Senate Calendar

SATURDAY, APRIL 23, 2016

SENATE CONVENES AT: 9:00 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF THURSDAY, APRIL 21, 2016

Second Reading

Favorable with Proposal of Amendment

H. 858.

An act relating to miscellaneous criminal procedure amendments.

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 by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2651(6) is amended to read;

(6) "Human trafficking" means:

* * *

(B) "severe form of trafficking" as defined by ~~21 U.S.C. § 7105~~ 22 U.S.C. § 7105.

* * *

Sec. 2. 13 V.S.A. § 5238 is amended to read:

§ 5238. CO-PAYMENT AND REIMBURSEMENT ORDERS

* * *

(d) To the extent that the Court finds that the eligible person has income or assets available to enable payment of an immediate co-payment, it shall order such a co-payment to cover in whole or in part the amount of the costs of representation to be borne by the eligible person. ~~When a co-payment is ordered, the assignment of counsel shall be contingent on prior payment of the co-payment.~~ The co-payment shall be paid to the clerk of the Court. Any portion of the co-payment not paid to the clerk may be included in a reimbursement order.

* * *

Sec. 3. 13 V.S.A. § 5301 is amended to read:

§ 5301. DEFINITIONS

As used in this chapter:

* * *

(7) ~~For the purpose of this chapter, "listed~~ "Listed crime" means any of the following offenses:

* * *

(W) operating vehicle under the influence of intoxicating liquor or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210~~(e)~~(f) and ~~(f)~~(g);

* * *

Sec. 4. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the Department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon ~~their~~ the offender's release from confinement or, if the offender was not subject to confinement, upon the offender's conviction:

* * *

Sec. 5. 13 V.S.A. § 5572(a) is amended to read:

(a) A person convicted and imprisoned for a crime of which the person was exonerated pursuant to ~~subchapter 1 of~~ this chapter shall have a cause of action for damages against the ~~state~~ State.

Sec. 6. 13 V.S.A. § 5578 is added to read:

§ 5578. APPLICABILITY; RETROACTIVITY

Notwithstanding 1 V.S.A. § 214(b), this subchapter and any amendments thereto shall apply to any exoneration that occurs on or after July 1, 2007.

Sec. 7. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

* * *

(5) ~~Prior to accepting a plea of guilty or a plea of nolo contendere from a defendant charged with a violation of this subsection, the court shall address the defendant personally in open court, informing the defendant and determining that the defendant understands that admitting to facts sufficient to warrant a finding of guilt or pleading guilty or nolo contendere to the charge~~

~~may have collateral consequences such as loss of education financial aid, suspension or revocation of professional licenses, and restricted access to public benefits such as housing.~~ If ~~the~~ a court fails to provide the defendant with notice of collateral consequences in accordance with ~~this subdivision~~ 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

* * *

Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

During 2016 the Joint Legislative Justice Oversight Committee shall study:

(1) how a criminal defendant's credit for time served is determined with respect to time that the defendant was in Department of Corrections custody on nonincarcerative status or conditions of release; and

(2) when the name of an offender who has committed a qualifying offense is posted on the Internet Sex Offender Registry if the offender was in Department of Corrections custody on nonincarcerative status.

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(No House amendments)

NEW BUSINESS

Third Reading

H. 95.

An act relating to jurisdiction over delinquency proceedings by the Family Division of the Superior Court.

H. 529.

An act relating to State aid for school construction repayment obligations.

H. 610.

An act relating to clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs.

H. 629.

An act relating to a study committee to examine laws related to the administration and issuance of vital records.

H. 805.

An act relating to employment rights for members of the National Guard and Reserve Components of the U.S. Armed Forces.

Second Reading

Favorable

J.R.H. 26.

Joint resolution relating to the amendment of the federal Toxic Substances Control Act and its preemption provisions.

Reported favorably by Senator Campion for the Committee on Natural Resources and Energy.

(Committee vote: 4-0-1)

(For House amendments, see House Journal of April 12, 2016, pages 890-892)

(For text of resolution see Senate Journal of Friday, April 15, 2016 pages 875-877)

House Proposal of Amendment

S. 114

An act relating to the Open Meeting Law.

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

That the bill be amended in Sec. 1, in 1 V.S.A. § 312(b)(2), in the second sentence (related to the posting of minutes), by striking out "five calendar days" and inserting in lieu thereof the following: ~~five~~ seven calendar days

House Proposal of Amendment

S. 116

An act relating to rights of offenders in the custody of the Department of Corrections.

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

Sec. 1. 28 V.S.A. § 456 is added to read:

§ 456. PAROLE BOARD INDEPENDENCE

(a) The Parole Board shall be an independent and impartial body.

(b) In a pending parole revocation hearing, the Parole Board shall not be counseled by:

(1) assistant attorneys general; and

(2) any attorney employed by the Department of Corrections.

(c) If any attorney employed by the Department of Corrections or an assistant attorney general or the direct supervisor of an assistant attorney general who represents the Department of Corrections in parole revocation hearings provides training to the Parole Board members on the subject of parole revocation hearings, the Defender General shall be notified prior to the training and given the opportunity to participate.

