

House Calendar

Friday, April 22, 2016

109th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ACTION CALENDAR

Third Reading

S. 66

An act relating to persons who are deaf, DeafBlind, or hard of hearing

Favorable with Amendment

S. 20

An act relating to establishing and regulating dental therapists

Rep. French of Randolph, for the Committee on **Human Services**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

This bill establishes and regulates a new category of oral health practitioners: dental therapists. It is the intent of the General Assembly to do so in order to increase access for Vermonters to oral health care, especially in areas with a significant volume of patients who are low income, or who are uninsured or underserved.

Sec. 2. 26 V.S.A. chapter 12 is amended to read:

CHAPTER 12. DENTISTS, DENTAL THERAPISTS, DENTAL
HYGIENISTS, AND DENTAL ASSISTANTS

Subchapter 1. General Provisions

§ 561. DEFINITIONS

As used in this chapter:

(1) “Board” means the ~~board of dental examiners~~ Board of Dental Examiners.

(2) “Director” means the ~~director of the office of professional regulation~~ Director of the Office of Professional Regulation.

(3) “Practicing dentistry” means an activity in which a person:

(A) undertakes by any means or method to diagnose or profess to diagnose or to treat or profess to treat or to prescribe for or profess to prescribe for any lesions, diseases, disorders, for deficiencies of the human oral cavity, teeth, gingiva, maxilla, or mandible or adjacent associated structures;

(B) extracts human teeth or corrects malpositions of the teeth or jaws;

(C) furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances, or other structures to be used or worn as substitutes for natural teeth or adjusts those structures, except on the written prescription of a duly licensed dentist and by the use of impressions or casts made by a duly licensed and practicing dentist;

(D) administers general dental anesthetics;

(E) administers local dental anesthetics, except dental hygienists as authorized by ~~board~~ Board rule; or

(F) engages in any of the practices included in the curricula of recognized dental colleges.

(4) “Dental therapist” means an individual licensed to practice as a dental therapist under this chapter.

(5) “Dental hygienist” means an individual licensed to practice as a dental hygienist under this chapter.

~~(5)~~(6) “Dental assistant” means an individual registered to practice as a dental assistant under this chapter.

~~(6)~~(7) “Direct supervision” means supervision by a licensed dentist who is readily available at the dental facility for consultation or intervention.

(8) “General supervision” means:

(A) the direct or indirect oversight of a dental therapist by a dentist, which need not be on-site; or

(B) the oversight of a dental hygienist by a dentist as prescribed by Board rule in accordance with sections 582 and 624 of this chapter.

§ 562. PROHIBITIONS

(a) No person may use in connection with a name any words, including “Doctor of Dental Surgery” or “Doctor of Dental Medicine,” or any letters, signs, or figures, including the letters “D.D.S.” or “D.M.D.,” which imply that a person is a licensed dentist when not authorized under this chapter.

(b) No person may practice as a dentist, dental therapist, or dental hygienist unless currently licensed to do so under the provisions of this chapter.

(c) No person may practice as a dental assistant unless currently registered under the provisions of this chapter.

(d) A person who violates this section shall be subject to the penalties provided in 3 V.S.A. § 127.

* * *

§ 565. DISPLAY OF LICENSE OR REGISTRATION

Every dentist, dental therapist, dental hygienist, and dental assistant shall display a copy of his or her current license or registration at each place of practice and in such a manner so as to be easily seen and read.

* * *

Subchapter 2. Board of Dental Examiners

§ 581. CREATION; QUALIFICATIONS

(a) The ~~state board of dental examiners~~ State Board of Dental Examiners is created and shall consist of:

(1) six licensed dentists in good standing who have practiced in this state State for a period of five years or more and are in active practice;

(2) one licensed dental therapist who has practiced in this State for a period of at least three years immediately preceding appointment and is in active practice;

(3) ~~two~~ one licensed dental ~~hygienists~~ hygienist who ~~have~~ has practiced in this ~~state~~ State for a period of at least three years immediately preceding the appointment and ~~are~~ is in active practice;

(4) one registered dental assistant who has practiced in this ~~state~~ State for a period of at least three years immediately preceding the appointment and is in active practice; and

(5) two members of the public who are not associated with the practice of dentistry.

(b) Board members shall be appointed by the ~~governor~~ Governor pursuant to 3 V.S.A. §§ 129b and 2004.

(c) ~~No~~ A member of the ~~board~~ Board shall ~~not~~ be an officer or serve on a committee of his or her respective state or local professional dental, dental therapy, dental hygiene, or dental assisting organization, ~~nor shall any member of the board be on the faculty of a school of dentistry, dental hygiene, or dental assisting.~~

* * *

§ 584. UNPROFESSIONAL CONDUCT

The ~~board~~ Board may refuse to give an examination or issue a license to practice dentistry, to practice as a dental therapist, or to practice dental hygiene or to register an applicant to be a dental assistant and may suspend or revoke any such license or registration or otherwise discipline an applicant, licensee, or registrant for unprofessional conduct. Unprofessional conduct means the

following conduct and the conduct set forth in 3 V.S.A. § 129a by an applicant or person licensed or registered under this chapter:

* * *

(2) rendering professional services to a patient if the dentist, dental therapist, dental hygienist, or dental assistant is intoxicated or under the influence of drugs;

* * *

(6) practicing a profession regulated under this chapter with a dentist, dental therapist, dental hygienist, or dental assistant who is not legally practicing within the ~~state~~ State or aiding or abetting such practice;

* * *

Subchapter 3A. Dental Therapists

§ 611. LICENSE BY EXAMINATION

(a) Qualifications for examination. To be eligible for examination for licensure as a dental therapist, an applicant shall:

(1) have attained the age of majority;

(2) be a licensed dental hygienist;

(3) be a graduate of a dental therapist educational program administered by an institution accredited by the Commission on Dental Accreditation to train dental therapists;

(4) have successfully completed an emergency office procedure course approved by the Board; and

(5) pay the application fee set forth in section 662 of this chapter and an examination fee established by the Board by rule.

(b) Completion of examination.

(1)(A) An applicant for licensure meeting the qualifications for examination set forth in subsection (a) of this section shall pass a comprehensive, competency-based clinical examination approved by the Board and administered independently of an institution providing dental therapist education.

(B) An applicant shall also pass an examination testing the applicant's knowledge of the Vermont statutes and rules relating to the practice of dentistry approved by the Board.

(2) An applicant who has failed the clinical examination twice is ineligible to retake the clinical examination until further education and training are obtained as established by the Board by rule.

(c) The Board may grant a license to an applicant who has met the requirements of this section.

§ 612. LICENSE BY ENDORSEMENT

The Board may grant a license as a dental therapist to an applicant who:

(1) is currently licensed in good standing to practice as a dental therapist in any jurisdiction of the United States or Canada that has licensing requirements deemed by the Board to be at least substantially equivalent to those of this State;

(2) has passed an examination testing the applicant's knowledge of the Vermont statutes and rules relating to the practice of dentistry approved by the Board;

(3) has successfully completed an emergency office procedure course approved by the Board;

(4) has met active practice requirements and any other requirements established by the Board by rule; and

(5) pays the application fee set forth in section 662 of this chapter.

§ 613. PRACTICE; SCOPE OF PRACTICE

(a) A person who provides oral health care services, including prevention, evaluation, and assessment; education; palliative therapy; and restoration under the general supervision of a dentist within the parameters of a collaborative agreement as provided under section 614 of this subchapter shall be regarded as practicing as a dental therapist within the meaning of this chapter.

(b) A dental therapist may perform the following oral health care services:

(1) Oral health instruction and disease prevention education, including nutritional counseling and dietary analysis.

(2) Periodontal charting, including a periodontal screening examination.

(3) Exposing radiographs.

(4) Oral evaluation and assessment of dental disease.

(5) Dental prophylaxis.

(6) Mechanical polishing.

(7) Applying topical preventive or prophylactic agents, including fluoride varnishes, antimicrobial agents, and pit and fissure sealants.

- (8) Pulp vitality testing.
- (9) Applying desensitizing medication or resin.
- (10) Fabricating athletic mouthguards.
- (11) Suture removal.
- (12) Changing periodontal dressings.
- (13) Brush biopsies.
- (14) Administering local anesthetic.
- (15) Placement of temporary restorations.
- (16) Interim therapeutic restorations.
- (17) Placement of temporary and preformed crowns.
- (18) Emergency palliative treatment of dental pain in accordance with the other requirements of this subsection.
- (19) Formulating an individualized treatment plan, including services within the dental therapist's scope of practice and referral for services outside the dental therapist's scope of practice.
- (20) Minor repair of defective prosthetic devices.
- (21) Recementing permanent crowns.
- (22) Placement and removal of space maintainers.
- (23) Prescribing, dispensing, and administering analgesics, anti-inflammatories, and antibiotics, except Schedule II, III, or IV controlled substances.
- (24) Administering nitrous oxide.
- (25) Fabricating soft occlusal guards, but not for treatment of temporomandibular joint disorders.
- (26) Tissue conditioning and soft reline.
- (27) Tooth reimplantation and stabilization.
- (28) Extractions of primary teeth.
- (29) Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility of +3. A dental therapist shall not extract a tooth if it is unerupted, impacted, fractured, or needs to be sectioned for removal.
- (30) Cavity preparation.
- (31) Restoring primary and permanent teeth, not including permanent tooth crowns, bridges, veneers, or denture fabrication.

(32) Preparation and placement of preformed crowns for primary teeth.

(33) Pulpotomies on primary teeth.

(34) Indirect and direct pulp capping on primary and permanent teeth.

§ 614. COLLABORATIVE AGREEMENT

(a) Before a dental therapist may enter into his or her first collaborative agreement, he or she shall:

(1) complete 1,000 hours of direct patient care using dental therapy procedures under the direct supervision of a dentist; and

(2) receive a certificate of completion signed by that supervising dentist that verifies the dental therapist completed the hours described in subdivision (1) of this subsection.

(b) In order to practice as a dental therapist, a dental therapist shall enter into a written collaborative agreement with a dentist. The agreement shall include:

(1) practice settings where services may be provided and the populations to be served;

(2) any limitations on the services that may be provided by the dental therapist, including the level of supervision required by the supervising dentist;

(3) age- and procedure-specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency;

(4) a procedure for creating and maintaining dental records for the patients that are treated by the dental therapist;

(5) a plan to manage medical emergencies in each practice setting where the dental therapist provides care;

(6) a quality assurance plan for monitoring care provided by the dental therapist, including patient care review, referral follow-up, and a quality assurance chart review;

(7) protocols for prescribing, administering, and dispensing medications, including the specific conditions and circumstances under which these medications may be prescribed, dispensed, and administered;

(8) criteria relating to the provision of care to patients with specific medical conditions or complex medication histories, including requirements for consultation prior to the initiation of care;

(9) criteria for the supervision of dental assistants and dental hygienists; and

(10) a plan for the provision of clinical resources and referrals in situations that are beyond the capabilities of the dental therapist.

(c)(1) The supervising dentist shall be professionally responsible and legally liable for all services authorized and performed by the dental therapist pursuant to the collaborative agreement.

(2) A supervising dentist shall be licensed and practicing in Vermont.

(3) A supervising dentist is limited to entering into a collaborative agreement with no more than two dental therapists at any one time.

(d)(1) A collaborative agreement shall be signed and maintained by the supervising dentist and the dental therapist.

(2) A collaborative agreement shall be reviewed, updated, and submitted to the Board on an annual basis and as soon as a change is made to the agreement.

§ 615. APPLICATION OF OTHER LAWS

(a) A dental therapist authorized to practice under this chapter shall not be in violation of section 562 of this chapter as it relates to the unauthorized practice of dentistry if the practice is authorized under this chapter and under the collaborative agreement.

(b) A dentist who permits a dental therapist to perform a dental service other than those authorized under this chapter or any dental therapist who performs an unauthorized service shall be in violation of section 584 of this chapter.

§ 616. USE OF DENTAL HYGIENISTS AND DENTAL ASSISTANTS

(a) A dental therapist may supervise dental assistants and dental hygienists directly to the extent permitted in the collaborative agreement.

(b) At any one practice setting, a dental therapist may have under his or her direct supervision no more than a total of two assistants or hygienists or a combination thereof.

§ 617. REFERRALS

(a) The supervising dentist shall refer patients to another dentist or specialist to provide any necessary services needed by a patient that are beyond the scope of practice of the dental therapist and which the supervising dentist is unable to provide.

(b) A dental therapist, in accordance with the collaborative agreement, shall refer patients to another qualified dental or health care professional to receive any needed services that exceed the scope of practice of the dental therapist.

* * *

Subchapter 6. Renewals, Continuing Education, and Fees

§ 661. RENEWAL OF LICENSE

(a) Licenses and registrations shall be renewed every two years on a schedule determined by the ~~office of professional regulation~~ Office of Professional Regulation.

(b) No continuing education reporting is required at the first biennial license renewal date following licensure.

(c) The ~~board~~ Board may waive continuing education requirements for licensees who are on active duty in the ~~armed forces of the United States~~ U.S. Armed Forces.

(d) Dentists.

* * *

(e) Dental therapists. To renew a license, a dental therapist shall meet active practice requirements established by the Board by rule and document completion of no fewer than 20 hours of Board-approved continuing professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

(f) Dental hygienists. To renew a license, a dental hygienist shall meet active practice requirements established by the ~~board~~ Board by rule and document completion of no fewer than 18 hours of ~~board-approved~~ Board-approved continuing professional education which shall include an emergency office procedures course during the two-year licensing period preceding renewal.

~~(f)~~(g) Dental assistants. To renew a registration, a dental assistant shall meet the requirements established by the ~~board~~ Board by rule.

§ 662. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application

(A) Dentist	\$ 225.00
(B) <u>Dental therapist</u>	<u>\$ 185.00</u>
(C) Dental hygienist	\$ 150.00
(C) (D) Dental assistant	\$ 60.00

(2) Biennial renewal

(A) Dentist	\$ 355.00
(B) <u>Dental therapist</u>	<u>\$ 225.00</u>
(C) <u>Dental hygienist</u>	\$ 125.00
(C) (D) Dental assistant	\$ 75.00

(b) The licensing fee for a dentist, dental therapist, or dental hygienist or the registration fee for a dental assistant who is otherwise eligible for licensure or registration and whose practice in this ~~state~~ State will be limited to providing pro bono services at a free or reduced-fee clinic or similar setting approved by the ~~board~~ Board shall be waived.

* * *

Sec. 3. DEPARTMENT OF HEALTH; REPORT ON GEOGRAPHIC DISTRIBUTION OF DENTAL THERAPISTS

Two years after the graduation of the first class of dental therapists from a Vermont accredited program, the Department of Health, in consultation with the Board of Dental Examiners, shall report to the Senate Committees on Health and Welfare and on Government Operations and the House Committees on Human Services and on Government Operations regarding:

(1) the geographic distribution of licensed dental therapists practicing in this State;

(2) the geographic areas of this State that are underserved by licensed dental therapists; and

(3) recommended strategies to promote the practice of licensed dental therapists in underserved areas of this State, particularly those areas that are rural in nature and have high numbers of people living in poverty.

Sec. 4. BOARD OF DENTAL EXAMINERS; REQUIRED RULEMAKING

The Board of Dental Examiners shall adopt the rules and perform all other acts necessary to implement the provisions of those sections.

Sec. 5. TRANSITIONAL PROVISION; BOARD OF DENTAL EXAMINERS; INITIAL DENTAL THERAPIST MEMBER

Notwithstanding the provision of 26 V.S.A. § 581(a)(2) in Sec. 1 of this act that requires the dental therapist member of the Board of Dental Examiners to have practiced in this State for a period of at least three years immediately preceding appointment, the initial dental therapist appointee may fulfill this practice requirement if he or she has practiced as a licensed dental hygienist in this State for a period of at least three years immediately preceding

appointment, so long as that appointee is a licensed dental therapist in active practice in this State at the time of appointment.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 9-2-0)

(For text see Senate Journal April 2, 2015)

Rep. LaClair of Barre Town, for the Committee on **Government Operations**, recommends that the House proposal of amendment offered by the Committee on Human Services be amended as follows:

First: In Sec. 2, in 26 V.S.A. § 581 (Board of Dental Examiners; creation; qualifications), by striking out subsection (a) (Board members) in its entirety and inserting in lieu thereof the following:

* * *

Second: In Sec. 4 (Board of Dental Examiners; required rulemaking), following “implement the provisions of” by striking out “those sections” and inserting in lieu thereof “this act”

Third: By striking out Sec. 5 (transitional provision; Board of Dental Examiners; initial dental therapist member) in its entirety and inserting in lieu thereof the following:

Sec. 5. [Deleted.]

(Committee vote: 11-0-0)

Rep. Till of Jericho, for the Committee on **Ways & Means**, recommends that recommends that the House proposal of amendment offered by the Committee on Human Services, as amended by the Committee on Government Operations, be further amended as follows

First: In Sec. 2, 26 V.S.A. chapter 12, in § 611 (license by examination), in subdivision (a)(2), following “be a” by inserting “Vermont”

Second: In Sec. 2, 26 V.S.A. chapter 12, in § 611 (license by examination), by adding a new subsection (d) to read:

(d) A person licensed as a dental therapist under this section shall not be required to maintain his or her dental hygienist license.

