Senate Calendar

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SENATE CONVENES AT: 9:30 A.M.

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CONSIDERATION POSTPONED TO MARCH 18, 2014

Second Reading

Favorable with Recommendation of Amendment

S. 100.

An act relating to forest integrity.

PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?

Text of recommendation of amendment of the Committee on Natural Resources and Energy:

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

Sec. 1. FINDINGS

The General Assembly finds:

(1) Vermont's forests are a unique resource that provides habitat for wildlife, a renewable resource for human use, jobs for Vermonters in timber and other forest-related industries, and economic development through a productive forest products industry.

(2) Large areas of contiguous forest are essential for quality wildlife habitat, to preserve Vermont's scenic qualities, to implement best practices in forest management, and to ensure the continued economic productivity of Vermont's diverse forest products industry.

(3) The division of forests into lots for house sites or other construction fragments Vermont's forests and reduces their value as wildlife habitat, for forest industries, and to Vermont's tourist economy.

Sec. 2. 10 V.S.A. § 2601a is added to read:

§ 2601a. POLICY; FOREST INTEGRITY; NONFRAGMENTATION

(a) The State of Vermont shall preserve Vermont's forests in large contiguous blocks without permanent roads, buildings, or other construction in order to:

(1) provide habitat for wildlife, especially animals that range over large areas of land, including bear, moose, bobcat, lynx, and deer;

(2) protect the watersheds and Vermont's streams and rivers so as to maintain the quality of Vermont's waters and to reduce the risk of flooding; and

(3) preserve the scenic qualities of the Vermont landscape.

(b) The State of Vermont shall implement the policy stated in this section through all agencies whose activities affect the State's publicly and privately owned forests, including the Department as set forth in this chapter, and through its political subdivisions pursuant to 24 V.S.A. chapter 117 (municipal and regional planning and development).

Sec. 3. 10 V.S.A. § 6001(35) is added to read:

(35) "Fragmentation of forestland" means the separation of forestlands by buildings, roads, or other physical structures or by other human-made alterations to land such as clearing.

Sec. 4. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Before granting a permit, the district commission shall find that the subdivision or development:

* * *

(9) Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of subdivisions 7(a)(1) through (19) of Act 85 of 1973 shall not be used as criteria in the consideration of applications by a district commission.

* * *

(C) Productive forest soils; forest integrity. A permit will be granted for ~~the~~ a development or subdivision ~~of productive forest soils~~ only when it is demonstrated by the applicant that, in addition to all other applicable criteria, ~~either, the subdivision or development~~ each of the following is met:

(i) If the application involves the development or subdivision of productive forest soils, the development or subdivision either will not result in any reduction in the potential of those soils for commercial forestry; or~~:~~

~~(i)~~(I) the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; ~~and~~

~~(ii)~~(II) except in the case of an application for a project located in a designated growth center, there are no lands other than productive forest

soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; and

~~(iii)~~(III) except in the case of an application for a project located in a designated growth center, the subdivision or development has been planned to minimize the reduction of the potential of those productive forest soils through innovative land use design resulting in compact development patterns, so that the remaining forest soils on the project tract may contribute to a commercial forestry operation.

(ii) the development or subdivision will not contribute to the fragmentation of forestland; or

(I) the development or subdivision cannot practicably be relocated on the site or to another site owned or controlled by the applicant or reasonably available to satisfy the basic project purpose;

(II) if the proposed development or subdivision cannot practicably be relocated, all practicable measures have been taken to avoid adverse impacts caused by the development's or subdivision's fragmentation of forestland;

(III) if avoidance of adverse effects caused by the development's or subdivision's fragmentation of forestland cannot be practically achieved, the development or subdivision has been planned to minimize those adverse effects and to preserve connection among the forestlands to be separated in a manner that supports wildlife, and the applicant will permanently conserve an area of forestland that is of comparable or greater biological value than the forestland fragmented by the development or subdivision.

* * *

Sec. 5. REPORT; FOREST FRAGMENTATION IN VERMONT

On or before December 31, 2014, the Commissioner of the Department of Forests, Parks and Recreation shall submit to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife, and Water Resources a report assessing the current and projected effects of fragmentation on Vermont's forestlands, and providing recommendations for how to best protect the integrity of Vermont's forestlands and preserve large blocks of contiguous forestland.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 4-1-0)

NEW BUSINESS

Third Reading

S. 195.

An act relating to increasing the penalties for second or subsequent convictions for disorderly conduct, and creating a new crime of aggravated disorderly conduct.

S. 221.

An act relating to providing statutory purposes for tax expenditures.

J.R.H. 15.

Joint resolution urging Congress to support H.R. 485, The National Nurse Act of 2013.

Second Reading

Favorable with Recommendation of Amendment

S. 28.

An act relating to gender-neutral nomenclature for the identification of parents on birth certificates.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Health and Welfare.

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

Sec. 1. 18 V.S.A. § 5071 is amended to read:

§ 5071. BIRTH CERTIFICATES; WHO TO MAKE; RETURN

(a) ~~Unless a physician or midwife is present, the head of the family in which a birth occurs, within 10 days thereafter, shall fill out and file with the town clerk a certificate of birth in the form prescribed by the department. Otherwise the certificate shall be filed by the attendant physician or midwife~~ On or before the fifth day of each live birth that occurs in this State, the attending physician or midwife or, if no attending physician or midwife is present, a parent of the child shall file with the town clerk a certificate of birth in the form prescribed by the Department. The certificate shall be registered if it has been completed properly and filed in accordance with this chapter.

(b)(1) At the time of the birth of a child, each parent shall furnish the following information on a form provided for that purpose by the ~~department of health~~ Department of Health: the parent's name, address, and ~~social~~

~~security~~ Social Security number and the name and date of birth of the child. The forms and a copy of the birth certificate shall be filed with the ~~department of health not later than 10 days~~ Department of Health on or before the fifth day after the birth of the child.

(2) The form provided to parents of a child by the Department of Health under subdivision (1) of this subsection shall identify parents with gender-neutral nomenclature.

(c)(1) Whoever assumes the custody of a live-born infant of unknown parentage shall complete a certificate of birth as follows:

~~(1)~~(A) ~~Name~~ name of the child as given by the custodian, and sex;

~~(2)~~(B) ~~Approximate~~ approximate date of birth as determined in consultation with a physician;

~~(3)~~(C) ~~Place~~ place of birth as place where the child is found;

~~(4)~~(D) ~~In~~ in place of certifier, the custodian shall sign and indicate "custodian" rather than "attendant," with date and address; and

~~(5)~~(E) ~~Parentage~~ parentage data and other child's data items shall be left blank.

(2) If the child is identified and a certificate of birth is found or obtained, the certificate created under this section and copies thereof shall be sealed and deposited with the ~~commissioner of health~~ Commissioner of Health, to be opened upon court order only.

(d) The name of the father shall be included on the birth certificate of the child of unmarried parents only if the father and mother have signed a voluntary acknowledgment of parentage or a court or administrative agency of competent jurisdiction has issued an adjudication of parentage.

(e) When a birth certificate is issued, a parent or parents shall be identified as indicated on the form completed under subsection (b) of this section.

Sec. 2. 18 V.S.A. § 5077a is added to read:

§ 5077a. NEW BIRTH CERTIFICATE DUE TO PARENTAGE FORM

(a) If a parent of a person born in this State was unable to be listed as a parent on the person's birth certificate due to the lack of gender-neutral nomenclature on the birth information form provided by the Department of Health, the person or the person's parent may petition the Probate Division of the Superior Court of the district where the person was born in order establish his or her parentage and be issued a new birth certificate.

(b) The Probate Division of the Superior Court, after hearing, shall authorize the supervisor of vital records registration to issue a new birth certificate and transmit it, together with any information identifying the original birth certificate, to the clerk of the town where the person was born.

(c) The clerk shall file and index the new certificate in the most recent book of births, shall also index them with births occurring at the same time, and shall otherwise comply with the provisions of sections 5080 and 5081 of this title. The new certificate shall contain a notation that it was issued by authority of this chapter, and it shall not contain the word "Amended" or other special designation.

Sec. 3. 15 V.S.A. § 308 is amended to read:

§ 308. PRESUMPTION OF PARENTAGE

A person alleged to be a parent shall be rebuttably presumed to be the natural parent of a child if:

(1) the alleged parent fails to submit without good cause to genetic testing as ordered; or

(2) the alleged parents have voluntarily acknowledged parentage under the laws of this ~~state~~ State or any other state, by filling out and signing a Voluntary Acknowledgement of Parentage form and filing the completed and witnessed form with the ~~department of health~~ Department of Health; or

(3) the probability that the alleged parent is the biological parent exceeds 98 percent as established by a scientifically reliable genetic test; or

(4) the child is born while the ~~husband and wife~~ alleged parents are legally married to each other.

Sec. 4. AGENCY OF HUMAN SERVICES REPORT ON VOLUNTARY ACKNOWLEDGEMENT OF PARENTAGE

On or before January 15, 2015, the Secretary of Human Services, after consultation with the court administrator, shall submit to the Senate Committee on Health and Welfare and the House Committee on Human Services a report addressing whether and how the voluntary acknowledgement of parentage process should be amended to allow persons who are not the biological parent of a child to assume parental rights and responsibilities of a child through completion of a voluntary acknowledgement of parentage form. The report shall include:

(1) a proposal for amending the voluntary acknowledgement of parentage process, including the acknowledgement form, to allow nonbiological parents to assume parental rights;

(2) a proposal for notifying a biological parent of the birth of a child when a voluntary acknowledgement of parentage form has been submitted by a nonbiological parent and the biological parent has a due process right to notification, including notice to the biological parents of any rights to assert parentage or parental rights; and

(3) a summary of whether voluntary acknowledgement of parentage by a nonbiological parent will be legally recognized in other jurisdictions, including by federal government assistance programs.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 5-0-0)

S. 168.

An act relating to making miscellaneous amendments to laws governing municipalities.

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

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

* * * Municipal Animal Control * * *

Sec. 1. 13 V.S.A. § 351 is amended to read:

§ 351. DEFINITIONS

As used in this chapter:

* * *

(4) "Humane officer" or "officer" means any law enforcement officer as defined in 23 V.S.A. § 4(11)~~,~~; auxiliary ~~state police~~ State Police officers~~,~~; deputy game wardens~~,~~; humane society officer, employee, or agent~~, elected animal control officer,~~; animal control officer appointed by the legislative body of a municipality~~,~~; local board of health officer or agent~~,~~; or any officer authorized to serve criminal process.

* * *

Sec. 2. 20 V.S.A. § 3549 is amended to read:

§ 3549. DOMESTIC PETS OR WOLF-HYBRIDS, REGULATION BY TOWNS

The legislative body of a city or town by ordinance may regulate the licensing, keeping, leashing, muzzling, restraint, impoundment, and destruction of domestic pets or wolf-hybrids and their running at large except that a legislative body of a city or town shall not prohibit or regulate the barking or running at large of a working farm dog when it is on the property being farmed by the person who registered the working farm dog, pursuant to subsection 3581(a) of this title, in the following circumstances:

(1) ~~If~~ if the working farm dog is barking in order to herd or protect livestock or poultry or to protect crops~~.~~; or

(2) ~~If~~ if the working farm dog is running at large in order to herd or protect livestock or poultry or to protect crops.

Sec. 3. 20 V.S.A. § 3550 is amended to read:

§ 3550. PENALTIES; ENFORCEMENT; MUNICIPAL LEGISLATIVE BODY; SECRETARY

* * *

(k) A municipality may adopt ordinances imposing greater penalties than is provided for violation of any provisions of subchapter 1 or 2, refusal to obtain a kennel permit, or refusal to comply with an order issued by a municipal officer under subchapter 5 of this chapter, in which case those ordinances shall apply.

Sec. 4. 20 V.S.A. § 3621 is amended to read:

§ 3621. ISSUANCE OF WARRANT TO IMPOUND; COMPLAINT

(a)(1) The legislative body of a municipality may at any time issue a warrant to one or more police officers ~~or,~~ constables, or pound keepers~~, or elected or appointed animal control officers~~, directing them to proceed forthwith to impound all dogs or wolf-hybrids within the town or city not licensed according to the provisions of this subchapter, except as exempted by section 3587 of this title, and to enter a complaint against the owners or keepers thereof.

(2) A dog or wolf-hybrid impounded by a municipality under this section may be transferred to an animal shelter or rescue organization for the purpose of finding an adoptive home for the dog or wolf-hybrid. If the dog or wolf-hybrid cannot be placed in an adoptive home or transferred to a humane society or rescue organization within ten days, or a greater number of days

established by the municipality, the dog or wolf-hybrid may be destroyed in a humane way. The municipality shall not be liable for expenses associated with keeping the dog or wolf-hybrid at the animal shelter or rescue organization beyond the established number of days.

* * *

* * * Current and Delinquent Tax Collectors * * *

Sec. 5. 17 V.S.A. § 2646 is amended to read:

§ 2646. TOWN OFFICERS; QUALIFICATION; ELECTION

At the annual meeting, a town shall choose from among its legally qualified voters the following town officers, who shall serve until the next annual meeting and until successors are chosen, unless otherwise provided by law:

* * *

(8) ~~A collector of current taxes, if the town so orders;~~ [Repealed.]

(9) A collector of delinquent taxes, if the town so orders, for a term of one year unless a town votes that a collector of delinquent taxes shall be elected for a term of three years. When a town votes for a three-year term for the collector of delinquent taxes, that three-year term shall remain in effect until the town rescinds it by the majority vote of the legal voters present and voting at an annual meeting, duly warned for that purpose;

* * *

Sec. 6. 17 V.S.A. § 2651d is added to read:

§ 2651d. COLLECTOR OF DELINQUENT TAXES; APPOINTMENT; REMOVAL

(a) A municipality may vote by Australian ballot at an annual or special meeting to authorize the legislative body to appoint a collector of delinquent taxes, who may be the municipal treasurer. A collector of delinquent taxes so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) When a municipality votes to authorize the legislative body to appoint a collector of delinquent taxes, the legislative body's authority to make such appointment shall remain in effect until the municipality rescinds that authority by the majority vote of the legal voters present and voting at an annual or special meeting, duly warned for that purpose.

