

# House Calendar

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Monday, April 25, 2016

112th DAY OF THE ADJOURNED SESSION

House Convenes at 2:00 PM

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**Action Postponed Until April 25, 2016**

**Favorable with Amendment**

**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 )**

### **Amendment to be offered by Rep. Poirier of Barre City to S. 215**

That the House propose to the Senate that the bill be amended in Sec. 1, 8 V.S.A. § 4088j, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) A person who violates the provisions of subsection (c), (d), or (e) of this section commits an unfair and deceptive act in trade and commerce in violation of 9 V.S.A. § 2453. The Attorney General shall have the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under 9 V.S.A. chapter 63, subchapter 1.

## ACTION CALENDAR

### Third Reading

#### S. 20

An act relating to establishing and regulating dental therapists

#### **Amendment to be offered by Rep. Shaw of Pittsford to S. 20**

That the House propose to the Senate to amend the bill in Sec. 2, 26 V.S.A. chapter 12, in § 614 (collaborative agreement), by adding a new subsection to be subsection (e) to read:

(e) Nothing in this chapter shall be construed to require a dentist to enter into a collaborative agreement with a dental therapist.

#### S. 132

An act relating to the prohibition of conversion therapy on minors

#### S. 224

An act relating to warranty obligations of equipment dealers and suppliers

#### S. 255

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

### 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:

by striking out 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:

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)**

**Amendment to be offered by Rep. Wilhoit of St. Johnsbury to S. 189**

That the House propose to the Senate that the bill be amended in Sec. 1, in subsection (c), by inserting a new subdivision (4) to read as follows:

(4) enabling a foster parent to intervene as an interested party in any proceeding under 33 V.S.A. chapter 53 involving the custody of a child in his or her care;

and by renumbering the remaining subdivisions to be numerically correct.

### **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.notice

(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 )

**Amendment to be offered by Rep. Bartholomew of Hartland to H. 512**

That the House concur with the Senate proposal of amendment with a further proposal of amendment as follows:

First: In Sec. 2, 13 V.S.A. § 365, by striking out subsection (f) in its entirety 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 or a trolley and cable system that is, in its entirety, 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 that allows the dog access to the shelter.

(2) 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 at least two times the length of the dog, as measured from the tip of its nose to the base of its tail.

(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. The tether system shall function properly regardless of snow depth.

Second: By striking out Sec. 3-7 in their entirety and inserting in lieu thereof the following:

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 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 )

### **Amendment to be offered by Rep. Patt of Worcester to H. 761**

That the House concur in Senate proposal of amendment with further amendment thereto in Sec. 1, in the first sentence before the words "the Vermont Medical Society" by inserting "the Agency of Human Services and"

## 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 tree is no more than six inches in stump diameter or DBH, not more than \$25.00~~ \$50.00;

~~(2) if the 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 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 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 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 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, ~~or~~ 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 ~~fiber~~ 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 )

**Action Postponed Until April 26, 2016**

**Senate Proposal of Amendment**

**H. 84**

**An act relating to Internet dating services**

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

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

First: In Sec. A.1, 8 V.S.A. § 2260, concerning reports about consumer litigation funding in Vermont, in subsection (a), by striking out “April 1” in its entirety and inserting in lieu thereof January 10

Second: In Sec. A.1, 8 V.S.A. § 2260, by striking out subsection (c) in its entirety and by inserting in lieu thereof a new subsection (c) to read as follows:

(c) Annually, beginning on or before January 31, 2017, the Commissioner and Attorney General shall report jointly to the General Assembly on the status of consumer litigation funding in Vermont and make any recommendations they deem necessary to improve the regulatory framework of consumer litigation funding, including a recommendation on whether Vermont should limit charges imposed under a consumer litigation funding contract and, if so, a specific recommendation on what that limit should be.

Third: By striking out Sec. I.1 and inserting in lieu thereof reader assistance and Secs. I.1, J.1–J.3, and K.1 to read:

\* \* \* Fantasy Sports Contests \* \* \*



Sec. I.1. 9 V.S.A. chapter 116 is added to read:

CHAPTER 116. FANTASY SPORTS CONTESTS

§ 4185. DEFINITIONS

As used in this chapter:

(1) “Confidential fantasy sports contest information” means nonpublic information available to a fantasy sports operator that relates to a fantasy sports player’s activity in a fantasy sports contest and that, if disclosed, may give another fantasy sports player an unfair competitive advantage in a fantasy sports contest.

(2) “Fantasy sports contest” means a virtual or simulated sporting event governed by a uniform set of rules adopted by a fantasy sports operator in which:

(A) a fantasy sports player may earn one or more cash prizes or awards, the value of which a fantasy sports operator discloses in advance of the contest;

(B) a fantasy sports player uses his or her knowledge and skill of sports data, performance, and statistics to create and manage a fantasy sports team;

(C) a fantasy sports team earns fantasy points based on the sports performance statistics accrued by individual athletes or teams, or both, in real world sporting events;

(D) the outcome is determined by the number of fantasy points earned; and

(E) the outcome is not determined by the score, the point spread, the performance of one or more teams, or the performance of an individual athlete in a single real world sporting event.

(3) “Fantasy sports operator” means a person that offers to members of the public the opportunity to participate in a fantasy sports contest for consideration.

(4) “Fantasy sports player” means an individual who participates in a fantasy sports contest for consideration.

§ 4186. CONSUMER PROTECTION

(a) A fantasy sports operator shall adopt policies and procedures to:

(1) prevent participation in a fantasy sports contest he or she offers with a cash prize of \$5.00 or more by:

(A) the fantasy sports operator;

(B) an employee of the fantasy sports operator or a relative of the employee who lives in the same household; or

(C) a professional athlete or official who participates in one or more real world sporting events in the same sport as the fantasy sports contest;

(2) prevent the disclosure of confidential fantasy sports contest information to an unauthorized person;

(3) require that a fantasy sports player is 18 years of age or older, and verify the age of each player using one or more commercially available databases, which primarily consist of data from government sources and which government and business regularly use to verify and authenticate age and identity;

(4) limit and disclose to prospective players the number of entries a fantasy sports player may submit for each fantasy sports contest; and

(5) segregate player funds from operational funds and maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof in an amount that equals or exceeds the amount of deposits in fantasy sports player accounts for the benefit and protection of fantasy sports player funds held in their accounts.

(b) A fantasy sports operator shall have the following duties:

(1) The operator shall provide a link on its website to information and resources addressing addiction and compulsive behavior and where to seek assistance with these issues in Vermont and nationally.