(Committee vote: 9-2-0)

S. 132

An act relating to the prohibition of conversion therapy on minors

Rep. Mrowicki of Putney, for the Committee on **Human Services**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Findings * * *

Sec. 1. FINDINGS

In recognition that being lesbian, gay, bisexual, or transgender is part of the natural spectrum of human identity and is not a disease, disorder, illness, deficiency, or shortcoming, the General Assembly finds:

(1) Vermont has a compelling interest in protecting the physical and psychological well-being of children, including lesbian, gay, bisexual, and transgender youth, and in protecting its children against exposure to serious harms.

(2) A 2015 report published by the U.S. Substance Abuse and Mental Health Service's Administration states "conversion therapy . . . is a practice that is not supported by credible evidence and has been disavowed by behavioral health experts and associations . . . [m]ost importantly, it may put young people at risk of serious harm."

(3) The American Academy of Pediatrics, the American Counseling Association, the American Psychiatric Association, the American Psychological Association, the American School Counselor Association, and the National Association of Social Workers, together representing more than 477,000 health and mental health professionals, have all taken the position that homosexuality is not a mental disorder and thus there is no need for a "cure."

* * * Conversion Therapy * * *

Sec. 2. 18 V.S.A. chapter 196 is added to read:

CHAPTER 196. CONVERSION THERAPY

§ 8351. DEFINITIONS

As used in this chapter:

(1) "Conversion therapy" means any practice by a mental health care provider that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to change sexual or romantic attractions or feelings toward individuals of the same sex or gender. "Conversion therapy" does not include psychotherapies that:

(A) provide support to an individual undergoing gender transition; or

(B) provide acceptance, support, and understanding of clients or the facilitation of clients' coping, social support, and identity exploration and development, including sexual-orientation-neutral or gender-identity-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices without seeking to change an individual's sexual orientation or gender identity.

(2) "Mental health care provider" means a person licensed to practice medicine pursuant to 26 V.S.A. chapter 23, 33, or 81 who specializes in the practice of psychiatry; a psychologist, a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; a clinical mental health counselor as defined in 26 V.S.A. § 3261; a licensed marriage and family therapist as defined in 26 V.S.A. § 4031; a psychoanalyst as defined in 26 V.S.A. § 4051; any other allied mental health professional; or a student, intern, or trainee of any such profession.

§ 8352. TREATMENT OF MINORS

A mental health care provider shall not use conversion therapy with a client younger than 18 years of age.

§ 8353. UNPROFESSIONAL CONDUCT

Any conversion therapy used on a client younger than 18 years of age by a mental health care provider shall constitute unprofessional conduct as provided in the relevant provisions of Title 26 and shall subject the mental health care provider to discipline pursuant to the applicable provisions of that title and of 3 V.S.A. chapter 5.

* * * Physicians * * *

Sec. 3. 26 V.S.A. § 1354(a) is amended to read:

(a) The ~~board~~ Board shall find that any one of the following, or any combination of the following, whether or not the conduct at issue was committed within or outside the ~~state~~ State, constitutes unprofessional conduct:

* * *

(39) use of the services of a physician assistant by a physician in a manner which is inconsistent with the provisions of chapter 31 of this title; or

(40) use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Osteopathy * * *

Sec. 4. 26 V.S.A. § 1842(b) is amended to read:

(b) Unprofessional conduct means the following conduct and conduct set forth in 3 V.S.A. § 129a-;

* * *

(13) Use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Psychologists * * *

Sec. 5. 26 V.S.A. § 3016 is amended to read:

§ 3016. UNPROFESSIONAL CONDUCT

Unprofessional conduct means the conduct listed in this section and in 3 V.S.A. § 129a:

* * *

(11) Use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Clinical Social Workers * * *

Sec. 6. 26 V.S.A. § 3210(a) is amended to read:

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a licensed social worker constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial of a license:

* * *

(12) failing to clarify the clinical social worker's role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients; or

(13) using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

Sec. 7. 26 V.S.A. § 3210(a) is amended to read:

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a person licensed under this chapter constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial or discipline of a license:

* * *

(12) failing to clarify the licensee’s role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients; or

(13) using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Clinical Mental Health Counselors * * *

Sec. 8. 26 V.S.A. § 3271(a) is amended to read:

(a) Unprofessional conduct means the following conduct and conduct set forth in 3 V.S.A. § 129a-;

* * *

(7) independently practicing outside or beyond a clinical mental health counselor’s area of training, experience or competence without appropriate supervision; or

(8) using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Marriage and Family Therapists * * *

Sec. 9. 26 V.S.A. § 4042(a) is amended to read:

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

* * *

(7) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Psychoanalysts * * *

Sec. 10. 26 V.S.A. § 4062(a) is amended to read:

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

* * *

(7) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Naturopathic Physicians * * *

Sec. 11. 26 V.S.A. § 4132(a) is amended to read:

(a) The following conduct and conduct set forth in 3 V.S.A. § 129a by a person licensed under this chapter or an applicant for licensure constitutes unprofessional conduct:

* * *

(11) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except Sec. 7 shall take effect on July 1, 2017.

(Committee vote: 11-0-0)

(For text see Senate Journal March 16, 2016)

S. 215

An act relating to the regulation of vision insurance plans

Rep. Poirier of Barre City, for the Committee on **Health Care**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4088j is amended to read:

§ 4088j. CHOICE OF PROVIDERS FOR VISION CARE AND MEDICAL EYE CARE SERVICES

* * *

(e)(1) An agreement between a health insurer or an entity that writes vision insurance and an optometrist or ophthalmologist for the provision of vision services to plan members or subscribers in connection with coverage under a stand-alone vision care plan or other health insurance plan shall not require that an optometrist or ophthalmologist provide services or materials at a fee limited or set by the plan or insurer unless the services or materials are reimbursed as covered services under the contract.

(2) An optometrist or ophthalmologist shall not charge more for services and materials that are noncovered services under a vision care plan than his or her usual and customary rate for those services and materials.

(3) Reimbursement paid by a vision care plan for covered services and materials shall be reasonable and shall not provide nominal reimbursement in order to claim that services and materials are covered services.

(4)(A) A vision care plan shall not restrict or otherwise limit, directly or indirectly, an optometrist's or ophthalmologist's choice of or relationship with sources and suppliers of services or materials or use of optical laboratories. The plan shall not impose any penalty or fee on an optometrist or ophthalmologist for using any supplier, optical laboratory, product, service, or material.

(B) The provisions of this subdivision (4) shall not apply to Medicaid.

(f) The Department of Financial Regulation shall enforce the provisions of this section as they relate to health insurance policies, health benefit plans, and vision care plans other than Medicaid.

(g) As used in this section:

(1) "Covered services" means services and materials for which reimbursement from a vision care plan or other health insurance plan is provided by a member's or subscriber's plan contract, or for which a reimbursement would be available but for application of the deductible, co-payment, or coinsurance requirements under the member's or subscriber's health insurance plan.

(2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer or a subcontractor of a health insurer, as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term includes vision care plans but does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

* * *

(7) "Vision care plan" means an integrated or stand-alone plan, policy, or contract providing vision benefits to enrollees with respect to covered services or covered materials, or both.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 7-4-0)

(For text see Senate Journal March 16, 2016)

S. 224

An act relating to warranty obligations of equipment dealers and suppliers

Rep. Marcotte of Coventry, for the Committee on **Commerce & Economic Development**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND INTENT

(a) The General Assembly finds:

(1) Vermont has long relied on economic activity relating to working farms and forestland in the State. These working lands, and the people who work the land, are part of the State's cultural and ecological heritage, and Vermont has made major policy and budget commitments in recent years in support of working lands enterprises. Farm and forest enterprises need a robust system of infrastructure to support their economic and ecological activities, and that infrastructure requires a strong economic base consisting of dealers, manufacturers, and repair facilities. Initiatives to help strengthen farm and forest working lands infrastructure are in the best interest of the State.

(2) Snowmobiles and all-terrain vehicles have a significant economic impact in the State, including the distribution and sale of these vehicles, use by residents, ski areas, and emergency responders, as well as tourists that come to enjoy riding snowmobiles and all-terrain vehicles in Vermont. It is in the best interest of the State to ensure that Vermont consumers who want to purchase snowmobiles and all-terrain vehicles have access to a competitive marketplace and a strong network of dealers, suppliers, and repair facilities in the State.

(3) The distribution and sale of equipment, snowmobiles, and all-terrain vehicles within this State vitally affects the general economy of the State and the public interest and the public welfare, and in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate equipment, snowmobile, and all-terrain vehicle suppliers and their representatives, and to regulate dealer agreements issued by suppliers who are doing business in this State, in order to protect and preserve the investments and properties of the citizens of this State.

(4) There continues to exist a disparity in bargaining power between equipment, snowmobile, and all-terrain vehicle suppliers and the independent dealer network. This disparity in bargaining power enables equipment, snowmobile, and all-terrain vehicle suppliers to compel dealers to execute dealer agreements, related contracts, and addenda that contain terms and conditions that would not routinely be agreed to by the equipment, snowmobile, and all-terrain vehicle dealer if this disparity did not exist. It

therefore is in the public interest to enact legislation to prevent unfair or arbitrary treatment of equipment, snowmobile, and all-terrain vehicle dealers by equipment, snowmobile, and all-terrain vehicle suppliers. It is also in the public interest that Vermont consumers, municipalities, businesses, and others that purchase equipment, snowmobiles, and all-terrain vehicles in Vermont have access to a robust independent dealer network to obtain competitive prices when purchasing these items and to obtain warranty, recall, or other repair work.

(b) It is the intent of the General Assembly that this act be liberally construed in order to achieve its purposes.

Sec. 2. 9 V.S.A. chapter 107 is amended to read:

CHAPTER 107. EQUIPMENT AND MACHINERY DEALERSHIPS

§ 4071. DEFINITIONS

As used in this chapter:

(1) “Current net price” means the price listed in the supplier’s price list or ~~catalog~~ catalogue in effect at the time the dealer agreement is terminated, less any applicable discounts allowed.

(2)(A) “Dealer” means a person, ~~corporation, or partnership~~ primarily engaged in the business of retail sales of ~~farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, yard and garden equipment, attachments, accessories, and repair parts~~ inventory. ~~Provided however, “dealer” shall~~

(B) “Dealer” does not include a “single line dealer,” a person primarily engaged in the retail sale and service of industrial, forestry, and construction equipment.—“Single line dealer” means a person, ~~partnership or corporation~~ who:

(A)(i) ~~has purchased 75 percent or more of the dealer’s total new product~~ his or her new inventory from a single supplier; and

(B)(ii) ~~has a total annual average sales volume for the previous three years in excess of \$15~~ \$100 million for the entire territory for which the dealer is responsible.

(3) “Dealer agreement” means a written or oral ~~contract or~~ agreement between a dealer and a ~~wholesaler, manufacturer, or distributor~~ supplier by which the supplier gives the dealer ~~is granted~~ the right to sell or distribute goods or services or to use a trade name, trademark, service mark, logotype, or advertising or other commercial symbol.

(4) ~~“Inventory” means farm, utility, forestry, or industrial equipment, implements, machinery, yard and garden equipment, attachments, or repair parts. These terms do not include heavy construction equipment.~~

(A) “Inventory” means:

(i) farm, utility, forestry, yard and garden, or industrial:

(I) tractors;

(II) equipment;

(III) implements;

(IV) machinery;

(V) attachments;

(VI) accessories; and

(VII) repair parts;

(ii) snowmobiles, as defined in 23 V.S.A. § 3201(5), and snowmobile implements, attachments, garments, accessories, and repair parts; and

(iii) all-terrain vehicles, as defined in 23 V.S.A. § 3801(1), and all-terrain vehicle implements, attachments, garments, accessories, and repair parts.

(B) “Inventory” does not include heavy construction equipment.

(5) “Net cost” means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier’s location to the dealer’s location. In the event of termination of a dealer agreement by the supplier, “net cost” shall include the reasonable cost of assembly or disassembly performed by a dealer.

(6) “Supplier” means a wholesaler, manufacturer, or distributor of inventory ~~as defined in this chapter~~ who enters into a dealer agreement with a dealer.

(7) “Termination” of a dealer agreement means the cancellation, nonrenewal, or noncontinuance of the agreement.

(8) “Coerce” means the failure to act in a fair and equitable manner in performing or complying with a provision of a dealer agreement; provided, however, that recommendation, persuasion, urging, or argument shall not be synonymous with coerce or lack of good faith.

(9) “Good faith” means honesty in fact and the observance of reasonable commercial standards of fair dealing, as interpreted under 9A V.S.A. § 1-201(B)(20).

~~§ 4072. NOTICE OF TERMINATION OF DEALER AGREEMENTS~~

~~(a) Notwithstanding any agreement to the contrary, prior to the termination of a dealer agreement, a supplier shall notify the dealer of the termination not less than 120 days prior to the effective date of the termination. No supplier may terminate, cancel, or fail to renew a dealership agreement without cause. “Cause” means failure by an equipment dealer to comply with the requirements imposed upon the equipment dealer by the dealer agreement, provided the requirements are not substantially different from those requirements imposed upon other similarly situated equipment dealers in this State.~~

~~(b) The supplier may immediately terminate the agreement at any time upon the occurrence of any of the following events which in addition to the above definition of cause, are also cause for termination, cancellation, or failure to renew a dealership agreement:~~

~~(1) the filing of a petition for bankruptcy or for receivership either by or against the dealer;~~

~~(2) the making by the dealer of an intentional and material misrepresentation as to the dealer’s financial status;~~

~~(3) any default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier;~~

~~(4) the commencement of voluntary or involuntary dissolution or liquidation of the dealer if the dealer is a partnership or corporation;~~

~~(5) a change or additions in location of the dealer’s place of business as provided in the agreement without the prior written approval of the supplier; or~~

~~(6) withdrawal of an individual proprietor, partner, major shareholder, the involuntary termination of the manager of the dealership, or a substantial reduction in the interest of a partner or major shareholder without the prior written consent of the supplier.~~

~~(c) Unless there is an agreement to the contrary, a dealer who intends to terminate a dealer agreement with a supplier shall notify the supplier of that intent not less than 120 days prior to the effective date of termination.~~

~~(d) Notification required by this section shall be in writing and shall be made by certified mail or by personal delivery and shall contain:~~

~~(1) a statement of intention to terminate the dealer agreement;~~

- ~~(2) a statement of the reasons for the termination; and~~
- ~~(3) the date on which the termination shall be effective.~~

TERMINATION OF DEALER AGREEMENT

(a) Requirements for notice.

(1) A person shall provide a notice required in this section by certified mail or by personal delivery.

(2) A notice shall be in writing and shall include:

(A) a statement of intent to terminate the dealer agreement;

(B) a statement of the reasons for the termination, including specific reference to one or more requirements of the dealer agreement that serve as the basis for termination, if applicable; and

(C) the effective date of termination.

(b) Termination by a supplier for cause.

(1) In this subsection, "cause" means the failure of a dealer to meet one or more requirements of a dealer agreement, provided that the requirement is reasonable, justifiable, and substantially the same as requirements imposed on similarly situated dealers in this State.

(2) A supplier shall not terminate a dealer agreement except for cause.

(3) To terminate a dealer agreement for cause, a supplier shall deliver a notice of termination to the dealer at least 120 days before the effective date of termination.

(4) A dealer has 60 days from the date it receives a notice of termination to meet the requirements of the dealer agreement specified in the notice.

(5) If a dealer meets the requirements of the dealer agreement specified in the notice within the 60-day period, the dealer agreement does not terminate pursuant to the notice of termination.

(c) Termination by a supplier for failure to meet reasonable marketing or market penetration requirements.

(1) Notwithstanding subsection (b) of this section, a supplier shall not terminate a dealer agreement for failure to meet reasonable marketing or market penetration requirements except as provided in this subsection.

(2) A supplier shall deliver an initial notice of termination to the dealer at least 24 months before the effective date of termination.

(3) After providing an initial notice, the supplier shall work with the dealer in good faith to meet the reasonable marketing or market penetration

requirements specified in the notice, including reasonable efforts to provide the dealer with adequate inventory and marketing programs that are substantially the same as those provided to dealers in this State or region, whichever is more appropriate under the circumstances.

(4) If the dealer fails to meet reasonable marketing or market penetration requirements specified in the notice by the end of the 24-month period, the supplier may terminate the dealer agreement by providing a final notice of termination not less than 90 days prior to the effective date of the termination.

(5) If a dealer meets the reasonable marketing or market penetration requirements within the 24-month period, the dealer agreement shall not terminate.

(d) Termination by a supplier upon a specified event. Notwithstanding subsection (b) of this section, a supplier may terminate immediately a dealer agreement if one of the following events occurs:

(1) A person files a petition for bankruptcy or for receivership on behalf of or against the dealer.

(2) The dealer makes an intentional and material misrepresentation regarding his or her financial status.

(3) The dealer defaults on a chattel mortgage or other security agreement between the dealer and the supplier.

(4) A person commences the voluntary or involuntary dissolution or liquidation of a dealer organized as a business entity.

(5) Without the prior written consent of the supplier:

(A) The dealer changes the business location specified in the dealer agreement or adds an additional dealership of the supplier's same brand.

(B) An individual proprietor, partner, or major shareholder withdraws from, or substantially reduces his or her interest in, the dealer.

(6) The dealer fails to operate in the normal course of business for eight consecutive business days, unless the failure to operate is caused by an emergency or other circumstances beyond the dealer's control.

(7) The dealer abandons the business.