Sec. 2. 28 V.S.A. § 857 is added to read:

§ 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL REQUIREMENTS

(a) Except in emergency circumstances as described in subsection (b) of this section, before an inmate is placed in administrative segregation, regardless of whether that inmate has been designated as having a serious functional impairment under section 906 of this title, the inmate is entitled to a hearing pursuant to subsection 852(b) of this title.

(b) In the event of an emergency situation and at the discretion of the Commissioner, an inmate may be placed in administrative segregation prior to receiving a hearing as described in subsection 852(b) of this title.

Sec. 3. 28 V.S.A. § 204 is amended to read:

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

(a) A court, before which a person is being prosecuted for any crime, may in its discretion order the Commissioner to submit a written report as to the circumstances of the alleged offense and the character and previous criminal history record of the person, with recommendation. If the presentence investigation report is being prepared in connection with a person's conviction for a sex offense that requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3, the Commissioner shall obtain information pertaining to the person's juvenile record, if any, in accordance with 33 V.S.A. §§ 5117 and 5119(f)(6), and any deferred sentences received for a registrable sex offense in accordance with 13 V.S.A. § 7041(h), and include such information in the presentence investigation report.

* * *

(d)(1) ~~Any~~ Except as provided in subdivision (2) of this subsection, any presentence investigation report~~, pre-parole report, or supervision history~~ or parole summary prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is confidential and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board~~, except that:~~.

(2)(A) ~~the~~ The court or Board ~~may in its discretion~~ shall permit ~~the~~ inspection of the presentence investigation report~~, or parts thereof~~ or parole summary, redacted of information that may compromise the safety or confidentiality of any person, by the State's Attorney~~,~~ and by the defendant or inmate~~,~~ or his or her attorney~~, or~~; and

(B) the court or Board may, in its discretion, permit the inspection of the presentence investigation report or parole summary or parts thereof by other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful. ~~Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.~~

(e) The presentence investigation report ordered by the court under this section or section 204a of this title shall include the comments or written statement of the victim, or the victim's guardian or next of kin if the victim is incompetent or deceased, whenever the victim or the victim's guardian or next of kin choose to submit comments or a written statement.

* * *

Sec. 4. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the Commissioner. Each supervising officer is charged with the following powers and responsibilities:

* * *

(10) To establish and maintain, in accordance with such rules and regulations as are established by the Commissioner, ~~a central file at the facility containing an individual file~~ records for each inmate. ~~Except as otherwise may be indicated by the rules and regulations of the Department, the content of the~~

~~file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown and shall not be accessible to inmates at the facility. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a state or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.~~

Sec. 5. 28 V.S.A. § 107 is added to read:

§ 107. OFFENDER AND INMATE RECORDS; CONFIDENTIALITY; EXCEPTIONS; CORRECTIONS

(a) The Commissioner shall adopt a rule pursuant to 3 V.S.A. chapter 25 defining what are "offender and inmate records," as that phrase is used in this section.

(b) Offender and inmate records maintained by the Department are exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the Department:

(1) Shall release or permit inspection of such records if required under federal or State law, including 42 U.S.C. §§ 10805 and 10806 (Protection and Advocacy Systems).

(2) Shall release or permit inspection of such records pursuant to a court order for good cause shown or, in the case of an offender or inmate seeking records relating to him or her in litigation, in accordance with discovery rules.

(3) Shall release or permit inspection of such records to a State or federal prosecutor as part of a criminal investigation pursuant to a court order issued ex parte if the court finds that the records may be relevant to the investigation. The information in the records may be used for any lawful purpose but shall not otherwise be made public.

(4) Shall release or permit inspection of such records to the Department for Children and Families for the purpose of child protection, unless otherwise prohibited by law.

(5) Shall release or permit inspection of designated offender and inmate records to specific persons, or to any person, in accordance with rules that the Commissioner shall adopt pursuant to 3 V.S.A. chapter 25. The Commissioner shall authorize release or inspection of offender and inmate records under these rules:

(A) When the public interest served by disclosure of a record outweighs the privacy, security, or other interest in keeping the record confidential.

(B) To provide an offender or inmate access to records relating to him or her if access is not otherwise guaranteed under this subsection, unless providing such access would reveal information that is confidential or exempt from disclosure under a law other than this section, would unreasonably interfere with the Department's ability to perform its functions, or would unreasonably jeopardize the health, safety, security, or rehabilitation of the offender or inmate or of another person. The rules may specify circumstances under which the Department may limit the number of requests that will be fulfilled per calendar year, as long as the Department fulfills at least one request per calendar year excluding any release of records ordered by a court, and at least one additional request in the same calendar year limited to records not in existence at the time of the original request or not within the scope of the original request. The rules also may specify circumstances when the offender's or inmate's right of access will be limited to an inspection overseen by an agent or employee of the Department. The rules shall reflect the Department's obligation not to withhold a record in its entirety on the basis that it contains some confidential or exempt content, to redact such content, and to make the redacted record available.