* * * Incompatible Offices; Cemetery Commissioners and Treasurers * * *

Sec. 7. 17 V.S.A. § 2647 is amended to read:

§ 2647. INCOMPATIBLE OFFICES

(a)(1) An auditor shall not be town clerk, town treasurer, selectboard member, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner, cemetery commissioner, or town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of official duties be eligible to hold office as auditor.

(2) A selectboard member or school director shall not be first constable, collector of taxes, town treasurer, auditor, or town agent. A selectboard member shall not be lister or assessor.

(3) A cemetery commissioner shall not be town treasurer.

~~(3)~~(4) A town manager shall not hold any elective office in the town or town school district.

~~(4)~~(5) Election officers at local elections shall be disqualified as provided in section 2456 of this title.

(b) Notwithstanding subsection (a) of this section, if a school district prepares and reports its budget independently from the budget of the town and the school district is audited by an independent public accountant, a person shall be eligible to hold office as auditor even if that person's spouse holds office as a school director.

* * * Planning and Advisory Commissions * * *

Sec. 8. 24 V.S.A. § 4433 is amended to read:

§ 4433. ADVISORY COMMISSIONS AND COMMITTEES

Municipalities may at any time create one or more advisory commissions, which for the purposes of this chapter include committees, or a combination of advisory commissions to assist the legislative body or the planning commission in preparing, adopting, and implementing the municipal plan. Advisory commissions authorized under this section and under chapter 118 of this title may advise appropriate municipal panels, applicants, and interested parties in accordance with the procedures established under section 4464 of this title.

(1) Creation of an advisory commission. Advisory commissions not authorized in chapter 118 of this title shall be created as follows:

(A) An advisory commission may be created at any time when a municipality votes to create one, or through adoption of bylaws, or ~~if the charter of a municipality permits it,~~ when the legislative body of the municipality votes to create one.

(B) An advisory commission shall have ~~not less~~ no fewer than three members. All members should be residents of the municipality, except that historic preservation~~,~~ or design advisory~~, or conservation~~ commissions may be composed of professional and lay members, a majority of whom shall reside within the municipality creating the commission.

* * *

(2) Procedures for advisory commissions. Advisory commissions not authorized in chapter 118 of this title shall establish the following procedures:

(A) At its organizational meeting, an advisory commission shall adopt by majority vote of those present and voting such rules as it deems necessary and appropriate for the performance of its functions. It shall annually elect a ~~chairperson, a treasurer,~~ chair and a clerk.

(B) Times and places of meetings of an advisory commission shall be publicly posted in the municipality, and its meetings shall be open to the public in accordance with the terms of the open meeting law~~, subchapter 2 of chapter 5 of Title 1~~ set forth in 1 V.S.A. chapter 5, subchapter 2.

* * *

(3) Duties and powers of historic preservation commissions. In addition to the requirements set forth in subdivision (2) of this section, all historic preservation commissions shall comply with all the following:

* * *

(C) Have responsibilities set forth in ~~the commission's rules of procedure~~ a written document approved by a majority vote of the local legislative body at a regular or special meeting that may include:

(i) Preparation of reports and recommendations on standards for the planning commission in creating a local historic district bylaw under this chapter.

(ii) Advising and assisting the legislative body, planning commission, and other entities on matters related to historic preservation.

(iii) Advising the appropriate municipal panel and administrative officer in development review and enforcement pursuant to subdivision ~~4414(2)(C)~~ 4414(1)(F) and section 4464 of this title.

(iv) If provided in the bylaw, advising and assisting the legislative body, appropriate municipal panel, and administrative officer in creating and administering a design review district or downtown or village center district pursuant to subdivision 4414(1)(A) or ~~(B)~~(E) of this title.

(v) If provided in a bylaw developed in cooperation with the division for historic preservation, those procedural and advisory powers required of a Certified Local Government under the National Historic Preservation Act.

(4) Powers and duties of design review commissions. In addition to the requirements set forth in subdivision (2) of this section, all design review commissions shall:

(A) To the extent possible, have among their members professionals in the fields of architecture, landscape architecture, urban planning, historic preservation, and related disciplines.

(B) Have responsibilities identified by the legislative body that may include:

(i) Preparation of reports and standards for the planning commission in creating a design review district bylaw under this chapter.

(ii) Advising and assisting the legislative body, planning commission, and other entities on design-related matters in the creation of plans and bylaws and planning for public improvements.

(iii) Advising appropriate municipal panels and the administrative officer in development review and enforcement pursuant to subdivisions 4414(1)(E) and (F) and section 4464 of this title.

(5) Powers and duties of housing commissions. In addition to the requirements set forth in subdivision (2) of this section, housing commissions may have responsibilities identified by the local legislative body that include:

(A) ~~Make~~ Making an inventory of the current stock of housing units in the municipality and identify any gaps in the housing stock according to household incomes or special needs of the community. The inventory may include documentation of the affordable housing cost index for an average citizen of the municipality, the average cost of rental units and vacancy rates, and the annual average sales price of homes.

(B) ~~Review~~ Reviewing the zoning ordinances, subdivision bylaws, building codes, and the development review process of the municipality, make recommendations to facilitate the development of affordable housing in the municipality, and promote bylaws that increase densities for the purpose of providing affordable housing.

(C) ~~Assist~~ Assisting the local appropriate municipal panels pursuant to section 4464 of this title and the district environmental commission by providing advisory testimony on the housing needs of the municipality, where pertinent to applications made to those bodies, for permits for development.

(D) ~~Cooperate~~ Cooperating with the local legislative body, planning commission, zoning board of adjustment, road committee, or other municipal or private organizations on matters affecting housing resources of the municipality. This may include working with the municipality on a wastewater and water allocation policy that reserves a percentage of the capacity for future affordable housing.

(E) ~~Collaborate~~ Collaborating with not-for-profit housing organizations, government agencies, developers, and builders in pursuing options to meet the housing needs of the local residents.

Sec. 9. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

* * *

(c) In the case of an urban municipality or of a rural town where the planning commission does not serve as the board of adjustment or the development review board, members of the board of adjustment or the development review board shall be appointed by the legislative body, the number and terms of office of which shall be determined by the legislative body subject to the provisions of subsection (a) of this section. The municipal legislative body may appoint alternates to a planning commission, a board of adjustment, or a development review board for a term to be determined by the legislative body. Alternates may be assigned by the legislative body to serve on the planning commission, the board of adjustment, or the development review board in situations when one or more members of the board are disqualified or are otherwise unable to serve. Vacancies shall be filled by the legislative body for the unexpired terms and upon the expiration of such terms. Each member of a board of adjustment or a development review board may be removed for cause by the legislative body upon written charges and after public hearing. If a development review board is created, provisions of this subsection regarding removal of members of the board of adjustment shall not apply.

* * *

* * * Required Frontage for Land Development * * *

Sec. 10. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

* * *

(3) Required frontage on, or access to, public roads, ~~class 4 town highways,~~ or public waters. Land development may be permitted on lots that do not have frontage either on a public road, ~~class 4 town highway,~~ or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with section 4418 of this title, or where subdivision bylaws have not been adopted or do not apply, through a process and pursuant to standards defined in bylaws adopted for the purpose of assuring safe and adequate access. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width.

* * *

* * * General Municipal Regulatory Authority * * *

Sec. 11. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(10) To regulate the keeping of dogs, and to provide for their licensing, leashing, muzzling, restraint, impoundment, and destruction.

* * *

(16) To name and rename streets and to number and renumber lots pursuant to section 4463 of this title, and to require the owner of a house or other building to which a number has been assigned to affix the number, including the assigned 911 address, to the structure, sign, or number post so that it is clearly visible from the road.

* * *

(26) When a disaster or emergency has been declared by the Governor, a municipal building inspector, health officer, fire marshal, or zoning administrator may declare condemned to be destroyed a property that has been damaged in the disaster or emergency and is dangerous to life, health, or safety due to the disaster-related damage. The owner of property condemned under this subdivision may appeal the condemnation according to the condemnation appeals procedure of chapter 83 of this title, provided that any appeal to the Superior Court shall be to the Civil Division.

* * * Effective Date * * *

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 4-0-1)

S. 234.

An act relating to Medicaid coverage for home telemonitoring services.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.

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

Sec. 1. 33 V.S.A. § 1901g is added to read:

§ 1901g. MEDICAID COVERAGE FOR HOME TELEMONITORING SERVICES

(a) The Agency of Human Service shall provide Medicaid coverage for home telemonitoring services performed by home health agencies for Medicaid beneficiaries who have serious or chronic medical conditions that can result in frequent or recurrent hospitalizations and emergency room admissions. The Agency shall use evidence-based best practices to determine the conditions or risk factors to be covered.

(b) A home health agency shall ensure that clinical information gathered by the home health agency while providing home telemonitoring services is shared with the patient's treating health care professionals. The Agency of Human Services may impose other reasonable requirements on the use of home telemonitoring services.

(c) As used in this section:

(1) "Home health agency" means an entity that has received a certificate of need from the State to provide home health services and is certified to provide services pursuant to 42 U.S.C. § 1395x(o).

(2) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health, in conjunction with a home health plan of care, and access to the data by a home health agency.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:

By adding a new Sec. 2 to read as follows:

Sec. 2. GRANT FUNDING

The Department of Vermont Health Access and home health agencies shall seek to maximize opportunities for grant funding to offset start-up, equipment, technology, maintenance, and other costs related to home telemonitoring in order to minimize the expense to the Medicaid program.

And by renumbering the existing Sec. 2, effective date, to be Sec. 3

(Committee vote: 5-0-1)

S. 261.

An act relating to electrical installations.

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

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

Sec. 1. 26 V.S.A. § 894 is amended to read:

§ 894. ENERGIZING INSTALLATIONS; REENERGIZING AFTER EMERGENCY DISCONNECTION

(a) A new electrical installation in or on a complex structure or an electrical installation used for the testing or construction of a complex structure shall not be connected or caused to be connected~~,~~ to a source of electrical energy unless prior to ~~such~~ the connection~~,~~ either a temporary or a permanent energizing permit is issued for that installation by the ~~commissioner~~ Commissioner or an electrical inspector.

(b) An existing electrical installation in any structure, including a single-family owner-occupied freestanding residence, disconnected as the result of an emergency that affects the internal electrical circuits shall not be reconnected to a source of electrical energy until the electrical installation has been inspected and determined to be safe by a licensed journeyman or licensed master electrician.

(c) This section shall not be construed to limit or interfere with a contractor's right to receive payment for electrical work for which a certificate of completion has been granted.

Sec. 2. 26 V.S.A. § 904(a) is amended to read:

(a) To be eligible for licensure as a type-S journeyman, an applicant shall:

(1) complete an accredited training and experience program recognized by the ~~board~~ Board; or

(2) have had training and experience, within or ~~without~~ outside this ~~state~~ State, acceptable to the ~~board~~ Board; and

(3) pass an examination to the satisfaction of the ~~board~~ Board in one or more of the following fields:

(A) ~~Automatic~~ automatic gas or oil heating;

(B) ~~Outdoor~~ outdoor advertising;

(C) ~~Refrigeration~~ refrigeration or air conditioning;

(D) ~~Appliance~~ appliance and motor repairs;

(E) ~~Well~~ well pumps;

(F) ~~Farm~~ farm equipment;

(G) ~~Any~~ any miscellaneous specified area of specialized competence.

Sec. 3. 26 V.S.A. § 910 is amended to read:

§ 910. LICENSE NOT REQUIRED

A license shall not be required for the following types of work:

(1) Any electrical work, including construction, installation, operation, maintenance, and repair of electrical installations in, on, or about equipment or premises, which are owned or leased by the operator of any industrial or manufacturing plant, if the work is done under the supervision of an electrical engineer or master electrician in the employ of the operator~~;~~.

(2) Installation in laboratories of exposed electrical wiring for experimental purposes only~~;~~.

(3) Any electrical work by ~~an~~ the owner ~~or his or her regular employees~~ in the ~~owner's~~ owner-occupied freestanding single unit residence~~, in~~ and outbuildings accessory to ~~such~~ the freestanding single unit residence or any structure on owner-occupied farms~~;~~.

(4) Electrical installations performed as a part of a training project of a vocational school or other educational institution. However, the installation shall be inspected if the building in which the installation is made~~,~~ is to be used as a "complex structure"~~;~~.

(5) Electrical work performed by an electrician's helper under the direct supervision of a person who holds an appropriate license issued under this chapter~~;~~.

(6) ~~Any electrical work in a building used for dwelling or residential purposes which contains no more than two dwelling units.~~

~~(7)~~ Installation of solar electric modules and racking on complex structures to the point of connection to field-fabricated wiring and erection of net metered wind turbines.

(7) Installation of solar electric systems, including modules, racking, inverters, and the balance of the system on freestanding single-family and two-family dwellings up to and including the point of connection with the existing electrical system, that connection being one or more back-fed breakers in an existing breaker panel.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

S. 314.

An act relating to miscellaneous amendments to laws related to motor vehicles.

Reported favorably with recommendation of amendment by Senator Flory for the Committee on Transportation.

