

No. 23. An act relating to technical corrections.

(H.320)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Technical Corrections Relating to Public Records * * *

Sec. 1. 1 V.S.A. § 313(a) is amended to read:

(a) No public body may hold an executive session from which the public is excluded, except by the affirmative vote of two-thirds of its members present in the case of any public body of State government or of a majority of its members present in the case of any public body of a municipality or other political subdivision. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session. Such vote shall be taken in the course of an open meeting and the result of the vote recorded in the minutes. No formal or binding action shall be taken in executive session except for actions relating to the securing of real estate options under subdivision (2) of this subsection. Minutes of an executive session need not be taken, but if they are, the minutes shall not be made public subject to, notwithstanding subsection 312(b) of this title, be exempt from public copying and inspection under the Public Records Act. A public body may not hold an executive session except to consider one or more of the following:

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Sec. 2. 1 V.S.A. § 317(c) is amended to read:

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

* * *

(11) Student records, including records of a home study student, ~~at educational institutions or agencies funded wholly or in part by State revenue;~~ provided, however, that such records shall be made available upon request under the provisions of the Federal Family Educational Rights and Privacy Act of 1974 (~~P.L. 93-380~~) and as, 20 U.S.C. § 1232g, as may be amended.

* * *

(20) Information ~~which~~ that would reveal the location of archeological sites and underwater historic properties, except as provided in 22 V.S.A. § ~~762~~ 761.

* * *

(22) ~~Any documents filed, received, or maintained by the Agency of Commerce and Community Development with regard to administration of 32 V.S.A. chapter 151, subchapters 11C and 11D (new jobs tax credit; manufacturer's tax credit), except that all such documents shall become public records under this subchapter when a tax credit certification has been granted by the Secretary of Administration, and provided that the disclosure of such documents does not otherwise violate any provision of Title 32. [Repealed.]~~

* * *

(30) All ~~code and machine-readable structures of state-funded and controlled~~ State-controlled database applications structures and application code, including the vermontvacation.com website and Travel Planner application, which are known only to certain ~~state~~ State departments engaging in marketing activities and which give the ~~state~~ State an opportunity to obtain a marketing advantage over any other state, regional, or local governmental or nonprofit quasi-governmental entity, or private sector entity, unless any such ~~state~~ State department engaging in marketing activities determines that the license or other voluntary disclosure of such materials is in the ~~state's~~ State's best interests.

* * *

(36) Anti-fraud plans and summaries submitted ~~by insurers to the Department of Financial Regulation~~ for the purposes of complying with 8 V.S.A. § 4750.

* * *

(38) Records ~~held by the Agency of Human Services, which~~ that include prescription information containing ~~prescriber-identifiable~~ data, that could be used to identify a prescriber, except that the records shall be made available upon request for medical research, consistent with and for purposes expressed in 18 V.S.A. §§ 4621, 4631, 4632, 4633, and § 4622 or 9410 and, 18 V.S.A. chapter 84, ~~or as provided for in 18 V.S.A. chapter or 84A,~~ and for other law enforcement activities.

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

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Sec. 3. EFFECT OF REPEAL

Sec. 2 of this act repeals 1 V.S.A. § 317(c)(22), which related to documents filed, received, or maintained by the Agency of Commerce and Community Development with regard to administration of 32 V.S.A. chapter 151, subchapters 11C and 11D (new jobs tax credit; manufacturer's tax credit). 32 V.S.A. chapter 151, subchapters 11C and 11D were repealed in 2006, and thus the exemption at 1 V.S.A. § 317(c)(22) is no longer needed. However, if a public agency retains custody of records that qualified as exempt under the former 1 V.S.A. § 317(c)(22), these records shall remain exempt from public inspection and copying after its repeal.

Sec. 4. 8 V.S.A. § 4089a is amended to read:

§ 4089a. MENTAL HEALTH CARE SERVICES REVIEW

* * *

(i) The confidentiality of any health care information acquired by or provided to ~~the independent panel of mental health professionals~~ an independent review organization pursuant to section 4089f of this title shall be maintained in compliance with any applicable State or federal laws. ~~The independent panel shall not constitute a public agency 1 V.S.A. § 317(a), or a~~

~~public body under section 310 of Title 1.~~ Records of, and internal materials prepared for, specific reviews under this section shall be exempt from public disclosure under 1 V.S.A. § 316 inspection and copying under the Public Records Act.

Sec. 5. EFFECT OF AMENDMENT

Sec. 4 of this act amends 8 V.S.A. § 4089a(i) to eliminate references to independent panels of mental health professionals. Such panels were eliminated in 2011 Acts and Resolves No. 21, Sec. 14, and therefore the references to such panels in subsection (i) likewise should be removed. However, if a public agency obtained and retains custody of records of such panels in connection with specific reviews under 8 V.S.A. § 4089a, the records shall remain exempt from public inspection and copying under the Public Records Act, and shall continue to be maintained in compliance with any applicable State or federal laws, after the amendments in Sec. 4 of this act take effect.

Sec. 6. 8 V.S.A. § 7041(e) is amended to read:

(e) The notice of hearing held under subsection (a) of this section and any order issued pursuant to subsection (a) shall be served upon the insurer pursuant to the provisions of 3 V.S.A. chapter 25. The notice of hearing shall state the time and place of hearing, and the conduct, condition, or ground upon which the Commissioner may base his or her order. Unless mutually agreed between the Commissioner and the insurer, the hearing shall occur not less

than ten days nor more than 30 days after notice is served and shall be held at the offices of the Department of Financial Regulation or in some other place convenient to the parties as determined by the Commissioner. ~~Hearings~~ Unless the insurer requests a public hearing, hearings and hearing records under subsection (a) of this section shall be private and shall not be subject to the provisions of 1 V.S.A. chapter 5, subchapters 2 and 3 (~~public information and access to public records~~), unless the insurer requests a public hearing the Open Meeting Law and the Public Records Act).

Sec. 7. 9 V.S.A. § 4100b is amended to read:

§ 4100b. ENFORCEMENT; TRANSPORTATION BOARD

* * *

(e) The Board shall be empowered to determine the location of hearings, appoint persons to serve at the deposition of out-of-state witnesses, administer oaths, and authorize stenographic or recorded transcripts of proceedings before it. Prior to the hearing on any protest, but no later than 45 days after the filing of the protest, the Board shall require the parties to the proceeding to attend a prehearing conference in which the Chair or designee shall have the parties address the possibility of settlement. If the matter is not resolved through the conference, the matter shall be placed on the Board's calendar for hearing. ~~Conference discussions~~ Settlement communications shall remain confidential ~~and~~, shall be exempt from public inspection and copying under the Public

Records Act, shall not be disclosed ~~or~~, and shall not be used as an admission in any subsequent hearing.

* * *

Sec. 8. 17 V.S.A. § 2154(b) is amended to read:

(b) A registered voter's month and day of birth, driver's license number, the last four digits of the applicant's Social Security number, and street address if different from the applicant's mailing address shall ~~not be considered a public record as defined in 1 V.S.A. § 317(b)~~ be kept confidential and are exempt from public copying and inspection under the Public Records Act.

Any person wishing to obtain a copy of all of the statewide voter checklist must swear or affirm, under penalty of perjury pursuant to 13 V.S.A. chapter 65, that the person will not use the checklist for commercial purposes. The affirmation shall be filed with the ~~secretary of state~~ Secretary of State.

Sec. 9. 18 V.S.A. § 5083 is amended to read:

§ 5083. PARTICIPANTS IN ADDRESS CONFIDENTIALITY PROGRAM

(a) If a participant in the program described in 15 V.S.A. chapter 21, subchapter 3 who is the parent of a child born during the period of program participation notifies the physician or midwife who delivers the child, or the hospital at which the child is delivered, not later than 24 hours after the birth of the child, that the participant's confidential address should not appear on the child's birth certificate, then the ~~department~~ Department shall not disclose such confidential address or the participant's town of residence on any public

records. A participant who fails to provide such notice shall be deemed to have waived the provisions of this section. If such notice is received, then notwithstanding section 5071 of this title, the attendant physician or midwife shall file the certificate with the ~~supervisor of vital records registration~~ Supervisor of Vital Records within ten days of the birth, without the confidential address or town of residence, and shall not file the certificate with the town clerk.