(c) Notwithstanding the provisions of 1 V.S.A. chapter 5, subchapter 3 (Public Records Act) that govern the time periods for a public agency to respond to a request for a public record and rights of appeal, the Commissioner shall adopt a rule pursuant to 3 V.S.A. chapter 25 governing response and appeal periods and appeal rights in connection with a request by an offender or inmate to access records relating to him or her maintained by the Department. The rule shall provide for a final exhaustion of administrative appeals no later than 45 days from the Department's receipt of the initial request.

(d) An offender or inmate may request that the Department correct a fact in a record maintained by the Department that is material to his or her rights or status, except for a determination of fact that resulted from a hearing or other proceeding that afforded the offender or inmate notice and opportunity to be heard on the determination. The rule required under subsection (c) of this section shall reference that requests for such corrections are handled in accordance with the Department's grievance process. If the Department issues a final decision denying a request under this subsection, the offender or inmate may appeal the decision to the Civil Division of the Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. The Court shall not set aside the Department's decision unless it is clearly erroneous.

Sec. 6. 13 V.S.A. § 5233 is amended to read:

§ 5233. EXTENT OF SERVICES

(a) A needy person who is entitled to be represented by an attorney under section 5231 of this title is entitled:

* * *

(3) To be represented in any other postconviction proceeding which may have more than a minimal effect on the length or conditions of detention where the attorney considers:

(A) the claims, defenses, and other legal contentions to be warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(B) the allegations and other factual contentions to have evidentiary support, or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

* * *

Sec. 7. EFFECTIVE DATE; TRANSITION PROVISION

(a) This act shall take effect on passage.

(b) Except as provided in subsection (c) of this section, the Commissioner of Corrections may only release or permit inspection of offender or inmate records in reliance upon an exception to the confidentiality of offender and inmate records if the exception is created by law, including an exception created by rule adopted in accordance with the Administrative Procedure Act under the mandate in Sec. 5, 28 V.S.A. § 107(b)(5).

(c) The Department of Corrections may rely upon exceptions to the confidentiality of offender and inmate files under directives adopted by the Department prior to the effective date of this act until the Commissioner adopts rules pursuant to the rulemaking mandates of Sec. 5, 28 V.S.A. § 107(a) and (b)(5). On or before September 1, 2016, the Commissioner shall prefile rules with the Interagency Committee on Administrative Rules in accordance with these mandates. The Commissioner shall update the Joint Legislative Justice Oversight Committee on the status of its efforts to adopt the rules at the Oversight Committee's first meeting on or after September 1, 2016.

House Proposal of Amendment

S. 225

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

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

* * * Dealers * * *

Sec. 1. 23 V.S.A. § 4(8)(A)(ii)(III) is amended to read:

(III) For a dealer in trailers, semi-trailers, or trailer coaches, "engaged in the business" means having sold or exchanged at least one trailer, semi-trailer, or trailer coach in the immediately preceding year or a combination of two such vehicles in the two immediately preceding years. However, the sale or exchange of a trailer with a gross vehicle weight rating of 3,500 pounds or less shall be excluded under this subdivision (8)(A)(ii)(III).

Sec. 2. DEALER REGULATION REVIEW

(a) The Commissioner of Motor Vehicles shall review Vermont statutes, rules, and procedures regulating motor vehicle, snowmobile, motorboat, and all-terrain vehicle dealers, and review the regulation of such dealers by other states, to determine whether and how Vermont's regulation of dealers and associated motor vehicle laws should be amended to:

(1) enable vehicle and motorboat sales to thrive while protecting consumers from fraud or other illegal activities in the market for vehicles and motorboats; and

(2) protect the State's interest in collecting taxes, enforcing the law, and ensuring an orderly marketplace.

(b) In conducting his or her review, the Commissioner shall consult with new and used vehicle dealers or representatives of such dealers, or both, and other interested persons.

(c) The Commissioner shall review:

(1) required minimum hours and days of operation of dealers;

(2) physical location requirements of dealers;

(3) the required number of sales to qualify as a dealer and the types of sales and relationships among sellers that should count toward the sales threshold;

(4) the permitted uses of dealer plates;

(5) whether residents of other states should be allowed to register vehicles in Vermont;

(6) the effect any proposed change will have on fees and taxes that dealers collect and consumers pay;

(7) the effect any proposed changes will have on the ability of Vermont consumers and law enforcement to obtain information from a dealer selling vehicles or motorboats in Vermont; and

(8) other issues as may be necessary to accomplish the purpose of the review as described in subsection (a) of this section.

(d) On or before January 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate and House Committees on Transportation and submit proposed legislation as may be required to implement the recommendations.

* * * Motor-Assisted Bicycles * * *

Sec. 3. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

* * *

(45)(A) "Motor-driven cycle" means any vehicle equipped with two or three wheels, a power source providing up to a maximum of two brake horsepower and having a maximum piston or rotor displacement of 50 cubic centimeters if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed 30 miles per hour on a level road surface, and which is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. As motor vehicles, motor-driven cycles shall be subject to the purchase and use tax imposed under 32 V.S.A. chapter 219 rather than to a general sales tax. ~~An~~ Neither an electric personal assistive mobility device nor a motor-assisted bicycle is ~~not~~ a motor-driven cycle.

