

Senate Calendar

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ACTION CALENDAR

UNFINISHED BUSINESS OF THURSDAY, APRIL 14, 2016

Third Reading

H. 74.

An act relating to safety protocols for social and mental health workers.

NEW BUSINESS

Third Reading

H. 261.

An act relating to criminal record inquiries by an employer.

H. 864.

An act relating to agricultural exemption from Vermont's sales and use tax.

Second Reading

Favorable with Proposal of Amendment

H. 559.

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

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

The Committee recommends that the Senate propose to the House to amend
the bill by adding a new section to be Sec. 5 to read as follows:

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

§ 1583. EXEMPTIONS

This chapter does not prohibit:

* * *

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

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 15, 2016, page 381)

H. 829.

An act relating to water quality on small farms.

Reported favorably with recommendation of proposal of amendment by Senator Sirotkin for the Committee on Agriculture.

The Committee recommends that the Senate propose to the House to amend the bill by striking out 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.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 8, 2016, page 319)

H. 845.

An act relating to legislative review of certain report requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1-8. LEGISLATIVE REPORTS; BOARD OF VISITORS

The corporation hereby created shall make annual reports to the Legislature of this State, of its condition, financially and otherwise, and make and distribute the reports required by the act of Congress, herein referred to, and the Legislature may annually appoint a Board of Visitors, who may annually examine the affairs of the corporation. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

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

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

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

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

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

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

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

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

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

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

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

(8) Prepare monthly revenue reports for the Governor, Secretary of Administration, and other officials and for release to the general public, and a comprehensive annual financial report in accordance with generally accepted accounting principles which shall be distributed to the Chairs of the House Committees on Appropriations, on Corrections and Institutions, and on Ways

and Means and to the Senate Committees on Appropriations, on Finance, and on Institutions on or before December 31 of each year; The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision.

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

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

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

(12) Exercise central management of the appropriation act;

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

* * *

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

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

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

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

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

§ 2115. GENERAL ASSISTANCE PROGRAM REPORT

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

Services and the Senate Committees on Appropriations and on Health and Welfare containing:

- (1) an evaluation of the General Assistance program during the previous fiscal year;
- (2) any recommendations for changes to the program; and
- (3) a plan for continued implementation of the program.

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

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

* * * Report Requirements Repealed * * *

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

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

- ~~(1) a description of the adverse events reviewed by the panel during the preceding 12 months, including statistics and causes;~~
- ~~(2) corrective action plans to address, in the aggregate, such adverse events; and~~
- ~~(3) recommendations for system changes and legislation relating to the delivery of health care in Vermont. [Repealed.]~~

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

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

~~(A) Information on allowable expenditures and permitted gifts required to be disclosed under this section, which shall present information in aggregate form by selected types of health care providers or individual health care providers, as prioritized each year by the office; and showing the amounts~~

~~expended on the Green Mountain Care board established in chapter 220 of this title. In accordance with subdivisions (1)(B), (1)(D), and (2)(A) of this subsection, information on samples and donations to free clinics of prescribed products and of over the counter drugs, nonprescription medical devices, items of nonprescription durable medical equipment, medical food, and infant formula shall be presented in aggregate form.~~

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

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

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

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

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

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

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

~~(e) On or before January 15, 2012, and annually thereafter, the department of fish and wildlife shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding the status of the relevant captive cervidae facility's compliance with:~~

~~(1) the requirements of this section; and~~

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

* * * Reports Expiration Extension * * *

Sec. 16. REPORT REPEAL DELAYED

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

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

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

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

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

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

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

* * * Technical Amendments * * *

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

(j) The Secretary of State shall prepare a list of names and addresses of lobbyists and their employers and the list shall be published at the end of the second legislative week of each regular or adjourned session. Supplemental

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

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

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

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

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

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

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

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

(e) On or before the tenth Thursday after the convening of each biennial and adjourned session, the Committee shall report to the General Assembly its recommendation whether the candidates should continue in office, with any amplifying information which it may deem appropriate, in order that the

General Assembly may discharge its obligation under ~~section 34 of Chapter II § 34~~ of the Constitution of the State of Vermont. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

