if all the components of the plan are passed as outlined. **It is important to know that three have already been achieved and a fourth was being considered in the Senate Education Committee before adjournment**:

- **Special Education Census Model**: Changes to the method for delivering special education services in Vermont, **as passed in H.897**, *An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support*;

- **Staff-to-Student Ratios**: Savings through natural attrition (vacancies and retirements), which can be achieved while still filling, on average, four of five of those vacancies over the next five years. I want to be very clear, this is not a mandated ratio target. Rather it builds off the incredible efforts of local school boards in developing their FY19 budgets at an aggregate growth rate well below the targets I communicated in November 2017, in anticipation of substantial increases in the statewide property tax rates, if we did nothing.

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- **Statewide School Employee Health Care Benefit**: Establish a statewide school employee health care contract, as discussed in FY18, endorsed by the Vermont Educational Health Benefits Commission, and discussed during the 2018 legislative session. If stakeholders cannot agree on the statewide negotiation dynamic at this time, the benefit should be put in session law for two years while a viable plan, supported by all stakeholders, is achieved in the next Biennium.

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An additional benefit of this plan is its 5+ year horizon. The rating agencies caution that Vermont's declining demographics are one of Vermont's primary weaknesses, along with it pension liabilities. One agency noted that although state spending growth on education is "somewhat offset" by our current education funding reliance on property taxes as its source of revenue, it also noted that those taxes "collected by localities on behalf of the state" do not "fully mitigate spending increases... exposing the state to a level of ongoing expenditure growth as reflected in the steadily growing annual state general fund appropriation to the education fund." (Fitch Ratings report, August 11, 2017). The rating agencies applaud Vermont for our ability as a state to manage budget pressures, and they value multi-year management plans. My plan does exactly that.

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Transition to Statewide Health Care Bargaining

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This change was recommended by the Vermont Educational Health Benefit Commission, created by the Legislature in Act 85 of 2017, which worked diligently over the fall. I believe we all now agree this change is necessary, especially considering the wide disparities and increased costs that resulted from the last round of bargaining at the local level.

I applaud the Vermont-NEA for stepping forward and recognizing the need for this change and the work late in the session by the Senate Education Committee devoted to design and implementation of a statewide negotiated benefit. As I have advocated since the start of the session that this important step should be taken by placing the benefit into law for two years providing time for a viable plan supported by all the stakeholders to be achieved.

Staff-to-Student Ratio Task Force

As mentioned above, I am very pleased that the Legislature created a staff-to-student ratio task force in H.911. There seems to be some lingering misinformation being presented that I am

currently championing placing mandated ratio targets in statute. Instead, I have proposed achieving an established staff-to-student ratio over time through sound management of the naturally occurring vacancies, many expected through the final stages of implementation of Act 46, with the help of a task force to develop recommended strategies for schools. It is crucial that this task force also consider that there is no "one size fits all" approach because of our different school sizes and configurations. The task force will provide critical input on how to best achieve optimal target ratios and will inform the work of school districts as they prepare their FY20 budgets and the work of the Legislature next session.

H.924 An Act Relating to Making Appropriations for the Support of Government

In general, I'm pleased to see the Legislature included most of the priorities outlined in my budget proposal in January. While I would have preferred a slightly lower level of spending growth – H.924 grows the General Fund by almost $6 million more than the budget I submitted – and I would have made different choices on a few specific appropriations as outlined in the Administration's May 8, 2018 letter to the budget conferees, I commend the House and Senate on the body of work they have done.

As was the case last year, however, the budget and yield bill are intrinsically linked. The appropriations made from the budget to the Education Fund are contingent on the tax rates set by the statewide yields. While I do not expect the level of the appropriation to change this year, we can reduce our current dependence on property taxes to fund them. This will require some combination of different decisions on General Fund surplus money and tobacco settlement money than those made in H.924.

Specifically, the $34.5 million in appropriations to Vermont State Teachers Retirement System from both tobacco settlement money and surplus General Fund money should be redirected to the Education Fund. While making an extra payment on the unfunded liability this year will yield long-term savings in avoided interest, Vermonters won't see this savings until 2038 when the final payment is made under the current plan to pay down the debt.

In addition to reversing the transfer of the surplus to retirement, an additional $9.2 million in surplus revenue is available so that the property tax adjustment made in H.911 can be deferred to give taxpayers time to plan for it in FY20. The $7.1 million contingency in FY18, appropriated in the event Medicaid revenues fall short, could be redeployed considering the $10 million of additional drug rebates and the $7 million underspending in claims with less than six weeks to go in the fiscal year. Finally, there is an additional $2.1 million set aside as part of a $3 million contingency should sales tax revenue to the Education Fund fall short in FY18.

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Fund faster than currently laid out in the Treasurer's amortization schedule and save interest costs in the long run.

Proposal to Amend H.911 and H.924 As-Passed

To summarize, I currently see a consensus path forward with the following actions:

Amend H.911 as follows:

- Defer the effective date of the $250,000 to $200,000 house site value change to FY20;
- Include a reduction of the excess spending threshold over five years; and
- Reform the property tax adjustments for new homesteads after July 1, 2018.

Amend H.924 as follows:

- Reverse the transfer of $34.5 million in surplus funds to the Teachers' Retirement Fund;
- Transfer $43.7 million in surplus funds to the Education Fund in FY19;
- Provide for reimbursement of the surplus funds to the General Fund from the savings achieved through the policy and tax changes reflected in the tax stabilization plan I proposed;
- Transfer those savings to the Teachers' Retirement Fund at the time of reimbursement; and
- Define a health care benefit in session law in the budget, allowing time for the Legislature to complete its work to design and implement a structure for a statewide bargained benefit.

My commitment to reaching an agreement that stabilizes tax rates and improves the operational efficiency of our education system, so we can direct more spending directly toward the education of our kids, is unwavering. Growing operational inefficiency is eroding quality and expanding inequality between our schools – even while taxes and spending have increased to record highs and student enrollment has declined by an average of 3 students per day for 20-years and counting.

As noted, based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Thank you for considering my thoughts on how to achieve a consensus plan that will strengthen our education system without raising property taxes in a year of unprecedented surplus revenue.

Sincerely,

Philip B. Scott
Governor

No attempt to override recorded.

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

June 14, 2018

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Mr. MaGill:

I appreciate that the new budget sets the homestead "yield" at the current level, and that some effort was made to separate the remaining areas of disagreement from the budget. I also appreciate that several amendments to H.13, though they were not adopted, were introduced by both Democrats and Republicans in the House and Senate. These amendments, if they had passed, would have either removed a $23 million tax rate increase set to occur on July 1st or set the non-residential rate for fiscal year 2019 at the current level. Either of these approaches could lead to a reasonable and timely compromise.

As you know, as a matter of principle, I believe Vermonters deserve a break and the opportunity to keep more of what they earn. I also believe employers need a more stable and predictable environment in which they can invest, grow and create more good jobs. I understand, and respect, not everyone in the Legislature shares this point of view.

Nevertheless, our large and growing surplus ($55.5 million since the January 2018 consensus forecast), combined with other unanticipated revenue, allows us to craft a budget and tax bill that fully funds school budgets, keeps statewide property tax rates level and makes a significant payment towards the unfunded teachers' retirement debt.

Unfortunately, as the Administration and others have noted, H.13 leaves in place an automatic $23 million (5.5 cent) property tax rate increase on non-residential payers – our rental property owners and renters, camp owners, and employers.

Without a commitment from legislative leaders that we can achieve level property tax rates, or an amendment that would prevent the automatic 5.5 cent property tax rate increase on non-residential payers, I cannot support H.13. As a result, pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.13, *An act relating to making appropriations for the support of government*, without my signature because of my objections described herein.

***

As noted, I do understand that many members of the Legislature do not share my view on avoiding tax increases. If the Legislature does not agree with my reasoning, the Constitution provides a mechanism – a veto override vote – to resolve the disagreement.

If my decision is sustained, there is ample time for the Legislature to work with the Administration to pass a budget and tax bill I can support.

One easy solution to resolve the budget debate would be to send me a new bill that prevents the automatic increase in the non-residential rate. This would ensure we have a budget in place long before July 1 and require us to work together, on a level playing field, to resolve our remaining differences in the tax bill.

***

It is important for Vermonters to know that there are many other options available to the Legislature to ensure government operations are not, in anyway, impacted by our discussions. As I have said many times, I do not want to see any disruption in government services, and I believe the Legislature shares this goal as well.

For this reason, I have directed my Administration to proceed with the full expectation that state government will be entirely operational on July 1st. Here is why:

First, our area of disagreement is very small and given our $55 million surplus, which is expected to continue to grow, we do not need to increase statewide property tax rates to fully fund school budgets or reduce the debt in the teachers' retirement system.

Second, we have plenty of time to come to agreement well in advance of July 1st. I'm confident with more focus – and an earnest commitment to meet in open session to discuss how we come to agreement – we can resolve the one remaining area of disagreement in a short amount of time.

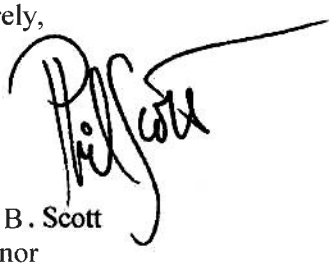
So, as I have noted above, my Administration will proceed with the full expectation that state government will be fully funded on July 1st, unless the Legislature decides otherwise.

***

We are four weeks into the Special Session, and I remain ready to work with the Legislature to achieve a consensus that will fully fund school budgets and strengthen our education system without raising property taxes in a year of unprecedented surplus and unexpected revenue.

I have directed my staff to make meetings with the Legislature our top priority and we will make ourselves available to them every day, and every night if necessary, to reach a resolution on this important matter.

Sincerely,



Philip B. Scott
Governor

PBS/kp

Governor's Veto Sustained House Rollcall:
Yeas 90, Nays 51,
***94 needed to override.**

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

June 10, 2019

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State Street
Montpelier, VT 05633-5401

Dear Secretary Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.169, *An act relating firearms procedures* without my signature in the time permitted by the Constitution because of my objections described herein.

Last year, I called for and signed a package of historic gun safety reforms because I believe they make schools, communities, families and individuals safer, while upholding Vermonters' constitutional rights.

Over the last year, among other gun safety measures, we have established:

- Mandatory background check requirements;
- Extreme risk protection orders, giving families tools to remove guns from those who may harm themselves or others;
- The ability of law enforcement to remove firearms from those accused of domestic violence; and
- Requirements increasing the age to buy a firearm from 18 to 21.

With these measures in place, we must now prioritize strategies that address the underlying causes of violence and suicide. I do not believe S.169 addresses these areas.

Moving forward, I ask the Legislature to work with me to strengthen our mental health system, reduce adverse childhood experiences, combat addiction, and provide every Vermonter with hope and economic opportunity.

Sincerely,

Philip B. Scott
Governor

No attempt to override recorded.

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

June 17, 2019

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State Street
Montpelier, VT 05633-5401

Dear Secretary Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.37, *An act relating to medical monitoring*, without my signature because of my objections described herein:

Since I took office, we have taken many steps to ensure safe drinking water in our communities and hold responsible parties accountable for toxic pollution, including:

- Implementing Act 55 of 2017 to hold parties that contaminate groundwater responsible for connecting impacted Vermonters to municipal water;
- Passing S.49 of 2019, which I proudly signed in May, to take the next step in Vermont's response to PFOA and the related chemical class known as PFAS;
- Securing an agreement with St. Gobain to extend waterlines to 470 homes or businesses in Bennington and North Bennington;
- Funding to finish waterline extensions to the remaining impacted homes on the east side of Bennington;
- Funding for lead testing and remediation in all Vermont schools and childcare centers;
- Establishing long-term funding sources for phosphorous remediation in state waterways; and
- Proposing and passing an enhanced service delivery model for water quality projects.