(B)(i) "Motor-assisted bicycle" means any bicycle or tricycle with fully operable pedals and equipped with a motor that:

(I) has a power output of not more than 1,000 watts or 1.3 horsepower; and

(II) in itself is capable of producing a top speed of no more than 20 miles per hour on a paved level surface when ridden by an operator who weighs 170 pounds.

(ii) Motor-assisted bicycles shall be regulated in accordance with section 1136 of this title.

* * *

Sec. 4. 23 V.S.A. § 1136(d) is added to read:

(d)(1) Except as provided in this subsection, motor-assisted bicycles shall be governed as bicycles under Vermont law, and operators of motor-assisted bicycles shall be subject to all of the rights and duties applicable to bicyclists under Vermont law. Motor-assisted bicycles and their operators shall be exempt from motor vehicle registration and inspection and operator's license requirements. A person shall not operate a motor-assisted bicycle on a sidewalk in Vermont.

(2) A person under 16 years of age shall not operate a motor-assisted bicycle on a highway in Vermont.

(3) Nothing in this subsection shall interfere with the right of municipalities to regulate the operation and use of motor-assisted bicycles pursuant to 24 V.S.A. § 2291(1) and (4), as long as the regulations do not conflict with this subsection.

* * * Nondriver Identifications Cards; Data Elements * * *

Sec. 5. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

* * *

(b) Every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a ~~$20.00~~ $24.00 fee. At least 30 days before an identification card will expire, the Commissioner shall mail first class to the cardholder or send the cardholder electronically an application to renew the identification card; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification.

* * *

(i) An identification card issued under this subsection to an ~~individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the individual identified on the card~~ initial

or renewal applicant shall include data elements as prescribed in 6 C.F.R. § 37.19.

* * *

* * * Refund When Registration Plates Not Used * * *

Sec. 6. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

Subject to the conditions set forth in subdivisions (1), (2), and (3) of this section, the Commissioner may cancel the registration of a motor vehicle, snowmobile, or motor boat when the owner returns the number plates, if any, ~~the validation sticker, if issued for that year,~~ and the registration certificate to the Commissioner. Upon cancellation of the registration, the Commissioner shall notify the Commissioner of Finance and Management, who shall issue a refund as follows:

(1) For registrations ~~which are~~ cancelled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a fee of $5.00. ~~The validation stickers may be affixed to the plates.~~

(2) For registrations ~~which are~~ cancelled within 30 days of the date of issue, the refund is the full amount of the fee paid, less a charge of $5.00. The owner of a motor vehicle must prove to the Commissioner's satisfaction that the number plates have not been used or attached to a motor vehicle~~, or that the current validation sticker has not been affixed to the plate or to the snowmobile or motorboat~~.

(3) For registrations ~~which are~~ cancelled prior to the beginning of the second year of a two-year registration period, the refund is one-half of the full amount of the two-year fee paid, less a charge of $5.00. ~~The validation stickers may be affixed to the plates.~~

* * * Exhibition Vehicles; Year of Manufacture Plates * * *

Sec. 7. 23 V.S.A. § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

(a) The annual fee for the registration of a motor vehicle which is maintained solely for use in exhibitions, club activities, parades, and other functions of public interest and which is not used for the transportation of passengers or property on any highway, except to attend such functions, shall be ~~$15.00~~ $21.00, in lieu of fees otherwise provided by law.

(b) Pursuant to the provisions of section 304 of this title, one registration plate shall be issued to those vehicles registered under subsection (a) of this section.

(c) ~~The~~ Vermont registration plates ~~of any motor vehicle~~ issued prior to ~~1939~~ 1968 may be displayed on a motor vehicle registered under this section instead of the ~~plates~~ plate issued under this section, if the ~~current plates are~~ issued plate is maintained within the vehicle and produced upon request of any enforcement officer as defined in subdivision 4(11) of this title.

* * * Provisions Common to Registrations and Operator's Licenses * * *

Sec. 8. 23 V.S.A. § 208 is added to read:

§ 208. RECIPROCAL RECOGNITION OF NONRESIDENT REGISTRATIONS, LICENSES, AND PERMITS; FOREIGN VISITORS

As determined by the Commissioner, and consistent with section 601 of this title, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. However, these exemptions shall be operative only to the extent that under the laws of the foreign country or state of the owner's or operator's residence like exemptions and privileges are granted to owners of motor vehicles duly registered and to operators duly licensed or permitted under the laws of this State, except that if the owner or operator is a resident of a country not adjoining the United States, the exemptions shall be operative for a period of not more than 30 days for vacation purposes even if the country does not grant like privileges to residents of this State.

Sec. 9. 23 V.S.A. § 411 is amended to read:

§ 411. ~~RECIPROCAL PROVISIONS~~

~~As determined by the Commissioner, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. Any exemptions provided in this section shall, however, be operative as to an owner or operator of a motor vehicle only to the extent that under the laws of the foreign country or state of his or her residence like exemptions and privileges are granted to operators~~

~~duly licensed or permitted and to owners of motor vehicles duly registered under the laws of this State. If the owner or operator is a resident of a country not adjoining the United States, such exemptions shall be operative for a period of 30 days for vacation purposes, notwithstanding that such country does not grant like privileges to residents of this State.~~ [Repealed.]