(b) The ~~supervisor of vital records registration~~ Supervisor of Vital Records shall receive and file for record all certificates filed in accordance with this section, and shall ensure that a parent's confidential address and town of residence do not appear on the birth certificate during the period that the parent is a program participant. A certificate filed in accordance with this section shall be a public document. The ~~supervisor of vital records~~ Supervisor of Vital Records shall notify the ~~secretary of state~~ Secretary of State of the receipt of a birth certificate on behalf of a program participant.

(c) The ~~department~~ Department shall maintain a confidential record of the parent's actual mailing address and town of residence. Such record shall be exempt from public inspection and copying under the Public Records Act.

* * *

Sec. 10. 18 V.S.A. § 5112(c) is amended to read:

(c) A new certificate issued pursuant to subsection (a) of this section shall be substituted for the original birth certificate in official records. The new

certificate shall not show that a change in name or sex, or both, has been made. The original birth certificate, the ~~probate court~~ Probate Division order, and any other records relating to the issuance of the new birth certificate shall be confidential and shall ~~not be subject to~~ be exempt from public inspection ~~pursuant to 1 V.S.A. § 317(e) and copying under the Public Records Act;~~ however an individual may have access to his or her own records and may authorize the ~~state registrar~~ State Registrar to confirm that, pursuant to court order, it has issued a new birth certificate to the individual that reflects a change in name or sex, or both.

Sec. 11. 18 V.S.A. § 5132(c) is amended to read:

(c) The ~~department~~ Department shall maintain a confidential record of the person's actual mailing address and town of residence. Such record shall be exempt from public inspection and copying under the Public Records Act.

Sec. 12. 21 V.S.A. § 516 is amended to read:

§ 516. CONFIDENTIALITY

(a) Any health care information about an individual to be tested shall be ~~taken~~ collected only by a medical review officer ~~and~~. This information shall be confidential and shall not be released to anyone except the individual tested, and may not be obtained by court order or process, except as provided in this subchapter. In addition, a medical review officer shall not reveal the identity of an individual being tested to any person, including the laboratory.

(b) Employers, medical review officers, laboratories, and ~~their~~ the agents of any of these, who receive or have access to information about drug test results, shall keep all information confidential. Release of such information under any other circumstance shall be solely pursuant to a written consent form signed voluntarily by the person tested, except where such release is compelled by a court of competent jurisdiction in connection with an action brought under this subchapter. ~~A medical review officer shall not reveal the identity of an individual being tested to any person, including the laboratory.~~

(c) If information about drug test results is released contrary to the provisions of this subchapter, it shall be inadmissible as evidence in any judicial or quasi-judicial proceeding, except in a court of competent jurisdiction in connection with an action brought under this subchapter.

Sec. 13. 26 V.S.A. § 1317(c) is amended to read:

(c) Except as provided in section 1368 of this title, information provided to ~~the department of health or of mental health~~ Department of Health, the Department of Mental Health, or the Department of Disabilities, Aging, and Independent Living under this section shall be confidential unless the ~~department~~ Department of Health decides to treat the report as a complaint, in which case, the provisions of section 1318 of this title shall apply.

Sec. 14. 26 V.S.A. § 1368(a) is amended to read:

(a) A data repository is created within the Department of Health which will be responsible for the compilation of all data required under this section ~~and~~,

under this chapter, and under any other law or rule which requires the reporting of such information. Notwithstanding any provision of law to the contrary, licensees shall promptly report and the Department shall collect the following information to create individual profiles on all health care professionals licensed, certified, or registered by the Department, pursuant to the provisions of this title, in a format created by the Department that shall be available for dissemination to the public:

* * *

Sec. 15. 33 V.S.A. § 5205 is amended to read:

§ 5205. FINGERPRINTS; PHOTOGRAPHS

(a) Fingerprint files of a child under the jurisdiction of the Court shall be kept separate from those of other persons under special security measures. Inspection of such files shall be limited to inspection by law enforcement officers only on a need-to-know basis unless otherwise authorized by the Court in individual cases.

* * *

Sec. 16. 33 V.S.A. § 5287(d) is amended to read:

(d) Upon discharge and dismissal under subsection (c) of this section, all records relating to the case in the ~~District Court~~ Criminal Division shall be expunged, and all records relating to the case in the Family Court shall be sealed pursuant to section 5119 of this title.

* * * Technical Corrections Relating to Education; Education

Quality Standards * * *

Sec. 17. 16 V.S.A. § 11(a)(8) is amended to read:

(8) “Independent school” means a school other than a public school, which provides a program of elementary or secondary education, or both. An “independent school meeting ~~school~~ education quality standards” means an independent school in Vermont that undergoes the ~~school~~ education quality standards process and meets the requirements of subsection 165(b) of this title.

Sec. 18. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary; engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont. In addition to other specified duties, the Board shall:

* * *

(18) Ensure that Vermont’s students, including students enrolled in secondary career technical education, have access to a substantially equal educational opportunity by developing a system to evaluate the equalizing effects of Vermont’s education finance system and ~~school~~ education quality standards under section 165 of this title.

* * *

Sec. 19. 16 V.S.A. § 165 is amended to read:

§ 165. ~~STANDARDS OF QUALITY FOR PUBLIC SCHOOLS~~

EDUCATION QUALITY STANDARDS; EQUAL EDUCATIONAL
OPPORTUNITIES; INDEPENDENT SCHOOL MEETING SCHOOL
EDUCATION QUALITY STANDARDS

(a) In order to carry out Vermont's policy that all Vermont children will be afforded educational opportunities that are substantially equal in quality, each Vermont public school, including each career technical center, shall meet the following ~~school~~ education quality standards:

(1) The school ~~shall~~, through a process including parents, teachers, students, and community members, ~~develop, implement, and annually update a comprehensive action~~ develops, implements, and annually updates a continuous improvement plan to improve student performance within the school. The plan shall include goals and objectives for improved student learning and educational strategies and activities to achieve ~~their~~ its goals. The plan shall also address the effectiveness of efforts made since the previous ~~action~~ continuous improvement plan to ensure the school maintains a safe, orderly, civil, and positive learning environment that is free from harassment, hazing, and bullying. The school shall assess student performance under the plan using a method or methods of assessment developed under subdivision 164(9) of this title.

(2) The school, at least annually, reports student performance results to community members in a format selected by the school board. In the case of a regional career technical center, the community means the school districts in the service region. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision. The school report shall include:

* * *

(C) Information indicating progress toward meeting the goals of an annual ~~action~~ continuous improvement plan.

* * *

(b) Every two years, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, he or she shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the standards or make sufficient progress by the end of the next two-year period, the Secretary shall recommend to the State Board one or more of the following actions:

* * *

(e) If the Secretary determines at any time that the failure of a school to meet the ~~school~~ education quality standards listed in subsection (a) of this section is severe or pervasive, potentially results in physical or emotional harm to students, or significant deprivation of equal education opportunities, and the school has either unreasonably refused to remedy the problem or its efforts have proved ineffective, he or she may recommend to the State Board one or more of the actions listed in subsection (b) of this section. The State Board shall then follow the procedure of subsection (c) of this section.

(f) In order to be designated an independent school meeting ~~school~~ education quality standards, an independent school shall participate in the ~~school~~ education quality standards process of subsection (b) of this section. An independent school shall receive technical assistance in accordance with the provisions of subsection (b), but shall not be subject to subdivisions (b)(2)-(4) of this section. The school shall be an independent school meeting ~~school~~ education quality standards unless the State Board, after opportunity for hearing, finds that:

(1) the school has discontinued its participation in the ~~school~~ education quality standards process; or

(2) two or more years following a determination that the school is not meeting the education quality standards or that the school is making

insufficient progress in improving student performance, the school fails to meet the standards or make sufficient progress toward meeting the standards.