(8) The dealer pleads guilty to or is convicted of a felony that is substantially related to the qualifications, function, or duties of the dealer.

(e) Termination by a dealer. Unless a provision of a dealer agreement provides otherwise, a dealer may terminate the dealer agreement by providing a notice of termination to the supplier at least 120 days before the effective date of termination.

* * *

§ 4074. REPURCHASE TERMS

(a)(1) Within 90 days from receipt of the written request of the dealer, a supplier under the duty to repurchase inventory pursuant to section 4073 of this title may examine any books or records of the dealer to verify the eligibility of any item for repurchase.

(2) Except as otherwise provided in this chapter, the supplier shall repurchase from the dealer the following items that the dealer previously purchased from the supplier, or other qualified vendor approved by the supplier, that are in the possession of the dealer on the date of termination of the dealer agreement:

(A) ~~all inventory previously purchased from the supplier in possession of the dealer on the date of termination of the dealer agreement;~~ and

(B) required signage, special tools, books, manuals, supplies, data processing equipment, and software ~~previously purchased from the supplier or other qualified vendor approved by the supplier in the possession of the dealer on the date of termination of the dealer agreement.~~

(b) The supplier shall pay the dealer:

(1) 100 percent of the net cost of all new, ~~and unsold,~~ undamaged, and complete ~~farm and utility tractors, utility equipment, forestry equipment, industrial equipment, farm implements, farm machinery, yard and garden equipment, attachments, and accessories~~ inventory, other than repair parts, purchased from the supplier within the 30-month period preceding the date of termination, less a reasonable allowance for deterioration attributable to weather ~~conditions~~ exposure at the dealer's location.

(2) ~~90~~ 100 percent of the current net prices of all new and undamaged repair parts.

(3) ~~85~~ 95 percent of the current net prices of all new and undamaged superseded repair parts.

(4) ~~85~~ 95 percent of the latest available published net price of all new and undamaged noncurrent repair parts.

(5) Either the fair market value, or the supplier shall assume the lease responsibilities of, any specific data processing hardware that the supplier required the dealer to purchase to satisfy the reasonable requirements of the dealer agreement, including computer systems equipment and software required and approved by the supplier to communicate with the supplier.

(6) ~~Repurchase at~~ 75 percent of the net cost of specialized repair tools, signage, books, and supplies previously purchased, pursuant to requirements of

the supplier and held by the dealer on the date of termination. ~~Specialized repair tools must be unique to the supplier's product line and must be complete and in usable condition.~~

(7) ~~Repurchase at average~~ Average as-is value shown in current industry guides; ~~for~~ dealer-owned rental fleet financed by the supplier or its finance subsidiary, provided the equipment was purchased from the supplier within 30 months of the date of termination.

(c) The party that initiates the termination of the dealer agreement shall pay the cost of the return, handling, packing, and loading of the inventory. If the termination is initiated by the supplier, the supplier shall reimburse the dealer five percent of the net parts return credited to the dealer as compensation for picking, handling, packing, and shipping the parts returned to the supplier.

(d) Payment to the dealer required under this section shall be made by the supplier not later than 45 days after receipt of the inventory by the supplier. A penalty shall be assessed in the amount of daily interest at the current New York prime rate plus three percent of any outstanding balance over the required 45 days. The supplier shall be entitled to apply any payment required under this section to be made to the dealer as a setoff against any amount owed by the dealer to the supplier.

§ 4075. EXCEPTIONS TO REPURCHASE REQUIREMENT

The provisions of this chapter shall not require a supplier to repurchase from a dealer:

(1) a repair part with a limited storage life or otherwise subject to physical or structural deterioration, including gaskets or batteries;

(2) a single repair part normally priced and sold in a set of two or more items;

(3) a repair part that, because of its condition, cannot be marketed as a new part without repackaging or reconditioning by the supplier or manufacturer;

(4) any inventory that the dealer elects to retain;

(5) any inventory ordered by the dealer after receipt of notice of termination of the dealer agreement by either the dealer or supplier; ~~or~~

(6) any inventory that was acquired by the dealer from a source other than the supplier unless the source was approved by the supplier;

(7) a specialized repair tool that is not unique to the supplier's product line, over 10 years old, incomplete, or in unusable condition;

(8) a part identified by the supplier as nonreturnable at the time of the dealer's order; or

(9) supplies that are not unique to the supplier's product line, over three years old, incomplete, or in unusable condition.

* * *

§ 4077a. ~~PROHIBITED ACTS~~

~~No supplier shall:~~

~~(1) coerce any dealer to accept delivery of any equipment, parts, or accessories therefor, which such dealer has not voluntarily ordered, except that a supplier may require a dealer to accept delivery of equipment, parts or accessories that are necessary to maintain equipment generally sold in the dealer's area of responsibility, and a supplier may require a dealer to accept delivery of safety related equipment, parts, or accessories pertinent to equipment generally sold in the dealer's area of responsibility;~~

~~(2) condition the sale of any equipment on a requirement that the dealer also purchase any other goods or services, but nothing contained in this chapter shall prevent the supplier from requiring the dealer to purchase all parts reasonably necessary to maintain the quality of operation in the field of any equipment used in the trade area;~~

~~(3) coerce any dealer into a refusal to purchase the equipment manufactured by another supplier; or~~

~~(4) discriminate in the prices charged for equipment of like grade and quality sold by the supplier to similarly situated dealers, but nothing contained in this chapter shall prevent differentials which make only due allowance for a difference in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such equipment is sold or delivered by the supplier.~~

PROHIBITED ACTS

(a) A supplier shall not coerce or attempt to coerce a dealer to accept delivery of inventory that the dealer has not voluntarily ordered, except inventory that is:

(1) necessary to maintain inventory in a quantity, and of the model range, generally sold in the dealer's geographic area of responsibility; or

(2) safety-related and pertinent to inventory generally sold in the dealer's geographic area of responsibility.

(b) A supplier shall not condition the sale of inventory on a requirement that the dealer also purchase any other goods or services, provided that a

supplier may require a dealer to purchase parts reasonably necessary to maintain inventory used in the dealer's geographic area of responsibility.

(c)(1) A supplier shall not prevent, coerce, or attempt to coerce a dealer from investing in, or entering into an agreement for the sale of, a competing product line or make of inventory.

(2) A supplier shall not require, coerce, or attempt to coerce a dealer to provide a separate facility or personnel for a competing product line or make of inventory.

(3) Subdivisions (1)–(2) of this subsection do not apply unless a dealer:

(A) maintains a reasonable line of credit for each product line or make of inventory;

(B) maintains the principal management of the dealer; and

(C) remains in substantial compliance with the supplier's reasonable facility requirements, which shall not include a requirement to provide a separate facility or personnel for a competing product line or make of inventory.

(d) A supplier shall not discriminate in the prices it charges for inventory of like grade and quality it sells to similarly situated dealers, provided that a supplier may use differentials that allow for a difference in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the supplier sells or delivers the inventory.

(e) A supplier shall not change the geographic area of responsibility specified in a dealer agreement without good cause, which for purposes of this subsection includes the dealer's market penetration within the assigned geographic area of responsibility and changes in the inventory warranty registration pattern in the area surrounding the dealer's geographic area of responsibility.

§ 4078. WARRANTY OBLIGATIONS

(a) A supplier shall:

(1) specify in writing a dealer's reasonable obligation to perform warranty service on the supplier's inventory;

(2) provide the dealer a schedule of reasonable compensation for warranty service, including amounts for diagnostic work, parts, labor, and the time allowance for the performance of warranty service; and

(3) compensate the dealer pursuant to the schedule of compensation for the warranty service the supplier requires it to perform.

(b) Time allowances for the diagnosis and performance of warranty service shall be reasonable and adequate for the service to be performed by a dealer that is equipped to complete the requirements of the warranty service.

(c) The hourly rate paid to a dealer shall not be less than the rate the dealer charges to customers for nonwarranty service.

(d) A supplier shall compensate a dealer for parts used to fulfill warranty and recall obligations at a rate not less than the price the dealer actually paid the supplier for the parts plus 20 percent, plus freight and handling if charged by the supplier.

(e) The wholesale price on which a dealer's markup reimbursement is based for any parts used in a recall or campaign shall not be less than the highest wholesale price listed in the supplier's wholesale price catalogue within six months prior to the start of the recall or campaign.

(f)(1) Whenever a supplier and a dealer enter into an agreement providing consumer warranties, the supplier shall pay any warranty claim made for warranty parts and service within 30 days after its receipt and approval.

(2) The supplier shall approve or disapprove a warranty claim within 30 days after its receipt.

(3) If a claim is not specifically disapproved in writing within 30 days after its receipt, it shall be deemed to be approved and payment shall be made by the supplier within 30 days after its receipt.

(g) A supplier violates this section if it:

(1) fails to perform its warranty obligations;

(2) fails to include in written notices of factory recalls to machinery owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of such defects; or

(3) fails to compensate a dealer for repairs required by a recall.

(h) A supplier shall not:

(1) impose an unreasonable requirement in the process a dealer must follow to file a warranty claim; or

(2) impose a surcharge or fee to recover the additional costs the supplier incurs from complying with the provisions of this section.

§ 4079. REMEDIES

(a) A person damaged as a result of a violation of this chapter may bring an action against the violator in a Vermont court of competent jurisdiction for damages, together with the actual costs of the action, including reasonable

attorney's fees, injunctive relief against unlawful termination, ~~cancellation, nonrenewal,~~ or substantial change of competitive circumstances, and such other relief as the Court deems appropriate.

(b) A provision in a dealer agreement that purports to deny access to the procedures, forums, or remedies provided by the laws of this State is void and unenforceable.

~~(c) Nothing contained in this chapter may prohibit~~ Notwithstanding subsection (b) of this section, a dealer agreement may include a provision for binding arbitration of disputes ~~in an agreement.~~ Any arbitration shall be consistent with the provisions of this chapter and 12 V.S.A. chapter 192, and the place of any arbitration shall be in the county in which the dealer's principal place of business is maintained in this State.

* * *

Sec. 3. APPLICABILITY TO EXISTING DEALER AGREEMENTS

Notwithstanding 1 V.S.A. § 214, for a dealer agreement, as defined in 9 V.S.A. § 4071, that is in effect on or before July 1, 2016, the provisions of this act shall apply on July 1, 2016.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 11-0-0)

(For text see Senate Journal March 16, 2016)

S. 255

An act relating to regulation of hospitals, health insurers, and managed care organizations

Rep. Donahue of Northfield, for the Committee on **Health Care**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 2, 18 V.S.A. § 9405b, in subsection (b), by striking out the renumbered subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

~~(1)(3) Information~~ information on membership and governing body qualifications; a listing of the current governing body members, including each member's name, town of residence, occupation, employer, and job title, and the amount of compensation, if any, for serving on the governing body; and means of obtaining a schedule of meetings of the hospital's governing body, including times scheduled for public participation; and

Second: By adding a section to be Sec. 2a to read as follows:

Sec. 2a. 18 V.S.A. § 9456(d) is amended to read:

(d)(1) Annually, the Board shall establish a budget for each hospital ~~by~~ on or before September 15, followed by a written decision by October 1. Each hospital shall operate within the budget established under this section.

* * *

(3)(A) The Office of the Health Care Advocate shall have the right to receive copies of all materials related to the hospital budget review and may:

(i) ask questions of employees of the Green Mountain Care Board related to the Board's hospital budget review;

(ii) submit written questions to the Board that the Board will ask of hospitals in advance of any hearing held in conjunction with the Board's hospital review;

(iii) submit written comments for the Board's consideration; and

(iv) ask questions and provide testimony in any hearing held in conjunction with the Board's hospital budget review.

(B) The Office of the Health Care Advocate shall not further disclose any confidential or proprietary information provided to the Office pursuant to this subdivision (3).

Third: By striking out Secs. 10, recommendations for potential alignment, and 11, effective dates, in their entirety and inserting in lieu thereof the following:

Sec. 10. RECOMMENDATIONS FOR POTENTIAL ALIGNMENT

(a) The Director of Health Care Reform in the Agency of Administration, in collaboration with the Green Mountain Care Board and the Department of Financial Regulation, shall compare the requirements in federal law applicable to Vermont's accountable care organizations and to the Department of Vermont Health Access in its role as a public managed care organization with the rules adopted in accordance with 18 V.S.A. § 9414(a)(1) as they apply to managed care organizations to identify opportunities for alignment, including alignment of mental health standards. The Director of Health Care Reform shall make recommendations on or before December 15, 2017 to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on appropriate ways to improve alignment. In preparing his or her recommendations, the Director shall take into consideration the financial and operational implications of alignment and shall consult with interested stakeholders, including the Department of Health, the Department of Mental Health, health care providers, accountable care organizations, the Office of the

Health Care Advocate, the Vermont Association of Hospitals and Health Systems, the Vermont Medical Society, and health insurance and managed care organizations, as defined in 18 V.S.A. § 9402.

(b) In advance of the implementation of any of the recommendations provided pursuant to subsection (a) of this section and to the extent permitted under federal law, when making a utilization review determination on or after January 1, 2017, the Department of Vermont Health Access shall ensure that:

(1) a mental health professional licensed in Vermont whose training and expertise is at least comparable to the treating provider is involved in the review whenever authorization for mental health or substance abuse services is denied or when payment is stopped for mental health or substance abuse services already being provided;

(2) a physician under the direction of the Department's Chief Medical Officer is involved in the review whenever authorization for health care services other than mental health or substance abuse services is denied or when payment is stopped for health care services already being provided;

(3) adverse action letters delineate the specific clinical criteria upon which the adverse action was based; and

(4) for determinations applicable to patients receiving inpatient care, Department staff are available by telephone to discuss the individual case with the clinician requesting the benefit determination.

Sec. 11. 18 V.S.A. § 115 is amended to read:

§ 115. ~~CHRONIC DISEASES; STUDY; PROGRAM~~ PUBLIC HEALTH SURVEILLANCE ASSESSMENT AND PLANNING

(a) The Department of Health may, in the discretion of the Commissioner, accept for treatment children who have chronic diseases ~~such as cystic fibrosis and severe hemophilia~~ or developmental disabilities.

(b) The ~~State Board~~ Commissioner of Health is authorized to:

(1) study the prevalence of chronic disease;

(2) make such morbidity studies as may be necessary to evaluate the over-all problem of chronic disease and developmental disabilities;

(3) develop an early case-finding program, in cooperation with the medical profession;

(4) develop and carry on an educational program as to the causes, prevention and alleviation of chronic disease and developmental disabilities; and

~~(5) integrate this program with that of the State rehabilitation center where possible, by seeking the early referral of persons with chronic disease, who could benefit from the State rehabilitation program~~ adopt rules for the purpose of screening chronic diseases and developmental disabilities in newborns.

(c) The ~~State Board~~ Department of Health is directed to consult and cooperate with the medical profession and interested official and voluntary agencies and societies in the development of this program.

(d) The ~~Board~~ Department is authorized to accept contributions or gifts which are given to the State for any of the purposes as stated in this section, and the Department is authorized to charge and retain monies to offset the cost of providing newborn screening program services.

Sec. 12. 18 V.S.A. § 115a is amended to read:

§ 115a. ~~CHRONIC DISEASES OF CHILDREN; TREATMENT~~

~~The Department of Health may, in the discretion of the Commissioner, accept for treatment children who have chronic diseases such as cystic fibrosis. [Repealed.]~~

Sec. 13. 18 V.S.A. § 5087 is amended to read:

§ 5087. ESTABLISHMENT OF BIRTH INFORMATION NETWORK

* * *

(b) The Department of Health is authorized to collect information for the birth information network for the purpose of preventing and controlling disease, injury, and disability. The Commissioner ~~of Health~~, in collaboration with appropriate partners, shall coordinate existing data systems and records to enhance the network's comprehensiveness and effectiveness, including:

- (1) vital records (birth, death, and fetal death certificates);
- (2) the children with special health needs database;
- (3) newborn metabolic screening;
- (4) a voluntary developmental screening test;
- (5) universal newborn hearing screening;
- ~~(5)~~(6) the Hearing Outreach Program;
- ~~(6)~~(7) the cancer registry;
- ~~(7)~~(8) the lead screening registry;
- ~~(8)~~(9) the immunization registry;

~~(9)~~(10) the special supplemental nutrition program for women, infants, and children;

~~(10)~~(11) the Medicaid claims database;

~~(11)~~(12) the hospital discharge data system;

~~(12)~~(13) health records, ~~(such as including~~ discharge summaries, disease indexes, nursery logs, pediatric logs, and neonatal intensive care unit logs), from hospitals, outpatient specialty clinics, genetics clinics, and cytogenetics laboratories; and

~~(13)~~(14) the Vermont health care claims uniform reporting and evaluation system.

* * *

Sec. 14. CONGENITAL HEART DEFECT SCREENING; RULEMAKING

On or before January 1, 2017, the Commissioner of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 requiring the screening for a congenital heart defect on every newborn in the State, unless a critical congenital heart defect was detected prenatally. Screening tests for critical congenital heart defects may include pulse oximetry or other methodologies that reflect the standard of care.

Sec. 15. EFFECTIVE DATES

(a) Secs. 1 (hospital needs assessment) and 2 (hospital community reports) and this section shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2016.