(2)(A) The operator shall enable a fantasy sports player to restrict irrevocably his or her own ability to participate in a fantasy sports contest, for a period of time the player specifies, by submitting a request to the operator through its website or by online chat with the operator's agent.

(B) The operator shall provide to a player who self-restricts his or her participation information concerning:

(i) available resources addressing addiction and compulsive behavior;

(ii) how to close an account and restrictions on opening a new account during the period of self-restriction;

(iii) requirements to reinstate an account at the end of the period; and

(iv) how the operator addresses reward points and account balances during and after the period of self-restriction, and when the player closes his or her account.

(3) The operator shall provide a player access to the following information for the previous six months:

(A) a player's play history, including money spent, games played, previous line-ups, and prizes awarded;

(B) a player's account details, including deposit amounts, withdrawal amounts, and bonus information, including amounts remaining for a pending bonus and amounts released to the player.

(c)(1) A fantasy sports operator shall contract with a third party to perform an annual independent audit, consistent with the standards established by the Public Company Accounting Oversight Board, to ensure compliance with the requirements in this chapter.

(2) The fantasy sports operator shall submit the results of the independent audit to the Attorney General.

(d) A fantasy sports operator shall not offer a fantasy sports contest that relates to sports performance statistics accrued by individual athletes or teams, or both, in university, college, high school, or youth sporting events.

#### § 4187. PENALTY

A person who violates a provision of this chapter shall be subject to a civil penalty of not more than \$1,000.00 for each violation, which shall accrue to the State and may be recovered in a civil action brought by the Attorney General.

#### § 4188. EXEMPTION

The provisions of 13 V.S.A. chapter 51, relating to gambling and lotteries, shall not apply to a fantasy sports contest.

\* \* \* Equipment and Machinery Dealers \* \* \*

#### Sec. J.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 land 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 who 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 an inequality of bargaining power between equipment, snowmobile, and all-terrain vehicle suppliers and the independent dealer network. This inequality of 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 inequality 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. J.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

(iii) all-terrain vehicles, as defined in 23 V.S.A. § 3801(1).

(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.

#### ~~§ 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 18 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 competitive marketing programs.

(4) If the dealer fails to meet reasonable marketing or market penetration requirements specified in the notice by the end of the 18-month period, the supplier may terminate the dealer agreement by providing a final notice of termination.

(5) A dealer has 90 days from the date it receives a final notice of termination to meet the reasonable marketing or market penetration requirements specified in the notice.

(6) If a dealer meets the reasonable marketing or market penetration requirements specified in the notice within the 90-day period, the dealer agreement does not terminate pursuant to the final notice of termination.

(d) Termination by a supplier upon a specified event. A supplier may terminate 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.

(C) The dealer terminates a manager 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 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 at the dealer's location.

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

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

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

(5) Either the fair market value, or 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, must be no more than 10 years old, 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.

\* \* \*

#### § 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.~~

(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 generally sold in the dealer's area of responsibility; or

(2) safety-related and pertinent to inventory generally sold in the dealer's 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 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 area of responsibility specified in a dealer agreement without good cause, which for purposes of this subsection includes changes in the dealer's vehicle or warranty registration pattern, demographics, and geographic barriers.

#### § 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 of warranty service at a rate not less than the price the dealer actually paid the supplier for the parts plus 20 percent.

(e)(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.

(f) 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.

(g) 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, or otherwise increase the prices or charges to a dealer, in order 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. J.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, 2017.

\* \* \* Effective Dates \* \* \*

Sec. K.1. EFFECTIVE DATES

(a) This section and Secs. G.1–G.3 (technical corrections) shall take effect on passage.

(b) The following sections shall take effect on July 1, 2016:

(1) Sec. A.1 (consumer litigation funding).

(2) Sec. B.1 (structured settlements agreements).

(3) Secs. C.1–C.12 (business registration; enforcement).

(4) Sec. D.1 (anti-trust penalties).

(5) Secs. E.1–E.2 (discount membership programs).

(6) Reserved.

(7) Sec. H.1 (findings and purpose; internet dating services).

(8) Sec. I.1 (fantasy sports contests).

(9) Secs. J.1–J.3 (equipment and machinery dealers).

(c) In Sec. H.2 (internet dating services):

(1) 9 V.S.A. §§ 2482a, 2482c, and 2482d shall take effect on passage.

(2) 9 V.S.A. § 2482b shall take effect on January 1, 2017.

Fourth: By striking out Secs. F.1 and F.2 in their entirety and inserting in lieu thereof F.1 Reserved and F.2 Reserved

And that after passage the title of the bill be amended to read:

An act relating to consumer protection.

**(For House Proposal of Amendment see House Journal April 5, 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)**

**Pending Question: Shall the Resolution be amended as offered by Rep. Jewett of Ripton?**

**Amendment to be offered by Rep. Jewett of Ripton to H.R. 21**

By striking out the entire resolution and inserting in lieu thereof the following:

House resolution supporting the Attorney General's investigation of the EB-5 Program and calling on the Attorney General to determine which EB-5 Program-related records are subject to public disclosure

Whereas, Vermont's EB-5 Program is the subject of several federal and state investigations into civil and criminal violations, and

Whereas, Vermonters are outraged by the allegations of wrongdoing and appropriately interested in holding accountable all persons responsible, and

Whereas, the General Assembly is deeply concerned about how the criminal and civil misconduct and violation of trust will affect the residents of the Northeast Kingdom of Vermont, and

Whereas, under 1 V.S.A. § 317(c)(14), records which are relevant to litigation to which a public agency is a party of record are exempt from public inspection and copying under the Public Records Act, but shall be available to the public after ruled discoverable by the court before which the litigation is pending, and in any event upon final termination of the litigation, and

Whereas, records related to the EB-5 Program may be the subject of pending or future public records requests, and

Whereas, in responding to a public records request, a public agency is required to either produce or state the grounds for withholding responsive records within specific timeframes and may only withhold a responsive record if the record is exempt from public inspection and copying under the Public Records Act, now therefore be it

Resolved by the House of Representatives:

That this legislative body expresses its solidarity with the residents of the Northeast Kingdom and its commitment to repair the harm caused by the alleged misconduct related to the EB-5 Program, and be it further

Resolved: That this legislative body fully supports the Attorney General's ongoing and comprehensive investigation of the EB-5 Program, and be it further

Resolved: That this legislative body requests the Attorney General to determine which records related to the EB-5 Program should lawfully be

withheld and which should be publicly released in response to a public records request, and be it further

Resolved: That this legislative body requests that the administration promptly respond to all current and future public records requests, disclosing all records other than those that the Attorney General determines should lawfully be withheld, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Governor and to the Attorney General.