* * * Operator's Licenses * * *

Sec. 10. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

(a)(1) Except as otherwise provided by law, a resident shall not operate a motor vehicle on a highway in Vermont unless he or she holds a valid license issued by the State of Vermont. A new resident who has moved into the State from another jurisdiction and who holds a valid license to operate motor vehicles under section ~~411~~ 208 of this title shall procure a Vermont license within 60 days of moving to the State. Except as provided in subsection 603(d) of this title, licenses shall not be issued to nonresidents.

(2) In addition to any other requirement of law, a nonresident as defined in section 4 of this title shall not operate a motor vehicle on a Vermont highway unless:

(A) he or she holds a valid license or permit to operate a motor vehicle issued by another U.S. jurisdiction; ~~or~~

(B) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and operates for a period of not more than 30 days for vacation purposes; or

(C) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and:

(i) is 18 or more years of age, is lawfully present in the United States, and has been in the United States for less than one year;

(ii) the jurisdiction that issued the license is a party to the 1949 Convention on Road Traffic or the 1943 Convention on the Regulation of Inter-American Motor Vehicle Traffic; and

(iii) he or she possesses an international driving permit.

* * *

(c) At least 30 days before a license is scheduled to expire, the Commissioner shall mail first class to the licensee or send the licensee electronically an application for renewal of the license; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive

electronic notification. A person shall not operate a motor vehicle unless properly licensed.

* * *

Sec. 11. CONFORMING CHANGES

In 23 V.S.A. §§ 614 and 615, "section 411" is hereby replaced with "section 208."

* * * Special Examinations; Conforming Changes * * *

Sec. 12. 23 V.S.A. § 637 is amended to read:

§ 637. EXAMINERS OF PHYSICAL AND MENTAL CONDITIONS

The Commissioner may designate physicians, certified physician assistants, licensed advance practice registered nurses, ophthalmologists, oculists, and optometrists properly registered and authorized to practice in this State or in an adjoining state as examiners of operators. The Commissioner may refer any matter relative to the issuing, suspending, or reinstating of licenses ~~which concern~~ that concerns the physical or mental condition or eyesight of any applicant for or holder of a license or any petitioner for reinstatement to, and require the applicant or other person to be examined by, such examiner in the vicinity of the person's residence as he or she determines to be qualified to examine and report. Such examiner shall report to the Commissioner the true and actual result of examinations made by him or her together with his or her decision as to whether the person examined should be granted or allowed to retain an operator's license or permitted to operate a motor vehicle.

Sec. 13. 23 V.S.A. § 638 is amended to read:

§ 638. ~~DISSATISFACTION WITH PHYSICAL AND MENTAL EXAMINATION~~

~~If any person is dissatisfied with the result of an examination given by any one examiner, as provided in section 637 of this title, he or she may apply to the Commissioner for and shall be granted an examination by two physicians, ophthalmologists, oculists, or optometrists selected from a list of examiners approved by the Commissioner, and their decision shall be final. The Commissioner may designate the area of specialization from which the examiners are to be selected in each case, but in no event shall he or she limit the choice of an examiner to any one individual within the profession from which he or she is to be chosen.~~ [Repealed.]

Sec. 14. 23 V.S.A. § 639 is amended to read:

§ 639. FEES FOR PHYSICAL AND MENTAL EXAMINATIONS

The compensation of the examiners provided in ~~sections~~ section 637 ~~and 638~~ of this title shall be paid by the person examined.

* * * State Highway Restrictions and Chain Up Requirements * * *

Sec. 15. 23 V.S.A. § 1006b is amended to read:

§ 1006b. ~~SMUGGLERS~~ SMUGGLERS' NOTCH; WINTER CLOSURE OF VERMONT ROUTE 108; COMMERCIAL VEHICLE OPERATION PROHIBITED

(a) The Agency of Transportation may close the ~~Smugglers~~ Smugglers' Notch segment of Vermont Route 108 during periods of winter weather. ~~To enforce the winter closure, the Agency shall erect signs conforming to the standards established by section 1025 of this title.~~

(b)(1) As used in this subsection, "commercial vehicle" means truck-tractor-semitrailer combinations and truck-tractor-trailer combinations.

(2) Commercial vehicles are prohibited from operating on the Smugglers' Notch segment of Vermont Route 108.

(3) Either the operator of a commercial vehicle who violates this subsection, or the operator's employer, shall be subject to a civil penalty of $1,000.00. If the violation results in substantially impeding the flow of traffic on Vermont Route 108, the penalty shall be $2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

(c) The Agency shall erect signs conforming to the standards established by section 1025 of this title to indicate the closures and restrictions authorized under this section.