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

* * * Nondriver Identification Cards * * *

Sec. 1. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

(a) Any Vermont resident may make application to the Commissioner and be issued an identification card which is attested by the Commissioner as to true name, correct age, residential address unless the listing of another address is requested by the applicant or is otherwise authorized by law, and any other identifying data as the Commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian, or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the Commissioner may require, consistent with subsection (l) of this section. New and renewal application forms shall include a space for the applicant to request that a "veteran" designation by placed on his or her identification card. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of Veterans Affairs confirms his or her status as an honorably discharged veteran or a veteran discharged under honorable conditions, the identification card shall include the term "veteran" on its face. The Commissioner shall require payment of a fee of $20.00 at the time application for an identification card is made, except that an initial nondriver identification card shall be issued at no charge to a person who surrenders his or her license in connection with a suspension or revocation under subsection 636(b) of this title due to a physical or mental condition.

(b) ~~Except as provided in subsection (l) of this section, every~~ Every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a $20.00 fee. At least 30 days before an identification card will expire, the Commissioner shall mail first class to the cardholder an application to renew the identification card.

* * *

(l)(1) The Commissioner shall issue identification cards to Vermont residents who are not U.S. citizens but are able to establish lawful presence in the United States if an applicant follows the procedures and furnishes documents as required under subsection 603(d) of this title and any policies or rules adopted thereunder, and otherwise satisfies the requirements of this section. The identification cards shall expire consistent with subsection 603(d) of this title.

* * *

(4) A non-REAL ID compliant identification card issued under subdivision (2) or (3) of this subsection shall~~:~~

~~(A)~~ bear on its face text indicating that it is not valid for federal identification or official purposes~~; and~~

~~(B) expire at midnight on the eve of the second birthday of the applicant following the date of issuance~~.

* * * Vehicles Eligible to Display Vanity Plates * * *

Sec. 2. 23 V.S.A. § 304(b) is amended to read:

(b) The authority to issue vanity motor vehicle number plates or special number plates for safety organizations and service organizations shall reside with the Commissioner. Determination of compliance with the criteria contained in this section shall be within the discretion of the Commissioner. Series of number plates for safety and service organizations which are authorized by the Commissioner shall be issued in order of approval, subject to the operating considerations in the Department as determined by the Commissioner. The Commissioner shall issue vanity and special organization number plates in the following manner:

(1) Vanity plates. Subject to the restrictions of this section, vanity plates shall be issued at the request of the registrant of a motor vehicle ~~registered at the pleasure car rate or of a truck registered for less than 26,001 pounds (but excluding trucks~~ unless the vehicle is registered under the International Registration Plan~~)~~, upon application and upon payment of an annual fee of $45.00 in addition to the annual fee for registration. The Commissioner shall not issue two sets of plates bearing the same initials or letters unless the plates also contain a distinguishing number. Vanity plates are subject to reassignment if not renewed within 60 days of expiration of the registration.

* * *

* * * Registration Validation Stickers; Proof of Temporary Registration * * *

Sec. 3. 23 V.S.A. § 305 is amended to read:

§ 305. REGISTRATION PERIODS

(a) The Commissioner of Motor Vehicles shall issue registration certificates, validation stickers, and number plates upon initial registration, and registration certificates and validation stickers for ~~the~~ each succeeding renewal period of registration, upon payment of the registration fee. ~~Except as otherwise provided, number~~ Number plates so issued will become void one year from the first day of the month following the month of issue unless a longer initial registration period is authorized by law, or unless this period is extended through renewal. Registrations issued for motor trucks shall become void one year from the first day of the month following the month of issue. The fees for annual special excess weight permits issued to these vehicles

pursuant to section 1392 of this title shall be prorated so as to coincide with registration expiration dates.

(b) The Commissioner ~~of Motor Vehicles~~ shall issue a registration certificate, validation sticker, and number plates for each motor vehicle owned by the State, that shall be valid for a period of five years. Such motor vehicle shall be considered as properly registered while the plates so issued are attached thereto. The Commissioner may replace such number plates when in his or her discretion their condition requires.

(c) ~~The Commissioner may issue number plates to be used for a period of two or more years. One validating sticker shall be issued by the Department of Motor Vehicles upon payment of the registration fee for the second and each succeeding year the plate is used.~~ Except as otherwise provided in subsection (d) of this section, no plate is valid for ~~the second and~~ succeeding years unless the sticker is affixed to the rear plate in the manner prescribed by the Commissioner in section 511 of this title.

(d) When a registration for a motor vehicle, snowmobile, motorboat, or all-terrain vehicle is processed electronically, a receipt shall be available electronically and for printing. ~~The~~ An electronic or printed receipt shall serve as a temporary registration~~. To be valid, the temporary registration shall be in the possession of the operator at all times, and it shall expire~~ for ten days after the date of the transaction. An electronic receipt may be shown to an enforcement officer using a portable electronic device. Use of a portable electronic device to display the receipt does not in itself constitute consent for an officer to access other contents of the device.

Sec. 4. 23 V.S.A. § 511 is amended to read:

§ 511. MANNER OF DISPLAY

(a) A motor vehicle operated on any highway shall have displayed in a conspicuous place either one or two number plates as the ~~commissioner of motor vehicles~~ Commissioner may require. Such number plates shall be furnished by the ~~commissioner of motor vehicles, showing~~ Commissioner and shall show the number assigned to such vehicle by the ~~commissioner~~ Commissioner. If only one number plate is furnished, the same shall be securely attached to the rear of the vehicle. If two are furnished, one shall be securely attached to the rear and one to the front of the vehicle. The number plates shall be kept entirely unobscured, and the numerals and the letters thereon shall be plainly legible at all times. They shall be kept horizontal, shall be so fastened as not to swing, excepting however, there may be installed on a motor truck or truck tractor a device which would, upon contact with a substantial object, permit the rear number plate to swing toward the front of the

vehicle, provided such device automatically returns the number plate to its original rigid position after contact is released, and the ground clearance of the lower edges thereof shall be established by the ~~commissioner~~ Commissioner pursuant to the provisions of 3 V.S.A. chapter 25 ~~of Title 3~~.

(b) Validation stickers shall be unobstructed and affixed in the lower right corner of the rear number plate.

(c) A person shall not operate a motor vehicle unless number plates and a validation sticker are displayed as provided in this section.

* * * Reciprocal Recognition of Learner's Permits * * *

Sec. 5. 23 V.S.A. § 411 is amended to read:

§ 411. RECIPROCAL PROVISIONS

As determined by the ~~commissioner of motor vehicles~~ Commissioner, a motor vehicle owned by a nonresident~~,~~ shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this ~~state,~~ State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. Any exemptions provided in this section shall, however, be operative as to an owner or operator of a motor vehicle only to the extent that under the laws of the foreign country or state of his residence like exemptions and privileges are granted to operators duly licensed or permitted and to owners of motor vehicles duly registered under the laws of this ~~state~~ State. If the owner or operator is a resident of a country not adjoining the United States, such exemptions shall be operative for a period of 30 days for vacation purposes, notwithstanding that such country does not grant like privileges to residents of this ~~state~~ State. Such exemptions shall not be operative as to the owner of a motor truck used for the transportation of property for hire or profit between points within the ~~state~~ State or to the owner of any motor vehicle carrying an auxiliary fuel tank or tanks providing an additional supply of motor fuel over and above that provided in the standard equipment of such vehicle.

Sec. 6. 23 V.S.A. § 615 is amended to read:

§ 615. UNLICENSED OPERATORS

(a)(1) An unlicensed person 15 years of age or older may operate a motor vehicle if he or she possesses a valid learner's permit issued to him or her by the Commissioner, or by another jurisdiction in accordance with section 411 of this title, and if his or her licensed parent or guardian, licensed or certified driver education instructor, or licensed person at least 25 years of age rides beside him or her. Nothing in this section shall be construed to permit a person

against whom a revocation or suspension of license is in force, or a person ~~less~~ younger than 15 years of age, or a person who has been refused a license by the Commissioner to operate a motor vehicle.

* * * Out-of-state Junior Operators * * *

Sec. 6a. 23 V.S.A. § 614 is amended to read:

§ 614. RIGHTS UNDER LICENSE

* * *

(b) A junior operator's license shall entitle the holder to operate a registered motor vehicle with the consent of the owner, but shall not entitle him or her to operate a motor vehicle in the course of his or her employment or for direct or indirect compensation for one year following issuance of the license, except that the holder may operate a farm tractor with or without compensation upon a public highway in going to and from different parts of a farm of the tractor's owner or to go to any repair shop for repair purposes. A junior operator's license shall not entitle the holder to carry passengers for hire.

(c) During the first three months of operation, the holder of a junior operator's license is restricted to driving alone or with a licensed parent or guardian, licensed or certified driver education instructor, or licensed person at least 25 years of age. During the following three months, a junior operator may additionally transport family members. No person operating with a junior operator's license shall transport more passengers than there are safety belts unless he or she is operating a vehicle that has not been manufactured with a federally approved safety belt system. A person convicted of operating a motor vehicle in violation of this subsection shall be subject to a penalty of not more than $50.00, and his or her license shall be recalled for a period of 90 days. The provisions of this subsection may be enforced only if a law enforcement officer has detained the operator for a suspected violation of another traffic offense.

(d) A nonresident under age 18 who is privileged to operate on Vermont highways under section 411 of this title shall be subject to the restrictions of subsections (b) and (c) of this section.

* * * Driving Privilege Cards; Expiration * * *

Sec. 7. 23 V.S.A. § 603(h) is amended to read:

(h) A privilege card issued under this section shall:

* * *

(2) expire at midnight on the eve of the second birthday of the applicant following the date of issuance or, at the option of an applicant for an operator's

privilege card and upon payment of the required four-year fee, at midnight on the eve of the fourth birthday of the applicant following the date of issuance.

Sec. 8. 23 V.S.A. § 608 is amended to read:

§ 608. FEES

(a) The four-year fee required to be paid the Commissioner for licensing an operator of motor vehicles or for issuing an operator's privilege card shall be $48.00. The two-year fee required to be paid the Commissioner for licensing an operator or for issuing an operator's privilege card shall be $30.00 and the two-year fee for licensing a junior operator or for issuing a junior operator's privilege card shall be $30.00.

* * * Driver's Training School Licensees * * *

Sec. 9. 23 V.S.A. § 704 is amended to read:

§ 704. QUALIFICATIONS FOR TRAINING SCHOOL LICENSE

~~Each applicant in order to~~ To qualify for a driver's training school license, each applicant shall ~~meet the following requirements~~:

* * *

(3) ~~provide evidence that he or she maintains~~ maintain bodily injury and property damage liability insurance on each motor vehicle being used in driver training, insuring the liability of the driver training school and the operator of each motor vehicle for each instructor and of any person while using any such motor vehicle with the permission of the named insured in at least the following amount: $300,000.00 for bodily injury or death of one person in any one accident and, subject to said limit for one person, $500,000.00 for bodily injury or death of two or more persons in any one accident, and $100,000.00 for damage to property of others in any one accident~~. Evidence of such insurance coverage shall be in the form of a certificate from an insurance company authorized to do business in this state filed with the commissioner setting forth the amount of coverage and providing that the policy of insurance shall be noncancelable except after 15 days' written notice to the commissioner~~;

* * *

* * * Definition of Business Day or Working Day * * *

Sec. 9a. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the

law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

* * *

(83) "Business day" or "working day" means any calendar day except Saturday, Sunday, or any day classified as a holiday under 1 V.S.A. § 371.

* * * Proof of Financial Responsibility * * *

Sec. 10. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a) No owner of a motor vehicle required to be registered, or operator required to be licensed or issued a learner's permit, shall operate or permit the operation of the vehicle upon the highways of the State without having in effect an automobile liability policy or bond in the amounts of at least $25,000.00 for one person and $50,000.00 for two or more persons killed or injured and $10,000.00 for damages to property in any one ~~accident~~ crash. In lieu thereof, evidence of self-insurance in the amount of $115,000.00 must be filed with the Commissioner of Motor Vehicles, and shall be maintained and evidenced in a form prescribed by the Commissioner. The Commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

(b) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than $500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.

(c) Every operator of a vehicle required to be registered shall have proof of financial responsibility as required by subsection (a) of this section when operating such vehicle on the highways of this State. A person may prove financial responsibility using a portable electronic device; however, use of a device for this purpose does not in itself constitute consent for an enforcement officer to access other contents of the device. An operator cited for violating this subsection shall not be convicted if he or she sends or produces to the issuing enforcement agency within five business days of the traffic stop proof of financial responsibility that was in effect at the time of the traffic stop.

(d) A person who violates subsection (c) of this section shall be subject to a fine of not more than $100.00.

* * * Possession of License Certificate; Grace Period * * *

Sec. 11. 23 V.S.A. § 611 is amended to read:

§ 611. POSSESSION OF LICENSE CERTIFICATE

Every licensee shall have his or her operator's license certificate in his or her immediate possession at all times when operating a motor vehicle. However, ~~no~~ a person ~~charged~~ cited with violating this section or section 610 of this title shall not be convicted if he or she sends a copy of or produces ~~in court or to the enforcement officer~~ to the issuing enforcement agency within five business days of the traffic stop an operator's license certificate ~~theretofore issued to him or her which, at the time of his or her citation,~~ that was valid or had expired within ~~the prior~~ 14 days prior to the traffic stop.