As a state, we have shown a significant commitment to ensuring Vermonters have clean and safe water and have existing legal avenues to pursue bad actors who jeopardize Vermonters' health – and we will continue to do so.

While we made progress this year in the discussion about medical monitoring, S.37 as passed, lacks the clarity needed by Vermont employers who our state relies on to provide good jobs. Numerous Vermont employers have expressed concerns to me, and to Legislators, that the unknown legal and financial risks, and increased liability, is problematic for continued investment in Vermont.

If Vermont manufacturers and others cannot secure insurance or cover claims, then our economy will weaken, jobs will be lost, tax revenue will decline and, ultimately, all Vermonters lose.

I continue to believe we do not have to choose between Vermonters health and the availability of jobs.

The good news is there is a path forward. The bipartisan amendment introduced by Representatives Beck, Houghton, Gannon, Bancroft and Fagan, during third reading of the bill on the House Floor on May 16, would provide affected Vermonters with a remedy based on a well-established legal test. If the Legislature makes these changes, I can support this proposal.

Based on the objections outlined above, I must return this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution. I am very confident that we are close to a solution that will benefit Vermonters without causing Vermonters to lose their jobs and harming our economy, should the Legislature choose to revisit this bill in January.

Sincerely,

Philip B. Scott
Governor

PBS/kp

No attempt to override recorded.

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

January 31, 2020

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.107, *An act relating to paid family leave*, without my signature because of my objections described herein:

Reversing our demographic crisis and the negative economic impacts it is creating across the state, is the only way to ensure we can continue to invest in essential services and shared priorities, such as a more expansive paid family and medical leave program. We must not pass, and I will not support, legislation that worsens the affordability challenges and regional economic inequity in our state.

I share the goal to provide a program that allows workers time to take care of family and personal health needs, and to bond with new children. That's why my administration has advocated for, and acted on, a voluntary paid family and medical leave plan.

Our approach is voluntary for employers and employees. It can be accomplished more efficiently, affordably and quickly, without a $29 million payroll tax that Vermont workers simply should not be burdened with, and without putting the risk of underfunding on taxpayers.

This voluntary plan is already moving forward. We've come to an agreement with the Vermont State Employees Union to provide state employees with a paid family and medical leave benefit. This allows us to create an 8,500-member base to establish an affordable family and medical leave insurance option for all Vermonters.

We've issued a request for proposals (RFP) for insurance companies to bid on covering state employees as of July 1, 2020. The successful bidder will also be required to make the coverage available for Vermont employers and individuals at a rate comparable to the state-rate. And, we expect to be able to make it available at least a year before H.107 is projected to provide benefits to Vermonters.

This approach gives the state flexibility, and we could always add to it, or even make it mandatory in the future if deemed necessary. But we'll have a stronger foundation and tested administrative structure to build on. I truly believe this is an approach that will make this important benefit available to Vermonters more quickly, and is a more economically and fiscally responsible – lower cost – path to getting where the Legislature proposes to go in H.107. Importantly, it doesn't require a $29 million payroll tax that we all know could grow.

My objections to H.107 also extend beyond the tax on workers. H.107 creates a cumbersome bureaucracy with the potential for long-term administrative issues and costs for the Departments of Tax (Tax), Labor (VDOL) and Financial Regulation (DFR) – and the program as a whole. No other program in state government is simultaneously administered by three different Departments, as H.107 proposes for this program. And H.107 fails to take into account increased administrative costs at Tax and DFR, and underestimates the costs at VDOL, which will add to pressures on the General Fund.

For years, Vermonters have made it clear they don't want, nor can they afford, new broad-based taxes. We cannot continue to make the state less affordable for working Vermonters and more difficult for employers to employ them – even for well-intentioned programs like this one. Vermonters can't afford for us to get this wrong, especially at their expense.

Based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/cb

Governor's Veto Sustained

The Governor's veto was sustained in the House: Yeas: 99 Nays: 51

Two thirds majority of 100 needed to pass.

Source: Journal of the House, February 5, 2020 [Pages 238 - 240 (online)]

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

February 10, 2020

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.23, *An act relating to increasing the minimum wage*, without my signature because of my objections described herein:

It's critical to recognize that we share the goal of Vermonters making more money. I also believe Vermonters should keep more of what they earn, which is why I can't support policies that increase the costs of living.

My objection to a mandated increase to the minimum wage is based on three primary concerns:

1. Fiscal analysis projects job losses, decreases to employee hours, and increased costs of goods and services, which will offset the intended positive benefits for workers;
2. These harmful impacts will be felt more significantly in rural parts of the state, worsening economic inequity between counties; and
3. There will be an overall negative impact on economic growth.

These concerns are reinforced by data and analysis from regions where mandated increases have taken effect, and – importantly – by the Vermont Legislature's Joint Fiscal Office, which predicted, if implemented, this bill could cause job losses, reduced hours, and higher prices.

Based on our own experience with mandated minimum wage increases in recent years, Vermont data shows that increases to hourly rates do not guarantee an increase to weekly or annual earnings for Vermont workers.

The Legislature's economist, Tom Kavet, also reported a mandated increase would have a more harmful economic impact in our more rural regions.

From workforce declines to overall economic recovery – or lack thereof – most of the state has simply not kept pace with Northwestern Vermont, particularly Chittenden County. A statewide mandated wage increase would exacerbate this regional economic inequity.

For example, a local mom and pop store in Monkton, Albany or Richford, already struggling to stay open, is far less able to absorb an increase than a retailer with a higher volume of sales in the Burlington area. That means workers in these areas are more likely to be impacted by the predicted job losses or reduced hours, and small, locally owned businesses will feel an even greater burden. We must ask ourselves what our struggling communities might look like with more empty storefronts.

Even New York recognized its own regional inequity when raising the minimum wage, carving out four discrete regions, which account for the different economic circumstances in different parts of the state. We must recognize we have two Vermonts with distinct economies.

Finally, I'm concerned with the overall economic impact to the state. The Legislature's JFO predicts a negative economic impact, specifically through a slight reduction in Vermont's Gross Domestic Product.

Vermont has one of the highest minimum wage rates in the country – which already increases annually – and yet employers across the state struggle to fill positions. If the minimum wage was directly correlated to economic prosperity and workforce growth, Vermont would have a stronger economy and a larger workforce than New Hampshire.

Despite S.23's good intentions, the reality is there are too many unintended consequences and we cannot grow the economy or make Vermont more affordable by arbitrarily forcing wage increases. I believe this legislation would end up hurting the very people it aims to help.

Based on the outstanding objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden

S.23, 2020

The Governor's Veto was overridden in the Senate:
Yeas: 24 **Nays**: 6.

The Governor's Veto was overridden in the House:
Yeas: 100 **Nays**: 49

*Note: the veto is overridden by two-third majority in both the House and Senate.

Sources: **Journal of the Senate**, February 13, 2020 [page 179 (online)]; **Journal of the House** , February 25, 2020 [pages 349 – 352 (online)].

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

September 15, 2020

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.688, *An act relating to addressing climate change*, commonly referred to as the "Global Warming Solutions Act" (GWSA), without my signature because of my objections described herein:

As passed, this legislation simply does not propose, or create a sustainable framework for, long-term mitigation and adaptation solutions to address climate change. As noted in my August 12 letter to Speaker Johnson, Senate President Pro Tem Ashe, and Committee Chairs Briglin and Bray, I share the Legislature's commitment to reducing greenhouse gas emissions and enhancing the resilience of Vermont's infrastructure and landscape in the face of a changing climate. In that same letter, I outlined three specific concerns with this bill and resubmitted changes to address these concerns and create a path forward.

To reiterate what I have shared publicly, and my Administration has shared with the Committees of Jurisdiction and Legislative Leadership, the three primary areas of concern that I have with H.688 are as follows:

1. the creation of a cause of action which could lead to costly litigation and delay, instead of putting forward tangible solutions and actions we can take now;
2. the structure and charge of the Vermont Climate Council (Council) presents an unconstitutional separation of powers issue; and
3. the absence of a process ensuring the Legislature would formally vote on the Vermont Climate Action Plan (Plan) promulgated by an unelected, unaccountable Council.

This, put simply, is poorly crafted legislation that would lead to bad government and expensive delays and lawsuits that would impair – not support – our emissions reductions goals. And it is unconstitutional – with the Legislature ignoring its duty to craft policy and enact actual global warming solutions on one hand and unconstitutionally usurping the Executive Branch role to execute the laws on the other. Unlike other boards and commissions, this Council would be constructed in a way that allows them to require action without the consensus or participation of the Executive Branch. Not just a majority, but a quorum of the body is composed of Legislative

appointees and the Executive Branch rulemaking function, which "shall" be performed under the "guidance" of the Council, is relegated to a ministerial act to codify the Council's Plan. The Council's Plan would not need to be passed by both houses of the Legislature, nor presented to the Governor for approval.

I have also consistently, and repeatedly, noted that our recent work on a comprehensive clean water plan is a proven model. The most valuable lesson of our clean water approach is that, with careful work, tied to specific outcomes, we can develop, fund, and implement a plan that has *both* positive economic and environmental results. H.688 does not follow this model.

More specifically, our work on clean water included carefully inventorying what we were already doing, identifying where gaps existed and what needs to be done, honestly estimating costs, and putting in place a funding strategy that we can demonstrate is both affordable and sustainable for Vermonters.

We should use this model for climate change work from the start – not after costly litigation. Because, while our recent clean water work has been a success, the fact is it took nearly two decades to reach this point with early attempts delayed by expensive and unnecessary litigation and the uncertainty those suits created.

H.688 as passed puts us on the same costly path the clean water work followed from 2002 to 2016, rather than the productive work that followed. And to what end? To send the state back to the drawing board. Again, no solutions. We simply do not have time for this sort of delay, or taxpayer money or state resources, to waste on attorneys' fees and avoidable lawsuits that divert time and money from addressing climate change.

The legal, policy, modeling and research necessary to develop the statutory, budget, management, and regulatory proposals the Plan envisions, in the timeframe set, will require significant staffing and resources – work and positions that have not been funded by the Legislature. I recognize the House has included some onetime funding in its version of the FY21 budget, but this is onetime funding and it is unlikely to be sufficient. There are also no guarantees a final budget will include those resources. Given the Senate previously removed funding for this legislation and the House concurred with those changes passage of the proper funding seems uncertain at best.

To prioritize the emission reductions necessary to address climate change, we need to learn the lessons of building a comprehensive clean water plan. H.688, as written, will lead to inefficient spending and long, costly court battles, not the tangible investments in climate-resilient infrastructure, and affordable weatherization and clean transportation options that Vermonters need.

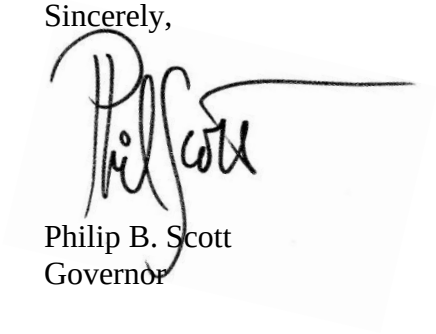
In January, I proposed applying a portion of the revenues from the efficiency charge toward electrification of the transportation sector, our largest contributor to global warming. This month the Legislature passed S.337, *An act relating to energy efficiency entities and programs to reduce greenhouse gas emissions in the thermal energy and transportation sectors*. S.337 is consistent with that direction, as well as with strategic goals in Vermont's 2016 Comprehensive Energy Plan and the goals of the Climate Action Commission. This bill exemplifies the type of practical and concrete solutions we need and can implement without additional costs to Vermonters.