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

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

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

(17) Report annually on the condition of education statewide and on a school by school basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of harassment, hazing, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school to determine its strengths and weaknesses. The Secretary shall use the information in the report to determine whether students in each school are provided educational opportunities substantially equal to those provided in other schools pursuant to subsection 165(b) of this title. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

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

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

* * *

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

(a) On or before December 15, the Secretary shall publish an estimate, by town school district, city school district, union school district, unified union school district, incorporated school district, and the member school districts of an interstate school district, of the amount of State assistance necessary to fully

fund sections 2961 through 2963 of this title in the ensuing school year. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

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

§ 3862. REPORTS

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

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

§ 1354. ACCOUNTS; ANNUAL REPORT

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

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

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

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

(d) Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation, the Office of Professional Regulation shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the appropriate House or Senate Committee on Government Operations. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

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

(25) Transfer any unexpended project balances from previous capital construction acts for the purpose of emergency projects not authorized in a capital construction act in an amount not to exceed \$100,000.00; provided the Commissioner shall send timely written notice of such expenditures to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

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

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

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

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

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

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

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

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

(11) From time to time prepare and publish statistics reasonably available with respect to the operation of this title, including amounts collected, classification of taxpayers, tax liabilities, and such other facts as the Commissioner or the General Assembly considers pertinent. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

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

Sec. 49. CLOSING OF CORRECTIONAL FACILITIES; APPROVAL

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

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

Sec. 112. REPORT REPEAL DELAYED

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

* * *

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

* * *

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

* * *

* * * Repeal * * *

Sec. 37. REPEAL

The following are repealed:

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

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

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

* * * Effective Date * * *

Sec. 38. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

(No House amendments)

Senate Resolution for Action

S.R. 12.

Senate resolution amending the permanent rules of the Senate.

PENDING QUESTION: Shall the Senate adopt the resolution?

Text of resolution:

Resolved by the Senate:

That the permanent rules of the Senate are amended as follows:

First: Senate Rule 102 is added to read:

102. Ethics:

(a) The Committee on Committees shall, at the beginning of the biennium or as soon as possible thereafter, establish an Ethics Panel to receive and investigate allegations of ethical violations of senators, except for those complaints covered under Rule 101, and to recommend to the Senate any disciplinary action against a senator for an ethical violation, if the Panel deems it necessary.

(b) The Panel shall be comprised of five members of the Senate including at least one Senator from each major political party. The Panel shall elect a chair. All records and documents of the Ethics Panel shall be maintained in the Senate Secretary's Office.

(c) The Rules Committee shall develop and adopt a policy and procedure for receiving and reviewing allegations of ethical violations of Senators and procedures for when information and documents are confidential and public.

(d) At the end of each biennium, the Ethics Panel shall report to the Senate the number of complaints filed and the disposition of those complaints.

Second: Senate Rule 103 is added to read:

103. Disclosure:

On or before the 10th day of the beginning of the biennium, each senator shall submit to the Secretary a disclosure form prepared by the Secretary, which form may be updated as necessary. The form shall be signed by the senator and be publicly available. A senator shall update the senator's disclosure form as circumstances require.

NOTICE CALENDAR

Second Reading

Favorable

H. 399.

An act relating to the Department for Children and Families' Registry Review Unit.

Reported favorably by Senator Collamore for the Committee on Health and Welfare.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of January 21, 2016, page 54 and January 22, 2106 page 64)

Favorable with Recommendation of Amendment

S. 184.

An act relating to establishing a State Ethics Commission.

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

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

* * * Former Legislators; Lobbying Restriction * * *

Sec. 1. 2 V.S.A. § 266 is amended to read:

§ 266. PROHIBITED CONDUCT

* * *

(b) A legislator, for one year after leaving office, shall not be a lobbyist in this State.

(c) As used in this section, “candidate’s committee,” “contribution,” and “legislative leadership political committee” shall have the same meanings as in 17 V.S.A. ~~§ 2904~~ chapter 61 (campaign finance).

* * * Former Executive Officers; Postemployment Restrictions * * *

Sec. 2. 3 V.S.A. § 267 is added to read:

§ 267. EXECUTIVE OFFICERS; POSTEMPLOYMENT RESTRICTIONS

(a) Prior participation while in State employ.