**NOTICE CALENDAR**  
**Favorable with Amendment**  
**H. 871**

An act relating to approval of amendments to the charter of the City of Montpelier

**Rep. Martin of Wolcott**, for the Committee on **Government Operations**, recommends the bill be amended as follows:

That the bill be amended in Sec. 2, 24 App. V.S.A. chapter 5, by striking out in their entirety the Subchapter 7 (city ordinances) designation and the asterisks immediately following and § 709 (regulation of public water supply and sources) and the asterisks immediately following.

( **Committee Vote: 10-0-1** )

**S. 216**

An act relating to prescription drug formularies

**Rep. Lippert of Hinesburg**, 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. 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 wholesale acquisition cost 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 provide a justification for the increase in the wholesale acquisition cost of the drug in a format that the Attorney General determines to be understandable and appropriate. The manufacturer shall submit to the Office of the Attorney General all relevant information and supporting documentation necessary to justify the manufacturer’s wholesale acquisition cost increase, including:

(A) all factors that have contributed to the wholesale acquisition cost increase;

(B) the percentage of the total wholesale acquisition cost increase attributable to each factor; and

(C) an explanation of the role of each factor in contributing to the wholesale acquisition cost increase.

(2) Nothing in this section shall be construed to restrict the legal ability of a prescription drug manufacturer to changes prices to the extent permitted under federal law.

(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. 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. PRESCRIPTION DRUG FORMULARIES; RULEMAKING

On or before January 1, 2017, the Commissioner of Financial Regulation shall adopt rules pursuant to 3 V.S.A. chapter 25 to require all health insurers that offer health benefit plans to Vermont residents through the Vermont Health Benefit Exchange to provide information to enrollees, potential enrollees, and health care providers about the Exchange plans' prescription drug formularies. The rules shall ensure that the formulary is posted online in a standard format established by the Department of Financial Regulation; that the formulary is updated frequently and is searchable by enrollees, potential enrollees, and health care providers; and that it includes information about the prescription drugs covered, applicable cost-sharing amounts, drug tiers, prior authorization, step therapy, and utilization management requirements.

### Sec. 4. 340B DRUG REIMBURSEMENT; REPORT

(a) The Department of Vermont Health Access shall:

(1) determine the formula used by other states' Medicaid programs to reimburse covered entities that use 340B pricing for dispensing prescription drugs to Medicaid beneficiaries;

(2) evaluate the advantages and disadvantages of using the same dispensing fee in its reimbursement formula for 340B prescription drugs as the Department uses to pay for non-340B prescription drugs under the Medicaid program; and

(3) identify the benefits of 340B drug pricing to consumers, other payers, and the overall health care system.

(b) On or before March 15, 2017, the Department shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance regarding its findings and recommendations, including recommended modifications to Vermont's 340B reimbursement formula, if any, and the financial implications of implementing any recommended modifications.

Sec. 5. OUT-OF-POCKET PRESCRIPTION DRUG LIMITS; 2018 PILOT;  
REPORTS

(a) The Department of Vermont Health Access shall convene an advisory group to develop options for bronze-level qualified health benefit plans to be offered on the Vermont Health Benefit Exchange for the 2018 plan year, including:

(1) one or more plans with a higher out-of-pocket limit on prescription drug coverage than the limit established in 8 V.S.A. § 4089i; and

(2) one or more plans with an out-of-pocket limit at or below the limit established in 8 V.S.A. § 4089i.

(b) The advisory group shall include at least the following members:

(1) the Commissioner of Vermont Health Access or designee;

(2) a representative of each of the commercial health insurers offering plans on the Vermont Health Benefit Exchange;

(3) a representative of the Office of the Vermont Health Advocate;

(4) a member of the Medicaid and Exchange Advisory Board, appointed by the Commissioner;

(5) a representative of Vermont's AIDS services organizations;

(6) a consumer appointed by Vermont's AIDS services organizations;

(7) a representative of the American Cancer Society;

(8) a consumer appointed by the American Cancer Society; and

(9) a Vermont Health Connect navigator.

(c)(1) The advisory group shall meet at least six times prior to the Department submitting plan designs to the Green Mountain Care Board for approval.

(2) In developing the standard qualified health benefit plan designs for the 2018 plan year, the Department of Vermont Health Access shall present the recommendations of the advisory committee established pursuant to subsection (a) of this section to the Green Mountain Care Board.

(d)(1) Prior to the date on which qualified health plan forms must be filed with the Department of Financial Regulation pursuant to 8 V.S.A. § 4062, a health insurer offering qualified health benefit plans on the Vermont Health Benefit Exchange shall seek approval from the Green Mountain Care Board to modify the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for one or more nonstandard bronze-level plans. In considering an

insurer's request, the Green Mountain Care Board shall provide an opportunity for the advisory group established in subsection (a) of this section, and any other interested party, to comment on the recommended modifications.

(2)(A) Notwithstanding any provision of 8 V.S.A. § 4089i to the contrary, the Green Mountain Care Board may approve modifications to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for one or more bronze-level plans for the 2018 plan year only.

(B) For the 2018 plan year, the Department of Vermont Health Access shall certify at least one standard bronze-level plan that includes the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i, as long as the plan complies with federal requirements. Notwithstanding any provision of 8 V.S.A. § 4089i to the contrary, the Department may certify one or more bronze-level qualified health benefit plans with modifications to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for the 2018 plan year only.

(e) On or before February 15, 2017, the Department of Vermont Health Access shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance:

(1) an overview of the cost-share increase trend for bronze-level qualified health benefit plans offered on the Vermont Health Benefit Exchange for the 2014 through 2017 plan years that were subject to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i;

(2) detailed information regarding lower cost-sharing amounts for selected services that will be available in bronze-level qualified health benefit plans in the 2018 plan year due to the flexibility to increase the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i pursuant to subdivision (d)(2) of this section;

(3) a comparison of the bronze-level qualified health benefit plans offered in the 2018 plan year in which there will be flexibility in the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i with the plans in which there will not be flexibility;

(4) information about the process engaged in by the advisory group established in subsection (a) of this section and the information considered to determine modifications to the cost-sharing amounts in all bronze-level qualified health benefit plans for the 2018 plan year, including prior year utilization trends, feedback from consumers and health insurers, Health Benefit Exchange outreach and education efforts, and relevant national studies;

(5) cost-sharing information for standard bronze-level qualified health benefit plans from states with federally facilitated exchanges compared to those on the Vermont Health Benefit Exchange; and

(6) an overview of the outreach and education plan for enrollees in bronze-level qualified health benefit plans offered on the Vermont Health Benefit Exchange.