These are the types of measures that have immediate impact on fighting global warming.

While I am vetoing H.688, I hope the Legislature will revisit it before it adjourns, or at the very least in January, using my input and what we have learned from our clean water work to make it better.

In the meantime, I will ask that the Legislature send me S.337 forthwith so we can take a valuable step forward.

Sincerely,



Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden
H.688 2020

The Governor's Veto was overridden in the House:
Yeas: 103 Nays: 47.

The Governor's Veto was overridden in the Senate:
Yeas: 22 Nays: 8

*Note: the veto is overridden by two-third majority in both the House and Senate.

Sources: Journal of the House, September 17, 2020 [page 1667 - 1668 (online)]; Journal of the Senate, September 22, 2020 [page 1575 (online)].

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

October 5, 2020

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.926, *An act relating to changes to Act 250*, without my signature because of my objections described herein:

In 2017, my Administration, the Legislature, and environmental groups came together to begin the process of making comprehensive updates and improvements to Vermont's fifty-year-old land use law, Act 250.

This began an 18-month *Commission on Act 250* reform process, followed by two full legislative sessions of collaboration. Those efforts resulted in broad agreement on a comprehensive, balanced modernization package, including downtown permitting exemptions, modernized permitting conditions for forest products processing facilities, and changes for flood resiliency, to name a few. But during the recent legislative process, these and many other proposals were removed.

In fact, H.926 actually adds new regulation and new burdens to our recreational trail networks and recreation economy. This bill does not improve or simplify the regulatory process or provide a permanent exemption for Vermont Trail Systems – something I proposed in 2019.

H.926 ignores all the work and collaboration put into Act 250 reform and is counter to the important outcomes we collectively sought.

With this bill, the Legislature has created more regulatory uncertainty, not less. Our outdoor recreation economy, and the groups that help to maintain and preserve the trail networks, need a regulatory framework that is responsible, respectful, stable, and permanent.

In addition to failing to protect trails or strengthen the recreation economy, H.926 adds forest fragmentation regulation to the law which poses a new and significant problem for trail networks and the non-profit organizations that manage them. In particular, it affects the networks that rely on the help and cooperation of large forest landowners, such as the Vermont Association of Snow Travelers (VAST). In fact, VAST already reports landowners are considering removing their land from the trail network should this law be enacted.

The forest fragmentation regulation also adds a new, complex criteria to Act 250 and offers no other process improvements. **Nothing** in this bill modernizes or improves the Act 250 process – something that is widely agreed to be necessary after fifty years of existence.

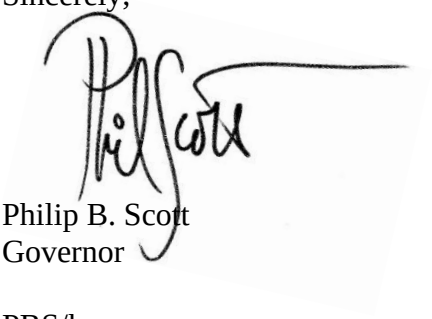
This bill does not do what it promised to do and falls short of meeting our needs in this area of public policy.

To address the interim need for our trail networks, I am issuing Executive Order 04-20 which does three things:

- provides trail networks with some regulatory clarity;
- directs the Commissioner of Forests, Parks and Recreation to make recommendations for an alternative program based on best practices for the oversight of planning, construction, use and maintenance of recreational trails in the Vermont Trails System; and
- directs executive branch litigants and tribunals to take all reasonable steps to defer a final decision in any proceeding addressing Act 250 jurisdiction until the steps identified in this Executive Order take effect.

Based on the objections outlined above, I must veto this legislation pursuant to Chapter II, Section 11 of the Vermont Constitution. However, I look forward to working alongside the Legislature with the goal of working toward truly comprehensive and thoughtful improvements to Act 250 during the next biennium.

Sincerely,



Philip B. Scott
Governor

PBS/kp

No attempt to override recorded.

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 20, 2021

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.107, *An act relating to confidential information concerning the initial arrest and charge of a juvenile*, without my signature, because of concerns with the policy to automatically raise the age of accountability for crimes, and afford young adults protections meant for juveniles, without adequate tools or systems in place.

Three years ago, I signed legislation intended to give young adults who had become involved in the criminal justice system certain protections meant for juveniles. At the time, I was assured that, prior to the automatic increases in age prescribed in the bill, plans would be in place to provide access to the rehabilitation, services, housing and other supports needed to both hold these young adults accountable and help them stay out of the criminal justice system in the future.

This has not yet been the case. In addition to ongoing housing challenges, programs designed and implemented for children under 18 are often not appropriate for those over 18. Disturbingly, there are also reports of some young adults being used – and actively recruited – by older criminals, like drug traffickers, to commit crimes because of reduced risk of incarceration, potentially putting the young people we are trying to protect deeper into the criminal culture and at greater risk.

I want to be clear: I'm not blaming the Legislature or the Judiciary for these gaps. All three branches of government need to bring more focus to this issue if we are going to provide the combination of accountability, tools and services needed to ensure justice and give young offenders a second chance.

For these reasons, I believe we need to take a step back and assess Vermont's "raise the age" policy, the gaps that exist in our systems and the unintended consequences of a piecemeal approach on the health and safety of our communities, victims and the offenders we are attempting to help. I see S.107 as deepening this piecemeal approach.

I also remain concerned with the lack of clarity in S.107 regarding the disparity in the public records law between the Department of Public Safety and the Department of Motor Vehicles.

Based on the objections outlined above, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution. I believe this presents an opportunity to start a much-needed conversation about the status of our juvenile justice initiatives and make course corrections where necessary, in the interest of public safety and the young Vermonters we all agree need an opportunity to get back on the right path.

Sincerely,

Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 1, 2021

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State St.
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.177, *An Act Relating to Approval of an Amendment to the Charter of the City of Montpelier* without my signature.

This is an important policy discussion that deserves further consideration and debate. Allowing a highly variable town-by-town approach to municipal voting creates inconsistency in election policy, as well as separate and unequal classes of residents potentially eligible to vote on local issues. I believe it is the role of the Legislature to establish clarity and consistency on this matter. This should include defining how municipalities determine which legal residents may vote on local issues, as well as specifying the local matters they may vote on. Returning these bills provides the opportunity to do this important work.

For these reasons I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution. I understand these charter changes are well-intentioned, but I ask the Legislature to revisit the issue of non-citizen voting in a more comprehensive manner and develop a statewide policy or a uniform template and process for those municipalities wishing to grant the right of voting in local elections to *all* legal residents.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor’s Veto Overridden
H.177 2021

The Governor’s Veto was overridden in the House:
Yeas: 103 Nays: 47.

The Governor’s Veto was overridden in the Senate:
Yeas: 20 Nays: 10

*Note: the veto is overridden by two-third majority in both the House and Senate.

Sources: Journal of the House, June 23, 2021 [pages 1668 -1670 (online)]; Journal of the Senate, June 24, 2021 [page 1451 (online)].

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 1, 2021

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State St.
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.227, *An Act Relating to Approval of Amendments to the Charter of the City of Winooski* without my signature.

This is an important policy discussion that deserves further consideration and debate. Allowing a highly variable town-by-town approach to municipal voting creates inconsistency in election policy, as well as separate and unequal classes of residents potentially eligible to vote on local issues. I believe it is the role of the Legislature to establish clarity and consistency on this matter. This should include defining how municipalities determine which legal residents may vote on local issues, as well as specifying the local matters they may vote on. Returning these bills provides the opportunity to do this important work.

For these reasons I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution. I understand these charter changes are well-intentioned, but I ask the Legislature to revisit the issue of non-citizen voting in a more comprehensive manner and develop a statewide policy or a uniform template and process for those municipalities wishing to grant the right of voting in local elections to *all* legal residents.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor’s Veto Overridden
H.227 2021

The Governor’s Veto was overridden in the House:
Yeas: 103 Nays: 47.

The Governor’s Veto was overridden in the Senate:
Yeas: 20 Nays: 10

*Note: the veto is overridden by two-third majority in both the House and Senate.

Sources: Journal of the House, June 23, 2021 [pages 1670 -1672 (online)]; Journal of the Senate, June 24, 2021 [page 1451 (online)].

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

July 2, 2021

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.79, *An Act Relating to Improving Rental Housing and Safety*, without my signature because I believe this bill would reduce the number of housing options for Vermonters at a time when we are grappling with a critical housing shortage. While we all want safe housing and lodging options for Vermonters and visitors, in my opinion this bill does not accomplish this shared goal.

As you well know, I have repeatedly advocated for improving Vermont's aging long-term rental housing stock, which is why we used pandemic emergency housing relief and other funds to initiate innovative housing programs like the Vermont Rental Housing Investment Program and the Vermont Homeownership Revolving Loan Fund. Fortunately, these programs can move forward despite this veto with the dedicated funding included in the Fiscal Year 2022 appropriations bill.

Most agree we suffer from a critical housing shortage for middle income, low income and homeless Vermonters, but the solution is not more regulation. Instead, we need to invest in new and rehabilitated housing in every corner of our state. We need to lower costs to make housing more affordable and we need to ease complicated and duplicative permitting requirements while we have the funding to grow and improve our housing stock. This is what I have proposed since my first year as governor and I will continue to do so.

S.79 targets all rental units in all types of buildings and dwellings with few exceptions. I believe this will discourage everyday Vermonters from offering their homes, rooms or summer cabins for rent, not as a primary business but as a means to supplement their income so they can pay their mortgage as well as their property taxes.

Adding additional restrictions, costs and hoops to jump through will not only reduce the number of long-term rentals, but also short-term lodging options when we have a surge in tourists, including foliage and ski seasons. Tourists and visitors having more lodging options when deciding where to stay makes Vermont more competitive and helps our economy.

I am willing to work with the Legislature to modernize our statewide life safety inspection model and initiate a long-term rental registry if we include the following provisions:

- First, I would support a rental housing registry for only those buildings which exceed two dwelling units available for rental for more than 120 days per year. This will ensure we are differentiating between those renting a unit merely to support household expenses, and more professional landlords operating a rental business.

- Second, the health safety inspection obligations transferred in S.79 to the Division of Fire Safety are an expansion of DFS fire safety inspection obligations to include health inspections. This also expands the responsibility for health code inspections from a local "complaint-based" system to the mandatory statewide inspection authority of DFS. Further, S.79 takes away the existing discretion of DFS to determine if a violation merits shutting a residence down for rental. Under S.79, one uncorrected health or safety violation will make a unit unavailable. There must be a commonsense risk consideration added.

  I also believe we need more thorough consideration of timelines, resource needs, regulatory flexibility for DFS, training needs for local health officials and impacts on rental housing resources before transferring total oversight to DFS. The bill currently includes five new positions to carry out much of this work. Truly fulfilling the bill's mandate would require an even more costly expansion of the bureaucracy in the future, which I could not support. Perhaps Senator Brock's amendment could be considered a bridge to longer-term modernization.

- Third, I ask the Legislature to continue to support the Vermont Rental Housing Investment Program and the Vermont Homeownership Revolving Loan Fund, which, again, will move forward with funding from the FY22 budget.