(1) An Executive officer, for one year after leaving office, shall not, for pecuniary gain, be an advocate for any private entity before any public body or the General Assembly or its committees regarding any particular matter in which:

(A) the State is a party or has a direct and substantial interest; and

(B) the Executive officer had participated personally and substantively while in State employ.

(2) The prohibition set forth in subdivision (1) of this subsection applies to any matter the Executive officer directly handled, supervised, or managed or gave substantial input, advice, or comment or benefited from, either through discussing, attending meetings on, or reviewing materials prepared regarding the matter.

(b) Prior official responsibility. An Executive officer, for one year after leaving office, shall not, for pecuniary gain, be an advocate for any private entity before any public body or the General Assembly or its committees regarding any particular matter in which the officer had exercised any official responsibility.

(c) Public body enforcement. A public body shall disqualify a former Executive officer from his or her appearance or participation in a particular matter if the officer’s appearance or participation is prohibited under this section.

(d) Definitions. As used in this section:

(1) “Executive officer” means:

(A) the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

(2) “Private entity” means any person, corporation, partnership, joint venture, or association, whether organized for profit or not for profit, except one specifically chartered by the State of Vermont or that relies upon taxes for at least 50 percent of its revenues.

(3) “Public body” means any agency, department, division, or office and any board or commission of any such entity, or any independent board or commission, in the Executive Branch of the State.

* * * State Office and Legislative Candidates; Disclosure Form * * *

Sec. 3. 17 V.S.A. § 2414 is added to read:

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE;
DISCLOSURE FORM

(a) Each candidate for State office, State Senator, or State Representative shall file with the officer with whom consent of candidate forms are filed, along with his or her consent, a disclosure form prepared by the Secretary of State that contains the following information in regard to the candidate’s previous calendar year:

(1) Each source, but not amount, of personal income totaling \$10,000.00 or more, including any of the sources meeting that total described as follows:

(A) employment, including the employer or business name and address, and if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients;

(B) aggregated investment income, described generally as “investments;” and

(C) a lease or contract with the State held or entered into by the candidate or a company in which the candidate holds a controlling interest.

(2) Any board, commission, association, or other entity on which the candidate serves and a description of that position.

(3) Any company in which the candidate holds a controlling interest.

(b)(1) A senatorial district clerk or representative district clerk who receives a disclosure form under this section shall forward a copy of the disclosure to the Secretary of State within three business days of receiving it.

(2) The Secretary shall post a copy of any disclosure forms he or she receives under this section on his or her official State website.

(c) A candidate who fails to file a disclosure form as required by this section shall not have his or her name printed on the primary ballot, if applicable, or the general election ballot, except if the candidate wins the

primary as a write-in candidate, he or she shall have one week from the date of the primary to file the disclosure form in order to be placed on the general election ballot.

Sec. 4. [Deleted.]

* * * Campaign Finance Investigations; Reports to Ethics Commission * * *

Sec. 5. 17 V.S.A. § 2904 is amended to read:

§ 2904. CIVIL INVESTIGATION

(a)(1) The Attorney General or a State's Attorney, whenever he or she has reason to believe any person to be or to have been in violation of this chapter or of any rule ~~or regulation~~ made pursuant to this chapter, may examine or cause to be examined by any agent or representative designated by him or her for that purpose any books, records, papers, memoranda, or physical objects of any nature bearing upon each alleged violation and may demand written responses under oath to questions bearing upon each alleged violation.

* * *

(5) Nothing in this subsection is intended to prevent the Attorney General or a State's Attorney from disclosing the results of an investigation conducted under this section, including the grounds for his or her decision as to whether to bring an enforcement action alleging a violation of this chapter or of any rule ~~or regulation~~ made pursuant to this chapter.

* * *

Sec. 6. 17 V.S.A. § 2904a is added to read:

§ 2904a. REPORTS TO STATE ETHICS COMMISSION

Upon his or her receipt of a complaint made in regard to a violation of this chapter or of any rule made pursuant to this chapter, or upon his or her investigation of such an alleged violation without receiving a complaint, the Attorney General or a State's Attorney shall:

(1) Forward a copy of the complaint or a description of the investigation to the State Ethics Commission established in 3 V.S.A. chapter 31. The Attorney General or State's Attorney shall provide this information to the Commission within 10 days of his or her receipt of the complaint or the start of the investigation.