(Committee vote: 11-0-0)

(For text see Senate Journal March 11, 15, 2016)

Senate Proposal of Amendment

H. 559

An act relating to an exemption from licensure for visiting team physicians

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

By adding a new section to be Sec. 5 to read as follows:

Sec. 5. 26 V.S.A. § 1583 is amended to read:

§ 1583. EXEMPTIONS

This chapter does not prohibit:

* * *

(10) An advanced practice registered nurse who is duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the APRN is employed as or formally designated as the team APRN by an athletic team visiting Vermont for a specific sporting event and the APRN limits the practice of advanced practice registered nursing in this State to treatment of the members, coaches, and staff of the sports team employing or designating the APRN.

And by renumbering the existing Sec. 5, effective date, to be Sec. 6

(For text see House Journal April 15, 2016)

H. 845

An act relating to legislative review of certain report requirements

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

* * * Amendment to 2 V.S.A. § 20(d) Language * * *

Sec. 1. 2 V.S.A. § 20(d) is amended to read:

(d) ~~Unless It is the intent of the General Assembly that, except for reports required by interstate compacts and except as otherwise provided by law, whenever an agency is required by law to submit an annual, biennial, or other periodic report to the General Assembly, that requirement shall no longer be required after five years or after five years from July 1, 2009 the last date that the statutory or session law section containing the report was amended, whichever date is later. The In each biennial session, the Legislative Council, pursuant to section 424 of this title, may revise the Vermont Statutes Annotated accordingly shall prepare for the General Assembly's review a list of the reports subject to this subsection. A report requirement shall only expire pursuant to legislative enactment.~~

* * * Reports Exempt from 2 V.S.A. § 20(d) * * *

Sec. 2. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER 18 YEARS OF AGE; REPORT

(a) An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under 18 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

(b)(1) The Department of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to minors of at least 90 percent for buyers 17 years of age. An individual under 18 years of age participating in a compliance test shall not be in violation of 7 V.S.A. § 1005.

(2) Any violation by a tobacco licensee of subsection 1003(a) of this title and this section after a first sale violation or during a compliance test conducted within six months of a previous violation shall be considered a multiple violation and shall result in the minimum license suspension in addition to any other penalties available under this title. Minimum license suspensions for multiple violations shall be assessed as follows:

- | | |
|-----------------------------|---|
| <u>(A) Two violations</u> | <u>one weekday;</u> |
| <u>(B) Three violations</u> | <u>two weekdays;</u> |
| <u>(C) Four violations</u> | <u>three weekdays;</u> |
| <u>(D) Five violations</u> | <u>three weekend days,</u>
<u>Friday through Sunday.</u> |

(3) The Department shall report to the House Committee on General, Housing and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the Tobacco Evaluation and Review Board annually, on or before January 15, the methodology and results of compliance tests conducted during the previous year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 3. 9 V.S.A. § 4553(b) is amended to read:

(b) The Human Rights Commission shall forward, on or before January 1 of each year, to the Speaker of the House and the President of the Senate an annual report on the status of Commission program operations, the number and type of calls received, complaints filed and investigated, closure of litigated and nonlitigated complaints, public educational activities undertaken, and recommendations for improved human rights advocacy and activities. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 4. 16 App. V.S.A. chapter 1, § 1-8 is amended to read:

§ 1-8. LEGISLATIVE REPORTS; BOARD OF VISITORS

The corporation hereby created shall make annual reports to the Legislature of this State, of its condition, financially and otherwise, and make and distribute the reports required by the act of Congress, herein referred to, and

the Legislature may annually appoint a Board of Visitors, who may annually examine the affairs of the corporation. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

Sec. 5. 24 V.S.A. § 290b(d) is amended to read:

(d) Annually, each sheriff shall furnish the Auditor of Accounts on forms provided by the Auditor a financial report reflecting the financial transactions and condition of the sheriff's department. The sheriff shall submit a copy of this report to the assistant judges of the county. The assistant judges shall prepare a report reflecting funds disbursed by the county in support of the sheriff's department and forward a copy of their report to the Auditor of Accounts. The Auditor of Accounts shall compile the reports and submit one report to the House and Senate Committees on Judiciary. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 6. 32 V.S.A. § 182(a) is amended to read:

(a) In addition to the duties expressly set forth elsewhere by law, the Commissioner of Finance and Management shall:

(1) Prescribe appropriate systems for all State departments and agencies to use in accounting and each department and agency shall keep their accounts in accordance with a system prescribed by the Commissioner. The Commissioner may review and examine any accounting system to determine its compliance with the prescribed system;

(2) Maintain a system of central accounting of income and disbursement so as to enable fiscal officers of the ~~state~~ State at any time to provide an evaluation and analysis of the status of ~~state~~ State finances;

(3) Coordinate the fiscal procedures of the State, including all departments, institutions, and agencies with the controlling accounts kept under this section;

(4) Maintain a system of encumbrance accounting to control expenditures within budget appropriations;

(5) In the Commissioner's discretion, pre-audit receipts, expenditures, and encumbrances;

(6) Draw warrants on the Treasurer for all valid and legal payroll disbursements certified by voucher;

(7) Draw warrants on the Treasurer for all disbursements;

(8) Prepare monthly revenue reports for the Governor, Secretary of Administration, and other officials and for release to the general public, and a

comprehensive annual financial report in accordance with generally accepted accounting principles which shall be distributed to the Chairs of the House Committees on Appropriations, on Corrections and Institutions, and on Ways and Means and to the Senate Committees on Appropriations, on Finance, and on Institutions on or before December 31 of each year; The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision.

(9) Make available monthly reports of appropriations, expenditures, encumbrances, and balances for all operating departments;

(10) Maintain a standard chart of accounts structure pertaining to appropriation, revenue, and expenditure codes;

(11) ~~[Deleted.]~~ [Repealed.]

(12) Exercise central management of the appropriation act;

(13) Maintain the general control ledger of State accounts;

* * *

Sec. 7. 32 V.S.A. § 434(a)(5) is amended to read:

(5) Annually, the Treasurer shall prepare a report to the House Committee on Ways and Means and the Senate Committee on Finance on the financial activity of the Trust Investment Account. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision.

Sec. 8. 32 V.S.A. § 3205(c) is amended to read:

(c) The Taxpayer Advocate shall prepare an annual report detailing the actions the Taxpayer Advocate has taken to improve taxpayer services and the responsiveness of the Department of Taxes. The report shall identify the problems encountered by taxpayers in interacting with the Department of Taxes and include specific recommendations for administrative and legislative actions to resolve those problems. The report shall identify any problems that span an entire class of taxpayer or specific industry, and propose class- or industry-wide solutions. The report of the Taxpayer Advocate shall be submitted to the Senate Committee on Finance and the House Committee on Ways and Means ~~no later than~~ on or before January 15th 15 of each year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 9. 33 V.S.A. § 2115 is added to read:

§ 2115. GENERAL ASSISTANCE PROGRAM REPORT

On or before of January 15 of each year, the Commissioner for Children and Families shall submit a written report to the House Committees on Appropriations, on General, Housing and Military Affairs and on Human Services and the Senate Committees on Appropriations and on Health and Welfare containing:

(1) an evaluation of the General Assistance program during the previous fiscal year;

(2) any recommendations for changes to the program; and

(3) a plan for continued implementation of the program.

Sec. 10. 2012 Acts and Resolves No. 162, Sec. E.321(b) is amended to read:

(b) The program may operate in up to 12 districts designated by the ~~secretary of human services~~ Secretary of Human Services. This program will be budget neutral. For each district in which the ~~agency~~ Agency operates the program, it shall establish procedures for evaluating the pilot and its effects. The ~~agency~~ Agency shall report annually to the ~~general assembly~~ General Assembly on its findings from the programs, its recommendations for changes in the general assistance program, and a plan for further implementation of the program. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

* * * Report Requirements Repealed * * *

Sec. 11. 18 V.S.A. § 1553(c) is amended to read:

~~(c) On or before January 15 of each year, the commissioner of health shall submit a report to the house committees on health care and on human services and the senate committee on health and welfare containing at least the following information:~~

~~(1) a description of the adverse events reviewed by the panel during the preceding 12 months, including statistics and causes;~~

~~(2) corrective action plans to address, in the aggregate, such adverse events; and~~

~~(3) recommendations for system changes and legislation relating to the delivery of health care in Vermont. [Repealed.]~~

Sec. 12. 18 V.S.A. § 4632(a)(5) and (6) is amended to read:

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

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

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

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

Sec. 13. 32 V.S.A. § 5930z(g) is amended to read:

~~(g) On a regular basis, the Department shall notify the House and Senate Committees on Natural Resources and Energy of solar energy tax credits claimed pursuant to this section, and the The Board shall cause to be transferred from the Clean Energy Development Fund to the General Fund an amount equal to the amount of solar energy tax credits as and when the credits are claimed.~~

Sec. 14. 2000 Acts and Resolves No. 125, Sec. 2(b)(7) as amended by 2009 Acts and Resolves No. 33, Sec. 71 and 2012 Acts and Resolves No. 68, Sec. 3 is further amended to read:

~~(7) Report annually to the house and senate committees on education on the extent of indoor air and hazardous exposure problems in Vermont schools and on the percentage of Vermont schools that have established a school environmental health program or qualified for environmental health certification. [Repealed.]~~

Sec. 15. 2011 Acts and Resolves No. 54, Sec. 5(e) is amended to read:

~~(e) On or before January 15, 2012, and annually thereafter, the department of fish and wildlife shall report to the house committee on fish, wildlife and~~

~~water resources and the senate committee on natural resources and energy regarding the status of the relevant captive cervidae facility's compliance with:~~

- ~~(1) the requirements of this section; and~~
- ~~(2) the fish and wildlife board's rule governing the importation and possession of animals for taking by hunting. [Repealed.]~~

* * * Reports Expiration Extension * * *

Sec. 16. REPORT REPEAL DELAYED

The reports set forth in this section shall not be subject to review under the provisions of 2 V.S.A. § 20(d) (expiration of required reports) until July 1, 2020:

(1) 10 V.S.A. §§ 21(b)(2) (report on the condition of the EB-5 Special Fund), 1978(e)(3) (Technical Advisory Committee report on potable water supply and wastewater systems), 2609a (income from sites used for communication purposes), and 6604(b) (Agency of Natural Resources recommendations regarding solid waste management);

(2) 13 V.S.A. § 5256 (Defender General summarized activities);

(3) 18 V.S.A. §§ 4474j(b) (Marijuana for Symptom Relief Oversight Committee annual report) and 9375a(b)(4) (final projections for three-year projection of health care expenditures);

(4) 28 V.S.A. § 104(e) (Commissioner of Corrections notification of release of offenders);

(5) 29 V.S.A. §§ 155(c) (deposits and disbursements from Historic Property Stabilization and Rehabilitation Special Fund) and 160(e) (condition of Property Management Revolving Fund); and

(6) 1999 Acts and Resolves No. 49, Sec. 96, as amended by 2012 Acts and Resolves No. 139, Sec. 39 (economic advancement tax incentives awarded under 32 V.S.A. chapter 151, subchapter 11E); 2005 Acts and Resolves No. 56, Sec. 1(b)(2)(B), as amended by 2007 Acts and Resolves No. 65, Sec. 112a (utilization of services and expenses under Choices for Care); 2010 Acts and Resolves No. 110, Sec. 8 (status of river corridor, shoreland, and buffer zoning within Vermont); 2010 Acts and Resolves No. 161, Sec. 20, as amended by 2012 Acts and Resolves 139, Sec. 49 (status of improvements funded by State capital appropriations); 2011 Acts and Resolves No. 59, Sec. 15 (contested cases involving Public Records Act); 2011 Acts and Resolves No. 63, Sec. E.321.1(a), as amended by 2012 Acts and Resolves No. 139, Sec. 50 (outcomes and measures for Emergency Shelter grants); and 2012 Acts and Resolves No. 113, Sec. 3 (report on Genuine Progress Indicator).

* * * Technical Amendments * * *

Sec. 17. 2 V.S.A. § 263(j) is amended to read:

(j) The Secretary of State shall prepare a list of names and addresses of lobbyists and their employers and the list shall be published at the end of the second legislative week of each regular or adjourned session. Supplemental lists shall be published monthly during the remainder of the legislative session. ~~No later than~~ On or before March 15 of the first year of each legislative biennium, the Secretary of State shall publish no fewer than 500 booklets containing an alphabetical listing of all registered lobbyists, including, at a minimum, a current passport-type photograph of the lobbyist, the lobbyist's business address, telephone, and fax numbers, a list of the lobbyist's clients, and a subject matter index. ~~The provisions of subsection 20(d) (expiration of required reports) of this title shall not apply to the report to be made under this subsection.~~

Sec. 18. 2 V.S.A. § 404(b)(6) is amended to read:

(6) Except when the General Assembly is in session and upon the request of any person provide him or her, on a weekly basis, with a list of all public hearings or meetings scheduled by a council, committee, subcommittee, commission, or study committee of the General Assembly or any cancellations of hearings or meetings thereof previously scheduled. ~~The provisions of subsection 20(d) (expiration of required reports) of this title shall not apply to the report to be made under this subdivision.~~

Sec. 19. 3 V.S.A. § 847(b) is amended to read:

(b) The Secretary of State shall publish not less than quarterly a bulletin setting forth the text of all rules filed since the immediately preceding publication and any objections filed under subsection 842(b) or 844(e) of this title. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 20. 3 V.S.A. § 2222(c) is amended to read:

(c) The Secretary shall compile, weekly, a list of all public hearings and meetings scheduled by all Executive Branch State agencies, departments, boards, or commissions during the next ensuing week. The list shall be distributed to any person in the State at that person's request. Each Executive Branch State agency, department, board, or commission shall notify the Secretary of all public hearings and meetings to be held and any cancellations of such hearings or meetings. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 21. 4 V.S.A. § 608(e) is amended to read:

(e) On or before the tenth Thursday after the convening of each biennial and adjourned session, the Committee shall report to the General Assembly its recommendation whether the candidates should continue in office, with any amplifying information which it may deem appropriate, in order that the General Assembly may discharge its obligation under ~~section 34 of Chapter II § 34~~ of the Constitution of the State of Vermont. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 22. 10 V.S.A. § 6503(a) is amended to read:

(a) The Committee shall report to the General Assembly its recommendation to approve or not to approve the petition for the facility together with such additional information and comment it deems appropriate. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 23. 16 V.S.A. § 164(17) is amended to read:

(17) Report annually on the condition of education statewide and on a school by school basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of harassment, hazing, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school to determine its strengths and weaknesses. The Secretary shall use the information in the report to determine whether students in each school are provided educational opportunities substantially equal to those provided in other schools pursuant to subsection 165(b) of this title. ~~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.~~

Sec. 24. 16 V.S.A. § 165(a)(2) is amended to read:

(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:

* * *

Sec. 25. 16 V.S.A. § 2967(a) is amended to read:

(a) On or before December 15, the Secretary shall publish an estimate, by town school district, city school district, union school district, unified union school district, incorporated school district, and the member school districts of an interstate school district, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in the ensuing school year. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 26. 16 V.S.A. § 3862 is amended to read:

§ 3862. REPORTS

~~Notwithstanding the provisions of 2 V.S.A. § 20(d), the~~ The Vermont Education and Health Buildings Finance Agency shall prepare and annually submit to the Governor a complete report listing all projects applied for, planned, in progress, and completed, and a complete financial report duly audited and certified by a certified public accountant.