Sec. 16. 23 V.S.A. § 1006c is amended to read:

§ 1006c. ~~TRUCKS AND BUSES; CHAINS AND TIRE~~ CHAIN REQUIREMENTS FOR VEHICLES WITH WEIGHT RATINGS OF MORE THAN 26,000 POUNDS

(a) As used in this section, "chains" means link chains, cable chains, or another device that attaches to a vehicle's tire or wheel or to the vehicle itself and is designed to augment the traction of the vehicle under conditions of snow or ice.

(b) The ~~Traffic Committee~~ Secretary of Transportation, the Commissioner of Motor Vehicles, or the Commissioner of Public Safety, or their designees, may require the use of tire chains ~~or winter tires~~ on specified portions of State

highways during periods of winter weather for ~~motor coaches, truck-tractor-semitrailer combinations, and truck-tractor-trailer combinations~~ vehicles with a gross vehicle weight rating (GVWR) of more than 26,000 pounds or gross combination weight rating (GCWR) of more than 26,000 pounds.

~~(b)~~(c) When tire chains ~~or winter tires~~ are required, advance notice shall be given to the traveling public through signage and, whenever possible, through public service announcements. In areas where tire chains ~~or winter tires~~ are required, there shall be an adequate area for vehicles to pull off the traveled way to affix any chains that might be required.

~~(c)~~(d) Under 3 V.S.A. chapter 25, the Traffic Committee may adopt such rules as are necessary to administer this section and may delegate this authority to the Secretary.

(e) When signs are posted and chains required in accordance with this section, chains shall be affixed as follows on vehicles with a GVWR or a GCWR of more than 26,000 pounds:

(1) Solo vehicles. A vehicle not towing another vehicle:

(A) that has a single-drive axle shall have chains on one tire on each side of the drive axle; or

(B) that has a tandem-drive axle shall have chains on:

(i) two tires on each side of the primary drive axle; or

(ii) if both axles are powered by the drive line, on one tire on each side of each drive axle.

(2) Vehicles with semitrailers or trailers. A vehicle towing one or more semitrailers or trailers:

(A) that has a single-drive axle towing a trailer shall have chains on two tires on each side of the drive axle and one tire on the front axle and one tire on one of the rear axles of the trailer;

(B) that has a single-drive axle towing a semitrailer shall have chains on two tires on each side of the drive axle and two tires, one on each side, of any axle of the semitrailer;

(C) that has a tandem-drive axle towing a trailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on one tire of the front axle and one tire on one of the rear axles of the trailer;

(D) that has a tandem-drive axle towing a semitrailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on two tires, one on each side, of any axle of the semitrailer.

(f) Either the operator of a vehicle required to be chained under this section who fails to affix chains as required herein, or the operator's employer, shall be subject to a civil penalty of $1,000.00. If the violation results in substantially impeding the flow of traffic on a highway, the penalty shall be $2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

Sec. 17. 23 V.S.A. § 2302 is amended to read:

§ 2302. TRAFFIC VIOLATION DEFINED

(a) As used in this chapter, "traffic violation" means:

* * *

(11) a violation of subsection 1006b(b), section 1006c, or subsections 4120(a) and (b) of this title; or

* * *

* * * School Bus Operators * * *

Sec. 18. 23 V.S.A. § 1282(d) is amended to read:

(d)(1) ~~A~~ No less often than every two years, and before the start of a school year, a person licensed by the Department of Motor Vehicles to assume the duty of transporting school pupils in either a Type I or Type II school bus shall ~~annually before the commencement of the school year~~ furnish ~~his or her~~ the employer~~, where he or she is employed~~ who employs him or her as a school bus driver~~,~~ the following:

(A) a certificate signed by a licensed physician, ~~or~~ a certified physician assistant, or a nurse practitioner in accordance with written protocols, certifying that ~~he or she~~ the licensee is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his or her duties~~,~~ and that he or she meets or exceeds the minimum hearing standards, based on voice testing, as prescribed by the Commissioner; and

(B) a certificate signed by a properly registered and authorized medical doctor, ophthalmologist, optometrist, or nurse practitioner certifying

that he or she meets or exceeds the minimum vision standards as prescribed by the Commissioner.

(2) Upon receipt of a certificate required by this subsection which indicates that the school bus driver is not mentally or physically competent or does not meet the minimum hearing or vision standards, the employer shall immediately notify the Commissioner.

(3) The certificates required under this subsection may be valid for up to two years from the examination.

* * * Overweight and Overdimension Vehicles * * *

Sec. 19. 23 V.S.A. § 1391a(d) is amended to read:

(d) Fines imposed for violations of this section shall be deposited in the Transportation Fund, unless the fines are the result of enforcement actions on a town highway by an enforcement officer employed by or under contract with the municipality, in which case the fine shall be paid to the municipality, except for ~~a $6.00~~ an administrative charge for each case in the amount specified in 13 V.S.A. § 7251, which shall be retained by the State.

Sec. 20. 23 V.S.A. § 1400(d) is amended to read:

(d) ~~The Commissioner may enter into contracts with an electronic permitting service that will allow the service to issue single trip permits to a commercial motor vehicle operator, on behalf of the Department of Motor Vehicles. The permitting service shall be authorized to issue single trip permits for travel to and from a Vermont facility by commercial motor vehicles which are not greater than 72 feet in length on routes that have been approved by the Agency of Transportation. The permitting service may assess, collect, and retain an additional administrative fee which shall be paid by the commercial motor vehicle carrier.~~ [Repealed.]