Sec. 20. 16 V.S.A. § 212 is amended to read:

§ 212. SECRETARY'S DUTIES GENERALLY

The Secretary shall execute those policies adopted by the State Board in the legal exercise of its powers and shall:

* * *

(12) Distribute at his or her discretion upon request to approved independent schools appropriate forms and materials relating to the ~~school~~ education quality standards for elementary and secondary students.

* * *

Sec. 21. 16 V.S.A. § 821(d) is amended to read:

(d) Notwithstanding subdivision (a)(1) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary student at an approved independent elementary school or an independent school meeting ~~school~~ education quality standards pursuant to sections 823 and 828 of this chapter upon notice given by the student's parent or legal guardian before April 15 for the next academic year.

Sec. 22. 16 V.S.A. § 822 is amended to read:

§ 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR
PAY TUITION

(a) Each school district shall maintain one or more approved high schools in which high school education is provided for its resident students unless:

(1) the electorate authorizes the school board to close an existing high school and to provide for the high school education of its students by paying tuition to a public high school, an approved independent high school, or an independent school meeting ~~school~~ education quality standards, to be selected by the parents or guardians of the student, within or outside the State; or

* * *

(c)(1) A school district may both maintain a high school and furnish high school education by paying tuition:

* * *

(B) to an approved independent school or an independent school meeting ~~school~~ education quality standards if the school board judges that a student has unique educational needs that cannot be served within the district or at a nearby public school.

* * *

Sec. 23. 16 V.S.A. § 823(b) is amended to read:

(b) Unless the electorate of a school district authorizes payment of a higher amount at an annual or special meeting warned for the purpose, the tuition paid

to an approved independent elementary school or an independent school meeting ~~school~~ education quality standards shall not exceed the least of:

* * *

Sec. 24. 16 V.S.A. § 824(b) is amended to read:

(b) Except as otherwise provided for technical students, the district shall pay the full tuition charged its students attending a public high school in Vermont or an adjoining state or a public or approved independent school in Vermont functioning as an approved area career technical center, or an independent school meeting ~~school~~ education quality standards; provided:

(1) If a payment made to a public high school or an independent school meeting ~~school~~ education quality standards is three percent more or less than the calculated net cost per secondary pupil in the receiving school district or independent school for the year of attendance then the district or school shall be reimbursed, credited, or refunded pursuant to section 836 of this title.

(2) Notwithstanding the provisions of this subsection or of subsection 825(b) of this title, the board of the receiving public school district, public or approved independent school functioning as an area career technical center, or independent school meeting ~~school~~ education quality standards may enter into tuition agreements with the boards of sending districts that have terms differing from the provisions of those subsections, provided that the receiving district or school must offer identical terms to all sending districts, and further provided

that the statutory provisions apply to any sending district that declines the offered terms.

Sec. 25. 16 V.S.A. § 826 is amended to read:

§ 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

(a) A school board, or the board of trustees of an independent school meeting ~~school~~ education quality standards, that proposes to increase tuition charges shall notify the school board of the school district from which its nonresident students come, and the Secretary, of the proposed increase on or before January 15 in any year; such increases shall not become effective without the notice and not until the following school year.

(b) A school board or the board of trustees of an independent school meeting ~~school~~ education quality standards may establish a separate tuition for one or more special education programs. No such tuition shall be established unless the State Board has by rule defined the program as of a type that may be funded by a separate tuition. Any such tuition shall be announced in accordance with the provisions of subsection (a) of this section. The amount of tuition shall reflect the net cost per pupil in the program. The announcement of tuition shall describe the special education services included or excluded from coverage. Tuition for part-time students shall be reduced proportionally.

* * *

Sec. 26. 16 V.S.A. § 828 is amended to read:

§ 828. TUITION TO APPROVED SCHOOLS; AGE; APPEAL

A school district shall not pay the tuition of a student except to a public school, an approved independent school, an independent school meeting ~~school~~ education quality standards, a tutorial program approved by the State Board, an approved education program, or an independent school in another state or country approved under the laws of that state or country, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the State Board and its decision shall be final.

Sec. 27. 16 V.S.A. § 1532 is amended to read:

§ 1532. MINIMUM STANDARDS; MEASUREMENT OF STANDARDS

(a) The State Board shall adopt by rule:

(1) Minimum standards for the operation and performance of career technical centers that include the ~~school~~ education quality standards adopted by the State Board under subdivision 164(9) and section 165 of this title.

* * *

Sec. 28. 16 V.S.A. § 3447 is amended to read:

§ 3447. SCHOOL BUILDING CONSTRUCTION; STATE BONDS; CITY
AS SCHOOL DISTRICT

The State Treasurer may issue bonds under 32 V.S.A. chapter 13 in such amount as may from time to time be appropriated to assist incorporated school districts, joint contract schools, town school districts, union school districts, regional career technical center school districts, and independent schools meeting ~~school~~ education quality standards that serve as the public high school for one or more towns or cities, or combination thereof, and that both receive their principal support from public funds and are conducted within the State under the authority and supervision of a board of trustees, not less than two-thirds of whose membership is appointed by the selectboard of a town or by the city council of a city or in part by such selectboard and the remaining part by such council under the conditions and for the purpose set forth in sections 3447–3456 of this title. A city shall be deemed to be an incorporated school district within the meaning of sections 3447–3456 of this title.

Sec. 29. 28 V.S.A. § 120 is amended to read:

§ 120. DEPARTMENT OF CORRECTIONS EDUCATION PROGRAM;
INDEPENDENT SCHOOL

* * *

(b) Applicability of education provisions. The education program shall be approved by the State Board of Education as an independent school under

(2) May take any action that is required for the sound administration of the school district. The ~~Commissioner~~ Secretary, with the advice of the Attorney General, upon application of a school board, shall decide whether any action contemplated or taken by a school board under this subdivision is required for the sound administration of the district and is proper under this subdivision. The ~~Commissioner's~~ Secretary's decision shall be final.

* * *

Sec. 33. 16 V.S.A. § 1533(b) is amended to read:

(b) Evaluations of career technical centers shall consider at least the following areas:

* * *

(7) the adequacy and effectiveness of the center in meeting the educational and employment needs of all its eligible students, including its success in taking steps to encourage each student to consider enrolling in courses not traditional for that student's ~~sex~~ gender.

Sec. 34. 16 V.S.A. § 1542(b) is amended to read:

(b) A regional advisory board, with the consent of the Workforce ~~Development Council~~ Investment Board, may delegate its responsibilities to the grantee that performs workforce development activities in the region pursuant to 10 V.S.A. § 542. In this case, the grantee shall become the regional advisory board unless and until the school board that operates the

career technical center requests that the regional advisory board be reconstituted pursuant to subsection (a) of this section.

Sec. 35. 16 V.S.A. § 1546(b) is amended to read:

(b) A comprehensive high school shall charge and receive tuition pursuant to section 824 of this title. A comprehensive high school shall be a career technical center for the purposes of receiving funding for grants per full-time equivalent student under section 1561 of this title, for tryout classes under section 1562 of this title, ~~for equipment replacement under section 1564 of this title, for incentive grants under section 1566 of this title,~~ and for reporting requirements under section 1568 of this title. Funds received under this section shall be used for support of career technical education programs within the comprehensive high school.

Sec. 36. 16 V.S.A. § 1562 is amended to read:

§ 1562. TRYOUT CLASSES

From the monies annually available for use in career technical education, the State Board may reimburse part of the program cost attributable to programs designed to assist students in deciding whether to enroll in career technical courses. As a condition of such assistance, the program shall demonstrate that it has taken steps to encourage each student to consider enrolling in courses not traditional for that student's ~~sex~~ gender.

Sec. 37. 16 V.S.A. § 1940(b)(1)(C) is amended to read:

(C) In the absence of an open estate or Probate Division of the Superior Court decree of distribution, and where the deceased member's account is valued at less than \$1,000.00 to the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin according to ~~14 V.S.A. § 551~~ 14 V.S.A. § 314.