- Finally, I also believe we must work together on Act 250 reforms and permitting, especially in light of our unprecedented housing investments. My Administration will make themselves available at any time over the summer and fall to discuss potential paths forward.

Based on the objections outlined above, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

February 10, 2022

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H. 157, *An act relating to registration of contractors*, without my signature because of my objections described herein.

As I have previously said, I strongly support protecting the interests of consumers, who are already facing a crisis of affordability. I also support policy that helps Vermont's small businesses succeed and grow. These small, local businesses are the heart and soul of our communities and the backbone of our economy.

The fact is the findings of the Legislature in support of this bill are flawed.

This bill has the potential to undermine and weaken a large number of Vermont's small businesses – small, local residential contractors – at a time when we all agree we must prioritize new and revitalized housing.

More specifically, this bill favors larger and more established businesses at the expense of small entry-level businesses by imposing, by law, specific contract and insurance requirements that many of the smaller businesses will not be able to meet. Such specific requirements are rarely, if ever imposed on other professions. Ultimately, these provisions harm small businesses – which could lead to closures – and they harm consumers through higher costs and fewer options for making needed repairs.

There are multiple ways of finding residential contractors in one's community and for holding contractors accountable without creating this new regulatory system. One can find directories maintained by trades associations, as well as commercial listings, social media, consumer sites, references, and, of course, word of mouth.

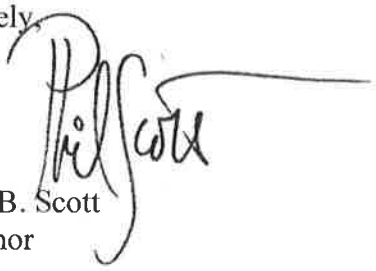
Importantly, there are existing avenues for determining and adjudicating complaints already, as well as an existing Home Improvement Fraud Registry. Current law clearly authorizes the Attorney General to pursue both civil and criminal complaints against contractors for unfair or deceptive acts or practices. The Criminal Law provisions relating to home improvement fraud apply to oral and written contracts for $500 or more; convictions for home improvement fraud require notice to the Attorney General; and the Attorney General maintains the Home Improvement Fraud Registry (although it is important to note successfully completed deferred sentences will be expunged).

Finally, the Legislature concedes in its findings that registration confers no assurance of competence. Given this concession, we should not risk the economic harm of this legislation when we already have tools in the toolbox to protect consumers and perhaps those tools should be sharpened.

I would agree there is room to improve existing processes already designed to protect consumers, but not necessarily through Legislative action, and certainly not action that could advantage larger established entities over small, local mom-and-pop businesses; reduce our contracting workforce and increase costs for already over-burdened consumers – not to mention the $250 fee that will be charged to get on this registry.

As legislators are well aware, I have been willing to work with you to find a path forward, but based on the objections outlined above, I cannot support this piece of legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,



Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

February 22, 2022

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning S. 30, *An act relating to prohibiting possession of firearms within hospital buildings* without my signature.

In 2018, I called for and signed the most comprehensive gun safety measures in our state's history. We established universal background check requirements; authorized extreme risk protection orders (i.e., "red flag" laws), providing tools to prevent someone from having a gun if there is credible evidence they may harm themselves or others; strengthened the ability of law enforcement to seize firearms from those accused of domestic violence; enhanced age requirements; and prohibited the sale and possession of bump stocks and large capacity magazines. This was a comprehensive, and historic, set of policies that take reasonable steps to help keep firearms out of the hands of people who should not have them. It's my belief that we need to give these new provisions more time to be fully understood and utilized, and that the Legislature should focus on educating Vermonters on these changes – and on addressing Vermont's mental health crisis – before additional gun laws are passed.

However, as I've also said, I'm open to a discussion about improving existing law to address the so-called "Charleston Loophole" and I'm offering a path forward below. This refers to a provision in federal law that provides automatic approval to someone who is buying a gun if a federal background check through the National Instant Criminal Background Check System (also known as NICS) doesn't produce a "red light" (i.e., reporting they are ineligible) within three business days.

S. 30 increases that timeframe from three days to an unlimited amount of time without acknowledging that an application expires in 30 days. So instead of holding the federal government accountable to complete the background check in a timely manner, it shifts all the burden away from government – where responsibility was intentionally placed in federal law – entirely onto the citizen. Law abiding citizens who become the victims of a government administrative error must themselves gather all applicable law enforcement and court records and try to understand and navigate a complex maze of federal bureaucratic process to try to rectify their "yellow" status.

For these reasons, I believe going from three to effectively 30 days is excessive and unreasonable for law-abiding citizens who wish to purchase a firearm for their own personal safety or for other lawful and constitutionally protected purposes.

However, I'm willing to work with the Legislature to find a path forward that gives the federal government more time to fulfill its obligations to complete background checks, without denying law-abiding citizens of their right to a fair and reasonable process.

A more reasonable standard would be to increase the current three-day waiting period to seven business days to allow the federal government additional time to resolve issues and make a final determination.

Given this bill's effective date of July 1, 2022, the Legislature has ample time to address my concerns and send me a bill I can sign.

Based on the objections outlined above I'm returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

February 28, 2022

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.361, *An Act Relating to Approval of Amendments to the Charter of the Town of Brattleboro*, without my signature.

While I applaud 16- and 17-year-old Vermonters who take an interest in the issues affecting their communities, their state and their country, I do not support lowering the voting age in Brattleboro.

First, given how inconsistent Vermont law already is on the age of adulthood, this proposal will only worsen the problem. For example, the Legislature has repeatedly raised the age of accountability to reduce the consequences when young adults commit criminal offenses. They have argued this approach is justified because these offenders are not mature enough to contemplate the full range of risks and impacts of their actions.

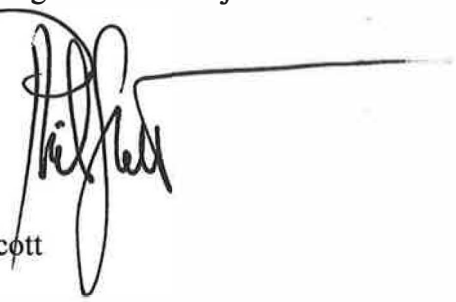
Testimony given by leaders from Columbia University's Justice Lab, who said Vermont should raise the upper age of juvenile jurisdiction for most crimes, (including some violent crimes) described adolescents and what they called "emerging adults" as more volatile; more susceptible to peer influence; greater risk-takers; and less future-oriented than adults. This view was cited by the Legislature as justification to expand the definition of "child" to those 18 to 22 for purposes of criminal accountability. "Youthful offenders" up to age 22 may now avoid criminal responsibility for their crimes.

Second, if the Legislature is interested in expanding voting access to school-aged children, they should debate this policy change on a statewide basis. I do not support creating a patchwork of core election laws and policies that are different from town to town. The fundamentals of voting should be universal and implemented statewide.

For these reasons, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

I understand this is a well-intended local issue. I urge the Legislature to take up a thorough and meaningful debate on Vermont's age of majority and come up with consistent, statewide policy for both voting and criminal justice.

Sincerely,



Philip B. Scott
Governor

PBS/kp

Governor's Veto Sustained.

The Governor's veto was overridden in the House:
Yeas: 102 Nays: 47 Absent: 1

The Governor's veto was sustained in the Senate:
Yeas: 15 Nays: 12 Absent or Abstaining: 2

Sources: Journal of the House, March 11, 2022 [Pages 513-514 (online)]; and Journal of the Senate, March 31, 2022 [Pages 555-556 (online)].

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 2, 2022

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.286, *An act relating to amending various public pension and other postemployment benefits*, without my signature because of my objections described herein.

Since the day after this bill was introduced, before it was voted out of a single committee, in either chamber of the General Assembly, I have been clear it does not include enough structural change to solve the enormous unfunded liability problems the State faces. I offered balanced solutions, which were disregarded.

It is unfortunate this veto will likely be easily overridden, not for me, but for Vermont taxpayers and State employees who will bear the burden in the future. I will acknowledge, this bill takes some positive steps, and the easiest thing for me to do would be to sign it, assure the public we solved the problem, and move on.

But given the scope of this problem and the risk it poses to the financial health of our state, I cannot bring myself to do that. It would be disingenuous because I know we could have done better.

The fact is, in several years – despite adding a quarter of a billion dollars in *additional* money (on top of the roughly $400 million for our regular, required payment) from taxpayers – the state will be faced with the same unsustainable system we have today.

I won't be governor when those chickens come home to roost, and many of you will not be serving in your current roles, either. But the Legislature's unwillingness to question the deal reached between a handful of union and legislative representatives will come back to haunt our state in the not-too-distant future.

And when it does, we won't have the unprecedented level of federal funds and state surplus dollars at our disposal, and the fix will be tougher on both taxpayers and public employees.

Sincerely,

Philip B. Scott
Governor

Governor's Veto Overridden

S.286 2022

The Governor's Veto was overridden in the Senate:

Yeas: 30 Nays: 0

The Governor's Veto was overridden in the House:

Yeas: 148 Nays: 0

2 Members absent w/ leave and not voting: Representatives Morrissey of Bennington, and Partridge of Windham.

*Note: the veto is overridden by two-third majority in both the Senate and House.

Sources: Journal of the Senate, May 4, 2022 [pages 1225 -1226 (online)];

Journal of the House, May 6, 2022 [page 1820 (online)].

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 3, 2022

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.708, *An Act Relating to Approval of Amendments to the Charter of the City of Burlington*, without my signature.

Investing in housing has been and continues to be a top priority of my Administration. The lack of housing working Vermonters can afford is a significant challenge that contributes to our crisis of affordability and impairs our ability to keep and attract the families we need to revitalize our communities.

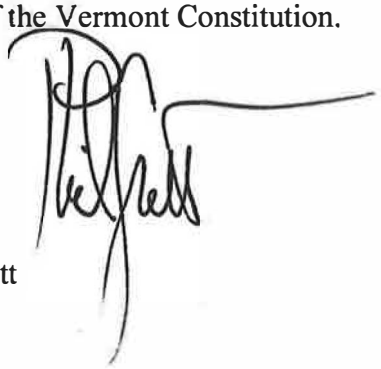
In addition to supporting investments and policies that will address Vermont's housing affordability crisis, we must not add policies that will remove much-needed housing units from the market. By eliminating a property owner's ability to end a lease agreement at the time of the mutually agreed upon end date within a lease, this "just cause eviction" law effectively creates the potential for perpetual tenancy, undermining private property rights and a foundational principle of choosing to rent your property.

Vermont already has some of the most progressive landlord-tenant laws in the country. By making it exceedingly difficult to remove tenants from a rental unit, even at the end of a signed lease, my fear is this bill will discourage property owners from renting to vulnerable prospective tenants, or to rent their units at all. Property owners will be less willing to take the risk of renting to individuals who are perceived to be greater risks, whether that's based on income level, past rental history, experience with homelessness or the criminal justice system, are being resettled from countries in distress or other factors. Instead, more preference will be given to renters with high credit scores, no criminal history, and positive references from previous landlords, creating further disparity for Vermonters. This will increase both costs and inequity in the housing market.

If we want to help tenants find housing, we must build new and revitalized housing more quickly, support exemptions from permitting in designated areas, and stop making it more and more expensive to rent, own, build and live in Vermont.

For these reasons, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,



Philip B. Scott
Governor

PBS/kp

Governor's Veto Sustained.