(2) Report to the Commission regarding his or her decision as to whether to bring an enforcement action as a result of that complaint or investigation. The Attorney General or State's Attorney shall make this report within 10 days of that decision.

Sec. 7. 3 V.S.A. Part 1, chapter 31 is added to read:

CHAPTER 31. GOVERNMENTAL ETHICS

Subchapter 1. General Provisions

§ 1201. DEFINITIONS

As used in this chapter:

(1) “Candidate” and “candidate’s committee” shall have the same meanings as in 17 V.S.A. § 2901.

(2) “Commission” means the State Ethics Commission established under subchapter 3 of this chapter.

(3) “Executive officer” means:

(A) a State officer; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

(4) “Lobbyist” shall have the same meaning as in 2 V.S.A. § 261.

(5) “Political committee” and “political party” shall have the same meanings as in 17 V.S.A. § 2901.

(6) “State officer” means the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

§ 1202. STATE CODE OF ETHICS

(a) The Department of Human Resources shall create and maintain a State Code of Ethics in accordance with section 315 of this title.

(b) In consultation with the Commissioner of Human Resources, each State officer may supplement the State Code of Ethics for the specific needs of his or her office.

Subchapter 2. Disclosures

§ 1211. EXECUTIVE OFFICERS; BIENNIAL DISCLOSURE

(a) Biennially, each Executive officer shall file with the State Ethics Commission a disclosure form that contains the following information in regard to the officer’s previous calendar year:

(1) Each source, but not amount, of personal income totaling \$10,000.00 or more, including any of the sources meeting that total described as follows:

(A) employment, including the employer or business name and address, and if self-employed, a description of the nature of the self-employment without needing to disclose any individual clients;

(B) aggregated investment income, described generally as “investments;” and

(C) a lease or contract with the State held or entered into by the officer or a company in which the officer holds a controlling interest.

(2) Any board, commission, association, or other entity on which the officer serves and a description of that position.

(3) Any company in which the officer holds a controlling interest.

(b) An officer shall file his or her disclosure on or before January 15 of the odd-numbered year or, if he or she is appointed after January 15, within 10 days after that appointment.

§ 1212. COMMISSION MEMBERS; BIENNIAL DISCLOSURE

(a) Biennially, each member of the State Ethics Commission shall file with the Executive Director of the Commission a disclosure form that contains the information that Executive officers are required to disclose under section 1211 of this subchapter.

(b) A member shall file his or her disclosure on or before January 15 of the first year of his or her appointment or, if the member is appointed after January 15, within 10 days after that appointment, and shall file subsequent disclosures biennially thereafter.

§ 1213. DISCLOSURES; GENERALLY

(a) The Executive Director of the Commission shall prepare on behalf of the Commission any disclosure form required to be filed with it, and shall make those forms available on the Commission’s website.

(b) The Executive Director shall post a copy of any disclosure form the Commission receives on the Commission’s website.

Subchapter 3. State Ethics Commission

§ 1221. STATE ETHICS COMMISSION

(a) Creation. There is created within the Executive Branch an independent commission named the State Ethics Commission to accept, review, make referrals regarding, and track complaints of alleged violations of the State Code of Ethics, of governmental conduct regulated by law, and of the State’s campaign finance law set forth in 17 V.S.A. chapter 61; to provide ethics training; and to issue advisory opinions regarding ethical conduct.

(b) Membership.

(1) The Commission shall be composed of the following five members:

(A) a chair of the Commission, who shall be appointed by the Chief Justice of the Supreme Court;

(B) one member appointed by the Vermont affiliate of the American Civil Liberties Union;

(C) one member appointed by the League of Women Voters of Vermont;

(D) one member appointed by the Vermont Bar Association; and

(E) one member appointed by the Executive Director of the Human Rights Commission.

(2) A member shall not:

(A) hold any office in the Legislative, Executive, or Judicial Branch of State government or otherwise be employed by the State;

(B) hold or enter into any lease or contract with the State, or have a controlling interest in a company that holds or enters into a lease or contract with the State;

(C) be a lobbyist;

(D) be a candidate; or

(E) hold any office in a candidate's committee, a political committee, or a political party.