* * * Out-of-State Fuel User's License; Repeal * * *

Sec. 12. 23 V.S.A. § 415 is amended to read:

§ 415. NONDIESEL FUEL USER'S LICENSE

* * *

(c) ~~In addition to any other provision of law relating to registration of motor vehicles, or fees paid for registration, a person owning or operating upon the highways of this state a motor truck with a gross weight of 18,000 pounds or over, powered by gasoline or other nondiesel fuel and not base registered in this state, shall apply to the commissioner for a nondiesel fuel user's license for each motor truck to be so operated. Application shall be made upon a form prescribed by the commissioner and shall set forth such information as he or she may require. The application shall be accompanied by a license fee of $6.50 for each motor truck listed in the application, the fee being for the purpose of paying the cost of issuing the license, cab card and sticker. The commissioner shall issue a license, cab card and identification tag, plate, or sticker for each motor truck, which tag, plate or sticker shall be of the size and design and contain such information as the commissioner shall prescribe. Except as otherwise provided, any license, cab card and tag, plate or sticker shall become void on January 1 next following the date of issue or, when determined by the commissioner, 12 months from the first day of the month of issue. Licenses and cab cards shall be carried in the motor truck and the tag, plate or sticker shall be affixed to the motor truck and at all times be visible and legible. For emergency purposes, the commissioner may by telegram, identifying the motor truck, authorize its operation without the attachment of a tag, plate or sticker for a period not to exceed 21 days from the date of issue of the license. The telegram must be kept with the truck while being so operated. This section shall not apply to motor trucks owned by federal, state, provincial, or municipal governments.~~ [Repealed.]

* * *

Sec. 13. 23 V.S.A. § 3007 is amended to read:

§ 3007. DIESEL FUEL USER'S LICENSE

(a) In addition to any other provision of law relating to registration of motor vehicles, or fees paid therefore, a person owning or operating upon the highways of the ~~state~~ State a motor truck~~, which~~ that is registered in the ~~state, using~~ State and uses fuel as defined in section 3002 of this title~~,~~ shall, for each motor truck to be so operated, apply to the ~~commissioner~~ Commissioner for a diesel fuel user license, which shall be renewed at the time of renewal of the truck's registration. Application shall be made upon a form prescribed by ~~such commissioner~~ the Commissioner and shall set forth such information as the ~~commissioner~~ Commissioner may require. Applications filed at the time of the initial registration or renewal of a registration shall be accompanied by a $6.50 annual license fee for each motor truck listed in the application, except that no fee shall be required for motor trucks with a gross weight of less than 26,001 pounds.

(b) ~~In addition to any other provisions of law relating to registration of motor vehicles, or fees paid for registration, a person owning or operating upon the highways of the state a motor truck which is not base registered in this state, using fuel as defined in section 3002 of this title shall for each such motor truck apply to the commissioner for a diesel fuel user license. Application shall be made upon a form prescribed by the commissioner and shall set forth such information as the commissioner may require. Except for motor trucks with a gross weight of less than 26,001 pounds, and vehicles licensed under section 415 of this title, the application for issuance of initial and renewal licenses shall be accompanied by a $6.50 license fee for each motor truck listed in the application, the fee being for the cost of the license, cab card and tag, plate or sticker. The commissioner shall issue a license, cab card and an identification tag, plate or sticker for each motor truck which tag, plate or sticker shall be of the size and design and contain such information as the commissioner shall prescribe. Except as otherwise provided any license, cab card and tag, plate or sticker shall become void on each January 1 thereafter or, when determined by the commissioner, 12 months from the first day of the month of issue. Licenses and cab cards shall be carried in the motor vehicle and the tag, plate or sticker shall be affixed to the motor vehicle and at all times be visible and legible.~~ [Repealed.]

(c) This section shall not apply to users' vehicles exempt from reporting requirements under section 3014 of this title or to users' vehicles exempt from taxation under ~~subdivisions~~ subdivision 3003(d)~~(3) and (5)~~(1)(C) of this title, or to users' vehicles that are being operated under the provisions of ~~sections~~ section 463 or 516 of this title.

* * * Total Abstinence; Out-of-State Applicants * * *

Sec. 14. 23 V.S.A. § 1209a(b) is amended to read:

(b) Abstinence.

(1) Notwithstanding any other provision of this subchapter, a person whose license has been suspended for life under this subchapter may apply to the Driver Rehabilitation School Director and to the Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol or drugs, or both. The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. The application to the Commissioner shall be accompanied by a fee of $500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

* * *

(5) A person shall be eligible for reinstatement under this subsection only once following a suspension for life.

(6) If an applicant for reinstatement under this subsection resides in a jurisdiction other than Vermont, an investigation will not be conducted. The Commissioner may provide a letter to the applicant's jurisdiction of residence stating that Vermont does not object to that jurisdiction issuing a license, provided that the person is authorized only to operate vehicles equipped with an ignition interlock device and is required to complete any alcohol rehabilitation or treatment requirements of the licensing jurisdiction.

* * * Single Trip Permits * * *

Sec. 15. 23 V.S.A. § 1400 is amended to read:

§ 1400. PERMIT TO OPERATE IN EXCESS OF WEIGHT AND SIZE LIMITS; STATE HIGHWAYS

(a) A person or corporation owning or operating a traction engine, tractor, trailer, motor truck, or other motor vehicle that desires to operate it over ~~state~~ State highways or class 1 town highways in excess of the weight and size limits provided by this subchapter shall ~~make application for such a permit to the commissioner of motor vehicles~~ apply to the Commissioner for a permit. In his or her discretion, with or without hearing, the ~~commissioner~~ Commissioner may issue to the person or corporation a permit authorizing the person to operate the traction engine, tractor, trailer, motor truck, or other motor vehicle upon ~~state~~ State highways and class 1 town highways as he or

she may designate and containing the regulation subject to which the traction engine, tractor, trailer, motor truck, or other motor vehicle is to be operated. The permit shall not be granted until satisfactory proof is furnished to the ~~commissioner~~ Commissioner that the traction engine, tractor, trailer, motor truck, or other motor vehicle has been registered and the prescribed fee paid for a gross weight equal to a maximum legal load limit for its class. No additional registration fee shall be payable to authorize the use of the traction engine, tractor, trailer, motor truck, or other motor vehicle in accordance with the terms of the permit. The approval may be ~~given for a limited or unlimited length of time, may be~~ withdrawn for cause, and may be withdrawn without cause any time after March 31 next following the date of issuance. When approval is withdrawn for cause or on March 31, the ~~commissioner of motor vehicles~~ Commissioner shall forthwith revoke the permit; when approval is withdrawn otherwise he or she shall revoke the permit within one month.

* * *

Sec. 16. 23 V.S.A. § 1402 is amended to read:

§ 1402. OVERWEIGHT, WIDTH, HEIGHT, AND LENGTH PERMITS; FEES

(a) Overweight, overwidth, indivisible overlength, and overheight permits. Overweight, overwidth, indivisible overlength, and overheight permits shall be signed by the Commissioner or by his or her agent and a copy shall be kept in the Office of the Commissioner or in a location approved by the Commissioner. Except as provided in subsection (c) of this section, a copy shall also be available in the towing vehicle and must be available for inspection on demand of a law enforcement officer. Before operating a traction engine, tractor, trailer, motor truck, or other motor vehicle, the person to whom a permit to operate in excess of the weight, width, indivisible overlength, and height limits established by this title is granted shall pay a fee of $35.00 for each single trip permit or $100.00 for a blanket permit, except that the fee for a fleet blanket permit shall be $100.00 for the first unit and $5.00 for each unit thereafter. At the option of a carrier, an annual permit for the entire fleet, to operate over any approved route, may be obtained for $100.00 for the first tractor and $5.00 for each additional tractor, up to a maximum fee of $1,000.00. The fee for a fleet permit shall be based on the entire number of tractors owned by the applicant. An applicant for a fleet permit may apply for any number of specific routes, each of which shall be reviewed with regard to the characteristics of the route and the type of equipment operated by the applicant. When the weight or size of the vehicle-load are considered sufficiently excessive for the routing requested, the Agency of Transportation shall, on request of the Commissioner, conduct an

engineering inspection of the vehicle-load and route, for which a fee of $300.00 will be added to the cost of the permit if the load is a manufactured home. For all other loads of any size or with gross weight limits less than 150,000 pounds, the fee shall be $800.00 for any engineering inspection that requires up to eight hours to conduct. If the inspection requires more than eight hours to conduct, the fee shall be $800.00 plus $60.00 per hour for each additional hour required. If the vehicle and load weigh 150,000 pounds or more but not more than 200,000 pounds, the engineering inspection fee shall be $2,000.00. If the vehicle and load weigh more than 200,000 pounds but not more than 250,000 pounds, the engineering inspection fee shall be $5,000.00. If the vehicle and load weigh more than 250,000 pounds, the engineering inspection fee shall be $10,000.00. The study must be completed prior to the permit being issued. Prior to the issuance of a permit, an applicant whose vehicle weighs 150,000 pounds or more, or is 15 or more feet in width or height, shall file with the Commissioner a special certificate of insurance showing minimum coverage of $250,000.00 for death or injury to one person, $500,000.00 for death or injury to two or more persons, and $250,000.00 for property damage, all arising out of any one ~~accident~~ crash.

(b) Overlength permits. Except as provided in subsections 1432(c) and (e) of this title, it shall be necessary to obtain an overlength permit as follows:

(1) For vehicles with a trailer or semitrailer longer than 75 feet anywhere in the State on highways approved by the Agency of Transportation. In such cases, the vehicle may be operated with a single trip overlength permit issued by the Department of Motor Vehicles for a fee of $25.00. If the vehicle is 100 feet or more in length, the permit applicant shall file with the Commissioner of Motor Vehicles, a special certificate of insurance showing minimum coverage of $250,000.00 for death or injury to one person, $500,000.00 for death or injury to two or more persons, and $250,000.00 for property damage, all arising out of any one ~~accident~~ crash.

(2) Notwithstanding the provisions of this section, the Agency of Transportation may erect signs at those locations where it would be unsafe to operate vehicles in excess of 68 feet in length.

* * *

~~(d) Permit for shipment of mobile or manufactured homes. The Commissioner may from time to time designate a specific route as being pre-approved for the shipment of mobile or manufactured homes which are greater than 14 feet but not greater than 16 feet in overall width. Any person to whom a permit is issued under subsection (a) of this section, to transport a mobile or manufactured home which is greater than 14 feet but not greater than 16 feet overall width, over routes that have been pre-approved shall pay in lieu~~

~~of the fees established in that subsection, a single trip permit fee of $40.00.~~ [Repealed.]

* * *

(f) A single trip permit issued under this section shall be valid for seven business days.

* * * Diesel Fuel Sales Reporting * * *

Sec. 17. 23 V.S.A. § 3014(a) is amended to read:

(a) Every distributor or dealer, on or before the ~~last~~ 25th day of each month, shall file with the ~~commissioner~~ Commissioner on forms prescribed by him or her a report for the preceding month which shall include the number of gallons of fuel sold or delivered. A distributor's report shall also include the identity of the person to whom the fuel was sold or delivered, the amount of the tax collected and by whom, and the monthly total of fuel sold or delivered. The report shall be filed even though no fuel was sold or delivered.

* * * Gasoline Distributor Bond Requirement * * *

Sec. 18. 23 V.S.A. § 3102 is amended to read:

§ 3102. LICENSING AND BONDING OF DISTRIBUTORS

(a) Before commencing business, on application, a distributor shall first procure a license from the ~~commissioner of motor vehicles~~ Commissioner permitting him or her to continue or to engage in business as a distributor. Before the ~~commissioner~~ Commissioner issues a license, the distributor shall file with the ~~commissioner~~ Commissioner a surety bond in a sum and form and with sureties as the ~~commissioner~~ Commissioner may require in a sum not to exceed ~~$400,000.00~~ $700,000.00 conditioned upon the issuance of the report~~,~~ and the payment of the tax ~~and~~, penalties, and fines provided in this subchapter. Upon approval of the application and bond, the ~~commissioner~~ Commissioner shall issue to the distributor a nonassignable license which shall continue in force until surrendered or revoked.

(b) The amount of the surety bonds required shall be reviewed annually in September. The minimum amount required shall be the sum of the highest two months' payment during the preceding year or $1,000.00, whichever is greater, but in no case shall it exceed ~~$400,000.00~~ $700,000.00. For new licenses, the bond amount shall be based on an estimate of the tax liability for a two-month period.

(c) The amount of the bonds as established in accordance with subsection (b) of this section shall be increased whenever the ~~commissioner~~ Commissioner deems it necessary to protect the revenues of the ~~state~~ State. In

addition, if payments and reports are delinquent for more than 10 days for more than one reporting period in a calendar year, the bond amount shall be increased to be the sum of the tax liability for the highest four months of the year.

* * *

* * * Trails Maintenance Assessments * * *

Sec. 19. 23 V.S.A. § 3202 is amended to read:

§ 3202. REGISTRATION AND TMA DECAL REQUIRED; EXCEPTIONS

(a) Registration and decal required. A person shall not operate a snowmobile in this State unless it is registered and numbered by the State of Vermont or another state or province and displays a valid Vermont ~~trails maintenance assessment ("TMA")~~ Trails Maintenance Assessment (TMA) decal adjacent to the registration decal on the left side of the snowmobile in accordance with this chapter, except when operated:

(1) ~~on~~ On the property of the owner of the snowmobile~~; or~~.

(2) ~~off~~ Off the highway, in a ski area while being used for the purpose of packing snow, or in rescue operations~~; or~~.

(3) ~~for~~ For official use by a federal, ~~state~~ State, or municipal agency and only if the snowmobile is identified with the name or seal of the agency in a manner approved by the Commissioner~~; or~~.

(4) ~~solely~~ Solely on privately owned land when the operator has the written consent of the owner, or his or her agent, of the property~~; or~~.

(5) ~~on~~ On frozen bodies of water as designated by the Agency of Natural Resources under the provisions of 10 V.S.A. § 2607. For purposes of this subdivision, a snowmobile shall not be required to display a ~~trails maintenance assessment~~ TMA decal if not operating on a portion of the Statewide Snowmobile Trail System. Liability insurance as provided for in subdivision 3206(b)(19) of this title and a valid registration decal are required~~; or~~.

(6) ~~for~~ For emergency use by fire service personnel.