The Governor's veto was sustained in the House:
Yeas: 99 Nays: 51 Absent/Abstaining: 0
(two-thirds majority of 100 not obtained).

Source: Journal of the House, May 10, 2022 [Pages 2092-2093 (online)].

PHILIP B. SCOTT
Governor

State of Vermont
OFFICE OF THE GOVERNOR

May 6, 2022

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.715, *An act relating to the Clean Heat Standard,* without my signature because of my objections described herein:

As Governor and as elected officials, we have an obligation to ensure Vermonters know the financial costs and impacts of this policy on their lives and the State's economy. Signing this bill would go against this obligation because the costs and impacts are unknown. The Legislature's own Joint Fiscal Office acknowledges this fact, saying:

> *"It is too soon to estimate the impact on Vermont's economy, households, and businesses. The way in which the Clean Heat Standard is implemented, including the way in which clean heat credits are priced and how incentives or subsidies are offered to households and businesses, must be established before meaningful analysis is possible. At the same time, those incentives or subsidies could be costly for the State, suggesting larger fiscal impacts in future years."*

I understand the importance of reducing greenhouse gas emissions, which is why I proposed a $216 million dollar climate package and why my administration has engaged in this policy conversation since January. However, over the last several months it became very clear to me that no one had a good handle on what this program was going to look like, with some even describing it as a carbon tax on the floor.

I have clearly, repeatedly, and respectfully asked the Legislature to include language that would require the policy *and* costs to come back to the General Assembly in bill form so it could be transparently debated with all the details before any potential burden is imposed. This is how lawmaking and governing is supposed to work and what Vermonters expect, deserve and have a right to receive.

What the Legislature has passed is a bill that includes some policy, with absolutely no details on costs and impacts, and a lot of authority and policy making delegated to the Public Utility Commission (PUC), an unelected board. And regardless of the latest talking points, the bill does not guarantee a full legislative deliberation on the policy, plan and fiscal implications prior to implementation. By design, this bill and the inadequate "check back" allows legislators to sign off on a policy concept – absent important details – and not own the decision to raise costs on Vermonters.

For these reasons I cannot allow this bill to go into law and strongly urge the Legislature to sustain this veto.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Sustained.

The Governor's veto was sustained in the House:
Yeas: 99 Nays: 51 Absent/Abstaining: 0
(two–thirds majority of 100 not obtained).

Source: Journal of the House, May 10, 2022 [Pages 2107-2108 (online)].

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 19, 2022

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H. 505, *An act relating to the creation of the Drug Use Standards Advisory Board within the Vermont Sentencing Commission*, without my signature.

Vermont has made progress in treating drug and alcohol addiction as an illness, de-stigmatizing, expanding treatment, and instituting recovery systems that enable individuals to re-build their lives. This year, I proposed, and the Legislature passed, significant investments in these areas because this continues to be a priority issue, especially as we experience an alarming increase in the number of overdose deaths and deaths by suicide.

I agree that the criminal justice system cannot, and should not, be the only tool in this work – and in Vermont, it is not. However, we cannot completely abandon reasonable regulation and law enforcement as a tool.

Specifically, this bill creates a Drug Use Standards Advisory Board with a stated goal to identify a path to effectively legalize personal possession and use of dangerous and highly addictive drugs, stating:

> *"The primary objective of the Board shall be to determine, for each regulated and unregulated drug, the benchmark personal use dosage and the benchmark personal use supply. The benchmarks determined pursuant to this subsection shall be determined with a goal of preventing and reducing the criminalization of personal drug use."*

It places no limits on which drugs can be contemplated for legalization or the amounts, and while rightly saying we need to view substance abuse as a public health matter – a point where I agree – it includes absolutely no recognition of the often-disastrous health and safety impacts of using drugs like fentanyl, heroin, cocaine, methamphetamines, and more. Nor does it acknowledge the role of enforcement in tracking down and stopping the dealers who seek to poison Vermonters – including children – for profit.

In its written testimony, the Department of Public Safety expressed its concern that Vermont remains a "destination for drug trafficking" due in part to demand, and in part because of the view by drug traffickers that "the financial incentives outweigh the risks posed by Vermont's criminal laws."

For these reasons, I cannot allow H. 505 to go into law, and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 19, 2022

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.534, *An act relating to expanding eligibility for expungement and sealing of criminal history records for nonviolent offenses,* without my signature because of my objections described herein.

Safe schools and communities are a top priority of State government and must consistently be a key consideration when criminal justice legislation is debated. Ultimately, I find this bill inconsistent with the State's responsibilities to keep the public safe.

Vermont is currently experiencing a significant spike in violent crime with most being drug-related. From my perspective, this bill seeks to make offenses relating to possessing, selling, cultivating, dispensing and transporting dangerous, illicit and highly addictive drugs – as well as the use of fraud or deceit to obtain these dangerous drugs – expungable offenses.

In addition, H.534 conflicts with recent policy to increase gun safety. Specifically, the Legislature recently passed – and I signed – a firearm safety measure which increases reliance on background checks to disclose Brady-disqualifying felonies. This was done to keep guns out of the hands of people who should not have them. H.534, however, would expunge felonies that would otherwise disqualify someone from purchasing and owning a gun.

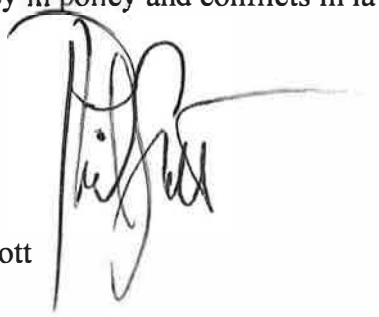
Another area of contradictory policy can be seen with the Legislature's recent creation of a contractor registry to address home improvement fraud. Yet, this bill makes home improvement fraud an expungable offense, eliminating the ability to hold offenders accountable through the registry the Legislature simultaneously said was about accountability. Similarly, despite passing new laws to expand criminal threatening and prohibit carrying a gun into a hospital, these crimes are also expungable.

In total, over 20 new felony crimes, including felony identity theft, could be erased – inaccessible to anyone, even law enforcement – from an individual's criminal record if this bill becomes law.

To address these concerns, my administration proposed a uniform, simplified system of *sealing* – rather than erasing – criminal records. This approach would eliminate undue consequences related to housing, job and education for those Vermonters who are not repeat offenders, while also ensuring access for law enforcement and criminal justice purposes as well as for background checks necessary to ensure public safety and security.

Without allowing access to records for public safety purposes, and resolving all of the very clear inconsistency in policy and conflicts in law H. 534 would create, I cannot support this effort.

Sincerely,



Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 1, 2022

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Secretary Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.234, *An Act Relating to Changes to Act 250*, without my signature because this bill moves us in the wrong direction on Act 250.

From my perspective, this bill makes Act 250 even more cumbersome than it is today and it will make it harder to build the housing we desperately need. These concerns were raised by elected leaders on both sides of the aisle, though were not addressed by the Legislature.

Fortunately, the pieces of this bill that will make some modest improvements were added to another bill, which I plan to sign.

Based on the objections outlined above, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 2, 2022

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.606, *An act relating to community resilience and biodiversity protection*, without my signature.

Vermont has a long history of effective land conservation that has significantly contributed to the state's vibrant, resilient working landscape of farms and forests, vast natural areas, and world class opportunities for outdoor recreation. This is a result of flexible and innovative tools like our current use program and the payment-for-ecosystem-services model. These programs are critical to achieving our conservation priorities because they combine conservation planning with incentives – making it more attractive and affordable for Vermont families to keep and conserve their land, farms and forests.

Over the course of the legislative session, the Agency of Natural Resources testified multiple times against this bill. Among the objections, the Agency pointed to the conservation goals established in H.606 are unnecessarily tied to – and unreasonably limited to – permanent protection. The Agency has repeatedly said that permanent preservation has not been, and cannot be, the state's exclusive conservation tool and this bill, intentional or not, would diminish the existing and successful conservation tools we have.

Based on the objections outlined above, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 7, 2022

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.728, *An act relating to opioid overdose response services*, without my signature because it directs the Administration to design a plan for the implementation of one or more overdose prevention sites (also known as "safe injection sites"). From my standpoint, it seems counterintuitive to divert resources from proven harm reduction strategies to plan injection sites without clear data on the effectiveness of this approach.

We are all aware the pandemic has had negative impacts on the mental health of Vermonters. This includes concerning increases in drug and alcohol addiction, overdose deaths and suicides.

Prior to the pandemic, Vermont was making progress treating opioid addiction with our groundbreaking "hub-and-spoke" treatment system and medically assisted treatment of our corrections populations.

We also utilize harm reduction strategies, including syringe programs, distribution of Narcan, fentanyl test strips and comprehensive community education. These are proven, evidence-based approaches to saving lives but we must also continue to focus on preventing addiction in the first place and supporting people through treatment and recovery.

Unfortunately, this bill proposes to shift state policy and financial resources away from prevention and toward unproven strategies such as overdose prevention sites. It's important to note that what little data exists on this approach is for sites located in large cities, so it's not applicable to the vast majority of Vermont. Last year, I signed the experimental decriminalization of buprenorphine and am now waiting for the data to show if this had a positive impact on addiction or overdose rates in our state. I believe it's important to analyze this data before moving to another experimental strategy.

For these reasons, I cannot allow H.728 to go into law, and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 4, 2023

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Secretary Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning S.5, *An act relating to affordably meeting the mandated greenhouse gas reductions for the thermal sector through efficiency, weatherization measures, electrification, and decarbonization,* without my signature because of my objections described herein:

As Governor, I believe we must make Vermont more affordable by helping Vermonters keep more of what they earn, while we simultaneously make transformative, strategic investments in important areas like community revitalization, climate action, housing, childcare, clean water, and broadband.

I also believe government transparency is essential to maintaining faith and trust in our democracy. When we pass laws, we must clearly communicate both the burdens and the benefits to Vermonters. From my perspective, S.5 conflicts with these principles, and I cannot support it.

It's important to note despite significant concerns with the policy, I would not veto a bill that directs the Public Utilities Commission (PUC) to design a potential clean heat standard – provided it's returned to the Legislature, in bill form with all the details, and debated, amended, and voted on with the transparency Vermonters deserve.

The so-called "check back" in S.5 does not achieve my simple request. Instead, the "check back" language in the bill is confusing, easily misconstrued, and contradictory to multiple portions of the bill.

As I have repeatedly stated publicly, this veto could have been avoided had the Legislature eliminated the confusion and spelled out, in plain language, that the proposed plan would return to the Legislature to be considered for codification and voted on in bill form.

Again, I continue to fully support efforts to reduce greenhouse gas emissions. As the Legislature is well aware, more than any previous governor, I have proposed, supported, and invested hundreds of millions of dollars to reduce emissions in the transportation and thermal sectors. I'm also committed to following through on the work outlined in our thermal sector action plan.

Here's the bottom line: The risk to Vermonters and our economy throughout the state is too great; the confusion around the language and the unknowns are too numerous; and we are making real and measurable progress reducing emissions with a more thoughtful, strategic approach that is already in motion.

For these reasons I cannot allow this bill to go into law. It's my sincere hope that members of the Legislature will have the courage to put their constituents ahead of party politics and sustain this veto.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden

S.5, 2023

The Governor's Veto was overridden in the Senate: Yeas: 20 Nays: 10

The Governor's Veto was overridden in the House: Yeas: 107 Nays: 42

*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:

Journal of the Senate, May 9, 2023 [page 1183 - 1184 online)];

Journal of the House, May 11, 2023 [page 1822 - 1824 (online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 27, 2023

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.386, *An Act Relating to Approval of Amendments to the Charter of the Town of Brattleboro* without my signature because of my objections described below.