(3) A member may be removed for cause by the remaining members of the Commission in accordance with the Vermont Administrative Procedure Act.

(4)(A) A member shall serve a term of three years and until a successor is appointed. A term shall begin on January 1 of the year of appointment and run through December 31 of the last year of the term. Terms of members shall be staggered so that not all terms expire at the same time.

(B) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term.

(C) A member shall not serve more than two terms. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of this subdivision (C).

(c) Executive Director.

(1) The Commission shall be staffed by an Executive Director, who shall be appointed by and serve at the pleasure of the Commission and who shall be a part-time exempt State employee.

(2) The Executive Director shall provide administrative support as requested by the Commission, in addition to any other duties required by this chapter.

(d) Confidentiality. The Commission and the Executive Director shall maintain the confidentiality required by this chapter.

(e) Meetings. Meetings of the Commission may be called by the Chair and shall be called upon the request of any other two Commission members.

(f) Reimbursement. Each member of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

§ 1222. COMMISSION MEMBER DUTIES AND PROHIBITED CONDUCT

(a) Conflicts of interest.

(1) Prohibition; recusal.

(A) A Commission member shall not participate in any Commission matter in which he or she has a conflict of interest and shall recuse him- or herself from participation in that matter.

(B) The failure of a Commission member to recuse him- or herself as described in subdivision (A) of this subdivision (1) may be grounds for the Commission to discipline or remove that member.

(2) Disclosure of conflict of interest.

(A) A Commission member who has reason to believe he or she has a conflict of interest in a Commission matter shall disclose that he or she has that belief and disclose the nature of the conflict of interest. Alternatively, a Commission member may request that another Commission member recuse him- or herself from a Commission matter due to a conflict of interest.

(B) Once there has been a disclosure of a member's conflict of interest, members of the Commission shall be afforded the opportunity to ask questions or make comments about the situation to address the conflict.

(3) Postrecusal procedure. A Commission member who has recused him- or herself from participating on a Commission matter shall not sit or deliberate with the Commission on that matter or otherwise act as a

Commission member on that matter, but may participate in that matter as a member of the public.

(4) Definition. As used in this subsection, “conflict of interest” means an interest of a member that is in conflict with the proper discharge of his or her official duties due to a significant personal or financial interest of the member, a person within the member’s immediate family, or the member’s business associate. “Conflict of interest” does not include any interest that is not greater than that of any other persons generally affected by the outcome of a matter.

(b) Gifts. A Commission member shall not accept a gift given by virtue of his or her membership on the Commission.

§ 1223. PROCEDURE FOR HANDLING COMPLAINTS

(a) Accepting complaints. On behalf of the Commission, the Executive Director shall accept complaints from any source regarding alleged violations of the State Code of Ethics, of governmental conduct regulated by law, or of the State’s campaign finance law set forth in 17 V.S.A. chapter 61.

(b) Preliminary review by Executive Director. The Executive Director shall conduct a preliminary review of complaints made to the Commission in order to take action as set forth in this subsection.

(1) State Code of Ethics.

(A) If the complaint alleges a violation of the State Code of Ethics, the Executive Director shall refer the complaint to the Commissioner of Human Resources.

(B) The Commissioner shall report back to the Executive Director regarding the final disposition of a complaint referred under this subdivision (A) within 10 days of that final disposition.

(2) Governmental conduct regulated by law. If the Executive Director finds that a State officer or employee may have committed a violation of governmental conduct regulated by law, that a former legislator may have violated 2 V.S.A. § 266(b), or that a former Executive officer may have violated 3 V.S.A. § 267, the Executive Director shall submit the complaint to the Commission for its review.

(3) Campaign finance.

(A) If the complaint alleges a violation of campaign finance law, the Executive Director shall refer the complaint to the Attorney General or to the State’s Attorney of jurisdiction, as appropriate.

(B) The Attorney General or State's Attorney shall report back to the Executive Director regarding his or her decision as to whether to bring an enforcement action as a result of a complaint referred under this subdivision (A) as set forth in 17 V.S.A. § 2904a.

(4) Legislative and Judicial Branches.

(A) If the complaint is in regard to conduct committed by a State Senator, the Executive Director shall refer the complaint to the Senate Ethics Panel.