(7) By a person who possesses a completed TMA form processed electronically and either printed out or displayed on a portable electronic device. The printed or electronic TMA form shall be valid for 10 days after the electronic transaction. Use of a portable electronic device to display a completed TMA form does not in itself constitute consent for an enforcement officer to access other contents of the device.

* * *

* * * Allocation of Snowmobile Registration Proceeds * * *

Sec. 20. 23 V.S.A. § 3214 is amended to read:

§ 3214. ALLOCATION OF FEES AND PENALTIES; LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

(a) The amount of $5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to the ~~transportation fund~~ Transportation Fund. The balance of fees and penalties collected under this subchapter, except interest, shall be remitted to the ~~agency of natural resources~~ Agency of Natural Resources, which may retain for its use up to $11,500.00 during each fiscal year for ~~the~~ oversight of the ~~state snowmobile trail program~~ State Snowmobile Trail Program, and the remainder shall be allocated to VAST for:

(1) ~~development~~ Development and maintenance of the ~~state snowmobile trail program~~ State Snowmobile Trail Program (SSTP)~~,~~.

(2) ~~procuring~~ Procuring trails' liability insurance in accordance with subsection (b) of this section~~, and~~.

(3) ~~contracting~~ Contracting for law enforcement services with any constable, sheriff's department, municipal police department, the ~~department of public safety~~ Department of Public Safety, ~~and~~ or the ~~department of fish and wildlife for purposes of trail compliance pursuant to~~ Department of Fish and Wildlife to ensure compliance with the provisions of this chapter. The allocation for snowmobile law enforcement services shall be an amount equal to $5.00 from the sale of every resident and nonresident snowmobile registration~~, and~~. If this allocation for law enforcement services is not fully expended, the unexpended amount carried forward may be used to purchase capital equipment to aid law enforcement in the provision of services. VAST shall ~~be included~~ include proposed spending on law enforcement services and on capital equipment as ~~a~~ part of the annual expenditure plan required by section 3215 of this chapter. The ~~departments of public safety and fish and wildlife~~ Departments of Public Safety and of Fish and Wildlife are authorized to contract with VAST to provide ~~these~~ law enforcement services.

* * *

(d) Any fees and penalties allocated pursuant to subsection (a) of this section shall not revert but shall be available until spent. Any accrued interest shall be deposited in the ~~transportation fund~~ Transportation Fund.

* * * Commercial Motor Vehicles; Serious Traffic Violations * * *

Sec. 21. 23 V.S.A. § 4103(16) is amended to read:

(16) "Serious traffic violation" means a conviction~~,~~ when operating a commercial motor vehicle~~,~~ or, if applicable, when operating a noncommercial motor vehicle when the conviction results in the revocation, cancellation, or suspension of the operator's license or operating privilege, of:

* * *

(J) using a handheld mobile telephone while driving a commercial motor vehicle in violation of section 4125 of this chapter.

* * * Commercial Motor Vehicles; Disqualifications * * *

Sec. 22. 23 V.S.A. § 4116(k) is amended to read:

(k) A person shall be disqualified for a term concurrent with any disqualification or suspension issued by the administrator of the Federal Motor Carrier Safety Administration ~~pursuant to 49 C.F.R. § 383.52~~.

* * * Vermont Strong Plates * * *

Sec. 23. 2012 Acts and Resolves No. 71, Sec. 1, as amended by 2012 Acts and Resolves No. 143, Sec. 13, is amended to read:

Sec. 1. VERMONT STRONG MOTOR VEHICLE PLATES

* * *

(c) Use. An approved Vermont Strong commemorative plate may be displayed on a motor vehicle registered in Vermont as a pleasure car or on a motor truck registered in Vermont for less than 26,001 pounds (but excluding vehicles registered under the International Registration Plan) by covering the front registration plate with the commemorative plate any time from the effective date of this act until June 30, ~~2014~~ 2016. The regular front registration plate shall not be removed. The regular rear registration plate shall be in place and clearly visible at all times.

(d) Price and allocation of revenue. The retail price of the plate shall be $25.00, except that on or after July 1, 2016, plates may be sold by the Commissioner for $5.00. Funds received from the sale of plates for $5.00 shall be allocated to the Department; funds received from the sale of the plates for $25.00 shall be allocated as follows:

(1) $5.00 to the ~~department~~ Department;

(2) $18.00 to the Vermont Disaster Relief Fund; and

(3) $2.00 to the Vermont Foodbank.

* * *

* * * Nonresident Registration; Repeals * * *

Sec. 24. REPEAL

The following sections of Title 23 are repealed:

(1) § 417 (motor truck trip permits);

(2) § 418 (collection of tax; regulations);

(3) § 419 (reciprocal agreements for waiver of motor truck permit fees);

(4) § 422 (motor bus identification marker).

Sec. 25. 23 V.S.A. § 421 is amended to read:

§ 421. PENALTIES

(a) It shall be unlawful for any person:

(1) to operate a motor truck subject to the provisions of this chapter upon any public highway in the ~~state~~ State without first obtaining the license, emergency telegram, or single trip license and tag, plate, or marker required under section 415 of this title or to so operate without carrying the license, emergency telegram, or single trip license and displaying the tag, plate, or marker if issued;

(2) ~~to violate any regulation issued by the commissioner pursuant to the authority granted hereunder;~~ [Repealed.]

(3) to fail to file any return or report required by ~~said commissioner~~ the Commissioner; or

(4) to make a false return or fail to keep records of operations as may be required by the ~~commissioner; or~~

~~(5) to operate a motor bus subject to the provisions of this chapter upon any public highway in the state without first obtaining the marker or single trip permit required under section 422 of this title or to so operate without displaying said marker or without the single trip permit with the vehicle~~ Commissioner.

* * *

* * * Dealer Plates * * *

Sec. 26. 23 V.S.A. § 453 is amended to read:

§ 453. FEES AND NUMBER PLATES

(a)(1) An application for dealer's registration shall be accompanied by a fee of $370.00 for each certificate issued in such dealer's name. The Commissioner shall furnish free of charge with each dealer's registration certificate ~~five sets of~~ three number plates showing the distinguishing number assigned such dealer. ~~In his or her discretion, he or she~~ The Commissioner may furnish ~~further sets of~~ additional plates ~~at a fee of $40.00 per set~~ according to the volume of the dealer's sales in the prior year or, in the case of an initial registration, according to the dealer's reasonable estimate of expected sales, as follows:

(A) under 20 sales: 0 additional plates;

(B) 20–49 sales: 1 additional plate;

(C) 50–99 sales: up to 5 additional plates;

(D) 100–249 sales: up to 12 additional plates;

(E) 250–499 sales: up to 17 additional plates;

(F) 500–749 sales: up to 27 additional plates;

(G) 750–999 sales: up to 37 additional plates;

(H) 1000–1,499 sales: up to 47 additional plates;

(I) 1,500 or more: up to 57 additional plates.

(2) If the issuance of additional plates is authorized under subdivision (1) of this subsection, up to two plates shall be provided free of charge, and the Commissioner shall collect $40.00 for each additional plate.

Sec. 27. TRANSITION PROVISION

The Commissioner may enforce compliance with Sec. 26 of this act on a rolling basis as dealer registrations expire over the 24-month period following the effective date of Sec. 26 of this act. Over this 24-month period, upon receiving the renewal application of a dealer who has been issued plates in excess of the limits established in 23 V.S.A. § 453(a)(1), the Commissioner shall require the dealer to return plates that exceed the limits established in 23 V.S.A. § 453(a)(1).

Sec. 28. MORATORIUM ON ISSUANCE OF DEALER PLATES; REPEAL

(a) Except for replacement of damaged dealer plates, no dealer registration plates may be issued under 23 V.S.A. § 453(a) to an existing dealer in addition to the number of plates already issued to that dealer, unless the dealer would be

eligible for additional plates under 23 V.S.A. § 453(a) as amended by Sec. 26 of this act.

(b) This section shall be repealed on July 1, 2014.

Sec. 29. STUDY OF USE OF DEALER PLATES ON TOWING VEHICLES

(a) The Commissioner of Motor Vehicles shall study the use of dealer plates on towing service vehicles and formulate recommendations as to whether the existing law authorizing such use should be repealed, amended, or retained in its existing form. In conducting this study, the Commissioner shall review the laws of other jurisdictions and consult with interested persons, including a cross-section of dealers.

(b) On or before January 15, 2015, the Commissioner shall report his or her findings and recommendations to the House and Senate Committees on Transportation.

* * * Effective Dates * * *

Sec. 30. EFFECTIVE DATES

(a) This section and Sec. 28 shall take effect on passage.

(b) All other sections shall take effect on July 1, 2014.

(Committee vote: 5-0-0)

Reported favorably by Senator MacDonald for the Committee on Finance.

(Committee vote: 5-0-2)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 175.

An act relating to permitting a student to remain enrolled in a Vermont public school after moving to a new school district.

Reported favorably with recommendation of amendment by Senator Collins for the Committee on Education.

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

Sec. 1. 16 V.S.A. § 1093 is amended to read:

§ 1093. NONRESIDENT STUDENTS

(a) A school board may receive into the schools under its charge nonresident students under such terms and restrictions as it deems best and money received for the instruction of the students shall be paid into the school fund of the district.

(b) Notwithstanding subsection (a) of this section, if a student has legal residence in a Vermont school district and is enrolled in and attending a school maintained and operated by that district, and if at any time after completion of the annual census period defined in subdivision 4001(1)(A) of this title the student moves to a different Vermont school district with the intention of remaining there indefinitely as contemplated in subsection 1075(a) of this title, then the student, or the student's parent or legal guardian if the student is a minor, may choose to remain enrolled in the school maintained by the original district for the remainder of the school year by notifying both school districts of the decision to do so.

(c) Nothing in this section shall be construed to eliminate State or federal requirements for a district to enroll eligible students residing outside the district under the McKinney–Vento Homeless Assistance Act, 42 U.S.C. § 11301 et seq., as may be amended.

(Committee vote: 5-0-0)

S. 191.

An act relating to setbacks and screening for solar generation plants.

Reported favorably with recommendation of amendment by Senator Hartwell for the Committee on Natural Resources and Energy.

The Committee recommends that the bill be amended as follows:

In Sec. 2, 30 V.S.A. § 219a (self-generation and net metering), after the first ellipsis, by striking out subsection (c) and inserting in lieu thereof a new subsection (c) to read:

(c) The Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. A net metering system shall be deemed to promote the public good of the State if it is in compliance with the criteria of this section~~,~~ and Board rules or orders. In developing such rules or orders~~, the Board~~:

(1) With respect to a solar net metering system of ~~10~~ 15 kW or less, the Board shall provide that the system may be installed ten days after the customer's submission to the Board ~~and~~, the interconnecting electric company, and the municipality of a completed registration form and certification of compliance with the applicable interconnection requirements and the setback

and screening requirements described in subdivision 248(b)(1) of this title. Within that ten-day period, the interconnecting electric company and the municipality each may deliver to the customer and the Board a letter ~~detailing~~ that, in the case of the interconnecting utility, details any issues concerning the interconnection of the system or, in the case of the municipality, addresses the facility's compliance with the setback and screening requirements. The customer shall not commence construction of the system prior to the passage of this ten-day period and, if applicable, resolution by the Board of any ~~interconnection~~ issues raised by the electric company or the municipality in accordance with this subsection. If the ten-day period passes without delivery by the electric company or the municipality of a letter that raises ~~interconnection~~ issues in accordance with this subsection, a certificate of public good shall be deemed issued on the 11th day without further proceedings, findings of fact, or conclusions of law, and the customer may commence construction of the system. On request, the ~~clerk~~ Clerk of the Board promptly shall provide the customer with written evidence of the system's approval. ~~For the purpose of~~ In this subdivision, the following shall not be included in the computation of time: Saturdays, Sundays, State legal holidays under 1 V.S.A. § 371(a), and federal legal holidays under 5 U.S.C. § 6103(a).

(2) With respect to a net metering system for which a certificate of public good is not deemed issued under subdivision (1) of this subsection, the Board:

(A) may waive the requirements of section 248 of this title that are not applicable to net metering systems, including~~, but not limited to,~~ criteria that are generally applicable to public service companies as defined in this title, but shall not waive the land use bylaw and screening requirements described in subdivision 248(b)(1)(B) of this title;

(B) may modify notice and hearing requirements of this title as it deems appropriate;

(C) shall seek to simplify the application and review process as appropriate; and

(D) shall find that such rules are consistent with ~~state~~ State power plans.

* * *

(Committee vote: 4-0-1)

S. 218.

An act relating to temporary employees.

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

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

Sec. 1. 3 V.S.A. § 331 is amended to read:

§ 331. TEMPORARY EMPLOYEES

(a) The ~~state~~ State shall not employ any person in a temporary capacity except in accordance with the provisions of this section.

(b)(1) On request of the appointing authority, the ~~commissioner of human resources~~ Commissioner of Human Resources may approve, in writing, the creation of a temporary position and the hiring of a person to fill such temporary position only if the position and person are needed:

(A) ~~to~~ To meet a seasonal employment need of ~~state~~ State government~~;~~.

(B) ~~to~~ To respond to a bona fide emergency~~;~~.

(C) ~~to~~ To fill in for the temporary absence of an existing employee, or a vacancy in an existing position~~; or~~.

(D) ~~to~~ To perform a governmental function that requires only intermittent, sporadic, or ongoing employment that averages less than 20 hours per week during any one calendar year, provided that such employment does not exceed ~~1,520~~ 1,280 hours in any one calendar year.

(2)(A) Except as provided in subdivision (1) of this subsection, the ~~commissioner~~ Commissioner shall not approve the creation of a temporary position or the hiring of a person to fill such temporary position if the governmental function is ongoing and continuing.

(B) The ~~commissioner~~ Commissioner shall not approve the creation of a temporary position or the hiring of a person to fill such temporary position if approval is intended to circumvent, or has the effect of circumventing, the policies and purposes of the classified service under this chapter.