Sec. 27. 24 V.S.A. § 1354 is amended to read:

§ 1354. ACCOUNTS; ANNUAL REPORT

The Supervisor or Supervisors shall maintain an account showing in detail the revenue raised and the expenses necessarily incurred in the performance of the Supervisor's duties. The Supervisor or Supervisors shall prepare an annual fiscal report ~~by~~ on or before July 1 which shall conform to procedural and substantive requirements to be established by the Board of Governors and which, upon approval by the Board of Governors, shall be distributed to the residents of the gores. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

Sec. 28. 24 V.S.A. § 4753b(b) is amended to read:

(b) The Commissioner shall report receipt of a grant under this section to the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions and the Joint Fiscal Committee. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 29. 26 V.S.A. § 3105(d) is amended to read:

(d) Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation, the Office of Professional Regulation shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the appropriate House or Senate Committee on Government

Operations. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 30. 29 V.S.A. § 152(a)(25) is amended to read:

(25) Transfer any unexpended project balances from previous capital construction acts for the purpose of emergency projects not authorized in a capital construction act in an amount not to exceed \$100,000.00; provided the Commissioner shall send timely written notice of such expenditures to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. ~~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.~~

Sec. 31. 32 V.S.A. § 166 is amended to read:

§ 166. PAYMENTS TO TOWNS; RETURNS BY COMMISSIONER OF
FINANCE AND MANAGEMENT

On or before January 10 of each year, the Commissioner of Finance and Management shall transmit to the auditors of each town a statement showing the amount of money paid by the State to the town and the purpose for which paid during the year ending December 31 preceding the date of such statement, the date of such payments and purpose for which made, unless the Commissioner of Finance and Management is requested to send such statement at some other date to conform to the fiscal year of such municipality. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

Sec. 32. 32 V.S.A. § 311(b) is amended to read:

(b) At the request of the House or Senate Committee on Government Operations or on Appropriations, the State Treasurer, and the Commissioner of Finance and Management shall present to the requesting committees the recommendations submitted under 3 V.S.A. § 471(n) and 16 V.S.A. § 1942(r). ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

Sec. 33. 32 V.S.A. § 704(i) is amended to read:

(i) ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the plan to be made under this section. [Repealed.]~~

Sec. 34. 32 V.S.A. § 3101(b)(11) is amended to read:

(11) From time to time prepare and publish statistics reasonably available with respect to the operation of this title, including amounts collected, classification of taxpayers, tax liabilities, and such other facts as the Commissioner or the General Assembly considers pertinent. ~~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.~~

Sec. 35. 2009 Acts and Resolves No. 43, Sec. 49 as amended by 2014 Acts and Resolves No. 142, Sec. 76 is further amended to read:

Sec. 49. CLOSING OF CORRECTIONAL FACILITIES; APPROVAL

The Secretary of Administration shall not plan to close or significantly reduce operations at any correctional facility unless approval to proceed with such closing or reduction plans is granted by both the ~~Joint Committee on Corrections Oversight~~ Joint Legislative Justice Oversight Committee and the Joint Fiscal Committee. Any plan submitted to the committees shall include an analysis of the regional impact, including how the increased transportation costs will be funded. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

Sec. 36. 2014 Acts and Resolves No. 142, Sec. 112 as amended by 2015 Acts and Resolves No. 23, Sec. 65 is further amended to read:

Sec. 112. REPORT REPEAL DELAYED

The reports set forth in this section shall not be subject to expiration under the provisions of 2 V.S.A. § 20(d) (expiration of required reports) until July 1, 2018:

* * *

(4) 10 V.S.A. §§ 291 (Entrepreneurs' ~~seed capital fund~~ Seed Capital Fund report), 323 (Vermont Housing ~~And~~ and Conservation Trust Fund report), 329 (The Sustainable Jobs Fund Program report), 580(b) (25 by 25 ~~state goal~~ State Goal report), 685(g) (Vermont Community Development Board report), 1196 (Connecticut River Watershed Advisory Commission report), 1942 (Underground Storage Tank Assistance Program report), and 1961(a)(4) (Vermont Citizens Advisory Committee on Lake Champlain's Future report), ~~and 7563 (ANR report on federal laws relating to collection and recycling of electronic devices).~~

* * *

(6) 18 V.S.A. §§ 1756 (lead poisoning report), 7402 (Commissioner of Mental Health report), 9505(9) (Vermont Tobacco Evaluation and Review Board ~~conflict of interest policy report~~ recommendations), and 9507(a) (Vermont Tobacco Evaluation and Review Board report).

* * *

* * * Repeal * * *

Sec. 37. REPEAL

The following are repealed:

(1) 1997 Acts and Resolves No. 58, Sec. 13 (tobacco sales to minors compliance testing);

(2) 2012 Acts and Resolves No. 143, Sec. 40 (calculation of dollar equivalent); and

(3) 2014 Acts and Resolves No. 142, Sec. 113 (Legislative Council report repeal authority).

* * * Effective Date * * *

Sec. 38. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(For text see House Journal February 12, 2016)

Action Under Rule 52

H.R. 21

House resolution requesting the Shumlin administration and the Attorney General to release certain e-mails

(For text see House Journal April 21, 2016)

Action Postponed Until April 26, 2016

Senate proposal of amendment to House proposal of amendment to the Senate proposal of amendment

H. 84

An act relating to Internet dating services

Pending Question; Shall the House concur in the Senate proposal to the House proposal to the Senate proposal of amendment?

NOTICE CALENDAR

Favorable with Amendment

H. 866

An act relating to prescription drug manufacturer cost transparency

Rep. Pearson of Burlington, for the Committee on **Health Care**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) The costs of prescription drugs have been increasing dramatically without any apparent reason.

(2) Containing health care costs requires containing prescription drug costs.

(3) In order to contain prescription drug costs, it is essential to understand the drivers of those costs, as transparency is typically the first step toward cost containment.

Sec. 2. 18 V.S.A. § 4635 is added to read:

§ 4635. PHARMACEUTICAL COST TRANSPARENCY

(a) As used in this section:

(1) “Manufacturer” shall have the same meaning as “pharmaceutical manufacturer” in section 4631a of this title.

(2) “Prescription drug” means a drug as defined in 21 U.S.C. § 321.

(b) The Green Mountain Care Board, in collaboration with the Department of Vermont Health Access, shall identify annually up to 15 prescription drugs on which the State spends significant health care dollars and for which the price has increased by 50 percent or more over the past five years or by 15 percent or more over the past 12 months, creating a substantial public interest in understanding the development of the drugs’ pricing. The drugs identified shall represent different drug classes, with some of the drugs being generic drugs, some brand-name drugs, and some specialty drugs. The Board shall provide the list of prescription drugs to the Office of the Attorney General.

(c)(1) For each prescription drug identified pursuant to subsection (b) of this section, the Office of the Attorney General shall require the drug’s manufacturer to report the following information by drug name, in a format that the Attorney General determines to be understandable and appropriate:

(A) the number of years the drug has been available for purchase in the United States;

(B) the year the patent for each formulation of the drug was approved and the number of years remaining, if any, on the patent for each formulation of the drug;

(C) the total research and development costs paid by the manufacturer over the preceding seven years and, separately and to the extent the manufacturer has the information, the total research and development costs paid by any predecessor and by any third party, public or private, in the development of the drug, showing both the total amounts spent on research and development by the manufacturer, its predecessors, and third parties over time

and the amounts spent by each per year as well as any amounts from federal, State, or other governmental programs and any form of subsidies, grants, tax credits, or other support;

(D) the costs of clinical trials and other regulatory costs paid by the manufacturer by year and by clinical trial phase and, separately and to the extent the manufacturer has the information, the costs of clinical trials and other regulatory costs paid by any predecessor in the development of the drug, as well as the cost of any postclinical studies mandated by the U.S. Food and Drug Administration;

(E) amounts spent per year for the preceding seven years on direct-to-consumer advertising for the drug and on physician detailing activities related to the drug, both in Vermont and nationally;

(F) a cumulative annual history of increases in the average wholesale price and wholesale acquisition cost of the drug, using the National Drug Code, over the preceding five-year period, expressed as percentages, and the month each such increase took effect;

(G) prices charged to direct purchasers in Vermont during the previous year, including pharmacies, pharmacy chains, pharmacy wholesalers, hospitals, physician practices, and other direct purchasers of prescription drugs; and

(H) prices charged to mail-order pharmacies for distribution in Vermont during the previous year.

(2) The manufacturer may provide to the Office of the Attorney General any additional information the manufacturer believes may be pertinent to the Attorney General's complete understanding of the costs related to developing and manufacturing the drug or to the drug's price, such as costs related to acquisition of the drug, and to its understanding of the reasons for the increases in the drug's price.

(3) The manufacturer shall certify, subject to the penalties of perjury, that the information provided is truthful, accurate, and complete.

(4) The manufacturer may indicate that a component of the required information is not available in the format requested if the manufacturer provides the information in an alternative format acceptable to the Attorney General as in keeping with the purposes of this section and the manufacturer includes a detailed explanation of the reasons the manufacturer is unable to provide the information in the requested format.

(d) The Attorney General, in consultation with the Department of Vermont Health Access, shall provide a report to the General Assembly on or before

December 1 of each year based on the information received from manufacturers pursuant to this section.

(1) The report shall be based on the Attorney General's review and analysis of the data. The Attorney General shall aggregate the data to determine trends in components of drug production costs and shall provide recommendations for legislative, administrative, or other policy changes that may contribute to containing growth in prescription drug prices.

(2) The Attorney General shall report aggregated data separately for generic, brand name, and specialty drugs in a manner that maximizes the utility of the data while protecting the financial, competitive, or proprietary nature of the information.

(3) The report shall include a statement of total State spending for the year for each drug identified pursuant to subsection (a) of this section paid for through the State Employees Health Benefit Plan, Medicaid, VPharm, and any other State program for the purchase of prescription drugs, as well as the number of prescriptions for each drug dispensed to individuals enrolled in these programs.

(4) The Attorney General shall also post the report on the Office of the Attorney General's website.

(e) Information provided to the Office of the Attorney General pursuant to this section is exempt from public inspection and copying under the Public Records Act and shall not be released in a manner that allows for the identification of an individual drug or manufacturer or that is likely to compromise the financial, competitive, or proprietary nature of the information.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-2-0)

S. 189

An act relating to foster parents' rights and protections

Rep. Haas of Rochester, for the Committee on **Human Services**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1, in subsection (b), by striking "eight" before "members" and inserting "nine" in lieu thereof

Second: In Sec. 1, in subsection (b), by inserting a new subdivision (6) after subdivision (5) to read as follows:

(6) a person previously in foster care in Vermont, appointed by the Governor;

and by renumbering the remaining subdivisions to be numerically correct

(Committee vote: 11-0-0)

(For text see Senate Journal March 18, 2016)

Rep. Trieber of Rockingham, for the Committee on **Appropriations**, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on **Human Services**.

(Committee Vote: 10-0-1)

S. 230

An act relating to improving the siting of energy projects

Rep. Ram of Burlington, for the Committee on **Natural Resources & Energy**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Designation * * *

Sec. 1. DESIGNATION OF ACT

This act shall be referred to as the Energy Development Improvement Act.

* * * Integration of Energy and Land Use Planning * * *

Sec. 2. 24 V.S.A. § 4302(c)(7) is amended to read:

(7) To ~~encourage the~~ make efficient use of energy ~~and, provide for the~~ development of renewable energy resources, and reduce emissions of greenhouse gases.

(A) General strategies for achieving these goals include increasing the energy efficiency of new and existing buildings; identifying areas suitable for renewable energy generation; encouraging the use and development of renewable or lower emission energy sources for electricity, heat, and transportation; and reducing transportation energy demand and single occupancy vehicle use.

(B) Specific strategies and recommendations for achieving these goals are identified in the State energy plans prepared under 30 V.S.A. §§ 202 and 202b.

Sec. 3. 24 V.S.A. § 4345 is amended to read:

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

(6) Undertake studies and make recommendations on land development, urban renewal, transportation, economic, industrial, commercial, and social development, urban beautification and design improvements, historic and scenic preservation, ~~the conservation of energy and the development of renewable energy resources~~, State capital investment plans, and wetland protection.

* * *

Sec. 4. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(14) With respect to proceedings under 30 V.S.A. § 248:

(A) have the right to appear and participate; and

(B) ~~Appear~~ appear before the Public Service Board to aid ~~the Board~~ in making determinations under 30 V.S.A. § 248 that statute when requested by the Board.

* * *

(19) Undertake studies and make recommendations on the conservation of energy and the development of renewable energy resources.

Sec. 5. 24 V.S.A. § 4348a(a)(3) is amended to read:

(3) An energy element, which may include an analysis of energy resources, needs, scarcities, costs, and problems within the region; across all energy sectors, including electric, thermal, and transportation; a statement of policy on the conservation and efficient use of energy and the development and siting of renewable energy resources, and; a statement of policy on patterns and densities of land use and control devices likely to result in conservation of energy; and an identification of potential areas for the development and siting of renewable energy resources and areas that are unsuitable for siting those resources or particular categories or sizes of those resources.

Sec. 6. 24 V.S.A. § 4352 is added to read:

§ 4352. OPTIONAL DETERMINATION OF ENERGY

COMPLIANCE; ENHANCED ENERGY PLANNING

(a) Regional plan. A regional planning commission may submit its adopted regional plan to the Commissioner of Public Service appointed under 30 V.S.A. § 1 for a determination of energy compliance. The Commissioner shall issue such a determination in writing on finding that the regional plan meets the requirements of subsection (c) of this section and allows for the siting in the region of all types of renewable generation technologies.

(b) Municipal plan. If the Commissioner of Public Service has issued a determination of energy compliance for a regional plan that is in effect, a municipal legislative body within the region may submit its adopted municipal plan to the regional planning commission for issuance of a determination of energy compliance. The regional planning commission shall issue such a determination in writing, signed by the chair of the regional planning commission, on finding that the municipal plan meets the requirements of subsection (c) of this section and is consistent with the regional plan.

(c) Enhanced energy planning; requirements. To obtain a determination of energy compliance under this section, a plan must:

(1) in the case of a regional plan, include the energy element as described in subdivision 4348a(a)(3) of this title;

(2) in the case of a municipal plan, include an energy element that has the same components as described in subdivision 4348a(a)(3) of this title for a regional plan and be confirmed under section 4350 of this title;

(3) be consistent with the following, with consistency determined in the manner described under subdivision 4302(f)(1) of this title:

(A) Vermont's greenhouse gas reduction goals under 10 V.S.A. § 578(a);

(B) Vermont's 25 by 25 goal for renewable energy under 10 V.S.A. § 580;

(C) Vermont's building efficiency goals under 10 V.S.A. § 581;

(D) State energy policy under 30 V.S.A. § 202a and the recommendations for regional and municipal energy planning pertaining to the efficient use of energy and the siting and development of renewable energy resources contained in the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b (State energy plans); and

(E) the distributed renewable generation and energy transformation categories of resources to meet the requirements of the Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005; and

(4) meet the standards for issuing a determination of energy compliance included in the State energy plans.

(d) State energy plans; recommendations; standards.

(1) The State energy plans shall include the recommendations for regional and municipal energy planning and the standards for issuing a determination of energy compliance described in subdivision (c)(3) of this section.

(2) The recommendations shall provide strategies and options for regional planning commissions and municipalities to employ in meeting the goals and policies contained in statutes listed in subdivision (c)(3) of this section.

(3) The standards shall consist of a list of criteria for issuing a determination of energy compliance that ensure consistency with the goals and policies contained in the statutes listed in subdivision (c)(3) of this section and the recommendations developed pursuant to this subsection.

(4) In developing standards and recommendations under this subsection, the Commissioner of Public Service shall consult with all persons identified under 30 V.S.A. § 202(d)(1); the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation; and other affected persons.

(5) The Commissioner of Public Service shall provide the Commissioner of Housing and Community Development with a copy of the recommendations and standards developed under this subsection for inclusion in the planning and land use manual prepared pursuant to section 4304 of this title.

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall include a public hearing noticed at least 15 days in advance by direct mail to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination within two months of the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

(f) Appeal. A regional planning commission aggrieved by an act or decision of the Commissioner of Public Service under this section may appeal to the hearing panel established by this subsection within 30 days of the act or decision.

(1) The hearing panel shall consist of the following members:

(A) A member and alternate appointed by the Vermont Association of Planning and Development Agencies. The initial terms of this member and alternate shall be three years.

(B) A member and alternate appointed by the Vermont League of Cities and Towns. The initial terms of this member and alternate shall be two years.

(C) A member and alternate appointed by the Commissioner of Public Service. The initial terms of this member and alternate shall be three years.

(2) On or before November 1, 2016, each appointing authority shall make initial appointments under this section.

(3) Following initial terms, the appointing authority shall appoint a member and alternate for terms of three years. The appointing authority may reappoint a member or alternate.

(4) The hearing panel shall elect a chair from among its members, excluding alternates. A member may designate his or her alternate to serve if the member is disqualified or otherwise unavailable to serve. If the chair is disqualified or unavailable to serve on a matter, the members serving shall elect a chair for the matter from among themselves.

(5) A member of the hearing panel shall not be an employee of the Department of Public Service (DPS). The provisions of 12 V.S.A. § 61 (disqualification for interest) shall apply to the members of the hearing panel.

(6) The hearing panel shall conduct a de novo hearing on the act or decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The hearing panel shall issue a final decision within 90 days of the filing of the appeal.

(7) The hearing panel shall be entitled to the professional and administrative assistance of the staff of the Natural Resources Board and District Commissions under 10 V.S.A. chapter 151.

(g) Municipality; determination from DPS; time-limited option. Until July 1, 2018, a municipality whose plan has been confirmed under section 4350 of this title may seek issuance of a determination of energy compliance from the Commissioner of Public Service if it is a member of a regional planning commission whose regional plan has not received such a determination.

(1) The Commissioner shall issue a determination of energy compliance for the municipal plan on finding that the plan meets the requirements of

subsection (c) of this section. The Commissioner’s review of the municipal plan shall be for the purpose only of determining whether a determination of energy compliance should be issued because those requirements are met.

(2) A municipality aggrieved by an act or decision of the Commissioner under this subsection may appeal in accordance with the procedures of subsection (f) of this section.

(h) Determination; time period. An affirmative determination of energy compliance issued pursuant to this section shall remain in effect until the end of the period for expiration or re adoption of the plan to which it applies.

(i) Commissioner; consultation. In the discharge of the duties assigned under this section, the Commissioner shall consult with and solicit the recommendations of the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation.

Sec. 7. 30 V.S.A. § 202 is amended to read:

§ 202. ELECTRICAL ENERGY PLANNING

* * *

(b) The Department, through the Director, shall prepare an electrical energy plan for the State. The Plan shall be for a 20-year period and shall serve as a basis for State electrical energy policy. The Electric Energy Plan shall be based on the principles of “least cost integrated planning” set out in and developed under section 218c of this title. The Plan shall include at a minimum:

* * *

(4) a detailed exposition, including capital requirements and the estimated cost to consumers, of how such demand shall be met based on the assumptions made in subdivision (1) of this subsection and the policies set out in subsection (c) of this section; ~~and~~

(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate six-year period, for the next succeeding six-year period, and long-term sustainable strategies for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont; and

(6) recommendations for regional and municipal energy planning and standards for issuing a determination of energy compliance pursuant to 24 V.S.A. § 4352.