* * * Motor Vehicle Titles * * *

Sec. 21. 23 V.S.A. § 2001 is amended to read:

§ 2001. DEFINITIONS

Except when the context otherwise requires, as used in this chapter:

* * *

(13) "Salvaged motor vehicle" means a motor vehicle which has been purchased or otherwise acquired as salvage; scrapped, dismantled, or destroyed~~,~~; or declared a total loss by an insurance company.

* * *

(17) "Salvage certificate of title" means a title that is stamped or otherwise branded to indicate that the vehicle described thereon is a salvaged motor vehicle ~~or has been scrapped, dismantled, destroyed, or declared a total loss by an insurance company, or both~~.

* * *

Sec. 22. 23 V.S.A. § 2019 is amended to read:

§ 2019. MAILING OR DELIVERING CERTIFICATE

The certificate of title shall be mailed or personally delivered, upon proper identification of the individual, to the first lienholder named in it or, if none, to the owner. However, a person is entitled to a personal delivery of only one title in a single day and of no more than three titles in a calendar month.

Sec. 23. 23 V.S.A. § 2091 is amended to read:

§ 2091. ~~DISMANTLING OR DESTRUCTION OF VEHICLE~~ SALVAGE CERTIFICATES OF TITLE; FORWARDING OF PLATES AND TITLES OF CRUSHED VEHICLES

(a) Except for vehicles for which no certificate of title is required pursuant to section 2012 of this title and for vehicles which are more than 15 years old, any person who purchases or in any manner acquires a vehicle as salvage; any person who scraps, dismantles, or destroys a motor vehicle~~,~~; or any insurance company or representative thereof who declares a motor vehicle to be a total loss, shall ~~make application~~ apply to the Commissioner for a salvage certificate of title within 15 days of the time the vehicle is purchased or otherwise acquired as salvage~~,~~; is scrapped, dismantled, or destroyed~~,~~; or is declared a total loss. However, an insurance company or representative thereof proceeding under subsection (c) of this section may apply outside this 15-day window to the extent necessary to comply with the requirements of that subsection.

(b) ~~The~~ Except as provided in subsection (c) of this section, the application shall be accompanied by:

(1) any certificate of title; and

(2) any other information or documents that the Commissioner may reasonably require to establish ownership of the vehicle and the existence or nonexistence of any security interest in the vehicle.

(c)(1) An insurer required to obtain a salvage certificate of title under this section for a vehicle declared a total loss, or a representative of the insurer, may obtain the title without satisfying the requirements of subsection (b) of

this section if the application for the salvage certificate of title is accompanied by:

(A) the required fee;

(B) evidence that the insurer has made payment for the total loss of the vehicle, and evidence that the payment was made to any lienholder identified in the records of certificates of title of the Department and to the vehicle owner, if applicable; and

(C) a copy of the insurer's written request for the certificate of title sent at least 30 days prior to the application to the vehicle owner and to any lienholder identified in the records of certificates of title of the Department, proof that the request was sent by certified mail or was delivered by a courier service that provides proof of delivery, and copies of any responses from the vehicle owner or lienholder.

(2) If the Commissioner issues a salvage certificate of title to an eligible person under this subsection, the title shall be issued free and clear of all liens.

~~(b)~~(d) ~~When~~ Except for vehicles for which no certificate of title is required under this chapter, when a vehicle is destroyed by crushing for scrap, the person causing the destruction shall immediately mail or deliver to the Commissioner the certificate of title~~, if any,~~ endorsed "crushed" and signed by the person, accompanied by the original plate showing the original vehicle identification number. The plate shall not be removed until such time as the vehicle is crushed.

~~(c)~~(e) This section shall not apply to, and salvage certificates of title shall not be required for, unrecovered stolen vehicles or vehicles stolen and recovered in an undamaged condition, provided that the original vehicle identification number plate has not been removed, altered, or destroyed and the number thereon is identical with that on the original title certificate.

* * * Abandoned Motor Vehicles * * *

Sec. 24. 23 V.S.A. chapter 21, subchapter 7 is amended to read:

Subchapter 7. Abandoned Motor Vehicles

§ 2151. ~~ABANDONED MOTOR VEHICLES; DEFINED~~ DEFINITIONS

~~(a)(1) For the purposes of~~ As used in this subchapter~~, an "abandoned motor vehicle" means~~:

(1)(A) "Abandoned motor vehicle" means:

(i) a motor vehicle that has remained on public or private property or on or along a highway for more than 48 hours without the consent of the

owner or person in control of the property ~~for more than 48 hours~~, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or

~~(B)~~(ii) a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed, or altered.

(B) "Abandoned motor vehicle" does not include a vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic.

(2) "Landowner" means a person who owns or leases or otherwise has authority to control use of real property.