(c) The ~~commissioner~~ Commissioner may authorize the continued employment of a person in a temporary capacity for more than ~~1,520~~ 1,280 hours in any one calendar year if the ~~commissioner~~ Commissioner determines, in writing, that a bona fide emergency exists for the appointing authority that

requires such continued employment. Annually, on January 15th, the Commissioner shall submit a report to the General Assembly:

(1) identifying the total number of temporary employees who have worked:

(A) 1,280 hours in the prior calendar year, or

(B) in excess of 1,280 hours in the prior calendar year;

(2) the agency or department that is assigned the temporary position;

(3) the total number of hours worked by each temporary employee; and

(4)(A) a statement:

(i) recommending the conversion of the position to a permanent classified position, or

(ii) stating the reasons why the temporary position should be continued.

(B) It shall be the responsibility of the head of each department to provide a detailed justification for each waiver to exceed the 1,280 hour limit within his or her department and such other information as may be required to the Department of Human Resources in order to enable that Department to carry out its responsibility under this section.

(d) On an annual basis, all temporary employees shall accrue one hour of paid health leave for every 40 hours worked, which will be capped at a total number of five days, and may be rolled over into the next calendar year. Paid health care leave shall be compensated at the same hourly rate as the employee normally earns for hours worked.

Sec. 2. DEPARTMENT OF CORRECTIONS PROVISIONS RELATING TO CONTRABAND

The Commissioner of Corrections:

(1) shall have the sole discretion to conduct searches of personal belongings of all persons when entering the secure portion of a State correctional facility;

(2) may conduct pre-employment drug screening of all permanent and temporary Department of Correction employees hired after July 1, 2014;

(3) may conduct background investigations before hiring any permanent or temporary employee; and

(4) may permit offenders to earn contact visits if the contact privilege was taken away.

Sec. 3. DEPARTMENT OF CORRECTIONS STAFFING STUDY

(a) The Department of Corrections shall conduct a study of all State correctional facilities to determine the appropriate number of permanent employees at each facility.

(b) The Department of Corrections shall report quarterly to the General Assembly the number of temporary employees employed by the Department of Corrections, the date of hire for each, and the hours worked by each temporary employee in the calendar year.

(c) The Department of Corrections shall develop a three- and five-year plan to provide adequate permanent staffing to meet the staffing needs identified at each Correction's facility and present the plans to the General Assembly by January 15, 2015.

Sec. 4. TEMPORARY EMPLOYEES IN THE JUDICIAL BRANCH

(a) The Judiciary may authorize the continued employment of a person in a temporary capacity for more than 1,280 hours in one calendar year if the Judiciary determines in writing that a bona fide emergency exists for the appointing authority that requires such continued employment. This section shall not apply to the following:

(1) Assistant Judges;

(2) retired former permanent employees of the Vermont Judicial branch; and

(3) retired former permanent employees of any branch of Vermont State government.

(b)(1) Annually, on January 15, the Judiciary shall submit a report to the General Assembly identifying the total number of temporary employees who have worked 1,280 or more hours in the prior calendar year; and

(A) the unit to which the temporary employee is assigned;

(B) the total number of hours worked by each temporary employee; and

(C) a statement recommending:

(i) conversion of the position to a permanent classified position; or

(ii) stating the reasons why the temporary position should be continued.

(2) This report shall identify retired former permanent State employees currently holding temporary positions in the Judiciary.

(c) On an annual basis, all temporary employees, except those identified in subdivisions (a)(1)-(3) of this section, shall accrue one hour of paid health leave for every 40 hours worked, which will be capped at a total number of

five days, and which may be rolled over into the next calendar year. Paid health care leave shall be compensated at the same hourly rate as the employee normally earns for hours worked.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 5-0-0)

S. 239.

An act relating to the regulation of toxic substances.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.

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

Sec. 1. FINDINGS

The General Assembly finds that:

(1) There are more than 84,000 chemicals used commercially in the United States, and each year approximately 1,000 chemicals are added to the list of registered chemicals.

(2) More than 90 percent of the chemicals in commercial use in the United States have never been fully tested for potential impacts on human health or the environment.

(3) In 1976, the federal government passed the Toxic Substances Control Act (TSCA) in an attempt to improve the regulation of chemicals in the United States. However, TSCA grandfathered approximately 62,000 chemicals from regulation under the Act. Consequently, the U.S. Environmental Protection Agency (EPA) is not required to assess the risk of these chemicals. Since TSCA became law, EPA only has required testing for approximately 200 chemicals, and has banned or restricted the use of five of those chemicals. No chemicals have been banned in over 20 years.

(4) Biomonitoring studies reveal that toxic chemicals are in the bodies of people, including chemicals linked to cancer, brain and nervous damage, birth defects, developmental delays, and reproductive harm. Even newborn babies have chemical body burdens, proving that they are being polluted while in the womb.

(5) A growing body of scientific evidence demonstrates that these chemical exposures are taking a toll on public health and are playing a role in the incidence and prevalence of many diseases and disorders, including

leukemia, breast cancer, asthma, reproductive difficulties, birth defects, and autism.

(6) The societal and health care costs attributed to toxic exposures are extraordinary. More than $2.3 billion are spent every year just on the medical costs of cancer, asthma, and neurobehaviorial disorders associated with toxic chemicals.

(7) Vermont has regulated the use of individual chemicals of concern, including lead, mercury, bisphenol A, phthalates, decabromodiphenyl ether, tris(1,3-dichloro-2-propyl) phosphate, and tris(2-chloroethyl) phosphate, but reviewing chemicals individually, one at a time, is inefficient and inadequate for addressing the issues posed by chemicals of concern.

(8) Other states and countries, including Maine, Washington, California, and the European Union, are already taking a more comprehensive approach to chemical regulation in consumer products, and chemical regulation in Vermont should harmonize with these efforts.

(9) The State has experience monitoring and regulating chemical use through the toxic use and hazardous waste reduction programs.

Sec. 2. 18 V.S.A. chapter 38A is added to read:

CHAPTER 38A. TOXIC CHEMICAL IDENTIFICATION

§ 1771. POLICY

It is the policy of the State of Vermont to protect public health and the environment by reducing exposure of its citizens and vulnerable populations, such as children, to toxic chemicals, particularly when safer alternatives exist.

§ 1772. DEFINITIONS

As used in this chapter:

(1) "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism.

(2) "Chemical of high concern" means a chemical identified by the Department pursuant to section 1773 of this title.

(3) "Consumer product" means any product that is regularly used or purchased to be used for personal, family, or household purposes. "Consumer product" shall not mean:

(A) a product primarily used or purchased for industrial or business use.

(B) a food or beverage or an additive to a food or beverage;

(C) a tobacco product;

(D) a pesticide regulated by the U.S. Environmental Protection Agency;

(E) a drug or biologic regulated by the federal Food and Drug Administration, or the packaging of a drug or biologic that is regulated by the federal Food and Drug Administration;

(F) an item sold for outdoor residential use that consists of a composite material made from polyester resins; or

(G) ammunition or components thereof, firearms, hunting or fishing equipment or components thereof, including lead pellets from air rifles.

(4) "Contaminant" means a chemical that is not an intentionally added ingredient in a product, and the source or sources of the chemical in the product are one or more of the following:

(A) a naturally occurring contaminant commonly found in raw materials that are frequently used to manufacture the product;

(B) air or water frequently used as a processing agent or an ingredient to manufacture the product;

(C) a contaminant commonly found in recycled materials that are frequently used to manufacture the product; or

(D) a processing reagent, processing reactant, by-product, or intermediate frequently used to promote certain chemical or physical changes during manufacturing, and the incidental retention of a residue is not desired or intended.

(5) "Manufacturer" means:

(A) any person who manufactures a consumer product or whose name is affixed to a consumer product or its packaging or advertising, and the consumer product is sold or offered for sale in Vermont; or

(B) any person who sells a consumer product to a retailer in Vermont when the person who manufactures the consumer product or whose name is affixed to the consumer product or its packaging or advertising does not have a presence in the United States other than the sale or offer for sale of the manufacturer's products.

(6) "Priority chemical" means a chemical that:

(A) is on the list of chemicals published by the Department as required under section 1773 of this title; and

(B) is found in a consumer product.

(7) "Practical quantification limit (PQL)" means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions.

§ 1773. CHEMICALS OF HIGH CONCERN

(a) List of chemicals. On or before July 1, 2016, the Commissioner of Health, in consultation with the Secretary of Natural Resources, shall adopt and publish a list of chemicals of high concern to human health or the environment. Beginning on July 1, 2018, and biennially thereafter, the Commissioner of Health shall review, revise, update, and reissue the list of chemicals of high concern to human health or the environment.

(b) Criteria. The Commissioner of Health shall designate a chemical as a chemical of high concern if it is a chemical that meets, on the basis of credible scientific evidence, both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The chemical has been demonstrated to:

(A) harm the normal development of a fetus or child or cause other developmental toxicity;

(B) cause cancer, genetic damage, or reproductive harm;

(C) disrupt the endocrine system;

(D) damage the nervous system, immune system, or organs or cause other systemic toxicity; or

(E) be persistent and bioaccumulative.

(2) The chemical has been found through:

(A) biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(B) sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(C) monitoring to be present in fish, wildlife, or the natural environment.

(c) Resources for consideration. In determining the list of chemicals of concern, the Commissioner of Health may consider designations made by other states, the federal government, other countries, or other governmental agencies.

(d) Publication of list. On or before July 1, 2016, the list of chemicals of concern shall be posted on the Department of Health website.

(e) PQL value. A PQL value established under this chapter for individual chemicals shall depend on the analytical method used for each chemical. The PQL value shall be based on scientifically defensible, standard analytical methods as advised by guidance published by the Department.

§ 1774. CHEMICALS OF HIGH CONCERN ADVISORY COMMITTEE

(a)(1) A Chemicals of High Concern Advisory Committee is created for the purpose of advising the Commissioner of Health regarding:

(A) the listing of chemicals of high concern under section 1773 of this title; and

(B) the adoption of rules under section 1776 of this title regulating the sale or distribution of a consumer product containing a priority chemical.

(2) The Chemicals of High Concern Advisory Committee shall serve an advisory function and all authority and decisions to act under this chapter remain solely the authority of the Commissioner of Health.

(b)(1) The Commissioner of Health shall appoint the members of the Chemicals of High Concern Advisory Committee established by this section. The Chemicals of High Concern Advisory Committee shall be composed of the following members:

(A) the Commissioner of Environmental Conservation or his or her designee;

(B) a representative of a public interest group in the State with experience in advocating for the regulation of toxic substances;

(C) a representative of an organization within the State with expertise in issues related to the health of children or pregnant women;

(D) two representatives of businesses in the State that use chemicals in a manufacturing or production process;

(E) a scientist with expertise in the toxicity of chemicals; and

(F) any other member appointed by the Commissioner of Health.

(2) The members of the Chemicals of High Concern Advisory Committee shall serve staggered three-year terms. The Commissioner may

remove members of the Chemicals of High Concern Advisory Committee who fail to attend three consecutive meetings and may appoint replacements. The Commissioner may reappoint members to serve more than one term.

(3) Members of the Chemicals of High Concern Advisory Committee whose participation is not supported through their employment or association shall receive per diem compensation pursuant to 32 V.S.A. § 1010 and reimbursement of travel expenses. A per diem authorized by this section shall be paid from the budget of the Department of Health.

(c) The Commissioner may convene the Chemicals of High Concern Advisory Committee at any time, but no less frequently than at least once every other year.

(d) The Advisory Committee shall have an opportunity to review and comment on the list of chemicals of high concern required under section 1773 of this title or of any rule proposed under section 1776 of this title.

(e) A majority of the members of the Advisory Committee shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

§ 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH CONCERN

(a) No later than one year after a chemical is placed on the list of chemicals of high concern under section 1773 of this title, and biennially thereafter, a manufacturer of a consumer product shall submit to the Department the notice described in subsection (b) of this section if a chemical of high concern is:

(1) added to a consumer product at a level above the PQL produced by the manufacturer; or

(2) present in a consumer product produced by the manufacturer as a contaminant at a concentration of 100 parts per million or greater.

(b) The Commissioner shall specify the format for submission of the notice required by subsection (a) of this section, provided that the required format shall be generally consistent with the format for submission of notice in other states with requirements substantially similar to the requirements of this section. Any notice submitted under subsection (a) shall contain the following information:

(1) the name of the chemical used or produced and its chemical abstracts service registry number;

(2) a description of the product or product component containing the substance;

(3) a description of the function of the chemical in the product;

(4) the amount of the chemical used in each unit of the product or product component;

(5) the name and address of the manufacturer of the consumer product and the name, address, and telephone number of a contact person for the manufacturer;

(6) any other information the manufacturer deems relevant to the appropriate use of the product; and

(7) any other information required by the Commissioner under rules adopted pursuant to 3 V.S.A. chapter 25.

(c) In order for the Department to obtain the information required in the notice described in subsection (b) of this section, the Department may enter into reciprocal data-sharing agreements with other states in which a manufacturer of consumer products is also required to disclose information related to chemicals of concern in consumer products.

(d) A manufacturer who submitted the notice required by subsection (a) of this section may at any time submit to the Department notice that a chemical of high concern has been removed from the manufacturer's consumer product or that the manufacturer no longer sells, offers for sale, or distributes in the State the consumer product containing the chemical of high concern.

(e) Information submitted to or acquired by the Department under subsection (b), (c), or (d) of this section shall be exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that:

(1) the Department may share submitted or acquired information with other states under a reciprocal data-sharing agreement; and

(2) the Commissioner shall publish on the Department website submitted or acquired information in a summary or aggregate form that does not directly or indirectly identify individual manufacturers.