Sec. 38. 16 V.S.A. § 1941(a)(1)(B)(iii) is amended to read:

(iii) In the absence of an open estate or Probate Division of the Superior Court decree of distribution, and when the deceased member's account is valued at less than \$1,000.00 to the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin according to ~~14 V.S.A. § 551~~ 14 V.S.A. § 314.

Sec. 39. 16 V.S.A. § 1943(a) is amended to read:

(a) The members of the Vermont Pension Investment Committee established in 3 V.S.A. chapter 17 shall be the trustees of the Fund created by this ~~subchapter~~ chapter, and with respect to them may invest and reinvest the assets of the Fund, and hold, purchase, sell, assign, transfer, and dispose of the securities and investments in which the assets of the Fund have been invested and reinvested. Investments shall be made in accordance with the standard of care established by the prudent investor rule under ~~9 V.S.A. chapter 147~~ 14A V.S.A. chapter 9.

Sec. 40. 16 V.S.A. § 2281(f) is amended to read:

(f) Control of funds appropriated ~~and of the work carried on under the terms of section 2321 of this title~~ shall be vested in the Board of Trustees of the University of Vermont and State Agricultural College. All funds appropriated to the Agricultural College shall be kept in a separate account and shall be audited annually by an independent accounting firm registered in the State of Vermont in accordance with government auditing standards issued by the ~~United States~~ U.S. Government Accountability Office.

Sec. 41. 16 V.S.A. § 4028(d) is amended to read:

(d) Notwithstanding ~~32 V.S.A. § 502(b)(2)~~ 2 V.S.A. § 502(b)(2), the Joint Fiscal Office shall prepare a fiscal note for any legislation that requires a supervisory union or school district to perform any action with an associated cost, but does not provide money or a funding mechanism for fulfilling that obligation. Any fiscal note prepared under this subsection shall be completed no later than the date that the legislation is considered for a vote in the first committee to which it is referred.

* * * Technical Corrections Relating to Health Care and Human Services * *

Sec. 42. 9 V.S.A. § 2466a(c)(2)(A) is amended to read:

(A) “Manufacturer of prescription drugs” means a person authorized by law to manufacture, bottle, or pack drugs or biological products, a licensee or affiliate of that person, or a labeler that receives drugs or biological products from a manufacturer or wholesaler and repackages them for later retail sale and

Sec. 48. 18 V.S.A. § 9703(c) is amended to read:

(c) Neither the agent appointed by the principal nor the principal's spouse, ~~reciprocal beneficiary~~, parent, adult sibling, adult child, or adult grandchild may witness the advance directive.

Sec. 49. 33 V.S.A. § 7301 is amended to read:

§ 7301. NURSING HOME RESIDENTS' BILL OF RIGHTS

The General Assembly hereby adopts the Nursing Home Residents' Bill of Rights as follows:

(1) The governing body of the facility shall establish written policies regarding the rights and responsibilities of residents and, through the administrator, is responsible for development of, and adherence to, procedures implementing such policies. These policies and procedures shall be made available to residents, to any guardians, next of kin, ~~reciprocal beneficiaries~~, sponsoring agency, or representative payees selected pursuant to subsection 205(j) of the Social Security Act, and Subpart Q of ~~20 CFR Part 404~~ 20 C.F.R. part 404, and to the public.

(2) The staff of the facility shall ensure that, at least, each individual admitted to the facility:

* * *

(N) If married ~~or in a reciprocal beneficiaries relationship~~, is assured privacy for visits by the resident's spouse ~~or reciprocal beneficiary~~; if both are residents of the facility, they are permitted to share a room.

(4) a representative of the State-designated protection and advocacy system if the principal is in the custody of the Department of ~~Health~~ Mental Health; or

* * *

Sec. 53. 33 V.S.A. § 1116(d) is amended to read:

(d) A participant may cure a sanction by coming into compliance in accordance with the Department's rules. During the first 60 months of the family's receipt of financial assistance, a participating adult may have all previous sanctions forgiven by demonstrating 12 consecutive months of compliance with family development plan requirements or work requirements or any combination of the two. Subsequent acts of noncompliance after a sanctioned adult has completed a successful 12-month sanction forgiveness period will be treated in accordance with ~~subdivisions (c)(1) through (5)~~ subdivisions (c)(1) and (2) of this section without consideration of the sanctions that have been forgiven.

Sec. 54. 33 V.S.A. § 1812(b)(1) is amended to read:

(b)(1) An individual or family with income at or below 300 percent of the ~~federal poverty guideline~~ federal poverty level shall be eligible for cost-sharing assistance, including a reduction in the out-of-pocket maximums established under Section 1402 of the Affordable Care Act.

Sec. 55. 33 V.S.A. § 1827(h) is amended to read:

(h) Any prescription drug coverage offered by Green Mountain Care shall be consistent with the standards and procedures applicable to the pharmacy best practices and cost control program established in ~~sections 1996 and~~ section 1998 of this title.

Sec. 56. 33 V.S.A. § 1906 is amended to read:

§ 1906. RECOUPMENT OF AMOUNTS SPENT ON CHILD MEDICAL
CARE

(a) The State Medicaid agency, any State agency administering health benefits or a health benefit plan for which Medicaid is a source of funding, or the ~~office of child support~~ Office of Child Support may recoup the amounts paid by the State for child medical expenses from any person who:

(1) is required by court or administrative order to provide coverage of the cost of health services to a child eligible for medical assistance under Medicaid; and who either:

(~~2~~)(A)(1) ~~has~~ Has received payment from a third party for the costs of such services, but has not used the payments to reimburse either the other parent or guardian of the child or the provider of the services. Claims for current and past due child support shall take priority over these claims; ~~or,~~

(~~B~~)(2) ~~has~~ Has failed to give any notice required by 15 V.S.A. § 663(d).

(b) In addition to any other remedies available at law, all remedies available for the collection and enforcement of child support under 15 V.S.A. chapter 11 shall apply to medical support recoupment under this section.

Sec. 57. 33 V.S.A. § 2001(e)(3) is amended to read:

(3) The Commissioner shall not enter into a contract with a pharmacy benefit manager who has entered into an agreement or engaged in a practice described in subdivision (2) of this subsection, unless the Commissioner determines, ~~and certifies in the fiscal report required by subdivision (d)(4) of this section,~~ that ~~such~~ the agreement or practice furthers the financial interests of Vermont; and does not adversely affect the medical interests of Vermont beneficiaries.

Sec. 58. 33 V.S.A. § 2114(c) is amended to read:

(c) A family is eligible if:

(1) The family includes at least one dependent child.

(2)(A) The family is in imminent danger of losing its housing due to circumstances that could not reasonably have been avoided, including:

(i) the rent or mortgage payments were not made because the family experienced an extraordinary event that appropriately required the use of the funds;

(ii) a family member has a disability which contributed to the circumstances that could not reasonably have been avoided and resulted in the rent or mortgage payments not being made; or

(iii) the family's essential expenses exceeded the family's income or the family's gross housing expenses were equal to or greater than 60 percent of the family's income; ~~or.~~

(B) The family is likely to be eligible for temporary housing assistance, and payment under this section would be more cost-effective than providing temporary housing.

(3) The payment of all or a portion of that arrearage will prevent, not merely postpone, homelessness.

* * *

Sec. 59. 33 V.S.A. § 4304a is amended to read:

§ 4304a. ADVISORY BOARD

(a) An Advisory Board is created to advise the Secretary of Education and the Commissioners of Mental Health and for Children and Families about children and adolescents with a severe emotional disturbance and their families.

(b) The Advisory Board shall also advise the Secretary and the Commissioners on the development of the system of care plan described in subsection 4305(c) of this title.

* * *

Sec. 60. 33 V.S.A. § 4305(b)(2) is amended to read:

(2) Local interagency teams shall submit procedures developed in accordance with the rules adopted under subdivision (1)(A) of this subsection

plan shall include a permanency goal and an estimated date for achieving the permanency goal. The plan shall specify whether permanency will be achieved through reunification with a custodial parent, guardian, or custodian; adoption; permanent guardianship; or other permanent placement. In addition to a primary permanency goal, the plan may identify a concurrent permanency goal.