(B) If the complaint is in regard to conduct committed by a State Representative, the Executive Director shall refer the complaint to the House Ethics Panel.

(C) If the complaint is in regard to conduct committed by a judicial officer, the Executive Director shall refer the complaint to the Judicial Conduct Board.

(D) If any of the complaints described in subdivisions (A)-(C) of this subdivision (4) also allege that a crime has been committed, the Executive Director shall also refer the complaint to the Attorney General and the State's Attorney of jurisdiction.

(5) Closures. The Executive Director shall close any complaint that he or she does not submit or refer as set forth in subdivisions (1)-(4) of this subsection.

(c) Commission reviews and referrals.

(1) For any complaint regarding an alleged violation of governmental conduct regulated by law that the Executive Director submits to it under subdivision (b)(2) of this section, the Commission shall meet to review the complaint. This meeting shall not be open to the public and is exempt from the requirements of the Open Meeting Law.

(2)(A) If, after its review, the Commission finds that there may have been a violation of governmental conduct regulated by law, it shall refer the complaint to the Attorney General and the State's Attorney of jurisdiction.

(B) If, after its review, the Commission finds that there has not been a violation of governmental conduct regulated by law, it shall close the complaint.

(d) Confidentiality. Except for complaints regarding alleged campaign finance law violations referred under subdivision (b)(3) of this section, complaints and related documents in the custody of the Commission shall be

exempt from public inspection and copying under the Public Records Act and kept confidential.

§ 1224. COMMISSION ETHICS TRAINING

At least annually, in collaboration with the Department of Human Resources, the Commission shall make available to legislators, State officers, and State employees training on issues related to governmental ethics.

§ 1225. EXECUTIVE DIRECTOR ADVISORY OPINIONS

(a)(1) The Executive Director may issue to an Executive officer or other State employee, upon his or her request, an advisory opinion regarding any provision of this chapter or any issue related to governmental ethics.

(2) The Executive Director may consult with members of the Commission in preparing an advisory opinion.

(b) An advisory opinion issued under this section shall be exempt from public inspection and copying under the Public Records Act and kept confidential.

§ 1226. COMMISSION REPORTS

Annually, on or before January 15, the Commission shall report to the General Assembly regarding the following issues:

(1) Complaints. The number and a summary of the complaints made to it, separating the complaints by topic, and the disposition of those complaints, including any prosecution, enforcement action, or dismissal. This summary of complaints shall not include any personal identifying information.

(2) Advisory opinions. The number and a summary of the advisory opinions the Executive Director issued, separating the opinions by topic. This summary of advisory opinions shall not include any personal identifying information.

(3) Recommendations. Any recommendations for legislative action to address governmental ethics or provisions of campaign finance law.

* * * Implementation * * *

Sec. 8. APPLICABILITY OF EMPLOYMENT RESTRICTIONS

The provisions of Secs. 1 and 2 of this act that restrict employment shall not apply to any employment in effect on the effective date of those sections.

Sec. 9. DEPARTMENT OF HUMAN RESOURCES; STATE CODE OF ETHICS CREATION

The Department of Human Resources shall create the State Code of Ethics described in 3 V.S.A. § 1202 in Sec. 7 of this act on or before January 1, 2017.

Sec. 10. IMPLEMENTATION OF THE STATE ETHICS COMMISSION

(a) The State Ethics Commission, created in Sec. 7 of this act, is established on January 1, 2017.

(b) Members of the Commission shall be appointed on or before October 15, 2016 in order to prepare as they deem necessary for the establishment of the Commission, including the hiring of the Commission's Executive Director. Terms of members shall officially begin on January 1, 2017.

(c)(1) In order to stagger the terms of the members of the State Ethics Commission as described in 3 V.S.A. § 1221(b)(4)(A), in Sec. 7 of this act, the initial terms of those members shall be as follows:

(A) the Chief Justice of the Supreme Court shall appoint the Chair for a three-year term;

(B) the Vermont affiliate of the American Civil Liberties Union shall appoint a member for a two-year term;

(C) the League of Women Voters of Vermont shall appoint a member for a one-year term;

(D) the Vermont Bar Association shall appoint a member for a three-year term; and

(E) the Executive Director of the Human Rights Commission shall appoint a member for a two-year term.