This bill is almost identical in language and purpose to a bill passed last year, H.361, *An Act Relating to Approval of Amendments to the Charter of the Town of Brattleboro,* which I vetoed in 2022 (see attached veto message). As I said last year, I believe it is important to encourage young Vermonters to have an interest in issues affecting their schools, their communities, their state and their country. However, I do not support lowering the voting age in Brattleboro, nor lowering the age to run for Town office and sign contracts on behalf of taxpayers.

As I specified last year, "given how inconsistent Vermont law already is on the age of adulthood, this proposal will only worsen the problem. For example, the Legislature has repeatedly raised the age of accountability to reduce the consequences when young adults commit criminal offenses. They have argued this approach is justified because these offenders are not mature enough to contemplate the full range of risks and impacts of their actions."

Adding to that inconsistency, just one month ago the Legislature passed, and I signed, H.148, *An act relating to the age of eligibility to marry,* or, "The Act to Ban Child Marriage," which raised the age of eligibility to marry to age 18. Proponents rightly argued, "all young people in Vermont deserve equal opportunities to enjoy their childhood…", they also pointed to undo influence by controlling parents.

Additionally, proponents of this bill have argued it represents the will of the voters. In fact, this is not the case. With H.386 the Legislature substantially changed and expanded the charter change, going against the intent of the voters (see attached Brattleboro sample ballot).

For all these reasons, I'm returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

Governor's Veto Overridden

H.386 2023

The Governor's Veto was overridden in the Senate: Yeas: 20 Nays: 10

The Governor's Veto was overridden in the House: Yeas: 110 Nays: 37 Absent: 3

*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:

Journal of the Senate, June 20, 2023 [pages 1978-1979 (online)];

Journal of the House, June 20, 2023 [page 2362-2363 (online)];

Attachment

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

February 28, 2022

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.361, *An Act Relating to Approval of Amendments to the Charter of the Town of Brattleboro*, without my signature.

While I applaud 16- and 17-year-old Vermonters who take an interest in the issues affecting their communities, their state and their country, I do not support lowering the voting age in Brattleboro.

First, given how inconsistent Vermont law already is on the age of adulthood, this proposal will only worsen the problem. For example, the Legislature has repeatedly raised the age of accountability to reduce the consequences when young adults commit criminal offenses. They have argued this approach is justified because these offenders are not mature enough to contemplate the full range of risks and impacts of their actions.

Testimony given by leaders from Columbia University's Justice Lab, who said Vermont should raise the upper age of juvenile jurisdiction for most crimes, (including some violent crimes) described adolescents and what they called "emerging adults" as more volatile; more susceptible to peer influence; greater risk-takers; and less future-oriented than adults. This view was cited by the Legislature as justification to expand the definition of "child" to those 18 to 22 for purposes of criminal accountability. "Youthful offenders" up to age 22 may now avoid criminal responsibility for their crimes.

Second, if the Legislature is interested in expanding voting access to school-aged children, they should debate this policy change on a statewide basis. I do not support creating a patchwork of core election laws and policies that are different from town to town. The fundamentals of voting should be universal and implemented statewide.

Attachment

For these reasons, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

I understand this is a well-intended local issue. I urge the Legislature to take up a thorough and meaningful debate on Vermont's age of majority and come up with consistent, statewide policy for both voting and criminal justice.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Attachment

TOWN MEETING MEMBERS DISTRICT 3

2 Years (Vote for not more than FIVE)

- SARAH HADDEN, 79 Cedar Street
- JESSE E. KAYAN, 511 Upper Dummerston Road
- (Write-in)
- (Write-in)
- (Write-in)
- (Write-in)
- (Write-in)

TOWN MEETING MEMBERS DISTRICT 3

1 Year (Vote for not more than FIVE)

- ANDREW J. MARCHEV, 48 Speno Court
- ART "FHAR" MIESS, 287 Orchard Street
- SONIA SILBERT, 287 Orchard Street
- (Write-in)
- (Write-in)
- (Write-in)
- (Write-in)
- (Write-in)

ARTICLE

ARTICLE II

Shall the Town of Brattleboro amend its charter as follows:

1. Add Section 107-2.1(c) and (d) to read:
   (c) "Voters," for the purposes of voting at town meetings and serving at the Representative Town Meeting, and serving on the Brattleboro Town School Board and the Brattleboro Union High School #6 Board, shall mean all persons resident in town who have reached the age of sixteen years and taken the Voter's Oath.
   (d) "Youth member" shall mean a Representative Town Meeting or school board member who has reached the age of sixteen years and not reached the age of eighteen years on the day of election, who has taken the voter's Oath and oaths of office.

2. Amend Section 107-2.2(4) to read:
   On the first Tuesday of March the voters of the Town shall elect by Australian ballot the following:
   ...

   (4) Brattleboro Union High School #6 directors, who shall be elected for terms and in numbers as required by State law by the "voters" as defined by Section 107-2.1(c) as amended.

3. Add Section 107-6.1(c) to 24 App. V.S.A. chapter 107, subchapter 6, to read:
   (c) Up to two youth members may be elected to each, the Brattleboro Town School Board and the Brattleboro Union High School #6 Board, and up to two youth members may serve simultaneously on each.

YES
NO

VOTE BOTH SIDES OF BALLOT

Attachment

OFFICIAL BALLOT
ANNUAL TOWN AND TOWN SCHOOL DISTRICT MEETING
BRATTLEBORO, VERMONT
MARCH 5, 2019
DISTRICT #3

SAMPLE BALLOT

INSTRUCTIONS TO VOTERS

A. TO VOTE, completely fill in the OVAL to the RIGHT of your choice(s) like this: ●
B. Follow directions as to the number of candidates to be marked for each office.
C. To vote for a person whose name is not printed on the ballot, write the candidate's name on the line provided and completely fill in the OVAL.
D. If you wrongly mark, tear or deface the ballot, return it to the ballot attendant and obtain another.

FOR MODERATOR

1 Year (Vote for not more than ONE)

- LAWRIN CRISPE, 130 East Orchard Street
- (Write-in)

FOR LISTER

3 Years (Vote for not more than ONE)

- J. ERIC ANNIS, 67 Washington Street
- (Write-in)

FOR LISTER

3 Years (1 year remaining) (Vote for not more than ONE)

- (Write-in)

FOR SELECT BOARD

3 Years (Vote for not more than ONE)

- BEN L. COPLAN, 56 Marlboro Avenue
- TIMOTHY "TIM" WESSEL, 82 High Street
- (Write-in)

FOR SELECT BOARD

1 Year (Vote for not more than TWO)

- OSCAR HELLER, 186 Elliot Street 2
- ELIZABETH MCLOUGHLIN, 154 Wantastiquet Drive
- DANIEL QUIPP, 109 Moreland Avenue
- FRANZ REICHSMAN, 63 Chestnut Street
- (Write-in)
- (Write-in)

FOR FIRST CONSTABLE

1 Year (Vote for not more than ONE)

- RICHARD H. COOKE, 37 Maple Street
- (Write-in)

FOR SECOND CONSTABLE

1 Year (Vote for not more than ONE)

- (Write-in)

FOR TRUSTEE OF PUBLIC FUNDS

3 Years (Vote for not more than ONE)

- MARSHALL WHEELOCK, 107 Oak Grove Avenue
- (Write-in)

FOR TRUSTEE OF PUBLIC FUNDS

3 Years (1 year remaining) (Vote for not more than ONE)

- TYLER BOONE, 111 Clark Street 1
- (Write-in)

FOR SCHOOL DIRECTOR

3 Years (Vote for not more than ONE)

- ANDREW "ANDY" DAVIS, 141 West Street
- JILL STAHL-TYLER, 611 Ames Hill Road
- (Write-in)

FOR SCHOOL DIRECTORS

1 Year (Vote for not more than TWO)

- SPOON AGAVE, 145 Green Street
- ROBIN MORGAN, 75 Maple Street
- EMILY MURPHY KAUR, 241 Quails Hill Road
- (Write-in)
- (Write-in)

FOR BRATTLEBORO UNION HIGH SCHOOL DIRECTORS

3 Years (Vote for not more than ONE)

- ROBERT WOODWORTH, 197 Hillwinds North
- (Write-in)

TOWN MEETING MEMBERS DISTRICT 3

3 Years (Vote for not more than FIFTEEN)

- RONI BYRNE, 965 Upper Dummerston Road
- CHARLES CURRY-SMITHSON, 270 Putney Road
- DAVID J. EMERY, 119 Forest Street
- RICHARD EVERS, 15 West Street
- G. THOMAS "TOM" GREEN, 57 Spruce Street
- CASSANDRA HOLLOWAY, 29 High Street 303
- DAVID LEVENBACH, 96 Western Avenue
- ELIZABETH "LIZ" MCLOUGHLIN, 154 Wantastiquet Drive
- LEO SCHIFF, 76 Laurel Street
- JAMES VERZINO, 18 Chapin Street 1
- (Write-in) ×15

SAMPLE BALLOT

VOTE BOTH SIDES OF BALLOT

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 27, 2023

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.494– *An act relating to making appropriations for the support of government,* without my signature because of my objections described herein:

In my address to the Legislature in January, I reported that with organic revenue growth we could achieve our shared goals. My budget leveraged a historic $390 million in surplus revenue to fund our shared priorities like childcare, voluntary paid family and medical leave, housing, climate change mitigation, and more – all without raising taxes or fees.

This approach is critical because Vermonters have made it clear that living in our state is not affordable; and the data backs that up as we are ranked as having one of the highest tax burdens in the nation. Adding to this pressure, Vermonters continue to pay more for everyday essentials due to persistent inflation.

With all of this in mind, we cannot and should not ask Vermonters to shoulder the burden of new and higher taxes, fees and penalties.

And yet, across this budget and other bills, the Legislature's tax, fee and spending decisions this session may add an average of nearly $1,200 to a household's burden each year – on top of higher property tax bills and inflation, which have already consumed the increase in most people's paychecks.

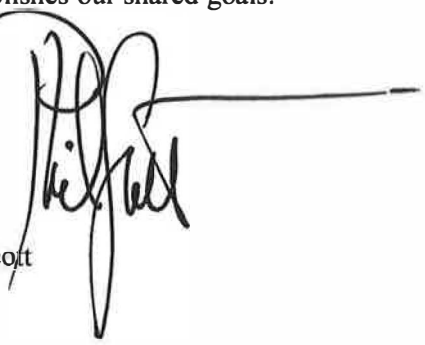
Specifically, this budget unnecessarily increases DMV fees by 20 percent and is reliant on a new and regressive, payroll tax in H.217. The DMV fee increase will once again place Vermont in the unenviable position of being the most expensive state in the northeast to maintain a driver's license and register a vehicle. The combination of this with so many other increases will hurt everyday Vermonters now and into the future.

I'm also concerned the substantial increase in ongoing base spending, that Vermonters must bear into the future, is not sustainable. This increase – more than twice the rate of current inflation – is especially concerning because it does not include the full cost of the new programs created this year that rely on new tax revenue or will otherwise add to Vermonters' costs, including the childcare expansion, universal school meals, the clean heat standard and more.

Here's the bottom line: I cannot support a budget that relies on new and regressive taxes and fees, combined with the overall increase in base spending that is far beyond our ability to sustain, especially because there is a way to achieve our shared policy goals without them. The risk to Vermonters is too great.