(c) In developing the Plan, the Department shall take into account the protection of public health and safety; preservation of environmental quality; the relevant goals of 24 V.S.A. § 4302; the potential for reduction of rates paid by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.

(d) In establishing plans, the Director shall:

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities and planning commissions;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

(E) Vermont electric transmission companies;

(F) environmental and residential consumer advocacy groups active in electricity issues;

(G) industrial customer representatives;

(H) commercial customer representatives;

(I) the Public Service Board;

(J) an entity designated to meet the public's need for energy efficiency services under subdivision 218c(a)(2) of this title;

(K) other interested State agencies; ~~and~~

(L) other energy providers; and

(M) the regional planning commissions.

* * *

(e) The Department shall conduct public hearings on the final draft and shall consider the evidence presented at such hearings in preparing the final Plan. The Plan shall be adopted no later than January 1, 2016 and readopted in accordance with this section by every sixth January ~~+~~ 15 thereafter, and shall be submitted to the General Assembly each time the plan is adopted or readopted. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to the submission to be made under this subsection.

* * *

(h) The Plans adopted under this section shall become the electrical energy portion of the State Energy Plan.

* * *

(j) For the purpose of assisting in the development of municipal and regional plans under 24 V.S.A. chapter 117, the Director shall, on request, provide municipal and regional planning commissions with publicly available information detailing the location of electric transmission and distribution infrastructure in the relevant municipality or region and the capacity of that infrastructure to accept additional electric generation facilities without modification. In providing this information, the Director shall be entitled to the assistance of the electric utilities that own electric transmission or distribution systems, or both, located in Vermont, including the ability to obtain from those utilities such publicly available data as the Director considers necessary to discharge his or her duties under this subsection.

Sec. 8. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

(a) The Department of Public Service, in conjunction with other State agencies designated by the Governor, shall prepare a State Comprehensive Energy Plan covering at least a 20-year period. The Plan shall seek to implement the State energy policy set forth in section 202a of this title and shall be consistent with the relevant goals of 24 V.S.A. § 4302. The Plan shall include:

(1) a comprehensive analysis and projections regarding the use, cost, supply, and environmental effects of all forms of energy resources used within Vermont; ~~and~~

(2) recommendations for State implementation actions, regulation, legislation, and other public and private action to carry out the comprehensive energy plan; and

(3) recommendations for regional and municipal energy planning and standards for issuing a determination of energy compliance pursuant to 24 V.S.A. § 4352.

* * *

(c) The Department shall adopt a State Energy Plan on or before January 1, 2016 and shall readopt the Plan by every sixth January ~~±~~ 15 thereafter. On adoption or readoption, the Plan shall be submitted to the General Assembly. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to such submission.

* * *

Sec. 9. INITIAL IMPLEMENTATION; RECOMMENDATIONS;

STANDARDS

(a) On or before November 1, 2016, the Department of Public Service shall publish recommendations and standards in accordance with 24 V.S.A. § 4352 as enacted by Sec. 6 of this act. Prior to issuing these recommendations and standards, the Department shall perform each of the following:

(1) Consult with all persons identified under 30 V.S.A. § 202(d)(1); the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation; and other affected persons.

(2) Post on its website a draft set of initial recommendations and standards.

(3) Provide notice and an opportunity to comment and request a public hearing to all persons listed in 30 V.S.A. § 202(d)(1). The Commissioner may elect to hold one or more public hearings on the Commissioner's own initiative.

(b) In addition to the requirements of Sec. 6 of this act, the standards developed under this section shall address the following elements in a manner consistent with the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b:

(1) analysis of total current energy use across transportation, heating, and electric sectors;

(2) identification and mapping of existing electric generation and renewable resources;

(3) establishment of 2025, 2035, and 2050 targets for energy conservation, efficiency, fuel-switching, and use of renewable energy for transportation, heating, and electricity;

(4) analysis of amount of thermal-sector conservation, efficiency, and conversion to alternative heating fuels needed to achieve these targets;

(5) analysis of transportation system changes and land use strategies needed to achieve these targets;

(6) analysis of electric-sector conservation and efficiency needed to achieve these targets;

(7) pathways and recommended actions to achieve these targets, informed by this analysis;

(8) identification of potential areas for the development and siting of renewable energy resources and of the potential electric generation from such

resources in the identified areas, taking into account factors including resource availability, environmental constraints, and the location and capacity of electric grid infrastructure; and

(9) identification of areas, if any, that are unsuitable for siting those resources or particular categories or sizes of those resources.

(c) On publication under subsection (a) of this section, the specific recommendations and standards shall be considered an appendix to the currently adopted plans under 30 V.S.A. §§ 202 and 202b. After this publication, the Department may revise these recommendations and standards in accordance with the procedures for adopting and revising plans under those statutes.

Sec. 10. TRAINING

Following publication of the recommendations and standards under Sec. 9(a) of this act, the Department of Public Service shall conduct a series of training sessions in locations across the State for municipal and regional planning commissions to assist them in the development of municipal and regional plans that are eligible to receive a determination of energy compliance under Sec. 6 of this act, 24 V.S.A. § 4352. The Department shall develop and present these sessions in collaboration with the Vermont League of Cities and Towns and the Vermont Association of Planning and Development Agencies. The Department shall ensure that all municipal and regional planning commissions receive prior notice of the sessions.

* * * Siting Process; Criteria; Conditions * * *

Sec. 11. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

* * *

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities and for hydroelectric generation facilities subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility

within the State which is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, unless the Public Service Board first finds that the same will promote the general good of the State and issues a certificate to that effect.

* * *

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

* * *

(C) At the time of filing its application with the Board, copies shall be given by the petitioner to the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

* * *

(E) The Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

(F) The Agency of Agriculture, Food and Markets shall have the right to appear as a party in proceedings held under this subsection.

(G) The regional planning commission for the region in which the facility is located shall have the right to appear as a party in any proceedings held under this subsection. The regional planning commission of an adjacent region shall have the same right if the distance of the facility's nearest component to the boundary of that planning commission is 500 feet or 10 times the height of the facility's tallest component, whichever is greater.

(H) The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection. The legislative body and planning commission of an adjacent municipality shall have the same right if the distance of the facility's nearest component to the boundary of that

adjacent municipality is 500 feet or 10 times the height of the facility's tallest component, whichever is greater.

(I) When a person has the right to appear as a party in a proceeding before the Board under this chapter, the person may exercise this right by filing a letter with the Board stating that the person appears through the person's duly authorized representative, signed by that representative.

(J) This subdivision (J) applies to an application for an electric generation facility with a capacity that is greater than 50 kilowatts, unless the facility is located on a new or existing structure the primary purpose of which is not the generation of electricity. In addition to any other information required by the Board, the application for such a facility shall include information that delineates:

(i) the full limits of physical disturbance due to the construction and operation of the facility and related infrastructure, including areas disturbed due to the creation or modification of access roads and utility lines and the clearing or management of vegetation;

(ii) the presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the facility and the amount of those soils to be disturbed;

(iii) all visible infrastructure associated with the facility; and

(iv) all impacts of the facility's construction and operation under subdivision (b)(5) of this section, including impacts due to the creation or modification of access roads and utility lines and the clearing or management of vegetation.

(5) The Board shall adopt rules regarding standard conditions on postconstruction inspection and maintenance of aesthetic mitigation and on decommissioning to be included in certificates of public good for in-state facilities approved under this section. The purpose of these standard conditions shall be to ensure that all required aesthetic mitigation is performed and maintained and that facilities are removed once they are no longer in service.

(6) The Board shall require any in-state wind electric generation facility receiving a certificate of public good to install radar-controlled obstruction lights on all wind turbines for which the Federal Aviation Administration (FAA) requires obstruction lights, if the facility includes four or more wind turbines and the FAA allows the use of radar-controlled lighting technology.

(A) Nothing in this subdivision shall allow the Board to approve obstruction lights that do not meet FAA standards.

(B) The purpose of this subdivision is to reduce the visual impact of wind turbine obstruction lights on the environment and nearby properties. The General Assembly finds that wind turbine obstruction lights that remain illuminated through the night create light pollution. Radar-controlled obstruction lights are only illuminated when aircraft are detected in the area, and therefore the use of these lights will reduce the negative environmental impacts of obstruction lights.

(7) When a certificate of public good under this section or amendment to such a certificate is issued for an in-state electric generation facility, the certificate holder within 45 days shall record a notice of the certificate or amended certificate, on a form prescribed by the Board, in the land records of each municipality in which a facility subject to the certificate is located and shall submit proof of this recording to the Board. The recording under this subsection shall be indexed as though the certificate holder were the grantor of a deed. The prescribed form shall not exceed one page and shall require identification of the land on which the facility is to be located by reference to the conveyance to the current landowner, the number of the certificate, and the name of each person to which the certificate was issued, and shall include information on how to contact the Board to view the certificate and supporting documents.

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However:

(A) ~~with~~ With respect to a natural gas transmission line subject to Board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located; ~~and~~.

(B) ~~with~~ With respect to a ground-mounted solar electric generation facility, the facility shall comply with the screening requirements of a municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under 24 V.S.A. § 2291(28), and the recommendation of a

municipality applying such a bylaw or ordinance, unless the Board finds that requiring such compliance would prohibit or have the effect of prohibiting the installation of such a facility or have the effect of interfering with the facility's intended functional use.

(C) With respect to an in-state electric generation facility, the Board shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.

* * *

(5) With respect to an in-state facility, will not have an undue adverse effect on ~~esthetics~~ aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts to primary agricultural soils as defined in 10 V.S.A. § 6001, and greenhouse gas impacts.

* * *

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) Such municipal or regional planning commission may hold a public hearing on the proposed plans. Such commissions shall make recommendations, if any, to the Public Service Board and to the petitioner at least seven days prior to filing of the petition with the Public Service Board.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * *

(t) Notwithstanding any contrary provision of the law, primary agricultural soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric generation facility approved under this section shall remain classified as such soils, and the review of any change in use of the site subsequent to the construction of the facility shall treat the soils as if the facility had never been constructed. Each certificate of public good issued by the Board for a ground-mounted solar generation facility shall state the contents of this subsection.

* * * Sound Standards; Wind Generation Facilities * * *

Sec. 12. SOUND STANDARDS; WIND GENERATION

(a) On or before September 15, 2017, the Public Service Board (the Board) finally shall adopt rules under 3 V.S.A. chapter 25 regarding sound from wind generation facilities approved under 30 V.S.A. § 248. In developing these rules, the Board shall consider:

(1) standards that apply to all wind generation facilities;

(2) a methodology for determining sound levels and measurement locations for each such facility on a case-by-case basis; or

(3) standards that apply to one or more categories of wind generation facilities, with a methodology for determining sound levels and measurement locations for other such facilities on a case-by-case basis.

(b) Notwithstanding any contrary provision of 1 V.S.A. § 213 or 214 or 3 V.S.A. § 845, rules adopted under this section shall apply to an application for a certificate of public good under 30 V.S.A. § 248 filed on or after April 15, 2016, regardless of whether such a certificate is issued prior to the effective date of the rules.

Sec. 13. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(c) In accordance with this section, the Board shall adopt and implement rules that govern the installation and operation of net metering systems.

* * *

(3) The rules shall establish 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. In establishing these standards and procedures,~~the rules:~~

(A) The rules may waive the requirements of section 248 of this title that are not applicable to net metering systems, including criteria that are generally applicable to public service companies as defined in this title;

(B) The rules may modify notice and hearing requirements of this title as the Board considers appropriate;

(C) The rules shall seek to simplify the application and review process as appropriate; ~~and~~.

(D) ~~with~~ With respect to net metering systems that exceed 150 kW in plant capacity, shall apply the so-called “Quechee” test for aesthetic impact as described by the Vermont Supreme Court in the case of In re Halnon, 174 Vt. 515 (2002) (mem.). The rules and application form shall state the components of this test.

(E) The rules shall not waive or include provisions that are less stringent than the requirements of subdivision 248(a)(4)(J) (required information) of this title.

(F) This subdivision (F) applies to an application for a net metering system with a capacity that is greater than 15 kilowatts, unless the system is located on a new or existing structure the primary purpose of which is not the generation of electricity. With respect to such a system, the rules shall not waive or include provisions that are less stringent than each of the following:

(i) the requirement of subdivision 248(a)(4)(C) of this title to provide a copy of the application to the Agencies of Agriculture, Food and Markets and of Natural Resources; the Department of Public Service; the Division for Historic Preservation; the municipal legislative body; and the municipal and regional planning commissions; and

(ii) the requirements of subsection 248(f) (preapplication submittal) of this title.

* * *

(e) If a hydroelectric generation plant seeking approval as a net metering system is subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1, the Board shall require the plant to obtain such approval through means other than by application for a certificate of public good under section 248 of this title.

* * * Municipal Electric Utilities; Hydro Facilities;
Renewable Energy Standard * * *

Sec. 14. 30 V.S.A. § 8005(a)(1) is amended to read:

(1) Total renewable energy.

(A) Purpose; establishment. To encourage the economic and environmental benefits of renewable energy, this subdivision establishes, for the RES, minimum total amounts of renewable energy within the supply portfolio of each retail electricity provider. To satisfy this requirement, a provider may use renewable energy with environmental attributes attached or any class of tradeable renewable energy credits generated by any renewable energy plant whose energy is capable of delivery in New England.

(B) Required amounts. The amounts of total renewable energy required by this subsection shall be 55 percent of each retail electricity provider's annual retail electric sales during the year beginning on January 1, 2017, increasing by an additional four percent each third January 1 thereafter, until reaching 75 percent on and after January 1, 2032.

* * *

(D) Municipal providers; petition. On petition by a provider that is a municipal electric utility serving not more than 6,000 customers, the Board may reduce the provider's required amount under this subdivision (1) for a period of up to three years. The Board may approve one such period only for a municipal provider. The Board may reduce this required amount if it finds that:

(i) the terms or conditions of an environmental permit or certification necessitate a reduction in the electrical energy generated by an in-state hydroelectric facility that the provider owns and that this reduction will require the provider to purchase other renewable energy with environmental attributes attached or tradeable renewable energy credits in order to meet this required amount; and

(ii) this purchase will:

(I) cause the provider to increase significantly its retail rates; or

(II) materially impair the provider's ability to meet the public's need for energy services after safety concerns are addressed, in the manner set forth in subdivision 218c(a)(1)(least cost integrated planning) of this title;

* * * Access to Public Service Board Process * * *

Sec. 15. ACCESS TO PUBLIC SERVICE BOARD WORKING GROUP: REPORT

(a) Creation. There is created an Access to Public Service Board Working Group (the Working Group) to be composed of the following five members:

(1) One member of the Public Service Board (PSB), appointed by the Chair of the PSB.

(2) The Commissioner of Public Service or designee.

(3) A judicial officer of the State, appointed by the Chief Justice of the Supreme Court.

(4) A House member of the Joint Energy Committee established under 2 V.S.A. chapter 17, appointed by the Speaker of the House; and

(5) A Senate member of the Joint Energy Committee established under 2 V.S.A. chapter 17, appointed by the Committee on Committees.

(b) Powers and duties; term.

(1) The Working Group shall review the current processes for citizen participation in PSB proceedings and shall make recommendations to promote increased ease of citizen participation in those proceedings.

(2) On or before December 15, 2016, the Working Group shall submit its written recommendations to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, and the Joint Energy Committee.

(3) The Working Group shall have the administrative, technical, and legal assistance of the staff of the PSB.

(4) The appointed member of the PSB shall call the first meeting of the Working Group to occur on or before July 1, 2016. At the first meeting, the Working Group shall elect a chair from among its members.

(5) The Working Group shall cease to exist on February 1, 2017.

* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except that:

(1) This section and Secs. 9 (initial implementation; recommendations; standards), 11 (30 V.S.A. § 248), 12 (sound standards; wind generation) and 15 (Access to Public Service Board Working Group) shall take effect on passage. Sec. 6 (optional determination of energy compliance) shall apply on passage to the activities of the Department of Public Service under Sec. 9.

(2) Sec. 13 (net metering) shall take effect on January 2, 2017, and shall amend 30 V.S.A. § 8010 as amended by 2015 Acts and Resolves No. 56, Sec. 12.

(Committee vote: 10-0-1)

(For text see Senate Journal March 30, 31, 2016)

Senate Proposal of Amendment

H. 249

An act relating to intermunicipal services.

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

Sec. 1. 24 V.S.A. § 4345b is added to read:

§ 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

(a)(1) Prior to exercising the authority granted under this section, a regional planning commission shall:

(A) draft bylaws specifying the process for entering into, method of withdrawal from, and method of terminating service agreements with municipalities; and

(B) hold one or more public hearings within the region to hear from interested parties and citizens regarding the draft bylaws.

(2) At least 30 days prior to any hearing required under this subsection, notice of the time and place and a copy of the draft bylaws, with a request for comments, shall be delivered to the chair of the legislative body of each municipality within the region. The regional planning commission shall make copies available to any individual or organization requesting a copy.

(3) The regional planning commission may make revisions to the draft bylaws at any time prior to adoption of the bylaws. If revisions are made to the draft bylaws, the regional planning commission shall hold a final hearing and shall deliver notice as required in subdivision (2) of this subsection.

(b)(1) The draft bylaws required under subsection (a) of this section shall be adopted by a vote of at least 67 percent of the commissioners of the regional planning commission in accordance with the voting procedures of the regional planning commission.