(f) A manufacturer required under this section to provide information on its use of a chemical of high concern shall, within 30 days of receipt of an invoice from the Department, pay a fee not to exceed $2,000.00 per chemical included on the list of chemicals of high concern. Fees collected under this subsection shall be deposited in the Chemicals of High Concern Fund for the purposes of that Fund.

§ 1776. PRIORITY CHEMICALS; PROHIBITION OF SALE; DEPARTMENT OF HEALTH RULEMAKING

(a) The Commissioner may, after consultation with the Secretary of Natural Resources and the Chemicals of High Concern Advisory Committee, designate by rule that one or more chemicals of high concern are a priority chemical under the criteria found in subsection 1773(b) of this chapter and require by rule that a consumer product containing the priority chemical be:

(1) prohibited from sale, offer for sale, or distribution in the State; or

(2) labeled prior to sale, offer for sale, or distribution in the State.

(b)(1) Beginning on July 1, 2017, and biennially thereafter, the Commissioner shall review at least two priority chemicals in consumer products for regulation under subsection (a) of this section.

(2) In adopting any rule under this section that prohibits the sale, offer for sale, or distribution in the State of a consumer product that contains a priority chemical, the Commissioner may consider whether a safer alternative to the priority chemical exists.

(c)(1) In any rule adopted under this section, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a consumer product in the State shall take effect sooner than two years after the adoption of a rule adopted under this subsection unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(2) On or before July 1, 2017, the Commissioner of Health shall adopt by rule the process and procedure to be required when the Commissioner of Health adopts a rule under subsection (a) of this section. The rule shall provide:

(A) criteria for evaluation of priority chemicals in a consumer product, including criteria for whether the consumer product should be prohibited from sale, subject to labeling, or subject to no regulation;

(B) requirements or time frames for phasing out the sale or distribution of a consumer product containing a priority chemical, including whether retailers selling the consumer product shall be afforded an inventory exception;

(C) requirements or time frames afforded to a manufacturer to replace a priority chemical in a consumer product; and

(D) other criteria, requirements, time frames, processes, or procedures that the Commissioner determines are necessary for implementation of rulemaking under subsection (a) of this section.

(d) In addition to the public participation requirements of 3 V.S.A. chapter 25 and prior to submitting a rule authorized under this section to the Secretary of State under 3 V.S.A. § 838, the Commissioner shall make reasonable efforts to consult with interested parties within the State regarding any proposed prohibition of a priority chemical. The Commissioner may satisfy the consultation requirement of this section through the use of one or more workshops, focused work groups, dockets, meetings, or other forms of communication.

§ 1777. CHEMICALS OF HIGH CONCERN FUND

(a) The Chemicals of High Concern Fund is established in the State Treasury, separate and distinct from the General Fund, to be administered by the Commissioner of Health. Interest earned by the Fund shall be credited to the Fund. Monies in the Fund shall be made available to the Department of Health and the Agency of Natural Resources to pay costs incurred in administration of the requirements of this chapter.

(b) The Chemicals of High Concern Fund shall consist of:

(1) monies accepted by the Department pursuant to subsection (a) of this section;

(2) fees and charges collected under section 1775 of this chapter;

(3) private gifts, bequests, grants, or donations made to the State from any public or private source for the purposes for which the Fund was established; and

(4) such sums as may be appropriated by the General Assembly.

§ 1778. VIOLATIONS; ENFORCEMENT

A violation of this chapter shall be considered a violation of the Consumer Protection Act, in 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

Sec. 3. REPORT TO GENERAL ASSEMBLY; TOXIC CHEMICAL IDENTIFICATION

(a) On or before January 15, 2015, and biennially thereafter, the Commissioner of Health shall submit to the Senate Committee on Health and Welfare, the House Committee on Human Service, the House Committee on

Ways and Means, the Senate Committee on Finance, and the Senate and House Committees on Appropriations, a report concerning implementation, administration, and financing by the Department of Health of the toxic chemical identification requirements of 18 V.S.A. chapter 38A. The report shall include:

(1) any updates to the list of chemicals of high concern required under 10 V.S.A. § 1773;

(2) the number of manufacturers providing notice under 10 V.S.A. § 1775 regarding whether a consumer product includes a chemical of high concern;

(3) the number of priority chemicals in consumer products identified or regulated by the Department of Health under 10 V.S.A. § 1776;

(4) an estimate of the annual cost to the Department of Health to implement the toxic chemical identification program;

(5) the number of Department of Health employees needed to implement the toxic chemical identification program;

(6) an estimate of additional funding that the Department may require to implement the toxic chemical identification program; and

(7) a recommendation of how the State should collaborate with other states in implementing the requirements of the toxic chemical identification program.

(b) As part of the report submitted on or before January 15, 2015, the Commissioner of Health shall recommend a process or method of informing consumers in the State of the presence of a priority chemical in a consumer product. A recommendation under this subsection may include recommended legislative changes, rulemaking, public notice requirements, or reference to other publicly available resources that identify priority chemicals in consumer products.

Sec. 4. 10 V.S.A. § 1775(e) is amended to read

(e)(1) Information submitted to or acquired by the Department under subsection (b), (c), or (d) of this section shall be ~~exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that:~~

~~(1) the Department may share submitted or acquired information with other states under a reciprocal data-sharing agreement; and~~

~~(2) the Commissioner shall publish on the Department website submitted or acquired information in a summary or aggregate form that does~~

~~not directly or indirectly identify individual manufacturers~~ available for public inspection and copying, provided that:

(A) Information protected under the Uniform Trade Secrets Act, as codified under 9 V.S.A. chapter 143, or under the trade secret exemption under 1 V.S.A. § 317(c)(9) shall be exempt from public inspection and copying under the Public Records Act;

(B) The Commissioner may publish information confidential under this subsection in a summary or aggregated form that does not directly or indirectly identify individual manufacturers.

(2) The Commissioner may require, as a part of a report or notice submitted under this chapter, that a manufacturer submit a notice or report that does not contain trade secret information and is available for public inspection and review.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 2 (toxic chemical identification program), and 3 (Department of Health report) shall take effect on passage.

(b) Sec. 4 (trade secret information) shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

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

The Committee recommends to amend the recommendation of amendment of the Committee on Health and Welfare by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) There are more than 84,000 chemicals used commercially in the United States, and each year approximately 1,000 chemicals are added to the list of registered chemicals.

(2) More than 90 percent of the chemicals in commercial use in the United States have never been fully tested for potential impacts on human health or the environment.

(3) In 1976, the federal government passed the Toxic Substances Control Act (TSCA) in an attempt to improve the regulation of chemicals in the United States. However, TSCA grandfathered approximately 62,000 chemicals from regulation under the Act. Consequently, the

U.S. Environmental Protection Agency (EPA) is not required to assess the risk of these chemicals. Since TSCA became law, EPA only has required testing for approximately 200 chemicals, and has banned or restricted the use of five of those chemicals. No chemicals have been banned in over 20 years.

(4) Biomonitoring studies reveal that toxic chemicals are in the bodies of people, including chemicals linked to cancer, brain and nervous damage, birth defects, developmental delays, and reproductive harm. Even newborn babies have chemical body burdens, proving that they are being polluted while in the womb.

(5) A growing body of scientific evidence demonstrates that these chemical exposures are taking a toll on public health and are playing a role in the incidence and prevalence of many diseases and disorders, including leukemia, breast cancer, asthma, reproductive difficulties, birth defects, and autism.

(6) The societal and health care costs attributed to toxic exposures are extraordinary. More than $2.3 billion are spent every year just on the medical costs of cancer, asthma, and neurobehaviorial disorders associated with toxic chemicals.

(7) Vermont has regulated the use of individual chemicals of concern, including lead, mercury, bisphenol A, phthalates, decabromodiphenyl ether, tris(1,3-dichloro-2-propyl) phosphate, and tris(2-chloroethyl) phosphate, but reviewing chemicals individually, one at a time, is inefficient and inadequate for addressing the issues posed by chemicals of concern.

(8) Other states and countries, including Maine, Washington, California, and the European Union, are already taking a more comprehensive approach to chemical regulation in consumer products, and chemical regulation in Vermont should harmonize with these efforts.

(9) The State has experience monitoring and regulating chemical use through the toxic use and hazardous waste reduction programs.

Sec. 2. 18 V.S.A. chapter 38A is added to read:

CHAPTER 38A. TOXIC CHEMICAL IDENTIFICATION

§ 1771. POLICY

It is the policy of the State of Vermont:

(1) to protect public health and the environment by reducing exposure of its citizens and vulnerable populations, such as children, to toxic chemicals, particularly when safer alternatives exist; and

(2) that the State attempt, when possible, to regulate toxic chemicals in a manner that is consistent with regulation of toxic chemicals in other states.

§ 1772. DEFINITIONS

As used in this chapter:

(1) "Aircraft" shall be defined as in 5 V.S.A. § 202.

(2) "Chemical" means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism. "Chemical" shall not mean crystalline silica in any form, as derived from ordinary sand or as present as a naturally occurring component of any other mineral raw material, including granite, gravel, limestone, marble, slate, soapstone, and talc.

(3) "Chemical of high concern" means a chemical identified by the Department pursuant to section 1773 of this title.

(4) "Consumer product" means any product that is regularly used or purchased to be used for personal, family, or household purposes. "Consumer product" shall not mean:

(A) a product primarily used or purchased for industrial or business use that does not enter the consumer product market or is not otherwise sold at retail.

(B) a food or beverage or an additive to a food or beverage;

(C) a tobacco product;

(D) a pesticide regulated by the U.S. Environmental Protection Agency;

(E) a drug or biologic regulated by the federal Food and Drug Administration, or the packaging of a drug or biologic that is regulated by the federal Food and Drug Administration;

(F) an item sold for outdoor residential use that consists of a composite material made from polyester resins; or

(G) ammunition or components thereof, firearms, air rifles, hunting or fishing equipment or components thereof.

(5) "Contaminant" means a chemical that is not an intentionally added ingredient in a product, and the source or sources of the chemical in the product are one or more of the following:

(A) a naturally occurring contaminant commonly found in raw materials that are frequently used to manufacture the product;

(B) air or water frequently used as a processing agent or an ingredient to manufacture the product;

(C) a contaminant commonly found in recycled materials that are frequently used to manufacture the product; or

(D) a processing reagent, processing reactant, by-product, or intermediate frequently used to promote certain chemical or physical changes during manufacturing, and the incidental retention of a residue is not desired or intended.

(6) "Manufacturer" means:

(A) any person who manufactures a consumer product or whose name is affixed to a consumer product or its packaging or advertising, and the consumer product is sold or offered for sale in Vermont; or

(B) any person who sells a consumer product to a retailer in Vermont when the person who manufactures the consumer product or whose name is affixed to the consumer product or its packaging or advertising does not have a presence in the United States other than the sale or offer for sale of the manufacturer's products.

(7) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products.

(8) "Practical quantification limit (PQL)" means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions.

(9) "Priority chemical" means a chemical that:

(A) is on the list of chemicals published by the Department as required under section 1773 of this title; and

(B) is found in a consumer product.

(10) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

§ 1773. CHEMICALS OF HIGH CONCERN

(a) List of chemicals. On or before July 1, 2016, the Commissioner of Health, in consultation with the Secretary of Natural Resources, shall adopt

and publish a list of chemicals of high concern to human health or the environment. Beginning on July 1, 2018, and biennially thereafter, the Commissioner of Health shall review, revise, update, and reissue the list of chemicals of high concern to human health or the environment.

(b) Criteria. The Commissioner of Health shall designate a chemical as a chemical of high concern if it is a chemical that meets, on the basis of credible scientific evidence, both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The chemical has been demonstrated to:

(A) harm the normal development of a fetus or child or cause other developmental toxicity;

(B) cause cancer, genetic damage, or reproductive harm;

(C) disrupt the endocrine system;

(D) damage the nervous system, immune system, or organs or cause other systemic toxicity; or

(E) be persistent and bioaccumulative.

(2) The chemical has been found through:

(A) biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(B) sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(C) monitoring to be present in fish, wildlife, or the natural environment.

(c) Resources for consideration. In determining the list of chemicals of concern, the Commissioner of Health may consider designations made by other states, the federal government, other countries, or other governmental agencies.

(d) Publication of list. On or before July 1, 2016, the list of chemicals of concern shall be posted on the Department of Health website.

(e) PQL value. A PQL value established under this chapter for individual chemicals shall depend on the analytical method used for each chemical. The PQL value shall be based on scientifically defensible, standard analytical methods as advised by guidance published by the Department.

§ 1774. CHEMICALS OF HIGH CONCERN ADVISORY COMMITTEE

(a)(1) A Chemicals of High Concern Advisory Committee is created for the purpose of advising the Commissioner of Health regarding:

(A) the listing of chemicals of high concern under section 1773 of this title; and

(B) the adoption of rules under section 1776 of this title regulating the sale or distribution of a consumer product containing a priority chemical.

(2) The Chemicals of High Concern Advisory Committee shall serve an advisory function and all authority and decisions to act under this chapter remain solely the authority of the Commissioner of Health.

(b)(1) The Commissioner of Health shall appoint the members of the Chemicals of High Concern Advisory Committee established by this section. The Chemicals of High Concern Advisory Committee shall be composed of the following members:

(A) the Commissioner of Environmental Conservation or his or her designee;

(B) a representative of a public interest group in the State with experience in advocating for the regulation of toxic substances;

(C) a representative of an organization within the State with expertise in issues related to the health of children or pregnant women;

(D) two representatives of businesses in the State that use chemicals in a manufacturing or production process;

(E) a scientist with expertise in the toxicity of chemicals; and

(F) three other members appointed by the Commissioner of Health.