(2) After the expiration of the initial terms set forth in subdivision (1) of this subsection, Commission member terms shall be as set forth in 3 V.S.A. § 1221(b)(4)(A) in Sec. 7 of this act.

Sec. 11. CREATION OF STAFF POSITION FOR STATE ETHICS COMMISSION

(a) One (1) part-time exempt Executive Director position is created in the State Ethics Commission set forth in Sec. 7 of this act by using an existing position in the position pool.

(b) The amount of \$1.00 is appropriated to fund the position described in subsection (a) of this section.

Sec. 12. 3 V.S.A. § 260 is amended to read:

§ 260. LOCATION OF OFFICES

* * *

(c) The principal office of each of the following boards and divisions shall be located in Montpelier: Aeronautics Board, Division for Historic Preservation, Board of Libraries, and Division of Recreation, and State Ethics Commission.

* * *

Sec. 13. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space for the State Ethics Commission established in Sec. 7 of this act in accordance with 3 V.S.A. § 260 set forth in Sec. 12 of this act. This space shall be allocated on or before October 15, 2016.

* * * Municipal Conflicts of Interest * * *

Sec. 14. GENERAL ASSEMBLY RECOMMENDATION; ISSUES
RELATING TO ETHICS AND CONFLICTS OF INTEREST IN
MUNICIPALITIES

(a) The General Assembly recommends that municipalities use existing statutory authority to address municipal issues relating to ethics and conflicts of interest. Provisions of law addressing those issues include the following:

(1) 24 V.S.A. § 1202, regarding the ability of a local board to use the Municipal Administrative Procedure Act set forth in 24 V.S.A. chapter 36, which includes compliance with 12 V.S.A. § 61(a), regarding disqualifications for interest for persons acting in a judicial capacity;

(2) 24 V.S.A. § 1984, regarding the ability of the voters of a town, city, or incorporated village to adopt a conflict of interest policy for their elected and appointed officials;

(3) 24 V.S.A. § 2291(20), regarding the ability of a town, city, or incorporated village to establish a conflict of interest policy to apply to all elected or appointed officials in the municipality; and

(4) 24 V.S.A. § 4461(a), regarding the requirement that an appropriate municipal panel adopt rules of ethics with respect to conflicts of interest as part of its development review procedure.

(b) On or before January 1, 2017, the Vermont League of Cities and Towns shall report to the General Assembly on the number of towns that are using the

statutory authority described in subsection (a) of this section, and which of those authorities are used.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

This act shall take effect as follows:

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

(A) Sec. 1, 2 V.S.A. § 266 (former legislators; lobbying; prohibited employment); and

(B) Sec. 2, 3 V.S.A. § 267 (former Executive officers; prohibited employment).

(2) The following sections shall take effect on January 1, 2017:

(A) Sec. 6, 17 V.S.A. § 2904a (Attorney General or State's Attorney; campaign finance; reports to State Ethics Commission); and

(B) Sec. 7, 3 V.S.A. Part 1, chapter 31 (governmental ethics).

(3) Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form) shall take effect on January 1, 2018.

(4) This section and all other sections shall take effect on passage.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: By adding a new section to be Sec. 13a to read:

Sec. 13a. STATE ETHICS COMMISSION FUNDING SOURCE;
SURCHARGE; REPEAL

(a) Surcharge.

(1) In fiscal year 2017 and thereafter, a surcharge of up to 2.3%, but no greater than the cost of the activities of the State Ethics Commission set forth in Sec. 7 of this act, on the per position portion of the charges authorized in 3 V.S.A. § 2283(b)(2) shall be assessed to all Executive Branch agencies, departments, and offices and shall be paid by all assessed entities solely with State funds.

(2) The amount collected shall be accounted for within the Human Resource Services Internal Service Fund and used solely for the purposes of funding the activities of the State Ethics Commission set forth in Sec. 7 of this act.

(b) Repeal. This section shall be repealed on June 30, 2018.

Second: In Sec. 11 (creation of staff position for State Ethics Commission), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) [Deleted.]

(Committee vote: 6-0-1)

Favorable with Proposal of Amendment

H. 249.

An act relating to intermunicipal services.