(2) The draft bylaws shall be considered duly adopted and shall take effect 35 days after a vote required under this subsection, unless, within 35 days of the date of adoption, the regional planning commission receives certification from the legislative bodies of a majority of the municipalities in the region vetoing the proposed bylaws. In such case, the bylaws shall be deemed repealed.

(c) Upon adoption of the bylaws under subsection (b) of this section, a regional planning commission may:

(1) promote cooperative arrangements and coordinate, implement, and administer service agreements among municipalities, including arrangements

and action with respect to planning, community development, joint purchasing, intermunicipal services, infrastructure, and related activities; and

(2) exercise any power, privilege, or authority, as defined within a service agreement under subsection (d) of this section, capable of exercise by a municipality as necessary or desirable for dealing with problems of local or regional concern.

(d)(1) In exercising the powers set forth in subsection (c) of this section, a regional planning commission shall enter into a service agreement with one or more municipalities.

(2) Participation by a municipality shall be voluntary and only valid upon appropriate action by the legislative body of the municipality. To become effective, a service agreement shall be ratified by the regional planning commission and the legislative bodies of the municipalities who are a party to the service agreement.

(3) A service agreement shall describe the services to be provided and the amount of funds payable by each municipality that is a party to the service agreement. Service of personnel, use of equipment and office space, and other necessary services may be accepted from municipalities as part of their financial support.

(4) Any modification to a service agreement shall not become effective unless approved by the legislative body of the municipalities who are a party to the service agreement.

(e) A regional planning commission shall not have the following powers under this section:

(1) essential legislative functions;

(2) taxing authority; or

(3) eminent domain.

(f)(1) Funds provided for regional planning under section 4341a or 4346 of this chapter shall not be used to provide services under a service agreement without prior written authorization from the State agency or other entity providing the funds.

(2) A commission shall not use municipal funds or grants provided for regional planning services under this chapter to cover the costs of providing services under any service agreement under this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(For text see House Journal February 17, 2016)

H. 297

An act relating to the sale of ivory or rhinoceros horn

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

Sec. 1. 10 V.S.A. chapter 175 is added to read:

CHAPTER 175. IVORY AND RHINOCEROS HORN

§ 7701. SALE OF IVORY OR RHINOCEROS HORN

(a) Definitions. As used in this chapter:

(1) “Ivory” means any tusk composed of ivory from an elephant or mammoth, or any piece thereof, whether raw ivory or worked ivory, or made into, or part of, an ivory product.

(2) “Ivory product” means any item that contains, or is wholly or partially made from, any ivory.

(3) “Raw ivory” means any ivory the surface of which, polished or unpolished, is unaltered or minimally changed by carving.

(4) “Rhinoceros horn” means the horn, or any piece thereof, of any species of rhinoceros.

(5) “Rhinoceros horn product” means any item that contains, or is wholly or partially made from, any rhinoceros horn.

(6) “Total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products” means the fair market value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products, or the actual price paid for the ivory, ivory products, rhinoceros horn, and rhinoceros horn products, whichever is greater.

(7) “Worked ivory” means ivory that has been embellished, carved, marked, or otherwise altered so that it can no longer be considered raw ivory.

(8) “Legally acquired” means the product was acquired by the current owner in compliance with applicable federal laws and regulations regarding the import and sale of the specific product.

(b) Prohibition. Except as authorized under subsections (c) and (f) of this section, a person in this State shall not import, sell, offer for sale, purchase, barter, or possess with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product.

(c) Exceptions.

(1) The prohibitions of this section shall not apply to:

(A) Employees or agents of the federal government or the State undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law.

(B) The import of legally acquired ivory, ivory products, rhinoceros horn, or rhinoceros horn products:

(i) expressly authorized by federal law, license, or permit; or

(ii) as part of a personal or household move into the State.

(C) The sale of legally acquired ivory or ivory products provided that the item is accompanied by a sworn statement that complies with subsection (d) of this section.

(D) A person transporting legally acquired ivory from a point outside this State through the State.

(2) In connection with any action alleging violation of this section, any person claiming the benefit of any exception under this section shall have the burden of proving that the exception is applicable and was valid and in force at the time of the alleged violation.

(d) Ivory certification.

(1) In order to sell an ivory item or ivory product on or after July 1, 2017, a person shall certify the ivory or ivory product with a sworn statement as required by this subsection.

(2) A sworn statement under this subsection shall:

(A) include a statement, under pains and penalties of perjury, certifying ownership of the item and attesting that the ivory or ivory product has been legally acquired and its sale will not violate any federal or State law.

(B) include a detailed description of the item, the approximate age of the item, and a picture; and

(C) be notarized by a Vermont notary public prior to July 1, 2017.

(3)(A) A sworn statement under this subsection shall not certify multiple pieces of ivory or ivory products, unless the pieces, taken together, are part of a larger product and are to be sold together.

(B) A person shall not notarize his or her own sworn statement under this subsection.

(C) Upon sale of the ivory or ivory product, the sworn statement shall be transferred with the item to the new owner. A subsequent owner is authorized to sell the ivory or ivory product, if they maintain the original sworn statement required by this subsection.

(e) Presumption of intent to sell. The possession in this State of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product in a retail or wholesale outlet commonly used for the buying or selling of similar products shall constitute presumptive evidence of possession with intent to sell under this section. Nothing in this subsection shall preclude a finding of intent to sell based on any evidence that may serve independently to establish intent to sell. The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product alone shall not constitute possession with intent to sell.

(f) Authorized conveyance to beneficiaries. A person may convey ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product to the legal beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product that is part of an estate or other items being conveyed to lawful beneficiaries upon the death of the owner of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product or in anticipation of that death.

(g) Enforcement; civil penalties.

(1) This section may be enforced by a law enforcement officer as defined in 20 V.S.A. § 2358.

(2) A person who violates this section commits a civil violation and shall be assessed a civil penalty as follows:

(A) For a first offense, \$1,000.00 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

(B) For a second or subsequent offense, \$5,000.00 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

(3) The penalties provided in this section shall be in addition to any penalty that may be imposed under federal law.

(h) Educational information. The Secretary of Natural Resources shall maintain on its website information regarding the prohibition of the sale and purchase of ivory and rhinoceros horns in this State.

Sec. 2. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(27) Violations of 10 V.S.A. § 7701, relating to the sale or import of ivory or rhinoceros horn.

Sec. 3. REPORT ON IVORY AND RHINOCEROS HORN PROHIBITION

On or before January 15, 2022, the Secretary of Natural Resources, after consultation with the U.S. Fish and Wildlife Service, shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report regarding the implementation of 10 V.S.A. § 7701, including a summary of:

(1) enforcement activities taken by the State, including the outcome of any items seized;

(2) the financial impact of the prohibition of the sale of ivory and rhinoceros horns on Vermont businesses;

(3) what actions other states have taken with regard to the sale of ivory and rhinoceros horns; and

(4) recommendations regarding necessary changes to Vermont law, including the extension or repeal of the prohibition.

Sec. 4. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except that subsection (d) shall take effect on passage.

(For text see House Journal February 18, 19, 2016)

H. 512

An act relating to adequate shelter of dogs and cats

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

First: In Sec. 2, 13 V.S.A. § 365, by striking out subsection (f) and inserting in lieu thereof the following:

(f) Tethering of dog.

(1) A Except as provided under subdivision (2) of this subsection, a dog ~~chained to a shelter must~~ maintained outdoors on a tether shall be on a tether chain at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(2)(A) A dog regularly used in training or participation in competitive or recreational sled dog activities and housed outdoors in close proximity with other dogs may, if necessary for the safety of the dog, be maintained on a tether three times the length of the dog, as measured from the tip of its nose to the base of its tail.

(B) If a tethering method involves the use of a trolley and cable and allows the dog to move freely along the length of the cable, the tether shall be long enough to allow the dog to lie down within its shelter without discomfort.

(3) A tether used for any dog shall be attached to both the dog and the anchor using swivels or similar devices that prevent the tether from becoming entangled or twisted. The tether shall be attached to a well-fitted collar or harness on the dog. The tether shall be of a size and weight that will not cause discomfort to a tethered dog. A choke collar shall not be used as part of a tethering method. Unless the dog is tethered to a trolley and cable system in accordance with subdivision (2)(B) of this subsection, the tether shall be attached to the anchor at a height no greater than that of the dog's withers while standing.

Second: By striking out Sec. 3 in its entirety and inserting in lieu thereof the following:

Sec. 3. 24 V.S.A. § 1943 is added to read:

§ 1943. ANIMAL CRUELTY INVESTIGATION ADVISORY BOARD

(a) An Animal Cruelty Investigation Advisory Board is created within the Department of Public Safety to advise the Governor, the General Assembly, and the Commissioner of Public Safety on issues involving the cooperation and coordination of all agencies that exercise animal welfare responsibilities. The Governor shall appoint the following to serve on the Board:

- (1) the Commissioner of Public Safety or designee;
- (2) the Executive Director of State's Attorneys and Sheriffs or designee;
- (3) the Secretary of Agriculture, Food and Markets or designee;
- (4) the Commissioner of Fish and Wildlife or designee;
- (5) two members to represent the interests of organizations dedicated to promoting the welfare of animals;
- (6) three members to represent the interests of law enforcement;
- (7) a member to represent the interests of humane officers working with companion animals;
- (8) a member to represent the interests of humane officers working with large animals (livestock);
- (9) a member to represent the interests of dog breeders and associated groups;
- (10) a member to represent the interests of veterinarians;
- (11) a member to represent the interests of the Criminal Justice Training Council;
- (12) a member to represent the interests of sportsmen and women; and

(13) a member to represent the interests of town health officers.

(b) The Board shall elect a chair and a vice chair which shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair. A quorum shall consist of eight members, and decisions of the Board shall require the approval of a majority of those members present and voting.

(c) The Board shall have the following duties:

(1) undertake an ongoing formal review process of animal cruelty investigations and practices with a goal of developing a systematic, collaborative approach to providing the best services to Vermont's animals, given monies available;

(2) work with the Department of Public Safety to study the feasibility of designating one law enforcement agency to receive, dispatch, and document the outcome of animal cruelty complaints, and with the assistance of the Vermont Sheriffs' Association, develop a uniform response protocol for assigning complaints to the appropriate local law enforcement agencies;

(3) to ensure that investigations of serious animal cruelty complaints are systematic and documented, develop written standard operating procedures and checklists to support the objective investigation of cruelty complaints that include objective measures of both environmental and clinical evidence of cruelty;

(4) ensure that requests for voluntary compliance are made in writing, with clear requests and timelines, and include a timeline for the investigator to perform a follow-up visit to confirm actions taken;

(5) develop a guide for animal cruelty prosecution, including a review of current sentencing recommendations for State's Attorneys;

(6) research the feasibility of developing and implementing an animal cruelty prevention and education program for offenders to be used as a part of offenders' sentencing;

(7) explore potential private and public sources of funding for animal cruelty investigations, including animal care expenses;

(8) develop trainings, protocols, procedures, and guidance documents for agencies engaging in animal welfare responsibilities;

(9) develop an animal cruelty investigation certification program for humane officers in accordance with 13 V.S.A. § 356, and provide a means by which a person who has been actively engaged in this State as a humane officer conducting animal cruelty investigations for at least five years

preceding July 1, 2016 shall be eligible for certification without completion of the certification program requirements;

(10) develop recommendations for providing liability protection and reducing uncompensated costs to animal shelters and animal welfare groups that assist law enforcement authorities in animal cruelty investigations;

(11) explore changing the annual deadline for dog licensure under 20 V.S.A. § 3582 to better align with the time of year dogs require annual veterinary care; and

(12) determine what should appropriately constitute an enforcement action triggering the obligation of the Agency of Agriculture to assist law enforcement pursuant to 13 V.S.A. § 354(a).

(d) The Board shall meet no fewer than six times a year to undertake its duties as outlined in subsection (a) of this section. The Board shall present its findings and recommendations in brief summary to the House and Senate Committees on Judiciary annually on or before January 15.

Sec. 4. 20 V.S.A. § 2365b is added to read:

§ 2365b. ANIMAL CRUELTY RESPONSE TRAINING

As part of basic training in order to become certified as a Level Two and Level Three law enforcement officer, a person shall receive a two-hour training module on animal cruelty investigations as approved by the Vermont Criminal Justice Training Council and the Animal Cruelty Investigation Advisory Board.

Sec. 5. 13 V.S.A. § 356 is added to read:

§ 356. HUMANE OFFICER REQUIRED TRAINING

All humane officers, as defined in subdivision 351(4) of this title shall complete a certification program on animal cruelty investigation training as developed and approved by the Animal Cruelty Investigation Advisory Board.

Sec. 6. 13 V.S.A. § 354 is amended to read:

§ 354. ENFORCEMENT; POSSESSION OF ABUSED ANIMAL;
SEARCHES AND SEIZURES; FORFEITURE

(a) The Secretary of Agriculture, Food and Markets shall be consulted prior to any enforcement action brought pursuant to this chapter which involves livestock and poultry. Law enforcement may consult with the Secretary in person or by electronic means, and the Secretary shall assist law enforcement in determining whether the practice, animal condition, or both represent acceptable livestock or poultry husbandry practices.

* * *

Sec. 7. DEPARTMENT OF CORRECTIONS; ANIMAL CARE PILOT PROGRAM

The Commissioner of Corrections shall implement a pilot program in at least one correctional facility that would permit qualified inmates to provide temporary care, on-site, for animals on a weekly or more frequent basis. The program shall be established on or before January 1, 2017, and the Commissioner shall report on this program, with recommendations as to whether it could be expanded to care for animals that have been seized or relinquished in cruelty or neglect investigations, to the Joint Committee on Justice Oversight on or before November 1, 2017.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(For text see House Journal February 9, 2016)

H. 761

An act relating to cataloguing and aligning health care performance measures

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

Sec. 1. GREEN MOUNTAIN CARE BOARD; PERFORMANCE MEASURES

The Green Mountain Care Board, in consultation with the Vermont Medical Society, shall survey and catalogue all existing performance measures required of primary care providers in Vermont, including the Centers for Medicare and Medicaid Services' quality measures. The Board shall develop a plan to align performance measures across programs that impact primary care. The plan's goal shall be to reduce the administrative burden of reporting requirements for providers while balancing the need to evaluate quality of and access to care adequately. The Board shall submit the plan to the Senate Committee on Health and Welfare and to the House Committee on Health Care on or before January 15, 2017.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal February 23, 2016)

H. 854

An act relating to timber trespass

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

Sec. 1. 13 V.S.A. chapter 77 is amended to read:

CHAPTER 77. TREES AND PLANTS

§ 3601. DEFINITIONS

As used in this chapter:

(1) “Diameter breast height” or “DBH” means the diameter of a standing tree at four and one-half feet from the ground.

(2) “Harvest” means the cutting, felling, or removal of timber.

(3) “Harvest unit” means the area of land from which timber will be harvested or the area of land on which timber stand improvement will occur.

(4) “Harvester” means a person, firm, company, corporation, or other legal entity that harvests timber.

(5) “Landowner” means the person, firm, company, corporation, or other legal entity that owns or controls the land or owns or controls the right to harvest timber on the land.

(6) “Landowner’s agent” means a person, firm, company, corporation, or other legal entity representing the landowner in a timber sale, timber harvest, or land management.

(7) “Stump diameter” means the diameter of a tree stump remaining after cutting, felling, or destruction.

(8) “Forest products” means logs; pulpwood; veneer; bolt wood; wood chips; stud wood; poles; pilings; biomass; fuel wood; or bark.

(9) “Timber” means:

(A) trees of every size, nature, kind, and description; and

(B) sprouts from which trees may grow, seedlings, saplings, bushes, or shrubs that have been planted or cultivated by a person who owns or controls the property where they are located.

§ 3602. UNLAWFUL CUTTING OF TREES VALUATION OF TREES OR TIMBER

~~(a) Any person who cuts, fells, destroys to the point of no value, or substantially damages the potential value of a tree without the consent of the owner of the property on which the tree stands shall be assessed a civil penalty in the following amounts for each tree over two inches in diameter that is cut, felled, or destroyed who is entitled to damages pursuant to section 3606 of this title or who is entitled to restitution for a violation of section 3606a of this title may provide an assessment of the value, based upon the kind, condition, location, and use of the timber cut down, destroyed, removed, injured,~~

damaged, or carried away or, in the alternative, may assess the value of the timber as follows:

(1) if ~~the a~~ a tree is no more than six inches in stump diameter or DBH, ~~not more than \$25.00~~ \$50.00;

(2) if ~~the a~~ a tree is more than six inches and not more than ten inches in stump diameter or DBH, ~~not more than \$50.00~~ \$100.00;

(3) if ~~the a~~ a tree is more than 10 inches and not more than 14 inches in stump diameter or DBH, ~~not more than \$150.00~~ \$300.00;

(4) if ~~the a~~ a tree is more than 14 inches and not more than 18 inches in stump diameter or DBH, ~~not more than \$500.00~~ \$750.00;

(5) if ~~the a~~ a tree is more than 18 inches and not more than 22 inches in stump diameter or DBH, ~~not more than \$1,000.00~~ \$1,500.00;

(6) if ~~the a~~ a tree is greater than 22 inches in stump diameter or DBH, ~~not more than \$1,500.00~~ \$2,000.00;

(7) for a bush or shrub, \$50.00.