(2) The members of the Chemicals of High Concern Advisory Committee shall serve staggered three-year terms. The Commissioner may remove members of the Chemicals of High Concern Advisory Committee who fail to attend three consecutive meetings and may appoint replacements. The Commissioner may reappoint members to serve more than one term.

(3) Members of the Chemicals of High Concern Advisory Committee whose participation is not supported through their employment or association shall receive per diem compensation pursuant to 32 V.S.A. § 1010 and reimbursement of travel expenses. A per diem authorized by this section shall be paid from the budget of the Department of Health.

(c) The Commissioner may convene the Chemicals of High Concern Advisory Committee at any time, but no less frequently than at least once every other year.

(d) In order to ensure that the regulation of toxic chemicals is robust and protective, that affected parties have ample opportunity to comment, and that

legal and financial risks are minimized, the Advisory Committee shall have an opportunity to review and comment on the list of chemicals of high concern required under section 1773 of this title or of any rule proposed under section 1776 of this title.

(e) A majority of the members of the Advisory Committee shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

§ 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH CONCERN

(a) No later than one year after a chemical is placed on the list of chemicals of high concern under section 1773 of this title, and biennially thereafter, a manufacturer of a consumer product shall submit to the Department the notice described in subsection (b) of this section if a chemical of high concern is:

(1) added to a consumer product at a level above the PQL produced by the manufacturer; or

(2) present in a consumer product produced by the manufacturer as a contaminant at a concentration of 100 parts per million or greater.

(b) The Commissioner shall specify the format for submission of the notice required by subsection (a) of this section, provided that the required format shall be generally consistent with the format for submission of notice in other states with requirements substantially similar to the requirements of this section. Any notice submitted under subsection (a) shall contain the following information:

(1) the name of the chemical used or produced and its chemical abstracts service registry number;

(2) a description of the product or product component containing the substance;

(3) the amount of the chemical used in each unit of the product or product component;

(4) the name and address of the manufacturer of the consumer product and the name, address, and telephone number of a contact person for the manufacturer;

(5) any other information the manufacturer deems relevant to the appropriate use of the product; and

(6) any other information required by the Commissioner under rules adopted pursuant to 3 V.S.A. chapter 25.

(c) In order for the Department to obtain the information required in the notice described in subsection (b) of this section, the Department may enter into reciprocal data-sharing agreements with other states in which a manufacturer of consumer products is also required to disclose information related to chemicals of concern in consumer products. The Department shall not disclose trade secret information or other information designated as confidential by law under a reciprocal data-sharing agreement.

(d) A manufacturer who submitted the notice required by subsection (a) of this section may at any time submit to the Department notice that a chemical of high concern has been removed from the manufacturer's consumer product or that the manufacturer no longer sells, offers for sale, or distributes in the State the consumer product containing the chemical of high concern.

(e) Information submitted to or acquired by the Department under subsection (b), (c), or (d) of this section shall be exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Commissioner shall publish on the Department website information submitted by a manufacturer under this section except for trade secret information or information otherwise designated confidential by law. It shall be the burden of the manufacturer to assert that information submitted under this section is a trade secret or is otherwise designated confidential by law.

(f) A manufacturer required under this section to provide information on its use of a chemical of high concern shall, within 30 days of receipt of an invoice from the Department, pay a fee not to exceed $2,000.00 per chemical included on the list of chemicals of high concern. A fee submitted under this subsection shall be submitted only with the first submission of notice required under this section, and shall not be required for each required subsequent biennial notice. Fees collected under this subsection shall be deposited in the Chemicals of High Concern Fund for the purposes of that Fund.

§ 1776. PRIORITY CHEMICALS; PROHIBITION OF SALE; DEPARTMENT OF HEALTH RULEMAKING

(a) The Commissioner may, after consultation with the Secretary of Natural Resources and the Chemicals of High Concern Advisory Committee, designate by rule that one or more chemicals of high concern are a priority chemical under the criteria found in subsection 1773(b) of this chapter and require by rule that a consumer product containing the priority chemical be:

(1) prohibited from sale, offer for sale, or distribution in the State; or

(2) labeled prior to sale, offer for sale, or distribution in the State.

(b)(1) Beginning on July 1, 2017, and biennially thereafter, the Commissioner shall review at least two priority chemicals in consumer products for regulation under subsection (a) of this section.

(2) In adopting any rule under this section that prohibits the sale, offer for sale, or distribution in the State of a consumer product that contains a priority chemical, the Commissioner may consider whether a safer alternative to the priority chemical exists.

(c)(1) In any rule adopted under this section, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a consumer product in the State shall take effect sooner than two years after the adoption of a rule adopted under this subsection unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(2) On or before July 1, 2017, the Commissioner of Health shall adopt by rule the process and procedure to be required when the Commissioner of Health adopts a rule under subsection (a) of this section. The rule shall provide:

(A) criteria for evaluation of priority chemicals in a consumer product, including criteria for whether the consumer product should be prohibited from sale, subject to labeling, or subject to no regulation;

(B) requirements or time frames for phasing out the sale or distribution of a consumer product containing a priority chemical, including whether retailers selling the consumer product shall be afforded an inventory exception;

(C) requirements or time frames afforded to a manufacturer to replace a priority chemical in a consumer product; and

(D) other criteria, requirements, time frames, processes, or procedures that the Commissioner determines are necessary for implementation of rulemaking under subsection (a) of this section.

(d) In addition to the public participation requirements of 3 V.S.A. chapter 25 and prior to submitting a rule authorized under this section to the Secretary of State under 3 V.S.A. § 838, the Commissioner shall make reasonable efforts to consult with interested parties within the State regarding any proposed prohibition of a priority chemical. The Commissioner may satisfy the consultation requirement of this section through the use of one or more workshops, focused work groups, dockets, meetings, or other forms of communication.

§ 1777. EXEMPTIONS

The requirements and prohibitions of this chapter shall not apply to a consumer product:

(1) that is an electronic device, a motor vehicle, an aircraft, or a vessel;

(2) in which the chemical of high concern is present solely within the internal components of the device, motor vehicle, aircraft, or vessel; and

(3) the internal components of which are encased in a housing, compartment, or panel or are otherwise inaccessible to a consumer using the product as intended.

§ 1778. CHEMICALS OF HIGH CONCERN FUND

(a) The Chemicals of High Concern Fund is established in the State Treasury, separate and distinct from the General Fund, to be administered by the Commissioner of Health. Interest earned by the Fund shall be credited to the Fund. Monies in the Fund shall be made available to the Department of Health and the Agency of Natural Resources to pay costs incurred in administration of the requirements of this chapter.

(b) The Chemicals of High Concern Fund shall consist of:

(1) fees and charges collected under section 1775 of this chapter;

(2) private gifts, bequests, grants, or donations made to the State from any public or private source for the purposes for which the Fund was established; and

(3) such sums as may be appropriated by the General Assembly.

§ 1779. VIOLATIONS; ENFORCEMENT

A violation of this chapter shall be considered a violation of the Consumer Protection Act, in 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

Sec. 3. REPORT TO GENERAL ASSEMBLY; TOXIC CHEMICAL IDENTIFICATION

(a) On or before January 15, 2015, and biennially thereafter, the Commissioner of Health shall submit to the Senate Committee on Health and Welfare, the House Committee on Human Services, the House Committee on Ways and Means, the Senate Committee on Finance, and the Senate and House Committees on Appropriations, a report concerning implementation, administration, and financing by the Department of Health of the toxic

chemical identification requirements of 18 V.S.A. chapter 38A. The report shall include:

(1) any updates to the list of chemicals of high concern required under 18 V.S.A. § 1773;

(2) the number of manufacturers providing notice under 18 V.S.A. § 1775 regarding whether a consumer product includes a chemical of high concern;

(3) the number of priority chemicals in consumer products identified or regulated by the Department of Health under 18 V.S.A. § 1776;

(4) an estimate of the annual cost to the Department of Health to implement the toxic chemical identification program;

(5) the number of Department of Health employees needed to implement the toxic chemical identification program;

(6) an estimate of additional funding that the Department may require to implement the toxic chemical identification program; and

(7) a recommendation of how the State should collaborate with other states in implementing the requirements of the toxic chemical identification program.

(b) As part of the report submitted on or before January 15, 2015, the Commissioner of Health shall recommend a process or method of informing consumers in the State of the presence of a priority chemical in a consumer product. A recommendation under this subsection may include recommended legislative changes, rulemaking, public notice requirements, or reference to other publicly available resources that identify priority chemicals in consumer products.

Sec. 4. 18 V.S.A. § 1775(e) is amended to read

(e)(1) Information submitted to or acquired by the Department under subsection (b), (c), or (d) of this section shall be ~~exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that:~~

~~(1) the Department may share submitted or acquired information with other states under a reciprocal data-sharing agreement; and~~

~~(2) the Commissioner shall publish on the Department website submitted or acquired information in a summary or aggregate form that does not directly or indirectly identify individual manufacturers~~ available for public inspection and copying, provided that:

(A) Information protected under the Uniform Trade Secrets Act, as codified under 9 V.S.A. chapter 143, or under the trade secret exemption under 1 V.S.A. § 317(c)(9) shall be exempt from public inspection and copying under the Public Records Act;

(B) The Commissioner may publish confidential information collected under this section provided that the information is not trade secret information or is not otherwise designated confidential by law. It shall be the burden of the manufacturer to assert that information submitted under this section is a trade secret or is otherwise designated confidential by law.

(2) The Commissioner may require, as a part of a report or notice submitted under this chapter, that a manufacturer submit a notice or report that does not contain trade secret information and is available for public inspection and review.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 2 (toxic chemical identification program), and 3 (Department of Health report) shall take effect on passage.

(b) Sec. 4 (trade secret information) shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

S. 241.

An act relating to binding arbitration for State employees.

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

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

Sec. 1. GRIEVANCE ARBITRATION; STUDY COMMITTEE; REPORT

(a) Creation. There is created a Grievance Arbitration Study Committee to study the issue of grievance arbitration for employees of the State.

(b) Membership. The Grievance Arbitration Study Committee shall be composed of the following four members:

(1) the Commissioner of Human Resources or designee;

(2) the Executive Director of the Vermont Bar Association or designee;

(3) one member appointed by the Vermont Troopers Association; and

(4) one member appointed by the Vermont State Employees' Association.

(c) Powers and duties. The Committee shall:

(1) study the issue of grievance arbitration for State employees; and

(2) assess the relative merits of various grievance protocols, including arbitration and use of the Vermont Labor Relations Board, addressing the ability of these protocols to provide resolution of grievances in a manner that is economical, timely, just, and provides for appropriate privacy protections for the parties.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Report. On or before January 15, 2015, the Committee shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing and Military Affairs.

(f) Meetings.

(1) The Commissioner of Human Resources or designee shall be the Chair of the Committee.

(2) The Committee shall convene on or before September 1, 2014 at the call of the Chair, and the Chair shall call any subsequent meetings.

(3)(A) A majority of the members of the Committee shall be physically present at the same location to constitute a quorum.

(B) A member may vote only if physically present at the meeting location.

(C) Action shall be taken only if there is both a quorum and a majority vote of the members physically present and voting.

(4) The Committee shall cease to exist on the date it submits its report under subsection (e) of this section.

(g) Reimbursement. Members of the Committee shall not be entitled to per diem compensation or reimbursement of expenses.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 4-1-0)

Joint Resolution for Second Reading

J.R.S. 27.

Joint resolution relating to an application of the General Assembly for Congress to call a convention for proposing amendments to the U.S. Constitution.

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the resolution be amended as follows:

By striking out the second *Resolved* clause and inserting in lieu thereof the following:

Resolved: That delegates to such a convention from Vermont shall propose no amendments which do not have a primary goal of addressing the grievances listed herein, *and be it further*

(Committee vote: 4-1-0)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Patti Pallito of Richmond – Member of the State Police Advisory Commission – By Sen. French for the Committee on Government Operations. (2/19/14)

Shirley A. Jefferson of South Royalton – Member of the State Police Advisory Commission – By Sen. McAllister for the Committee on Government Operations. (2/19/14)

Glenn Boyde of Colchester – Member of the State Police Advisory Commission – By Sen. Pollina for the Committee on Government Operations. (2/19/14)

Lisa Gosselin of Stowe – Commissioner of the Department of Economic Development – By Sen. Doyle for the Committee on Economic Development, Housing and General Affairs. (3/12/14)

Deborah Granquist of Weston – Member of the Board of Libraries – By Sen. McCormack for the Committee on Education. (3/18/14)

Brian Vachon of Montpelier – Member of the Community High School of Vermont Board – By Sen. Collins for the Committee on Education. (3/18/14)

PUBLIC HEARINGS

Tuesday, March 18, 2014 – House Chamber – 6:00 P.M. – 7:30 P.M. – Re: DR 14-742 Governance Structure for Education – House Committee on Education.

Thursday, March 20, 2014 – House Chamber – 6:00 P.M. – 8:00 P.M. – Re: H. 552 Minimum Wage - House Committee on General, Housing, and Military Affairs.

NOTICE OF JOINT ASSEMBLY

March 20, 2014 – 10:30 A.M. – Retention of Superior Judges: Nancy S. Corsones, Amy M. Davenport, Katharine A. Hayes, Martin A. Maley, David T. Suntag, and Tomas G. Walsh.

FOR INFORMATION ONLY

CROSSOVER DEADLINES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 14, 2014**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate** bills referred pursuant to Senate Rule 31 to the Committees on Appropriations and Finance must be reported out by the last of those committees on or before **Friday, March 21, 2014**, and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

These deadlines may be waived for any bill or committee only with the consent of the Committee on Rules.

Note: The deadlines were determined by the Joint Rules Committee. The Senate will not act on House bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations "Big Bill", Transportation Spending Bill, Capital Construction Bill, and Miscellaneous Tax Bill).