* * *

Sec. 63. 33 V.S.A. § 6902(7) is amended to read:

(7)(A) “Neglect” means purposeful or reckless failure or omission by a caregiver to:

(A)(i) provide care or arrange for goods or services necessary to maintain the health or safety of a vulnerable adult, including food, clothing, medicine, shelter, supervision, and medical services, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or his or her representative, or an advance directive, as defined in 18 V.S.A. § 9701;

* * *

Sec. 64. 33 V.S.A. § 6902(10) is amended to read:

(10) “Representative” means a court-appointed guardian, or an agent acting under a durable power of attorney for health care an advance directive executed pursuant to 18 V.S.A. chapter 231, unless otherwise specified in the terms of the power of attorney.

Sec. 69. 5 V.S.A. § 426 is amended to read:

§ 426. HELICOPTERS; AIRCRAFT ENGAGED IN CROP SPRAYING OR
DUSTING

The ~~agency~~ Agency may ~~promulgate~~ adopt rules necessary to regulate the operation in flight of helicopters, or of aircraft engaged in crop spraying or dusting. The provisions of section 421 of this title shall not apply to these rules.

Sec. 70. 5 V.S.A. § 773 is amended to read:

§ 773. RULES

The ~~secretary~~ Secretary is authorized to ~~promulgate~~ adopt rules governing the provisions of this subchapter.

Sec. 71. 6 V.S.A. § 367 is amended to read:

§ 367. INSPECTION; SAMPLING; ANALYSIS

For the purpose of enforcing this chapter and determining whether or not fertilizers and limes distributed in this ~~state~~ State endanger the health and safety of Vermont citizens, the ~~secretary~~ Secretary upon presenting appropriate credentials is authorized:

(1) ~~to~~ To enter any public or private premises except domiciles during regular business hours and stop and enter any vehicle being used to transport or hold fertilizer or lime;

(2) ~~to~~ To inspect blending plants, warehouses, establishments, vehicles, equipment, finished or unfinished materials, containers, labeling, and records relating to distribution, storage, or use;

(3) ~~to~~ To sample and analyze any fertilizer or lime. The methods of sampling and analysis shall be those adopted by the Association of Official Analytical Chemists. In cases not covered by this method, or in cases where methods are available in which improved applicability has been demonstrated, the ~~secretary~~ Secretary may authorize and adopt methods which reflect sound analytical procedures;

(4) ~~to~~ To develop any reasonable means necessary to monitor and ~~promulgate~~ adopt rules for the use of fertilizers and agricultural limes on Vermont soils where monitoring indicates environmental or health problems. In addition, the ~~secretary~~ Secretary may develop and ~~promulgate~~ adopt rules for the proper storage of fertilizers and limes held for distribution or sale.

Sec. 72. 6 V.S.A. § 611 is amended to read:

§ 611. SERVICE FOR CERTIFICATION OF SEED; STANDARDS AND
REGULATIONS RULES

(a) The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall establish and make available to the people of the ~~state~~ State a service for the inspection of fields of potatoes for the purpose of certifying the product thereof for seed purposes. The ~~secretary~~ Secretary shall have authority to establish certification standards which shall specify the

maximum percentages of diseases and other defects which will be permitted in fields, the product of which is certified for seed. The ~~secretary~~ Secretary shall also have authority to ~~promulgate~~ adopt rules ~~and regulations~~ regarding the growing, roguing, grading, and shipping of certified seed potatoes and the conditions under which the service shall be available and a certificate granted.

* * *

Sec. 73. 6 V.S.A. § 1153 is amended to read:

§ 1153. RULES

(a) The ~~secretary~~ Secretary shall ~~promulgate~~ adopt rules necessary for the discovery, control, and eradication of contagious diseases and for the slaughter, disposal, quarantine, vaccination, and transportation of animals found to be diseased or exposed to a contagious disease. The ~~secretary~~ Secretary may also ~~promulgate~~ adopt rules requiring the disinfection and sanitation of real estate, buildings, vehicles, containers, and equipment which have been associated with diseased livestock.

(b) The ~~secretary~~ Secretary shall adopt rules establishing fencing and transportation requirements for deer.

(c) The ~~secretary~~ Secretary shall adopt rules necessary for the inventory, registration, tracking, and testing of deer.

Sec. 74. 6 V.S.A. § 2672(20) is amended to read:

(20) “Additional definitions”: The Secretary may (after due notice and public hearing) in accordance with 3 V.S.A. chapter 25, ~~promulgate~~ adopt,

amend, or rescind definitions of other dairy products, including modified milk, dairy processes, and rules relating to specially trained personnel.

Sec. 75. 6 V.S.A. § 2681 is amended to read:

§ 2681. ADDITIVES

The ~~secretary~~ Secretary may, in accordance with ~~chapter 25 of Title 3,~~ ~~promulgate~~ 3 V.S.A. chapter 25, adopt a list of food grade additives which may be added to milk. The additives used in milk sold in retail packages shall be conspicuously stated in descending order of volume on the label of the package in a manner approved by the ~~secretary~~ Secretary.

Sec. 76. 6 V.S.A. § 2701 is amended to read:

§ 2701. ~~REGULATIONS~~ RULES

(a) The ~~secretary~~ Secretary, in accordance with ~~chapter 25 of Title 3~~ 3 V.S.A. chapter 25, shall ~~promulgate~~ adopt, and may amend and rescind, dairy sanitation ~~regulations~~ rules relating to dairy products to enforce this chapter, including ~~but not limited to:~~ labeling, weighing, measuring and testing facilities, buildings, equipment, methods, procedures, health of animals, health and capability of personnel, and quality standards. In addition, the uniform regulation for sanitation requirements, as adopted by the National Conference on Interstate Milk Shippers, and published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Grade A Pasteurized Milk Ordinance (PMO), together with amendments, supplements, and revisions thereto, are adopted as part of this chapter, except

as modified or rejected by ~~regulation~~ rule. When adherence to the PMO is deemed unreasonable by the ~~agency~~ Agency for non-Grade “A” products, the most current version of the Recommended Requirements of the ~~United States~~ U.S. Department of Agriculture, Agricultural Marketing Service, Milk for Manufacturing Purposes and its Production and Processing may be used.

(b) The ~~secretary~~ Secretary shall ~~promulgate~~ adopt and from time to time amend or terminate ~~regulations~~ rules concerning but not limited to the taking and storing of samples, sampling equipment, approved tests, testing equipment, methods and procedures for performing tests, and related trade practices which are used as a basis for payment or acceptance for dairy products. The ~~secretary~~ Secretary shall ~~make~~ adopt, amend, or terminate ~~regulations~~ rules concerning examination for and the granting and terminating of dairy technician’s licenses.

Sec. 77. 6 V.S.A. § 3029(b) and (c) are amended to read:

(b) The ~~secretary~~ Secretary may, by ~~regulation~~ rule, create a permit program to allow persons to operate hives without removable frames for exhibition purposes. The owner of such a hive will not be in violation of this section so long as he or she holds a valid permit and is in compliance with all applicable ~~regulations~~ rules which the ~~secretary~~ Secretary may ~~promulgate~~ adopt.

(c) Upon determination that an owner has violated the terms of this section or any ~~regulation~~ promulgated rule adopted pursuant to this section, the

fails to submit suitable amendments to the plan, the Commissioner shall, after notice and hearing, adopt ~~and promulgate~~ such reasonable rules as are necessary or advisable to effectuate the provisions of this subchapter. Such rules shall continue in force until modified by the Commissioner or superseded by a plan submitted by the Association and approved by the Commissioner.

Sec. 84. 8 V.S.A. § 4990 is amended to read:

§ 4990. RULES; ENFORCEMENT

The Commissioner may ~~promulgate~~ adopt reasonable rules to carry out the purposes of this chapter, and may suspend or revoke, after reasonable notice and a hearing, the certificate of authority or license to transact the business of insurance in this State of any member or other person that fails to comply with the provisions of this chapter, rules ~~promulgated~~ adopted hereunder, or any plan.