(f) On or before February 1, 2018, the Department of Vermont Health Access shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance:

(1) enrollment trends in bronze-level qualified health benefit plans offered on the Vermont Health Benefit Exchange; and

(2) recommendations from the advisory group established pursuant to subsection (a) of this section regarding continuation of the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

#### Sec. 6. EFFECTIVE DATE

(a) This bill shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to prescription drugs”

**(Committee vote: 11-0-0)**

**(For text see Senate Journal March 16, 2016)**

#### **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 readoption 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 )**

**Rep. Feltus of Lyndon**, for the Committee on **Appropriations**, recommends the bill ought to pass in concurrence with proposal of amendment as offered by the Committee on **Natural Resources & Energy**.

**(Committee Vote: 11-0-0)**

#### **Senate Proposal of Amendment**

##### **H. 112**

An act relating to access to financial records in adult protective services investigations

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. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a)(1) Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows:

~~(1)~~(A) The investigative report shall be disclosed only to: the Commissioner or person designated to receive such records; persons assigned by the Commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the Office of Professional Regulation when deemed appropriate by the Commissioner; the Secretary of Education when deemed appropriate by the Commissioner; the Commissioner for Children and Families or designee; for purposes of review of expungement petitions filed pursuant to section 4916c of this title; the Commissioner of Financial Regulation when deemed appropriate by the Commissioner for an investigation related to financial exploitation; a law enforcement agency; the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

~~(2)~~(B) Relevant information may be disclosed to the Secretary of Human Services, or the Secretary's designee, for the purpose of remediating or preventing abuse, neglect, or exploitation; to assist the Agency in its monitoring and oversight responsibilities; and in the course of a relief from abuse proceeding, guardianship proceeding, or any other court proceeding when the Commissioner deems it necessary to protect the victim, and the victim or his or her representative consents to the disclosure. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

(2) Notwithstanding subdivision (1)(A) of this subsection, financial information made available to an adult protective services investigator pursuant to section 6915 of this title may be used only in a judicial or administrative proceeding or investigation directly related to a report required or authorized under this chapter. Relevant information may be disclosed to the Secretary of Human Services pursuant to subdivision (1)(B) of this subsection, and may also be disclosed to the Commissioner of Financial Regulation when the investigation relates to financial exploitation of a vulnerable adult.



\* \* \*

Sec. 2. 33 V.S.A. § 6915 is added to read:

§ 6915. ACCESS TO FINANCIAL INFORMATION

(a) As used in this chapter:

(1) “A person having custody or control of the financial information” means:

(A) a bank as defined in 8 V.S.A. § 11101;

(B) a credit union as defined in 8 V.S.A. § 30101;

(C) a broker-dealer or investment advisor, as those terms are defined in 9 V.S.A. § 5102; or

(D) a mutual fund as defined in 8 V.S.A. § 3461.

(2) “Capacity” means an individual’s ability to make and communicate a decision regarding the issue that needs to be decided.

(3) “Financial information” means an original or copy of, or information derived from:

(A) a document that grants signature authority over an account held at a financial institution;

(B) a statement, ledger card, or other record of an account held at a financial institution that shows transactions in or with respect to that account;

(C) a check, clear draft, or money order that is drawn on a financial institution or issued and payable by or through a financial institution;

(D) any item, other than an institutional or periodic charge, that is made under an agreement between a financial institution and another person’s account held at a financial institution;

(E) any information that relates to a loan account or an application for a loan;

(F) information pertaining to an insurance or endowment policy, annuity contract, contributory or noncontributory pension fund, mutual fund, or security, as defined in 9 V.S.A. § 5102; or

(G) evidence of a transaction conducted by electronic or telephonic means.

(4) “Financial institution” means any financial services provider licensed, registered, or otherwise authorized to do business in Vermont,

including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(b) A person having custody or control of the financial information of a vulnerable adult shall make the information or a copy of the information available to an adult protective services investigator upon receipt of a court order or receipt of the investigator's written request.

(1) The request shall include a statement signed by the account holder, if he or she has capacity, or the account holder's guardian with financial powers or agent under a power of attorney consenting to the release of the information to the investigator.

(2) If the vulnerable adult lacks capacity and does not have a guardian or agent, or if the vulnerable adult lacks capacity and his or her guardian or agent is the alleged perpetrator, the request shall include a statement signed by the investigator asserting that all of the following conditions exist:

(A) The account holder is an alleged victim of abuse, neglect, or financial exploitation.

(B) The alleged victim lacks the capacity to consent to the release of the financial information.

(C) Law enforcement is not involved in the investigation or has not requested a subpoena for the information.

(D) The alleged victim will suffer imminent harm if the investigation is delayed while the investigator obtains a court order authorizing the release of the information.

(E) Immediate enforcement activity that depends on the information would be materially and adversely affected by waiting until the alleged victim regains capacity.

(F) The Commissioner of Disabilities, Aging, and Independent Living has personally reviewed the request and confirmed that the conditions set forth in subdivisions (A) through (E) of this subdivision (2) have been met and that disclosure of the information is necessary to protect the alleged victim from abuse, neglect, or financial exploitation.

(c) If a guardian refuses to consent to the release of the alleged victim's financial information, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant to 14 V.S.A. § 3062(c).

(d) If an agent under a power of attorney refuses to consent to the release of the alleged victim's financial information, the investigator may file a petition

in Superior Court pursuant to 14 V.S.A. § 3510(b) to compel the agent to consent to the release of the alleged victim's financial information.

(e) The investigator shall include a copy of the written request in the alleged victim's case file.

(f) The person having custody or control of the financial information shall not require the investigator to provide details of the investigation to support the request for production of the information.

(g) The information requested and released shall be used only to investigate the allegation of abuse, neglect, or financial exploitation or for the purposes set forth in subdivision 6911(a) (1)(B) of this title and shall not be used against the alleged victim.

(h) The person having custody or control of the financial information shall provide the information to the investigator as soon as possible but, absent extraordinary circumstances, no later than 10 business days following receipt of the investigator's written request or receipt of a court order or subpoena requiring disclosure of the information.