~~(b) In calculating the diameter and number of trees cut, felled, or destroyed under this section, a law enforcement officer may rely on a written damage assessment completed by a professional arborist or forester.~~

§ 3603. MARKING HARVEST UNITS

~~A As a best management practice, a landowner who authorizes timber harvesting or who in fact harvests timber shall should clearly and accurately mark the harvest unit with flagging or other temporary and visible means the harvest unit. Each mark of a harvest unit shall be visible from the next and shall not exceed 100 feet apart. The marking of a harvest unit shall be completed prior to commencement of a timber harvest. If a violation as described in section 3602 of this title occurs due to the failure of a landowner to mark a harvest unit, the landowner who failed to mark a harvest unit in accordance with the requirements of this subsection shall be assessed a civil penalty of not less than \$250.00 and not more than \$1,000.00.~~

§ 3604. EXEMPTIONS

~~The cutting, felling, or destruction of a tree or the harvest of timber by the following is exempt from the requirements of sections 3602, 3603, and 3606 shall not be subject to a civil action under section 3606 of this title or a criminal penalty under section 3606a of this title:~~

(1) ~~The Agency of Transportation, or its representatives, conducting brush removal on State highways or Agency maintained trails~~ vegetation management.

(2) A municipality conducting brush removal subject to the requirements of 19 V.S.A. § 904.

(3) A utility conducting vegetation ~~maintenance~~ management within the boundaries of the utility's established right-of-way.

(4) ~~A harvester harvesting timber that a landowner has authorized for harvest within a harvest unit that has been marked by a landowner under section 3603 of this title. A landowner who harvests timber on his or her own property shall not be a "harvester" for the purposes of this subdivision. [Repealed.]~~

(5) A railroad conducting vegetation ~~maintenance or brush removal in the railroad right-of-way~~ management.

(6) A licensed surveyor establishing boundaries between abutting parcels under 27 V.S.A. § 4.

§ 3606. ~~TREBLE DAMAGES FOR CONVERSION OF TREES OR DEFACING MARKS ON LOGS~~ TRESPASS; CIVIL ACTION

~~(a) If~~ In addition to any other civil liability or criminal penalty allowed by law, if a person cuts down, fells, destroys, removes, injures, damages, or carries away any tree or trees, brush, or shrubs ~~timber~~ placed or growing for any use or purpose whatsoever, or timber, wood, or underwood ~~forest products~~ standing, lying, or growing belonging to another person, without leave permission from the owner of such trees, the timber, wood, or underwood or forest product, or cuts out, alters, or defaces the mark of a log or other valuable timber, in a river or other place ~~forest product~~, the party injured may recover of such person, in an action on this statute, ~~treble damages or for each tree the same amount that would be assessed as a civil penalty under section 3602 of this title, whichever is greater~~ for the value of the timber or forest product, and any damage caused to the land or improvements thereon as a result of such action. The injured party or landowner may rely on an assessment of damages based on the kind, condition, location, and use of the timber or forest product by the injured party or landowner, or alternatively, may elect to rely on the values established under section 3602 of this title.

~~(b) However, if it appears on trial that the defendant acted through mistake,~~ If the defendant in an action brought pursuant to subsection (a) of this section establishes by a preponderance of the evidence that he or she had good reason to believe that the trees, timber, wood, or underwood or forest products belonged to him or her, or that he or she had a legal right to perform the acts complained of, the plaintiff shall recover single damages only, with costs.

~~(c) For purposes of~~ As used in this section, "damages" shall include any damage caused to the land or improvements thereon as a result of a person

~~cutting, felling, destroying to the point of no value, substantially reducing the potential value, removing, injuring, damaging, or carrying away a trees, timber, wood, or forest products without the consent permission of the owner of the property on which the tree timber stands. If a person cuts down, destroys, or carries away a tree or trees placed or growing for any use or purpose whatsoever or timber, wood, or underwood standing, lying, or growing belonging to another person due to the failure of the landowner or the landowner's agent to mark the harvest unit properly, as required under section 3603 of this title, a cause of action for damages may be brought against the landowner.~~

§ 3606a. TRESPASS; CRIMINAL PENALTY

(a) No person shall knowingly or recklessly:

(1) cut down, fell, destroy, remove, injure, damage, or carry away any timber or forest product placed or growing for any use or purpose whatsoever, or timber or forest product lying or growing belonging to another person, without permission from the owner of the timber or forest product; or

(2) deface the mark of a log, forest product, or other valuable timber in a river or other place.

(b) Any person who violates subsection (a) of this section shall:

(1) for a first offense, be imprisoned not more than one year or fined not more than \$20,000.00, or both; or

(2) for a second or subsequent offense, be imprisoned not more than two years or fined not more than \$50,000.00, or both.

Sec. 2. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

~~(21) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and the marking of harvest units. [Repealed.]~~

Sec. 3 . EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(For text see House Journal March 15, 2016)

H. 860

An act relating to on-farm livestock slaughter

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

Sec. 1. 6 V.S.A. § 3311a is amended to read:

§ 3311a. LIVESTOCK; INSPECTION; LICENSING; PERSONAL
SLAUGHTER; ITINERANT SLAUGHTER

(a) As used in this section:

(1) “Assist in the slaughter of livestock” means the act of slaughtering or butchering an animal and shall not mean the farmer’s provision of a site on the farm for slaughter, provision of implements for slaughter, or the service of disposal of the carcass or offal from slaughter.

(2) “Sanitary conditions” means a site on a farm that is:

(A) clean and free of contaminants; and

(B) located or designed in a way to prevent:

(i) the occurrence of water pollution; and

(ii) the adulteration of the livestock or the slaughtered meat.

(b) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter by an individual of livestock that the individual raised for the individual’s exclusive use or for the use of members of his or her household and his or her nonpaying guests and employees.

(c) The requirement for a license under section 3306 of this title or for inspection under this chapter shall not apply to the slaughter of livestock that occurs in a manner that meets all of the following requirements:

(1) an individual purchases livestock from a farmer that raised the livestock;

(2) the farmer is registered with the Secretary, on a form provided by the Secretary, as selling livestock for slaughter under this subsection;

(3) the individual who purchased the livestock performs the act of slaughtering the livestock;

~~(3)~~(4) the act of slaughter occurs, after approval from the farmer who sold the livestock, on a site on the farm where the livestock was purchased;

~~(4)~~(5) the slaughter is conducted under sanitary conditions;

~~(5)~~(6) the farmer who sold the livestock to the individual does not assist in the slaughter of the livestock;

~~(6)~~(7) no more than the following number of livestock per year are slaughtered under this subsection:

(A) ~~40~~ 15 swine;

(B) ~~three~~ five cattle;

(C) ~~25~~ 40 sheep or goats; or

(D) any combination of swine, cattle, sheep, or goats, provided that no more than ~~3,500~~ 6,000 pounds of the live weight of livestock are slaughtered per year; ~~and~~

~~(7)~~(8) the farmer who sold the livestock to the individual maintains a record of each slaughter conducted under this subsection and reports quarterly to the Secretary, on a form provided by the Secretary, on or before the 15th day of each month regarding all slaughter activity conducted under this subsection in the previous month April 15 for the calendar quarter ending March 31, on or before July 15 for the calendar quarter ending June 30, on or before October 15 for the calendar quarter ending September 30, and on or before January 15 for the calendar quarter ending December 31. If a farmer fails to report slaughter activity conducted under this subsection, the Secretary, in addition to any enforcement action available under this chapter or chapter 1 of this title, may suspend the authority of the farmer to sell animals to an individual for slaughter under this subsection; and

(9) the slaughtered livestock may be halved or quartered by the individual who purchased the livestock but solely for the purpose of transport from the farm.

* * *

Sec. 2. 2013 Acts and Resolves No. 83, Sec. 13 is amended to read:

Sec. 13. REPEAL; LIVESTOCK SLAUGHTER EXEMPTIONS

6 V.S.A. § 3311a (livestock slaughter inspection and license exemptions) shall be repealed on July 1, ~~2016~~ 2019.

Sec. 3. EDUCATION AND OUTREACH; ON-FARM SLAUGHTER

The Secretary of Agriculture, Food and Markets, in consultation with interested parties, shall conduct outreach and education regarding the availability of and requirements for livestock slaughter under 6 V.S.A. § 3311a(c). The education and outreach may include educational materials, workshops, or classes regarding compliance with the requirements of 6 V.S.A. § 3311a(c).

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 16, 2016)

H. 861

An act relating to regulation of treated article pesticides

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

Sec. 1. 6 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter unless the context clearly requires otherwise:

* * *

(4) “Economic poison” shall have the meaning stated in subdivision 911(5) of this title.

(5) “Pest” means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organisms, which the ~~secretary~~ Secretary declares as being injurious to health or environment. Pest shall not mean any viruses, bacteria, or other micro-organisms on or in living ~~man~~ humans or other living animals.

(6) “Pesticide” for the purposes of this chapter shall be used interchangeably with “~~economic poison~~” poison.”

(7) “Treated article” means a pesticide or class of pesticides exempt under 40 C.F.R. § 152.25(a) from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136-136y.

Sec. 2. 6 V.S.A. § 1102 is amended to read:

§ 1102. PESTICIDE ADVISORY COUNCIL ESTABLISHED

(a) The Pesticide Advisory Council is established and attached to the Agency of Agriculture, Food and Markets. Members of the Council, except those public members appointed by the Governor, shall be qualified individuals who, by experience and training, are knowledgeable in one or more areas associated with pest control. The Secretary, or Commissioner as the case may be, shall represent each Department or Agency on the Council:

- (1) The Department of Fish and Wildlife.
- (2) The Department of Environmental Conservation.
- (3) The Agency of Agriculture, Food and Markets.
- (4) The Department of Forests, Parks and Recreation.
- (5) The Department of Health.
- (6) The Agency of Transportation.

(7) One physician from the College of Medicine of the University of Vermont nominated by its dean.

(8) One representative in the area of entomology, plant pathology, or weed control from the University of Vermont Extension ~~Service~~ to be named by the director.

(9) One representative in the area of pesticide research from the Vermont Agricultural Experiment Station named by the dean of the College of Agriculture and Life Sciences of the University of Vermont.

(10) Two members appointed by the Governor. In choosing these members, the ~~governor~~ Governor shall consider people who have knowledge and qualities that could be useful in pursuing the goals and functions of the Council. One of these members shall have practical experience in commercial agricultural production and shall be appointed in consultation with the Secretary.

* * *

(d) The functions of the Council are:

(1) To review insect, plant disease, weed, nematode, rodent, noxious wildlife, and other pest control programs within the State and to assess the effect of such programs on human health and comfort, natural resources, water, wildlife, and food and ~~fi~~fiber production; and, where necessary, make recommendations for greater safety and efficiency.

(2) To serve as the advisory group to State agencies having responsibilities for the use of pesticides as well as to other State agencies and departments.

(3) To advise the Executive Branch of State government with respect to legislation concerning the use of various pest control measures.

(4) To suggest programs, policies, and legislation for wise and effective pesticide use that lead to an overall reduction in the use of pesticides in Vermont consistent with sound pest or vegetative management practices.

(5) To recommend studies necessary for the performance of its functions as established under this section.

(6) To recommend targets with respect to the State goal of achieving an overall reduction in the use of pesticides consistent with sound pest or vegetative management practices, and to issue an annual report to the General Assembly, detailing the State's progress in reaching those targets and attaining that goal. The targets should be designed to enable evaluation of multiple measures of pesticide usage, use patterns, and associated risks. Targets should take into consideration at a minimum the following:

- (A) reducing the amount of acreage where pesticides are used;
- (B) reducing the risks associated with the use of pesticides;
- (C) increasing the acreage managed by means of integrated pest management techniques;
- (D) decreasing, within each level of comparable risk, the quantity of pesticides applied per acre; and
- (E) making recommendations regarding the implementation of other management practices that result in decreased pesticide use.

(7) To recommend to the Secretary policies, proposed rules, or legislation for the regulation of the use of a treated article when the Council determines that use of the treated article will have a hazardous or long-term deleterious effect on the environment in Vermont, presents a likely risk to human health, or is dangerous. In developing recommendations under this subdivision, the Council shall review:

- (A) alternatives available to a user of a treated article; and
- (B) the potential effects on the environment or risks to human health from use of the available alternatives to a treated article.

(e) The Council shall meet semiannually, once in the fall and once in the spring. Meetings at other times may be called by the Governor, by the Chair, or by a member of the Council. Attendance at Council meetings shall not be required of the Commissioners of Departments within the Agency of Natural Resources, or their designees; however, at least one of these Commissioners, or the Commissioner's designee, shall attend each meeting of the Council. ~~Council~~ The Council's proceedings shall be open to the public and its deliberations shall be recorded and made available to the public, along with its work product.

Sec. 3. 6 V.S.A. § 1105a is added to read:

§ 1105a. TREATED ARTICLES; POWERS OF SECRETARY; BEST MANAGEMENT PRACTICES

(a) The Secretary of Agriculture, Food and Markets, upon the recommendation of the Pesticide Advisory Council, may adopt by rule:

- (1) best management practices, standards, procedures, and requirements relating to the sale, use, storage, or disposal of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(2) requirements for the response to or corrective actions for exigent circumstances or contamination from a treated article that presents a threat to human health or the environment;

(3) requirements by the Secretary for the examination or inspection of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(4) requirements for persons selling treated articles to keep or make available to the Secretary records of sale of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous; or

(5) requirements for reporting of incidents resulting from accidental contamination from or misuse of treated articles the use of which the Pesticide Advisory Council has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous.

(b) At least 30 days prior to prefilng a rule authorized under subsection (a) of this section with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837, the Secretary shall submit a copy of the draft rule to the Senate Committee on Agriculture and the House Committee on Agriculture and Forest Products for review.

Sec. 4. 6 V.S.A. § 1104(3) is amended to read:

(3) Adopt standards, procedures, and requirements relating to the display, sale, use, application, treatment, storage, or disposal of economic poisons or their waste products and limit the conditions under which the same may be sold, used, treated, stored, or disposed of. The use of pesticides which the ~~secretary~~ Secretary finds to have a hazardous or ~~long-term~~ long-term deleterious effect on the environment shall be restricted, and permits shall be required for their use in accordance with regulations adopted by the ~~secretary~~ Secretary. Specific uses of certain pesticides deemed to ~~be unwise or~~ present a likely risk to human health or be dangerous shall be restricted by regulation or by ordering the deletion of certain uses for registered pesticides from the label on pesticide products to be marketed in the ~~state~~ State. Approved methods for the safe display, storage, and shipping of poisonous pesticides shall be prescribed and enforced. Procedures for the disposal of pesticides which are illegal, obsolete, surplus, or in damaged containers shall be adopted and enforced with the cooperation of the ~~agency of natural resources~~ Agency of Natural Resources;

Sec. 5. CONSISTENCY OF TREATED ARTICLE REQUIREMENTS

The Secretary of Agriculture, Food and Markets shall not establish requirements, best management practices, standards, or procedures under 6 V.S.A. § 1105a for a treated article, class of treated articles, or release from a treated article when, and to the extent that, the sale, use, storage, disposal, inspection, recordkeeping, reporting, or corrective action of a treated article, class of treated article, or release from a treated article is regulated by another agency, department, board, or instrumentality of the State under rule, order, practice, procedure, or exercise of statutory authority.

Sec. 6. EFFECTIVE DATE

The act shall take effect on July 1, 2016.

(For text see House Journal March 17, 2016)

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of April 21, 2016.

H.C.R. 345

House concurrent resolution congratulating the Shelburne Volunteer Fire Department on its 75th anniversary

H.C.R. 346

House concurrent resolution honoring Joseph Woodin on his outstanding leadership of Gifford Medical Center

H.C.R. 347

House concurrent resolution congratulating the 2016 Junior Iron Chef championship teams

H.C.R. 348

House concurrent resolution congratulating Ernie Farrar of St. Albans on his induction into the Vermont Sports Hall of Fame

H.C.R. 349

House concurrent resolution designating April 28, 2016 as Vermont Water Stewardship Day

H.C.R. 350

House concurrent resolution congratulating the 2016 Mill River Union High School Division II championship cheerleading team

H.C.R. 351

House concurrent resolution honoring Thomas Donahue for his dynamic leadership at the Rutland Region Chamber of Commerce

H.C.R. 352

House concurrent resolution congratulating James Messier on his receipt of the National FFA VIP Award

H.C.R. 353

House concurrent resolution honoring Robin Hadden for her 28 years of outstanding public service as a rural letter carrier in Huntington

H.C.R. 354

House concurrent resolution commemorating the 150th anniversary of the founding of the Grand Army of the Republic

H.C.R. 355

House concurrent resolution designating April 27, 2016 as Walk@Lunch Day in Vermont

H.C.R. 356

House concurrent resolution congratulating the Vermont Maple Festival on its golden anniversary

H.C.R. 357

House concurrent resolution congratulating Katey Comstock on her 2016 Division II indoor track and field individual championships

H.C.R. 358

House concurrent resolution honoring Hugh Tallman for a half century of public service in the Town of Belvidere

H.C.R. 359

House concurrent resolution congratulating Saint Peter Roman Catholic Parish in Rutland on its solar energy leadership

H.C.R. 360

House concurrent resolution honoring Coach Scott Legacy on his remarkable career directing the Mt. Anthony Union High School Patriots' wrestling program

H.C.R. 361

House concurrent resolution congratulating the Solomon Wright Public Library on its 50th anniversary

H.C.R. 362

House concurrent resolution honoring the American Association of University Women of Vermont for its advancement of equity for women