Sec. 85. 8 V.S.A. § 5102 is amended to read:

§ 5102. APPLICATION; CERTIFICATION, FILING, AND LICENSE FEES

* * *

(b) Application for a certificate of authority shall be made to the Commissioner and include such information and in such form as the Commissioner prescribes, including the following:

* * *

(7) A description of the proposed method of marketing the plan, a financial plan which includes a three-year projection of the initial operating

results anticipated, and a statement as to the sources of working capital as well as any other sources of funding. The Commissioner shall ~~promulgate~~ adopt such rules ~~and regulations~~ relating to financial reserves of the health maintenance organization as he or she deems necessary. ~~Such regulations~~ These rules shall require financial reserves to be computed in relation to the health maintenance organization's financial risks and the impact of those risks on the health maintenance organization's ability to fulfill its contractual and financial obligations to its members.

* * *

(e)(1) Continuance by the Commissioner of a certificate of authority issued under this section shall be contingent upon satisfactory performance by the organization as to the delivery, continuity, accessibility, and quality of the services to which enrolled members are entitled, compliance with the provisions of Vermont law and rules ~~and regulations promulgated~~ adopted thereunder, and the continuing fiscal soundness of the organization.

* * *

Sec. 86. 8 V.S.A. § 5111 is amended to read:

§ 5111. ~~REGULATIONS~~ RULES

The Commissioner may, after notice and hearing, ~~promulgate~~ adopt reasonable rules ~~and regulations adopted~~ under 3 V.S.A. chapter 25, as are necessary or proper to carry out the provisions of this chapter.

Sec. 87. 8 V.S.A. § 14407(b) is amended to read:

(b) In addition to any other rules ~~which~~ that the Commissioner finds necessary or desirable for the administration of this section, the Commissioner may ~~promulgate regulations~~ adopt rules on the following:

* * *

Sec. 88. 9 V.S.A. § 103(c) is amended to read:

(c) The Commissioner of Financial Regulation may ~~promulgate~~ adopt rules specifying the form, content, and timing of commitment letters required by this section. The Commissioner may order any person to make restitution to any person injured as a result of a violation of this subchapter and may impose an administrative penalty of up to \$1,000.00 for a violation of this subchapter. The Commissioner may order any person to cease violating this subchapter.

Sec. 89. 9 V.S.A. § 104 is amended to read:

§ 104. HIGH RATE LOANS

(a) The Commissioner may ~~promulgate~~ adopt disclosure rules for loans secured by a first lien on residential real estate in which the borrower is expected to be charged in excess of four points or interest in excess of three percent over the rate established pursuant to 32 V.S.A. § 3108, or both, on the loan. The rules may provide for restrictions on representations by the lender regarding the disclosures required by the rules.

* * *

Sec. 90. 9 V.S.A. § 2461b(b) and (c) are amended to read:

(b) For the purpose of promoting business practices which are uniformly fair to sellers and which protect consumers, the Attorney General shall ~~promulgate~~ adopt necessary rules ~~and regulations~~, including notice prior to disconnection, repayment agreements, minimum delivery, discrimination, security deposits, and the assessment of fees and charges.

(c)(1) A violation of this section, or a rule ~~or regulation promulgated~~ adopted under this section not inconsistent with this section, shall constitute an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) No contract for propane services shall contain any provision that conflicts with the obligations and remedies established by this section or by any rule ~~or regulation promulgated~~ adopted under this section, and any conflicting provision shall be unenforceable and void.

Sec. 91. 9 V.S.A. § 2514(c) is amended to read:

(c) In addition to its other authority under Title 30, the Public Service Board shall have the authority to regulate compliance with this section, and to ~~promulgate~~ adopt any other ~~regulations~~ rules to protect consumers that the ~~board~~ Board finds necessary and appropriate, and in accordance with this chapter, including ~~regulations~~ rules concerning periodic notification of the passage of time to a caller while using interactive pay-per-call services, and ~~regulations~~ rules setting specific caps for any type of pay-per-call service.

determination has been made by the Governor that the program is required to meet a petroleum supply shortage within the State which will significantly impair essential public services or essential economic activity, and after the Governor has complied with any notice requirements and has received any approval required by federal law, the Commissioner shall implement only that portion of the State set-aside program necessary to prevent and alleviate any energy hardships or shortages. The State set-aside program shall continue in effect for no more than 90 days and shall terminate when the federal petroleum allocation program is renewed or implemented or when the energy hardship or shortage ceases to exist. Rules adopted by the Commissioner shall direct that prime suppliers set aside an amount of liquid fossil fuel, as determined by the Commissioner, which amount shall be a percentage of the monthly volume of liquid fossil fuels which prime suppliers intend to sell into the State distribution system for consumption within the State.

* * *

Sec. 95. 9 V.S.A. § 4174 is amended to read:

§ 4174. VERMONT MOTOR VEHICLE ARBITRATION BOARD

* * *

(b) The Board shall ~~promulgate~~ adopt rules under the provisions of 3 V.S.A. chapter 25 to implement the provisions of this chapter.

* * *

Sec. 96. 10 V.S.A. § 555(c) is amended to read:

(c) Any person operating or responsible for the operation of an air contaminant source emitting more than five tons of contaminants per year shall register the source with the ~~secretary~~ Secretary and renew the registration annually. Each day of operating an air contaminant source without a valid, current registration shall constitute a separate violation and subject the operator to a civil penalty not to exceed \$100.00 per violation. The ~~secretary~~ Secretary shall, after notice and opportunity for public hearing, ~~promulgate~~ adopt rules to carry out this section.

Sec. 97. 10 V.S.A. § 663 is amended to read:

§ 663. ADMINISTRATION

(a) The ~~department of economic development~~ Department of Economic Development, through the Vermont ~~department of tourism and marketing~~ Department of Tourism and Marketing, shall administer the travel promotion matching funds program with such flexibility so as to bring about the most effective and economical travel promotion program possible. The ~~department~~ Department ~~will promulgate~~ shall adopt rules and procedures necessary and appropriate to the proper operation of the matching funds program. These rules shall also establish which travel promotion organizations are eligible to apply for matching funds.

(b) The ~~department will~~ Department shall make available complete instructions as to the applicant's duties and responsibilities and ~~will~~ shall establish forms necessary to carry out the purposes of this chapter.

Sec. 98. 10 V.S.A. § 1105 is amended to read:

§ 1105. INSPECTION OF DAMS

The ~~state~~ State agency having jurisdiction shall employ an engineer to make periodic inspections of nonfederal dams in the ~~state~~ State to determine their condition and the extent, if any, to which they pose a potential or actual threat to life and property, or shall ~~promulgate~~ adopt rules pursuant to ~~chapter 25 of Title 3~~ 3 V.S.A. chapter 25 to require an adequate level of inspection by an independent registered engineer experienced in the design and investigation of dams. The agency shall provide the owner with the findings of the inspection and any recommendations.

Sec. 99. 10 V.S.A. § 2603(c)(1) is amended to read:

(c)(1) The Commissioner, subject to the direction and approval of the Secretary, shall ~~promulgate~~ adopt and ~~publish regulations~~ rules in the name of the Agency for the use of State forests, or park lands, including reasonable fees or charges for the use of the lands, roads, camping sites, buildings, and other facilities and for the harvesting of timber or removal of minerals or other resources from such lands, notwithstanding 32 V.S.A. § 603.

Sec. 100. 10 V.S.A. § 6608a is amended to read:

§ 6608a. ECONOMIC POISONS

(a) The ~~commissioner of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall be responsible for and have the authority to implement and enforce those statutes enacted by the ~~general assembly~~ General Assembly, including ~~but not limited to~~ sections 6610a and 6612 of this title, and, those rules ~~and regulations~~ concerning the generation, transportation, treatment, storage, and disposal of economic poisons which are ~~promulgated~~ adopted by the ~~secretary~~ Secretary of Natural Resources in order to operate a hazardous waste management program that is equivalent to the federal program under Subtitle C of the Resource Conservation and Recovery Act of 1976 and amendments thereto, codified as 42 U.S.C. Chapter 82, subchapter 3. Procedures and funding for the interdepartmental implementation of a waste economic poison management program shall be established between the ~~secretary~~ Secretary of Natural Resources and the ~~commissioner of agriculture, food and markets~~ Commissioner of Agriculture, Food and Markets.