(i) A person who in good faith makes an alleged victim's financial information or a copy of the information available to an investigator in accordance with this section shall be immune from civil or criminal liability for disclosure of the information unless the person's actions constitute gross negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult.

(j) The person having custody or control of the financial information of an alleged victim may charge the Department of Disabilities, Aging, and Independent Living no more than the actual cost of providing the information to the investigator and shall not refuse to provide the information until payment is received. A financial institution shall not charge the Department for the information if the financial institution would not charge if the request for the information had been made directly by the account holder.

Sec. 3. 8 V.S.A. § 10204 is amended to read:

#### § 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section

shall not be construed to expand or create any authority in any person or entity other than a financial institution.

\* \* \*

(25) Reports or disclosure of financial or other information to the Department of Disabilities, Aging, and Independent Living, pursuant to 33 V.S.A. §§ 6903(b) ~~and~~, 6904, and 6915.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read:

An act relating to access to financial information in adult protective services investigations.

(For text see House Journal March 9, 2016 )

#### **H. 171**

An act relating to restrictions on the use of electronic cigarettes

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

First: In Sec. 1, 7 V.S.A. § 1003(d), in subdivision (1)(B), following “in a locked container”, by striking out “that is not located on a sales counter”

Second: In Sec. 2, 18 V.S.A. § 1421, in subsection (a), following “tobacco substitutes”, by inserting as defined in 7 V.S.A. § 1001

Third: In Sec. 7, 23 V.S.A. § 1134b, in subsection (a), following “tobacco substitute”, by inserting as defined in 7 V.S.A. § 1001

(For text see House Journal March 15, 16, 2016 )

#### **H. 280**

An act relating to amending the State Board of Education rules on school lighting requirements

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

In Sec. 1, in subsection (b), by striking out “August 1, 2015” and inserting in lieu thereof August 1, 2016.

(For text see House Journal April 22, 2015 )

#### **H. 595**

An act relating to potable water supplies from surface waters

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. § 1978(a) is amended to read:

(a) The Secretary shall adopt rules, in accordance with 3 V.S.A. chapter 25, necessary for the administration of this chapter. These rules shall include the following:

\* \* \*

(15) Provisions authorizing the use by a residential dwelling of surface water as a source of a potable water supply permitted under this chapter.

Sec. 2. 10 V.S.A. § 1981 is added to read:

§ 1981. SURFACE WATER SOURCE; POTABLE WATER SUPPLY

The Secretary shall approve the use of a surface water as the source of a potable water supply under this chapter if the following conditions are satisfied:

(1) the building or structure using the surface water as a source is a single-family residence occupied by the owner of record;

(2) only one single-family residence shall be served by a potable water supply using a surface water as a source;

(3) a single-family residence with a potable water supply using a surface water as a source shall not be used as the site of a home occupation that employs persons other than family members and is visited by the public in a manner or duration that would presume the need for use of a potable water supply;

(4) a professional engineer shall design the potable water supply using a surface water as a source, including a treatment system for the surface water;

(5) only surface waters that meet criteria adopted by the Secretary by rule are eligible as the source of a potable water supply permitted under this chapter; and

(6) the applicant or permit holder shall comply with other criteria and requirements adopted by the Secretary by rule for potable water supplies using a surface water as a source.

Sec. 3. SURFACE WATER SOURCE; RULEMAKING

The Secretary shall adopt rules to implement 10 V.S.A. § 1981 on or before July 1, 2017.

Sec. 4. 10 V.S.A. § 1982 is added to read:

§ 1982. TESTING OF NEW GROUNDWATER SOURCES

(a) As used in this section, “groundwater source” means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Prior to use of a new groundwater source as a potable water supply, where testing is not otherwise required, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (c) of this section.

(c) A water sample collected under this section shall be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the Agency by rule. The Agency by rule may require testing for a parameter by region or specific geographic area of concern.

(d) The Secretary, after consultation with the Department of Health, the Wastewater and Potable Water Supply Technical Advisory Committee, the Vermont Realtors, the Vermont Association of Professional Home Inspectors, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsection (b) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to conduct the test;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

Sec. 5. AGENCY OF NATURAL RESOURCES; GROUNDWATER SOURCE TESTING

The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 1982 on or before July 1, 2016. The Secretary shall adopt rules under 10 V.S.A. § 1982 on or before January 1, 2017.

Sec. 6. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The ~~commissioner~~ Commissioner may certify a laboratory that meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent to perform the testing and monitoring:

(1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking Water Act; and

(2) of water from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6).

(b)(1) The ~~commissioner~~ Commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the ~~commissioner~~ Commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction, or condition of the certificate; or

(C) violated any statute, rule, or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the ~~board~~ Board under section 128 of this title.

\* \* \*

(f) A laboratory certified to conduct testing of groundwater sources or water supplies from under 10 V.S.A. § 1982 or other statute for use by a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), shall submit the results of groundwater analyses to the ~~department of health~~ Department of Health and the ~~agency of natural resources~~ Agency of Natural Resources in a format required by the ~~department of health~~ Department of Health.

Sec. 7. 10 V.S.A. § 1283(b) is amended to read:

(b) Disbursements under this subsection may be made for emergency purposes or to respond to other than emergency situations; provided, however, that disbursements in response to an individual situation which is not an emergency situation shall not exceed \$100,000.00 for costs attributable to each of the subdivisions of this subsection, unless the Secretary has received the

approval of the General Assembly, or the Joint Fiscal Committee, in case the General Assembly is not in session. Furthermore, the balance in the Fund shall not be drawn below the amount of \$100,000.00, except in emergency situations. If the balance of the Fund becomes insufficient to allow a proper response to one or more emergencies that have occurred, the Secretary shall appear before the Emergency Board, as soon as possible, and shall request that necessary funds be provided. Within these limitations, disbursements from the Fund may be made:

\* \* \*

(7) to pay costs of management oversight provided by the State for investigation and cleanup efforts conducted by voluntary responsible parties ~~where those responsible parties have contributed monies to the Fund pursuant to a written agreement under subsection (f) of this section;~~

\* \* \*

Sec. 8. 10 V.S.A. § 6615c is added to read:

§ 6615c. INFORMATION REQUESTS

(a)(1) When the Secretary has reasonable cause to believe that the Secretary has identified a person who may be subject to liability for a release or threat of release under section 6615 of this title, the Secretary may require the person to furnish information related to:

(A) The type, nature, and quantity of any commercial chemical product or hazardous material that has been or is being used, generated, treated, stored, or disposed of at a facility or transported to a facility.