Vermonters have elected and reelected me, in part, to provide balance and fiscal responsibility in Montpelier and I will follow through on that mandate. I strongly urge the Legislature to work with me on a path forward that accomplishes our shared goals.

Sincerely,



Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden
H.494 2023
The Governor's Veto was overridden in the Senate: Yeas: 25 Nays: 5
The Governor's Veto was overridden in the House: Yeas: 105 Nays: 42 Absent: 3
*Note: The veto is overridden by two-thirds majority in both the House and Senate.
Sources:
Journal of the Senate, June 20, 2023 [pages 1994 (online)];
Journal of the House, June 20, 2023 [page 2347-2351 (online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 27, 2023

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State St.
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.509, *An act relating to approval of amendments to the voter qualification provisions of the charter of the City of Burlington*, without my signature.

As I wrote when returning similar bills without signature in 2021, this highly variable town-by-town approach to municipal election policy creates separate and unequal classes of legal residents potentially eligible to vote on local voting issues. I am well aware of the recent Vermont Supreme Court decision, as well as a historic Vermont Supreme Court decision on the issue of constitutionality. I also have no objection to the policy direction. I am happy to see legal residents who are non-citizens calling Vermont home and participating in the issues affecting their communities.

However, the fundamentals of voting should be universal and implemented statewide. I again urge the Legislature to establish clarity and consistency on this matter with a template or uniform standards, before continuing to allow municipalities to move forward with changes to resident voter eligibility in their cities and towns. Returning this bill provides the opportunity to do this important work.

For these reasons, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden

H.509 2023

The Governor's Veto was overridden in the Senate: Yeas: 21 Nays: 9The Governor's Veto was overridden in the House: Yeas: 111 Nays: 36 Absent: 3

*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:

Journal of the Senate, June 20, 2023 [pages 1978-1979 (online)];

Journal of the House, June 20, 2023 [page 2364-2365 (online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 31, 2023

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning S.39, *An act relating to compensation and benefits for members of the Vermont General Assembly*, without my signature because of my objections described herein.

This year, the General Assembly passed several pieces of legislation that will significantly increase costs for Vermonters through new and higher taxes, fees and penalties. In my opinion, it does not seem fair for legislators to insulate themselves from the very costs they are imposing on their constituents by doubling their own future pay.

Sincerely,

Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 1, 2023

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.305, *An act relating to professions and occupations regulated by the Office of Professional Regulation,* without my signature because of my objections described herein:

I've successfully partnered with the Secretary of State's Office of Professional Regulation on several occasions since taking office to remove employment barriers for licensed professionals, and to create civilian licensure pathways for military professionals. However, I'm concerned about the impact of raising licensing fees on workers we're trying to attract to these critical sectors and adding to the affordability challenges Vermont employees and employers already face.

While these fee increases may look modest, they contribute to the high cumulative impact of new costs being levied on Vermonters this session. I will continue to fight against creating new and higher taxes and fees during a time when Vermonters are grappling with persistent inflation, and when we have record surpluses available to assist us.

For all these reasons, I'm returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden
H.305 2023
The Governor's Veto was overridden in the Senate: Yeas: 23 Nays: 7
The Governor's Veto was overridden in the House: Yeas: 109 Nays: 38 Absent: 3

*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:
Journal of the Senate, June 20, 2023 [pages 1974 (online)];
Journal of the House, June 20, 2023 [page 2344-2346 (online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 1, 2023

The Honorable John Bloomer
Secretary of the Senate
115 State Street
Montpelier, VT 05633

Dear Secretary Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning S.6, *An Act Relating to Law Enforcement Interrogation Policies* without my signature because of my objections described below.

This bill started out as a reasonable approach to expand existing constitutional protections prohibiting deceptive and coercive interrogations for juvenile offenders under the age of 18. As passed, this bill would make Vermont an outlier by offering these expanded protections to young adult offenders up to the age of 22, despite Vermont's already robust constitutional protections. There was uniform testimony in opposition to this bill from the entities charged with promoting public safety, including crime victim services and child advocacy centers, that this bill will remove tools from law enforcement used to investigate very serious, violent crimes at a time when our communities are not feeling safe and are asking us to do more.

This bill would make it more difficult to investigate and prosecute young adult perpetrators involved in serious crimes, such as narcotics trafficking, sex offenses, including sexual assaults that happen on college campuses and child sex abuse cases, and internet crimes against children.

For this reason, I'm returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 6, 2023

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.217, *An act relating to childcare, early education, workers' compensation, and unemployment insurance,* without my signature because of my objections described herein:

Increasing the availability and affordability of childcare has been a priority throughout my time as Governor. In fact, in my first six years in office we doubled our investments in childcare and these appropriations would be substantially higher had previous legislatures supported fully funding my proposals.

I also put forward a plan in 2018 to dedicate tens of millions of dollars in new online sales tax revenue to childcare. If the Legislature had supported this proposal, we would be investing an additional $62 million this year alone, and much more in future years. And last year we expanded childcare subsidies to 350% of the federal poverty level. To put that in perspective, a four-member household (e.g., two adults and two children) earning $105,000 per year is currently eligible for subsidies.

Knowing the Legislature and I both wanted to "go big" on childcare this year, I dedicated $56 million in organic, ongoing base revenue growth to expand eligibility to families making up to 400% of the Federal Poverty Level (FPL). This would put Vermont at the top of the list of the most generous childcare states in the nation, giving households earning up to $120,000 per year access to support, and helping about 4,000 more kids.

When the Senate and House were at stalemate in May, my team offered legislative leaders another path, expanding subsidies even higher (to 450% of the Federal Poverty Level) and funding a 10 percent increase in provider rates, without relying on new and regressive taxes.

In total this compromise would have covered 6,000 more kids than our existing investment, helping families making up to $135,000 a year, and definitively establishing Vermont as the state most committed to affordable, accessible childcare for working families.

Unfortunately, there was no interest. Instead, the Legislature remained determined to raise a new tax. Ultimately landing on a regressive payroll tax that, if you are a lower income Vermonter already receiving free childcare, you will have to pay a tax, with no added benefit to you, so that families with higher incomes get support.

Vermont already has one of the highest tax burdens in the nation. The last thing we should be doing is making it worse. Raising new revenue from taxes and fees should be a last resort, not a first step.

Supporters of raising taxes and fees will always point to the relatively small amount raised for each individual program or service – trying to suggest it is not that much money. But that type of narrow here-and-there thinking adds up, year after year, and has made living in Vermont increasingly unaffordable.

For these reasons, I had to veto this regressive tax plan.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden

H.217 2023
The Governor's Veto was overridden in the Senate: Yeas: 23 Nays: 7
The Governor's Veto was overridden in the House: Yeas: 116 Nays: 31 Absent: 3
*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:
Journal of the Senate, June 20, 2023 [pages 1987-1988 (online)];
Journal of the House, June 20, 2023 [page 2340-2344 (online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 29, 2023

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.158, *An act relating to the beverage container redemption system*, without my signature with my objections stated below.

I'm a long-time advocate of recycling and support a strong system to help Vermonters do so. But as I've consistently said, I believe expanding the labor intensive 1970s-era bottle deposit system would move us backwards, and we should instead focus on investing in and improving zero-sort (or blue bin) recycling.

I'm concerned this bill will result in higher costs for Vermonters due to deposit fees added to a wide range of beverage products; increased handling fees will be passed onto consumers to fund the redemption system; and increased recycling costs for towns, businesses and residents as high-value cans and bottles are removed.

It simply makes no sense to toss aside the progress we've made since the mandatory Universal Recycling Law of 2012, to expand a separate system that diverts the most valuable recyclables away from the blue bin system.

Finally, I'm concerned that even with the bill's efforts to modernize the redemption system, redemption centers are likely to continue to struggle to find the space needed for more storage and the workforce needed to handle and sort the higher volume.

In light of these objections, I'm returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

April 3, 2024

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning S.18, *An act relating to banning flavored tobacco products and e-liquids*, without my signature because of my objections described herein.

Admittedly, I've struggled with this bill, as it seems hypocritical and out of step with other initiatives that have passed into law recently and over time.

To be clear, I too feel we have an obligation to protect our children, but it must be balanced in such a way that we honor the rights and freedoms of adults to make decisions about their individual lives.

That's why, in 2019, I signed a bill raising the legal age to buy tobacco or e-cigarette products from 18 to 21 and even increased a tax on some of those products to deter use. In my mind, these were reasonable steps that struck the right balance.

From my perspective, this bill is inconsistent with other laws related to legalized substance use. In 2020, the Legislature legalized the commercial sale of cannabis, including edibles and other flavored products, which are now widely available, despite the known risks to youth and their developing brains. Yet, to my knowledge, I'm not aware of an initiative to ban such products, even considering their obvious appeal to minors and negative health impacts.

In addition, we (the State) allow, and in fact actively advertise and profit from, the sale of flavored alcohol products. We also promote and highlight our distilleries and breweries with all their unique flavors, which has been incredibly successful, not only financially, but also from a branding and tourism standpoint. But it can't be denied alcohol abuse has been the root cause of many societal challenges.

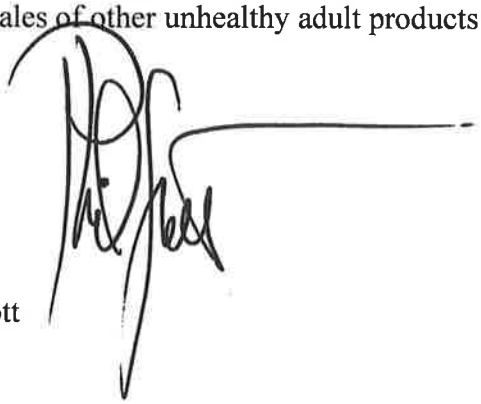
I've found people lose faith in government when policies have these types of inconsistencies, because they contradict common sense.

Furthermore, from a purely practical point of view, these products would continue to be widely available just across the river in New Hampshire, and through online sales.

Regardless of what becomes of this bill, the Legislature should direct the Attorney General and the Department of Liquor and Lottery to further crack down on direct online sales to minors.

In conclusion, I'm not convinced the in-state prohibition of flavored tobacco, e-liquids and tobacco substitutes only, is justified when sales will remain online, and when State law plainly encourages sales of other unhealthy adult products to continue.

Sincerely,



Philip B. Scott
Governor

PBS/kp

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 20, 2024

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.706, *An act relating to banning the use of neonicotinoid pesticides*, without my signature because of my objections described herein.

Pollinators are essential to growing food and maintaining a healthy, thriving ecosystem. The same is true of farmers, who are also critical contributors to our economy, but altogether, this legislation is more anti-farmer than it is pro-pollinator.

It's important to note, the honeybee population has grown, while the use of neonics has persisted. In fact, the USDA Census for 2017-2022 shows Vermont's honeybee population has grown about 30 percent. Additionally, the science is not conclusive on whether this ban will achieve the desired results, but the bill has the potential to produce severe unintended environmental and economic consequences—particularly for Vermont's dairy farmers.

Although neonics are approved by the U.S. Environmental Protection Agency and used on a variety of crops, this bill would ban neonic-treated seeds of corn, soybean, and all other cereal grains (wheat, rice, oats, etc.) and it bans outdoor uses on soybeans, cereal grains, ornamental plants, any plant in bloom and certain vegetables after bloom.

To put the impacts of this bill into context, Vermont grows about 90,000 acres of corn, while the U.S. grows 90 million acres of corn, and almost all corn seed sold in the U.S. is treated with neonics. This would put Vermont farmers at a significant disadvantage.