(b) The ~~secretary~~ Secretary of Natural Resources shall not ~~promulgate~~ adopt rules ~~or regulations~~ concerning the management of waste economic poisons ~~which~~ that are more stringent than the statutory and regulatory requirements under Subtitle C of the Resource Conservation and Recovery Act of 1976 without the concurrence of the ~~commissioner of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets.

* * *

Sec. 101. 10 V.S.A. § 6608b is amended to read:

§ 6608b. RADIOACTIVE WASTES MIXED WITH HAZARDOUS
WASTES

(a) The ~~commissioner of health~~ Commissioner of Health shall be responsible for and have the authority to implement and enforce those statutes enacted by the ~~general assembly~~ General Assembly, including ~~but not limited to~~ sections 6610a and 6612 of this title, and, those rules ~~and regulations~~ concerning the generation, transportation, treatment, storage, and disposal of radioactive wastes mixed with hazardous wastes which are ~~promulgated~~ adopted by the ~~secretary~~ Secretary in order to operate a hazardous waste management program that is equivalent to the federal program under Subtitle C of the Resource Conservation and Recovery Act of 1976 and amendments thereto, codified as 42 U.S.C. Chapter 82, subchapter 3. Procedures and funding for the interdepartmental implementation of a mixed radioactive waste management program shall be established between the ~~secretary~~ Secretary and the ~~commissioner of health~~ Commissioner of Health.

(b) The ~~secretary~~ Secretary shall not ~~promulgate~~ adopt rules ~~or regulations~~ concerning the management of radioactive wastes mixed with hazardous wastes ~~which~~ that are more stringent than the statutory and regulatory requirements under Subtitle C of the Resource Conservation and Recovery Act

of 1976 without the concurrence of the ~~commissioner of health~~ Commissioner of Health.

* * *

Sec. 102. 11 V.S.A. § 926 is amended to read:

§ 926. REDEMPTION

Scrip shall not be issued unless its redemption is secured by:

* * *

(3) Deposits in banks having their principal place of business within this ~~state~~ State and approved by the ~~commissioner~~ Commissioner. Scrip may not be issued against the security of such deposits to an amount in excess of one-third of the principal of such deposits assigned to the scrip corporation. The ~~commissioner~~ Commissioner may ~~promulgate~~ adopt rules limiting the percentage and maximum amount and providing for the minimum amounts exceeding the usual percentage of any single bank deposit which may be so assigned as security. Such amount and percentages may be varied with respect to the class of deposits, whether savings or commercial or on certificate of deposit, and also with respect to the amount of such deposits.

Sec. 103. 11 V.S.A. § 927 is amended to read:

§ 927. LIMITATION OF AMOUNT OF SCRIP ISSUED

The ~~commissioner~~ Commissioner may ~~promulgate~~ adopt rules ~~and regulations~~ governing and limiting the amount of scrip which may be issued

against any one or all of the classes of security mentioned in section 926 of this title.

Sec. 104. 18 V.S.A. § 102 is amended to read:

§ 102. DUTIES OF BOARD

The ~~board~~ Board shall supervise and direct the execution of all laws vested in the ~~department of health~~ Department of Health by virtue of this title, and shall formulate and carry out all policies relating thereto, and shall ~~make and promulgate~~ adopt such rules ~~and regulations~~ as are necessary to administer this title and shall make a biennial report with recommendations to the ~~governor~~ Governor and to the ~~general assembly~~ General Assembly. The ~~board~~ Board may delegate such powers and assign such duties to the ~~commissioner~~ Commissioner as it may deem appropriate and necessary for the proper execution of provisions of this title. The authority of the ~~board~~ Board to ~~make and promulgate~~ adopt the rules ~~and regulations~~ shall extend to all matters relating to the preservation of the public health and consistent with the duties and responsibilities of the ~~board~~ Board. The ~~board's~~ Board's jurisdiction over sewage disposal includes emergent conditions which create a risk to the public health as a result of sewage treatment and disposal, or its effects on water supply, but does not include rulemaking on design standards for on-site sewage disposal systems.

Sec. 105. 18 V.S.A. § 112 is amended to read:

§ 112. CIRCULARS OF INFORMATION

The ~~board~~ Board shall prepare and distribute to local boards of health, physicians, and other persons such printed circulars as it deems necessary and such rules ~~and regulations~~ as the ~~board~~ Board may ~~promulgate~~ adopt and, upon request of the ~~board~~ Board, the ~~commissioner~~ Commissioner thereof shall give information relative to the cause and prevention of disease and directions as to modes of management, quarantine, and means of prevention of contagious and infectious diseases.

Sec. 106. 18 V.S.A. § 1908 is amended to read:

§ 1908. RULES; EXCEPTIONS

(a) The licensing agency shall adopt, ~~promulgate~~, and enforce rules, ~~regulations~~, and standards with respect to the different types of hospitals to be licensed hereunder as may be designed to further the accomplishment of the purposes herein set forth; such rules, ~~regulations~~ and standards shall be modified, amended, or rescinded from time to time by the licensing agency as may be in the public interest.

(b) No such rules, ~~regulations~~, and standards shall be adopted or enforced which would have the effect of denying a license to a hospital solely by reason of the school or system of practice employed or permitted to be employed by physicians therein; provided that such school or system of practice is recognized by the laws of the ~~state~~ State. Provided, however, that no

chapter ~~promulgate regulations~~ adopt rules after public hearing following due notice at least ten days in advance of the hearings to interested persons.

* * *

Sec. 109. 18 V.S.A. § 4058 is amended to read:

§ 4058. ~~REGULATIONS~~ RULES; STANDARDS

Whenever in the judgment of the ~~board~~ Board such action will promote honesty and fair dealing in the interest of consumers, the ~~board~~ Board shall ~~promulgate regulations~~ adopt rules fixing and establishing for any food or class of food a reasonable definition and standard of identity, or reasonable standard of quality or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the ~~board~~ Board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standard so ~~promulgated~~ adopted shall conform so far as practicable to the definitions and standards promulgated under authority of the federal act.

Sec. 110. 18 V.S.A. § 4061(a) is amended to read:

(a) Whenever the ~~board~~ Board finds after investigation that the distribution in Vermont of any class of food may, by reason of contamination with micro-organisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that the injurious nature cannot be adequately determined after the articles have entered commerce, it then, and in

that case only, shall ~~promulgate regulations~~ adopt rules providing for the issuance to manufacturers, processors, or packers of that class of food in that locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of that class of food and for such temporary period of time, as may be necessary to protect the public health; and after the effective date of the ~~regulations~~ rules and during the temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless the manufacturer, processor, or packer holds a permit issued by the ~~board~~ Board as provided by the ~~regulations~~ rules.

Sec. 111. 18 V.S.A. § 4062 is amended to read:

§ 4062. SUBSTANCES ADDED TO FOOD; ~~REGULATIONS~~ RULES

Any poisonous or deleterious substance added to any food except where the substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of subdivision 4059(1)(B) of this title; but when the substance is so required or cannot be so avoided, the ~~board~~ Board shall ~~promulgate regulations~~ adopt rules limiting the quantity therein or thereon to such extent as the ~~board~~ Board finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of subdivision 4059(1)(B) of this title. While such a ~~regulation~~ rule is in effect limiting the quantity of any such substance in the case of any

food, the food shall not, by reason of bearing or containing any added amount of the substance, be considered to be adulterated within the meaning of subdivision 4059(1)(A) of this title. In determining the quantity of the added substance to be tolerated in or on different articles of food, the ~~board~~ Board shall take into account the extent to which the use of the substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

Sec. 112. 18 V.S.A. § 4064 is amended to read:

§ 4064. MISBRANDED DRUGS OR DEVICE

A drug or device is misbranded²:

~~(a)~~(1) If its labeling is false or misleading in any particular.