(B) The nature or extent of a release or threatened release of a hazardous material from a facility.

(C) Financial information related to the ability of a person to pay for or to perform a cleanup or information surrounding the corporate structure, if any, of such person who may be subject to liability for a release or threat of release under section 6615 of this title.

(2) A person served with an information request shall respond within 10 days of receipt of the request or by the date specified by the Secretary in the request.

(b)(1) A person who has received a request under subsection (a) of this section shall, at the discretion of the Secretary, either:

(A) grant the Secretary access, at reasonable times, to any facility, establishment, place, property, or location to inspect and copy all documents or records relating to information that was related to the request; or



(B) copy and furnish to the Secretary all such information at the option and expense of the person or provide a written explanation that the information has already been provided to the Secretary and a reference to the permit, enforcement action, or other matter under which the Secretary obtained the requested information.

(2) A person responding to a request under subsection (a) of this section may assert any privilege under statute, rule, or common law that is recognized in the State of Vermont to limit access to such information, including the attorney-client privilege. A person responding to a request for information under this section shall not assert privileges related to business confidentiality, including trade secrets, in order to withhold requested information. Any information that is privileged shall be provided to the Secretary with the privileged material redacted. The Secretary may require that a person asserting a privilege under this section provide an index of all privileged information.

(c) The Secretary may require any person who has or may have knowledge of any information listed in subdivisions (a)(1) of this section to appear at the offices of the Secretary and may take testimony and require the production of records that relate to a release or threatened release of a hazardous material.

(d) Any request for information under this section shall be served personally or by certified mail.

(e) A response to a request under this section shall be personally certified by the person responding to the request that:

(1) the response is accurate and truthful; and

(2) the person has not omitted responsive information or will provide the responsive information according to a production schedule approved by the Secretary.

(f) Information that qualifies for the trade secret exemption under 1 V.S.A. § 317(c)(9) and other financial information submitted under this section shall be confidential and shall not be subject to inspection and copying under the Public Records Act. A person subject to an information request under this section shall be responsible for proving that submitted information qualifies for the trade secret exemption under 1 V.S.A. § 317(c)(9). The following information is not trade secret information or financial information for the purposes of this subsection:

(1) the trade name, common name, or generic class or category of the hazardous material;

(2) the physical properties of the hazardous material, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees Celsius;

(3) the hazards to health and the environment posed by the hazardous material, including physical hazards and potential acute and chronic health hazards;

(4) the potential routes of human exposure to the hazardous material at the facility;

(5) the location of disposal of any waste stream at the facility;

(6) any monitoring data or analysis of monitoring data pertaining to disposal activities;

(7) any hydrogeologic or geologic data; or

(8) any groundwater monitoring data.

(g) As used in this section, “information” means any written or recorded information, including all documents, records, photographs, recordings, e-mail, or correspondence.

Sec. 9. 10 V.S.A. § 6615d is added to read:

§ 6615d. NATURAL RESOURCE DAMAGES; LIABILITY;  
RULEMAKING

(a) Definitions. As used in this section:

(1) “Baseline condition” means the condition or conditions that would have existed at the area of assessed damages had the release of hazardous material not occurred.

(2) “Damages” means the amount of money sought by the Secretary for the injury, destruction, or loss of natural resources.

(3) “Destruction” means the total and irreversible loss of natural resources.

(4) “Injury” means a measurable adverse long-term or short-term change in the chemical or physical quality or viability of a natural resource resulting either directly or indirectly from exposure to a release of hazardous material or exposure to a product of reactions from a release of hazardous materials.

(5) “Loss” means a measurable adverse reaction of a chemical or physical quality of viability of a natural resource.

(6) “Natural resources” means fish, wildlife, biota, air, surface water, groundwater, wetlands, drinking water supplies, or State-held public lands.

(7) “Natural resource damage assessment” means the process of collecting, compiling, and analyzing information, statistics, or data through prescribed methodologies to determine the damages for injuries to natural resources.

(8) “Restoring,” “restoration,” “rehabilitating,” or “rehabilitation” means actions undertaken to return an injured natural resource to its baseline condition, as measured in terms of the injured resource’s physical, chemical, or biological properties or the services it had previously provided, when such actions are in addition to a response action.

(b) Authorization. The Secretary may assess damages against any person found to be liable under section 6615 of this title for a release or threatened release of hazardous material for injury to, destruction of, or loss of natural resources from the release or threatened release. The measure of damages that may be assessed for natural resources damages shall include the cost of restoring or rehabilitating injured, damaged, or destroyed natural resources, compensation for the interim injury to or loss of natural resources pending recovery, and any reasonable costs of the Secretary in conducting a natural resources damage assessment.

(c) Rulemaking; methodology. The Secretary shall adopt rules to implement the requirements of this section, including a methodology by which the Secretary shall assess and value natural resources damages. The rules shall include:

(1) requirements or acceptable standards for the preassessment of natural resources damages, including requirements for:

(A) notification of the Secretary or other necessary persons;

(B) authorized emergency response to natural resources damages, and

(C) sampling or screening of the potentially injured natural resources;

(2) requirements for the a natural resources damages assessment plan to ensure that the natural resources damage assessment is performed in a designed and systematic manner, including:

(A) the categories of reasonable and necessary costs that may be incurred as part of the assessment plan;

(B) the methodologies for identifying and screening costs;

(C) the types of assessment procedures available to the Secretary, when the available procedures are authorized, and the requirements of the available procedures;

(D) how injury or loss shall be determined and how injury or loss is quantified; and

(E) how damages are determined;

(3) requirements for post-natural resources damages assessment, including:

(A) the documentation that the Secretary shall produce to complete the assessment;

(B) how the Secretary shall seek recovery; and

(C) when and whether the Secretary shall require a restoration plan; and

(4) other requirements deemed necessary by the Secretary for implementation of the rules.

(d) Exceptions. The Secretary shall not seek to recover natural resources damages under this section when the person liable for the release or threatened release:

(1) demonstrates that the alleged natural resources damages were identified as a potential irreversible or irretrievable environmental effect on natural resource damages in an application for, renewal of, review of, or other environmental assessment of a permit, certification, license or other required authorization;

(2) the Secretary authorized the identified effect on natural resources in an issued permit, certification, license, or other authorization; and

(3) the person liable for the release or threatened release was operating within the terms of its permit, certification, license, or other authorization.

(e) Limitations. The natural resources damages authorized under this section and the requirements for assessment under the rules authorized by this section shall not limit the authority of the Secretary of Natural Resources to seek or recover natural resource damages under other State law, federal law, or common law.