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

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

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

§ 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

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

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

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

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

(3) The regional planning commission may make revisions to the draft bylaws at any time prior to adoption of the bylaws. If revisions are made to the

draft bylaws, the regional planning commission shall hold a final hearing and shall deliver notice as required in subdivision (2) of this subsection.

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

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

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

(1) promote cooperative arrangements and coordinate, implement, and administer service agreements among municipalities, including arrangements and action with respect to planning, community development, joint purchasing, intermunicipal services, infrastructure, and related activities; and

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

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

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

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

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

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

(1) essential legislative functions;

(2) taxing authority; or

(3) eminent domain.

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

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

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 17, 2016, page 218)

H. 297.

An act relating to the sale of ivory or rhinoceros horn.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out 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.

(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.

(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.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 18, 2016, page 248 and February 19, 2016 page 255)

H. 512.

An act relating to adequate shelter of dogs and cats.

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

The Committee recommends that the Senate propose 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.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 9, 2016, page 176)

H. 595.

An act relating to potable water supplies from surface waters.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out 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.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 16, 2016, page 429)

H. 761.

An act relating to cataloguing and aligning health care performance measures.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out 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.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 23, 2016, page 269)

H. 854.

An act relating to timber trespass.

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

The Committee recommends that the Senate propose 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,~~ 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.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 15, 2016, page 376)

H. 860.

An act relating to on-farm livestock slaughter.

Reported favorably with recommendation of proposal of amendment by Senator Starr for the Committee on Agriculture.

The Committee recommends that the Senate propose to the House to amend the bill by striking out 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) ~~10~~ 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 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~~ calendar quarter. 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.

(Committee vote: 5-0-0)

(No House amendments)

H. 861.

An act relating to regulation of treated article pesticides.

Reported favorably with recommendation of proposal of amendment by Senator Zuckerman for the Committee on Agriculture.

The Committee recommends that the Senate propose to the House to amend the bill by striking out 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 ~~fibre~~ 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 prefiling 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.

(Committee vote: 3-1-1)

(No House amendments)

Proposed Amendment to the Constitution

PROPOSAL 1

(Fourth day on Notice Calendar pursuant to Rule 77)

Offered by Senator Benning

Subject: Declaration of rights; right to privacy.

PENDING ACTION: Second reading of the Proposed Amendment.

PROPOSAL 1

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to specifically provide that each person has a right to privacy, including the right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body.

Sec. 2. Article 22 of Chapter I of the Vermont Constitution is added to read:

Article 22. [RIGHT TO PRIVACY]

That each person has a right to privacy, including the right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body.

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2018 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

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

The Committee recommends that the proposal be amended by striking out the proposal in its entirety and inserting in lieu thereof the following:

PROPOSAL 1

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont specifically to provide that each individual has a right to privacy, including the right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body.

Sec. 2. Chapter I, Article 22 of the Vermont Constitution is added to read:

Article 22. [RIGHT TO PRIVACY]

That each individual has a right to privacy that shall not be infringed without the showing of a compelling State interest. This right includes the individual's right to keep personal information private; to communicate with others privately; and to make decisions concerning his or her body. This section shall not be construed to modify the public's right of access to public records and open meetings as provided by law.

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2018 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

(Committee vote: 5-0-0)

CONCURRENT RESOLUTIONS FOR ACTION

S.C.R. 42 (For text of Resolution, see Addendum to Senate Calendar for April 14, 2016)

H.C.R. 330-344 (For text of Resolutions, see Addendum to House Calendar for April 14, 2016)

CONFIRMATIONS

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

Thomas Carlson of Hinesburg – Superior Court Judge – By Sen. Ashe for the Committee on Judiciary. (4/6/16)

Michael J. Harris of Williston – Superior Court Judge – By Sen. Benning for the Committee on Judiciary. (4/6/16)

John Pacht of Hinesburg – Superior Court Judge – By Sen. Ashe for the Committee on Judiciary. (4/6/16)

John Valente of Rutland – Superior Court Judge - By Sen. Nitka for the Committee on Judiciary. (4/6/16)

Edward Flanagan of Montpelier – Member, Vermont State Lottery Commission – By Sen. Doyle for the Committee on Econ. Dev., Housing and General Affairs. (4/19/16)

FOR INFORMATION ONLY

CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

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

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