~~(b)~~(2) If in package form unless it bears a label containing:

~~(1)~~(A) the name and place of business of the manufacturer, packer, or distributor; and

~~(2)~~(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under this subdivision ~~(2)~~(B) reasonable variations shall be permitted, and exemptions as to small packages shall be established by ~~regulations prescribed~~ rules adopted by the ~~board~~ Board.

~~(e)~~(3) If any word, statement, or other information required by or under authority of this chapter to appear on the labeling is not prominently placed

thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

~~(d)~~(4) If it is for use by ~~man~~ humans and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, ~~marihuana~~ marijuana, morphine, opium, paraldehyde, peyote, sulphonmethane or other recognized narcotic or hypnotic substances or any chemical derivative of those substances, which derivative has been by the ~~board~~ Board, after investigation, found to be, and by ~~regulations~~ rules under this chapter, designated as, habit forming, unless its label bears the name and quantity or proportion of the substance or derivative and in juxtaposition therewith the statement “warning—may be habit forming.”

~~(e)~~(5) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears:

~~(1)~~(A) the common or usual name of the drug, if such there be; and

~~(2)~~(B) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient including the kind and quantity or proportion of any alcohol, and also including whether active or not the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetid, amidopyrine, antipyrine, atropine, hyoscine,

hyoscyamine, arsenic, digitalis, glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or other synthetic compounds, or any derivative or preparation of any of those substances, contained therein; provided, that to the extent that compliance with the requirements of this subdivision ~~(2)(B)~~ is impracticable, exemptions shall be established by ~~regulations promulgated~~ rules adopted by the ~~board~~ Board.

~~(f)(6)~~ Unless its labeling bears:

~~(1)(A)~~ adequate directions for use; and

~~(2)(B)~~ such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users; provided, that where any requirement of this ~~subdivision (1) of this subsection~~, as applied to any drug or device, is not necessary for the protection of the public health, the ~~board~~ Board shall ~~promulgate regulations~~ adopt rules exempting the drug or device from the requirements.

~~(g)(7)~~ If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided, that the method of packing may be modified with consent of the ~~board~~ Board. Whenever a drug is recognized in both the ~~United States~~ U.S. Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the ~~United States~~ U.S. Pharmacopoeia

- (17) The Department of Motor Vehicles
- (18) The Department of Public Safety
- (19) The Department of Public Service
- (20) The Department for Children and Families
- (21) The Department of Taxes
- (22) The Department of Environmental Conservation-
- (23) The Department of Disabilities, Aging, and Independent Living
- (24) The Department of Vermont Health Access.

Sec. 140. 3 V.S.A. § 253 is amended to read:

§ 253. DEPUTY OFFICERS

* * *

(c)(1) The Commissioner of Financial Regulation, with the approval of the ~~governor~~ Governor, shall appoint a Deputy Commissioner of Banking, a Deputy Commissioner of Insurance, a Deputy Commissioner of Captive Insurance, and a Deputy Commissioner of Securities, ~~and a Deputy Commissioner of Health Care Administration~~. The Commissioner of Financial Regulation may remove the deputy commissioners at pleasure and shall be responsible for their acts. The functions and duties that relate to banks and banking shall be in the charge of the Deputy Commissioner of Banking; those that relate to the business of insurance shall be in the charge of the Deputy Commissioner of Insurance; those that relate to the business of captive insurance shall be in the charge of the Deputy Commissioner of Captive

Insurance; and those that relate to the business of securities shall be in the charge of the Deputy Commissioner of Securities; ~~and those that relate to health care administration shall be in the charge of the Deputy Commissioner of Health Care Administration.~~

(2) In the case of a vacancy in the Office of the Commissioner of Financial Regulation, one of the deputies appointed by the Commissioner shall assume and discharge the duties of that office until the vacancy is filled or the Commissioner returns.

(d) In case a vacancy occurs in the office of any appointing official who by law is authorized to appoint a deputy, or such official is absent, his or her deputy shall assume and discharge the duties of such office until ~~such the~~ the vacancy is filled; or ~~such the~~ the official returns. ~~In the case of a vacancy in the office of the Commissioner of Financial Regulation, one of the deputies appointed by the Commissioner shall assume and discharge the duties of that office until the vacancy is filled or the Commissioner returns. In case a vacancy occurs in the office of the Secretary of Agriculture, Food and Markets, the Deputy Commissioner for administration and enforcement shall assume and discharge the duties of the Secretary until such vacancy is filled, or the Secretary returns.~~

~~(e)(1)~~ (1) The Secretary of Agriculture, Food and Markets, with the approval of the Governor, shall appoint a Deputy ~~Commissioner for administration and enforcement~~ Secretary. The Secretary of Agriculture, Food and Markets may

remove the Deputy ~~Commissioner~~ Secretary at pleasure, and he or she shall be responsible for the Deputy ~~Commissioner's~~ Secretary's acts. The Agency of Agriculture, Food and Markets shall be so organized that, subject to the supervision of the Secretary of Agriculture, Food and Markets, the functions and duties that relate to administration and enforcement shall be in the charge of the Deputy ~~Commissioner of Administration and Enforcement~~ Secretary.

(2) In case a vacancy occurs in the Office of the Secretary of Agriculture, Food and Markets, the Deputy Secretary shall assume and discharge the duties of the Secretary until the vacancy is filled or the Secretary returns.

* * *

Sec. 141. 6 V.S.A. § 981 is amended to read:

§ 981. ADOPTION OF COMPACT

* * *

(g) The Insurance Fund may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, or corporation, and may receive, utilize, and dispose of the same. Any donation, gift, or grant accepted by the governing board pursuant to this subsection or services borrowed pursuant to subsection (h) of this article shall be reported in the annual report of the Insurance Fund. The report shall

- (3) a copy of the transferee's application;
- (4) a copy of the transfer agreement;
- (5) a copy of the disclosure statement required under section ~~2481b~~

2480cc of this title;

* * *

Sec. 144. 9 V.S.A. § 4502(f) is amended to read:

(f) It is a violation of this section for a public accommodation to fail to comply with the provisions or rules pertaining to public buildings pursuant to ~~21 V.S.A. chapter 4~~ 20 V.S.A. chapter 174.

Sec. 145. 12 V.S.A. § 4634(b) is amended to read:

(b) The report required by subsection (a) of this section shall not disclose the mediator's assessment of any aspect of the case or substantive matters discussed during the mediation, except as is required to report the information required by this section. The report shall contain all of the following items:

* * *

(6)(A) A statement as to whether any person required under subsection 4633(d) of this title to participate in the mediation failed to:

* * *

Sec. 146. 20 V.S.A. § 2056h is amended to read:

§ 2056h. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO THE
DEPARTMENT OF FINANCIAL REGULATION

(a) The Department of Financial Regulation shall obtain from the Vermont Crime Information Center a Vermont criminal record, an out-of-state criminal record, and a record from the Federal Bureau of Investigation (FBI) ~~or~~ for any applicant for a banking division examiner position who has given written authorization, on a release form prescribed by the Center, pursuant to the provisions of this subchapter and the user's agreement filed by the Commissioner of Financial Regulation with the Center. The user's agreement shall require the Department to comply with all federal and State statutes, rules, regulations, and policies regulating the release of criminal history records, and the protection of individual privacy. The user's agreement shall be signed and kept current by the Commissioner. Release of interstate and FBI criminal history records is subject to the rules and regulations of the FBI's National Crime Information Center.

* * *

Sec. 147. 20 V.S.A. § 3550(h) is amended to read:

(h) The civil penalty shall be paid to the enforcing agency or enforcing legislative body. If the respondent fails to pay the penalty within the time prescribed, the legislative body or Secretary may bring a collection action ~~in~~

* * * Effective Date * * *

Sec. 154. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

Date Governor signed bill: May 14, 2015