#### Sec. 10. NATURAL RESOURCES DAMAGES; COMMENCEMENT; ADOPTION

(a) The Secretary of Natural Resources shall consult with interested parties in the adoption of rules under 10 V.S.A. § 6615d.

(b) The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 6615d on or before January 1, 2017. The Secretary shall adopt rules under 10 V.S.A. § 6615d on or before November 1, 2017.

(c) On or before February 15, 2017, the Secretary of Natural Resources shall submit to the Senate and House Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources a copy of the draft rules for natural resource damages required under 10 V.S.A. § 6615d for review.

(d) The Secretary of Natural Resources shall not seek natural resources damages under 10 V.S.A. § 6615d until the rules required under 10 V.S.A. § 6615d(c) are effective.

Sec. 11. 10 V.S.A. § 8005(b) is amended to read:

(b) Access orders and information requests.

(1) A Superior Court judge shall issue an access order when access has been refused and the investigator, by affidavit, describes the property to be examined and identifies:

(A) a provision of a permit that authorizes the inspection; or

(B) the property as being scheduled for inspection in accordance with a neutral inspection program adopted by the Secretary or the Natural Resources Board; or

(C) facts providing reasonable grounds to believe that a violation exists and that an examination of the specifically described property will be of material aid in determining the existence of the violation.

(2) A Superior Court shall issue an order requiring compliance with an information request submitted pursuant to section 6615c of this title when:

(A) the person served with the request fails to respond to the request in the time frame identified by the Secretary;

(B) the Secretary submits, by affidavit, facts providing reasonable grounds that a release or threatened release has taken place; and

(C) the information will be of material aid in responding to the release or threatened release.

(3) Issuance of an access order shall not negate the Secretary's authority to initiate criminal proceedings in the same matter by referring the matter to the Office of the Attorney General or a State's Attorney.

Sec. 12. AGENCY OF NATURAL RESOURCES' WORKING GROUP ON TOXIC CHEMICAL USE IN THE STATE

(a) Formation. On or before July 1, 2016, the Secretary of Natural Resources shall establish a working group of interested parties to develop recommendations for how to improve the ability of the State to:

(1) prevent citizens and communities in the State from being exposed to toxic chemicals, hazardous materials, or hazardous wastes;

(2) identify and regulate the use of toxic chemicals or hazardous materials that currently are unregulated by the State; and

(3) inform communities and citizens in the State of potential exposure to toxic chemicals, including contamination of groundwater, public drinking water systems, and private potable water supplies

(b) Duties. The Working Group shall:

(1) recommend actions the State of Vermont could take to improve how data is collected and what data is collected regarding the location of sites where toxic chemicals, hazardous materials, or hazardous waste is used, stored, or managed; and the proximity of these sites to both public and private water supplies;

(2) recommend actions the State of Vermont could take to improve what information is made available to the public, and how it is made publically available, regarding the risks to private and public drinking water supplies and groundwater from toxic chemicals, hazardous materials, or hazardous waste;

(3) recommend actions the State of Vermont could take to improve the identification process and consistency of listing and regulating hazardous materials, hazardous waste, and toxic chemicals regulated within DEC and the Department of Health, to ensure the State is adequately identifying chemicals that pose a threat to human health, and that it has the necessary tools to prevent and respond to chemical threats to human health;

(4) recommend actions the State of Vermont could take to improve the prevention, detection, and response to the contamination of public drinking water supplies and groundwater from toxic chemicals, hazardous materials, or hazardous waste;

(5) identify potential fiscal issues related to its recommendations, and make recommendations on actions the State of Vermont could take to better fund existing programs and any recommended improvements; and

(6) develop recommended legislative changes that may be needed to implement recommendations and strategies.

(c) The Working Group shall submit a report to the Senate and House Committees on Natural Resources and Energy and to the House Committee on Fish, Wildlife and Water Resources with its findings and recommendations on or before January 15, 2017.

Sec. 13. EFFECTIVE DATES

(a) This section and Secs. 1 (ANR authorization to adopt surface water rules), 3 (surface water source rules; potable water supply), 6 (certification of laboratories), 7 (Environmental Contingency Fund), 8 (ANR information requests), 9–10 (natural resources damages), 11 (ANR enforcement), and 12 (ANR working group on toxic chemicals) shall take effect on passage.

(b) Secs. 4–5 (testing of new groundwater sources) shall take effect on passage, except that 10 V.S.A. § 1982(b) (the requirement to test new groundwater sources) shall take effect on January 1, 2017.

(c) Sec. 2 (permitting of surface water sources) shall take effect July 1, 2017.

(For text see House Journal March 16, 2016 )

**H. 622**

An act relating to obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect

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. 33 V.S.A. § 4913 is amended to read:

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL ACTION

\* \* \*

(c) Any mandated reporter who reasonably suspects abuse or neglect of a child shall report in accordance with the provisions of section 4914 of this title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed.

\* \* \*

(h)(1) A person who violates subsection ~~(a)~~(c) of this section shall be fined not more than \$500.00.

(2) A person who violates subsection ~~(a)~~(c) of this section with the intent to conceal abuse or neglect of a child shall be imprisoned not more than six months or fined not more than \$1,000.00, or both.

(3) This section shall not be construed to prohibit a prosecution under any other provision of law.

(4) It shall be an affirmative defense to a charge under subsection (c) of this section that the mandated reporter did not report in accordance with

subsection (c) because the person had written confirmation that the same incident of suspected abuse or neglect was already reported and the mandated reporter was reasonably certain that he or she had no additional information to report. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence. The affirmative defense shall not apply to a person who violates subsection (c) of this section with the intent to conceal abuse or neglect of a child.

(5) Prior to charging a mandated reporter under subsection (c) of this section, the prosecutor shall make a reasonable inquiry into whether the mandated reporter had written confirmation that the same incident of suspected abuse or neglect was already reported and whether the mandated reporter was reasonably certain that he or she had no additional information to report.

(i) Except as provided in subsection ~~(h)~~(j) of this section, a person may not refuse to make a report required by this section on the grounds that making the report would violate a privilege or disclose a confidential communication.

(j) A member of the clergy shall not be required to make a report under this section if the report would be based upon information received in a communication which is:

(1) made to a member of the clergy acting in his or her capacity as spiritual advisor;

(2) intended by the parties to be confidential at the time the communication is made;

(3) intended by the communicant to be an act of contrition or a matter of conscience; and

(4) required to be confidential by religious law, doctrine, or tenet.