This is especially concerning given the fact Vermont is struggling to keep dairy farmers, and many more have been put at risk through higher taxes and energy prices, crop losses associated with last year's spring frost, and summer and winter floods.

This bill unfairly targets dairy farmers reliant on corn crops and will harm farmers without achieving its goals for pollinators. For these reasons I cannot sign it into law.

Rather than eliminating an important EPA-approved tool, we should continue to closely monitor and study the issues and science to protect both family farms – and the food they produce – and pollinators.

Sincerely,

Philip B. Scott
Governor

Governor's Veto Overridden

H.706 2024

The Governor's Veto was overridden in the House: Yeas: 114 Nays: 31 Absent: 5
The Governor's Veto was overridden in the Senate: Yeas: 20 Nays: 9 Absent: 0
*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:
Journal of the House, June 17, 2024 [pages 2884-2885 (online)];
Journal of the Senate, June 17, 2024 [page 2450 (online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 23, 2024

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.289, *An act relating to the Renewable Energy Standard*, without my signature because of my objections described herein.

I don't believe there is any debate that H.289 will raise Vermonters' utility rates, likely by hundreds of millions of dollars. And while that in itself is reason enough to earn a veto, it is even more frustrating when you consider our Department of Public Service proposed to the Legislature a much stronger plan at a fraction of the cost.

Their proposal was crafted after 18 months of engagement with Vermonters about what *they* want their energy policy to look like. It would get us to where we all want to go faster, more affordably and more equitably than H.289.

For the reasons stated above, and factoring in all the other taxes, fees and higher costs the Legislature has passed over the last two years, I simply cannot allow this bill to go into law.

With a better alternative to this bill available, I sincerely hope that the Legislature will think about Vermonters and the cost of living, and sustain this veto.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden

H.289 2024

The Governor's Veto was overridden in the House: Yeas: 102 Nays: 43 Absent: 5
The Governor's Veto was overridden in the Senate: Yeas: 21 Nays: 8 Absent: 0
*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:
Journal of the House, June 17, 2024 [pages 2879-2881 (online)];
Journal of the Senate, June 17, 2024 [page 2447 (online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

May 30, 2024

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.72, *An act relating to harm-reduction criminal justice response to drug use*, without my signature because of my objections described herein.

Drug addiction is something we must continuously address, and this important work is never done. That's why year after year, I have prioritized expansion and enhancement of prevention, enforcement, treatment, and long-term recovery services. I have been urging the Legislature to strengthen the law enforcement response to the increasingly toxic drug stream entering our state. And I feel for every family grieving an overdose death.

While these sites are well-intentioned, this costly experiment will divert financial resources from proven prevention, treatment and recovery strategies, as well as harm reduction initiatives that facilitate entry into treatment rather than continued use. While it may consolidate the widespread drug use in Burlington into a smaller area within the city, it will come at the expense of the treatment and recovery needs of other communities, for whom such a model will not work.

Vermont's existing overdose prevention strategies – including widespread Narcan distribution, fentanyl testing strips, needle exchanges, enhanced prevention, treatment and recovery through local coalitions are resulting in some positive trends in relation to overdose deaths. And paired with increased enforcement, and the ability to invest Opioid Settlement funds in additional strategies like drug testing, naloxone vending machines, contingency management and expanded outreach, I'm hopeful we will continue to see fewer and fewer overdose deaths.

Sincerely,

Phil Scott

Philip B. Scott
Governor

Governor's Veto Overridden

H.72 2024

The Governor's Veto was overridden in the House: Yeas: 104 Nays: 41 Absent: 5

The Governor's Veto was overridden in the Senate: Yeas: 20 Nays: 9 Absent: 0

*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:

Journal of the House, June 17, 2024 [pages 2872-2875 (online)];

Journal of the Senate, June 17, 2024 [pages 2449-2450 (online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 4, 2024

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.645, *An act relating to the expansion of approaches to restorative justice*, without my signature because of my objections described herein.

While I understand the desire to help those, particularly youth, who need second, third and even fourth chances to get their lives on track, H.645 is not workable because it is not funded.

The bottom line is this bill expands the responsibilities of the Office of the Attorney General, which will require additional resources, and yet the new work is not funded.

There is no guarantee we will have the taxpayer money needed to fund it next year. For this reason, I'm returning this bill without my signature.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden

H.645 2024

The Governor's Veto was overridden in the House: Yeas: 110 Nays: 35 Absent: 5
The Governor's Veto was overridden in the Senate: Yeas: 21 Nays: 8 Absent: 0
*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:
Journal of the House, June 17, 2024 [pages 2882-2884 (online)];
Journal of the Senate, June 17, 2024 [pages 2450-2451(online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 6, 2024

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm vetoing H.887, *An act relating to homestead property tax yields, nonhomestead rates, and policy changes to education finance and taxation*, because of my objections described herein.

Vermonters cannot afford a double-digit property tax increase. Especially while facing a historic eight-percent property tax increase last year, a 20% increase in DMV fees, a new payroll tax taking effect July 1, increased fuel costs to heat homes and businesses from the Clean Heat Standard, and increased electric costs if my veto of the Renewable Energy Standard is not sustained. All on top of several years of inflation – the most regressive tax of all – driving up the cost of household essentials like food, clothing and services faster than paychecks are growing.

We must provide property tax relief now. This can't wait for another study before implementing cost containment strategies. We must also reform our education funding formula to ensure sustainable spending growth and equitable opportunities, and prioritize funding educational opportunities that improve outcomes by reinvesting in the strategies that best serve kids over maintaining the status quo.

We can achieve each of these goals this year if legislators will work with me.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden

H.887 2024

The Governor's Veto was overridden in the House: Yeas: 103 Nays: 42 Absent: 5
The Governor's Veto was overridden in the Senate: Yeas: 22 Nays: 7 Absent: 0
*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:
Journal of the House, June 17, 2024 [pages 2875-2878 (online)];
Journal of the Senate, June 17, 2024 [page 2444 (online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 13, 2024

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.121, *An act relating to enhancing consumer privacy and the age-appropriate design code*, without my signature because of my objections herein. This bill creates an unnecessary and avoidable level of risk.

One area of risk comes from the bill's "private right of action," which would make Vermont a national outlier, and more hostile than any other state to many businesses and non-profits – a reputation we already hold in a number of other areas. I appreciate this provision is narrow in its impact, but it will still negatively impact mid-sized employers, and is generating significant fear and concern among many small businesses.

Another area of risk comes from the "Kids Code" provision. While this is an important goal we can all support, similar legislation in California has already been stopped by the courts for likely First Amendment violations. We should await the decision in that case to craft a bill that addresses known legal pitfalls before charging ahead with policy likely to trigger high risk and expensive lawsuits. Vermonters will already be on the hook for expensive litigation when the Attorney General takes on "Big Oil," and should not have to pay for additional significant litigation already being fought by California.

Finally, the bill's complexity and unique expansive definitions and provisions create big and expensive new burdens and competitive disadvantages for the small and mid-sized businesses Vermont communities rely on. These businesses are already poised to absorb an onslaught of new pressures passed by the Legislature over the last two years, including a payroll tax, a Clean Heat Standard, a possible Renewable Energy Standard (if my veto is overridden), not to mention significant property tax increases.

The bottom line is, we have simply accumulated too much risk. However, if the underlying goals are consumer data privacy and child protection, there is a path forward. Vermont should adopt Connecticut's data privacy law, which New Hampshire has largely done with its new law. Such regional consistency is good for both consumers and the economy.

Sincerely,

Philip B. Scott
Governor

Governor's Veto Sustained

H.121 2024

The Governor's Veto was overridden in the House: Yeas: 128 Nays: 17 Absent: 5
The Governor's Veto was sustained in the Senate: Yeas: 14 Nays: 15 Absent: 0
*Note: Failing to obtain the necessary two-thirds majority in both the House and Senate, the Veto is Sustained.

Sources:
Journal of the House, June 17, 2024 [pages 2886-2887 (online)];
Journal of the Senate, June 17, 2024 [page 2451 (online)];

PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

June 13, 2024

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning H.687, *An act relating to community resilience and biodiversity protection through land use*, without my signature because of my objections described below. But first, I want to assure you, there is a path forward and I would respectfully ask the Legislature to pass a replacement bill that will result in more housing while protecting rural communities from additional economic harm.

Despite almost universal consensus, I don't believe we've done nearly enough to address Vermont's housing affordability crisis.

H.687 is heavily focused on conservation and actually expands Act 250 regulation. And it does so at a pace that will slow down current housing efforts. Vermonters need us to focus on building and restoring the homes communities desperately need to revitalize working class neighborhoods, reverse our negative demographic trends, and support economic investment in the future.

Specifically, I would suggest a compromise that would achieve more balance and could be passed next week, with the following changes to H.687:

- **Modify removal provisions for the chair and executive director of the Land Use Review Board and ensure some political balance** – This measure is critical to ensuring accountability to Vermonters and prevent overregulation that will harm rural communities.
- **Modify the current Road Rule with the Amendment proposed by Senator Sears** – The addition of the Road Rule is a significant expansion of Act 250 that will make it harder to build. While I would prefer it be removed entirely, the Amendment proposed by Senator Sears would reduce the harmful impact. That amendment mirrors the recommendations of the Natural Resources Board (NRB) study group consensus report.
- **Extend the timeline to allow for reasonable implementation and more housing** – The current timeline for the new regulatory system is not achievable and will delay the permitting process for much-needed projects. Extending deadlines for interim exemptions to 2029 to coordinate with the start of the new system, will ensure Vermonters see the full benefit of the housing package, and a more thoughtful process.

- **Extend the interim exemptions to additional communities in need of housing** – Apply interim exemptions to areas serviced by municipal water and wastewater to give smaller, more rural communities the same opportunity for housing.
- **Increase the tools to spark revitalization of blighted units in low-income communities –** First, we should reverse the decision to exclude Bennington, Grand Isle and Essex counties from using the property tax value freeze available to every other county. Second, without impacting the FY25 budget, we can redirect new Property Transfer Tax revenue to increase the Downtown and Village Center Tax Credits by $2 million. Third, implement the tri-partisan proposal for a Property Transfer Tax exemption when turning blighted properties into housing.
- **Make the 1B designation easier to achieve for long-term housing solutions –** Revert to the Senate-passed provision to automatically map all eligible Tier 1B areas while still enabling municipalities to opt-out of the Tier 1B designation, helping these communities benefit from housing exemptions sooner.
- **Limit appeals in designated areas to ensure interim exemptions can be used to boost housing** – Designated areas indicate that a community wants housing so limiting appeals makes sense and will allow the interim exemptions to have the jump-start effect we're seeking.

To be clear, I would not object to the remaining H.687 provisions if the above changes were made – meaning I'm conceding a significant number of concerns, because I'm committed to a responsible compromise.

Working together on these changes would demonstrate to Vermonters that prioritizing housing wasn't just a talking point.

Sincerely,

Philip B. Scott
Governor

PBS/kp

Governor's Veto Overridden

H.687 2024

The Governor's Veto was overridden in the House: Yeas: 107 Nays: 38 Absent: 5
The Governor's Veto was overridden in the Senate: Yeas: 21 Nays: 8 Absent: 0
*Note: The veto is overridden by two-thirds majority in both the House and Senate.

Sources:
Journal of the House, June 17, 2024 [pages 2871-2872 (online)];
Journal of the Senate, June 17, 2024 [page 2445 (online)];