(k) When a member of the clergy receives information about abuse or neglect of a child in a manner other than as described in subsection ~~(h)~~(j) of this section, he or she is required to report on the basis of that information even though he or she may have also received a report of abuse or neglect about the same person or incident in the manner described in subsection ~~(h)~~(j) of this section.

Sec. 2. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT  
COMMITTEE; 2016 INTERIM RESPONSIBILITIES; PRIVILEGED  
COMMUNICATIONS

During the 2016 legislative interim, the Joint Legislative Child Protection Oversight Committee shall:



(1) review issues related to patient privilege, confidentiality of patient records and information, and the statutes and rules governing professional conduct; and

(2) analyze the extent to which those professional obligations identified in subdivision (1) interfere with the ability of certain professional mandated reporters to cooperate with the Department for Children and Families, law enforcement, and prosecutors during an ongoing child protection assessment, investigation, or proceeding.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal February 11, 19, 2016 )

## **H. 677**

An act relating to the Restitution Unit

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. 13 V.S.A. § 7043(n) is amended to read:

(n)(1) Any monies owed by the State to an offender who is under a restitution order, including lottery winnings, unclaimed property, and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the Courts.

(2) The Office of the Treasurer shall, prior to delivery or payment of unclaimed property valued at \$50.00 or more to a claimant pursuant to 27 V.S.A. § 1255, determine whether the claimant has an outstanding restitution order.

(A) The Restitution Unit shall inform the Treasurer of persons with outstanding restitution orders. Each person subject to such an order shall be identified by name and Social Security or federal identification number.

(B) If any such claimant owes restitution, the Restitution Unit, after notice to the owner, may request and the Treasurer shall transfer unclaimed property of such owner valued at \$50.00 or more to the Restitution Unit to be applied to the amount of restitution owed. The notice shall advise the owner of the action being taken and, if he or she is not the person liable under the Restitution Judgment Order, the right to appeal the setoff; or advise the owner if the underlying conviction was vacated or is under appeal.

(3) When an offender is entitled to a tax refund, any restitution owed by the offender shall be withheld from the refund pursuant to 32 V.S.A. chapter 151, subchapter 12.

~~(3)~~(4)(A) For all Vermont lottery games, the Lottery Commission shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding restitution order. If the winner owes restitution, the Lottery Commission shall withhold the entire amount of restitution owed and pay it to the Restitution Unit. The remainder of the winnings, if any, shall be sent to the winner. The winner shall be notified by the Restitution Unit of the offset prior to payment to the victim and given a period not to exceed 20 days to contest the accuracy of the information.

(B) The Restitution Unit shall inform the Lottery Commission of persons with outstanding restitution orders upon request. Each person subject to such an order shall be identified by name, address, and Social Security number.

(C) If a lottery winner has an outstanding restitution order and an outstanding child support order, the lottery winnings shall be offset first pursuant to 15 V.S.A. § 792 by the amount of child support owed, and second pursuant to this subsection by the amount of restitution owed. The remainder of the winnings, if any, shall be sent to the winner.

~~(4)~~(5) Unless otherwise provided, monies paid under this subsection shall be paid directly to the Restitution Unit.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(For text see House Journal February 12, 2016 )

## H. 690

An act relating to the practice of acupuncture by physicians, osteopaths, and physician assistants

The Senate proposes to the House to amend the bill in Sec. 1, 26 V.S.A. § 3402, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read:

(f) This chapter shall not be construed to limit or restrict in any way the right of a licensed practitioner of a health care profession regulated under this title from performing services within the scope of his or her professional practice.

And that after passage the title of the bill be amended to read:

An act relating to the practice of acupuncture by health care professionals acting within their scope of practice.

(For text see House Journal March 16, 2016 )

#### H. 829

An act relating to water quality on small farms

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. § 4810a is amended to read:

§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) On or before ~~July 1, 2016~~ September 15, 2016, the Secretary of Agriculture, Food and Markets shall ~~amend by file under 3 V.S.A. § 841 a final proposal of a rule amending~~ the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification program required by section 4871 of this title. At a minimum, the amendments to the required agricultural practices shall:

(1) Specify those farms that:

(A) are required to comply with the small farm certification requirements under section 4871 of this title due to the potential impact of the farm or type of farm on water quality as a result of livestock managed on the farm, agricultural inputs used by the farm, or tillage practices on the farm; and

(B) shall be subject to the required agricultural practices, but shall not be required to comply with small farm certification requirements under section 4871 of this title.

(2)(A) ~~Prohibit~~ Except as authorized under subdivision (C) of this subdivision, prohibit a farm from stacking or piling manure, storing fertilizer, or storing other nutrients on the farm:

(i) in a manner and location that presents a threat of discharge to a water of the State or presents a threat of contamination to groundwater; or

(ii) on lands in a floodway or otherwise subject to annual flooding.

(B) ~~In no case shall~~ Except as authorized under subdivision (C) of this subdivision, manure stacking or piling sites, fertilizer storage, or other nutrient storage shall not be located within 200 feet of a private well or within 200 feet of a water of the State, ~~provided that~~.

(C) ~~the~~ The Secretary may authorize:

(i) siting of manure stacking or piling sites, fertilizer storage, or other nutrient storage within 200 feet, but not less than 100 feet, of a private well or surface water if the Secretary determines that a manure stacking or piling site, fertilizer storage, or other nutrient storage will not have an adverse impact on groundwater quality or a surface water quality the site is the best available site on the farm for the purposes of protecting groundwater quality or surface water quality;

(ii) siting of a waste storage facility within 200 feet of a surface water or private well if the site is the best available site on the farm for the purposes of protecting groundwater quality or surface water quality and the waste storage facility is designed by a licensed engineer to meet the requirements of section 4815 of this title.

\* \* \*

~~(7) Prohibit the construction or siting of a farm structure for the storage of manure, fertilizer, or pesticide storage within a floodway area identified on a National Flood Insurance Program Map on file with a town clerk. [Repealed.]~~

(8) Regulate, in a manner consistent with the Agency of Natural Resources' flood hazard area and river corridor rules, the construction or siting of a farm structure or the storage of manure, fertilizer, or pesticides within a river corridor designated by the Secretary of Natural Resources.

\* \* \*

Sec. 2. 6 V.S.A. § 4871(b) is amended to read:

(b) Required small farm certification. Beginning on July 1, 2017, a person who owns or operates a small farm, as designated by the Secretary consistent with subdivision 4810a(a)(1) of this title, shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 8, 2016 )