(3) ~~For purposes of this subsection, "public~~ "Public vehicle identification number" means the public vehicle identification number which is usually visible through the windshield and attached to the driver's side of the dashboard, instrument panel, or windshield pillar post or on the doorjamb on the driver's side of the vehicle.

~~(b) Construction equipment. A vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic, shall not be considered to be an abandoned motor vehicle.~~

§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

(a) Public property. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from public property, and may contact a towing service for its removal ~~of such motor vehicle~~, based upon personal observation by the officer that the vehicle is an abandoned motor vehicle.

(b) Private property.

(1) A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from private property, and may contact a towing service for its removal ~~from private property of such vehicle~~, based upon ~~complaint of the owner or agent of the property~~ the request of the landowner on ~~which~~ whose property the vehicle is located ~~that the~~ and information indicating that the vehicle is an abandoned motor vehicle.

(2) ~~An owner or agent of an owner~~ A landowner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property or to any other place on any property of the landowner, and may contact a towing service for its removal ~~from that property of an abandoned vehicle~~. ~~If an owner or agent of an owner~~ A landowner who removes or causes removal of an abandoned motor vehicle~~, the owner or agent~~ shall immediately notify the police agency in the jurisdiction from which the vehicle is removed~~.~~ ~~Notification shall include identification of~~ and provide the registration plate number, the public vehicle identification number, if available, and the make, model, and color of the vehicle. The ~~owner or agent of an owner of property upon which a motor vehicle is abandoned~~ landowner may remove the vehicle from the place where it is discovered to any other place on any property owned by him or her, or cause the vehicle to be removed by a towing service under the provisions of this subsection, without incurring any civil liability to the owner of the abandoned vehicle.

§ 2153. ABANDONED MOTOR VEHICLE CERTIFICATION

(a) ~~Within 30 days of removal of the vehicle, a towing service which has removed an abandoned motor vehicle~~ A landowner on whose property an abandoned motor vehicle is located shall apply to the Department for an abandoned motor vehicle certification on forms supplied by the Department ~~of Motor Vehicles~~ within 30 days of the date the vehicle was discovered on or brought to the property unless the vehicle has been removed from the property. An abandoned motor vehicle certification form shall indicate the date ~~of removal,~~ that the abandoned motor vehicle was discovered or brought to the property; the make, color, model, and location ~~found, and~~ of the vehicle; the name, address, and ~~phone~~ telephone number of the ~~towing service,~~ landowner; and a certification of the public vehicle identification number, if any, to be recorded by a law enforcement officer. This subsection shall not be construed as creating a private right of action against the landowner.

(b) Upon receipt of an abandoned motor vehicle certification form, the Commissioner ~~of Motor Vehicles~~ shall attempt to identify and notify the owner of the vehicle as required by section 2154 of this title. If no owner can be determined by the Commissioner within the time period allowed by section 2154 of this title, the Commissioner shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title, or both, and the vehicle may be disposed of in the manner set forth in section 2156 of this title.

§ 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED MOTOR VEHICLES

(a) The Department ~~of Motor Vehicles~~ shall make a reasonable attempt to locate an owner of an abandoned motor vehicle.

(1) If the abandoned motor vehicle is not identifiable by its registration plates or public vehicle identification number, and if no owner can be determined within 21 days of the date of receipt of the abandoned motor vehicle certification form, the Commissioner ~~of Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with an appropriate title or salvage title.

(2) If the abandoned motor vehicle is identifiable by its registration plates or public vehicle identification number, the Department ~~of Motor Vehicles~~ shall, within three business days of receipt of the form for certification of abandoned motor vehicle, send notice to the last known registered owner and lienholder of the vehicle. The notice shall be sent by certified mail, return receipt requested, and shall advise the last known registered owner of the motor vehicle's location and a telephone number where additional information about the motor vehicle may be obtained. If the receipt is not returned to the Department within seven business days, the Commissioner shall, by first class mail, send a second notice. Within 21 days of sending the second notice, the last known registered owner or lienholder may reclaim and retrieve the motor vehicle by presenting to the Department ~~of Motor Vehicles~~ satisfactory evidence of ownership, and paying or arranging to pay any fees or charges authorized by section 2155 of this title. If the last known registered owner or lienholder fails or refuses to reclaim the motor vehicle within 21 days of the second mailing, the Commissioner ~~of Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title.

(b) An owner or lienholder may reclaim an abandoned motor vehicle by presenting to the Department ~~of Motor Vehicles~~ satisfactory evidence of ownership, and paying or reimbursing, or making arrangements to pay or reimburse, the towing agency, the Department ~~of Motor Vehicles~~, or the ~~owner or agent of private property~~ landowner, as the case may be, any towing fee or storage charges permitted under section 2155 of this title.

§ 2155. FEES AND CHARGES

(a) Towing fees. For towing an abandoned motor vehicle from private property, a towing service may charge a reasonable fee to be paid by the vehicle owner or ~~agent of the owner~~ landowner of the private property.

(b) Storage charges. In addition to any towing fee, an owner or lienholder reclaiming an abandoned motor vehicle may be charged and shall pay a fee for the costs of storage of the vehicle, except that no fee may be charged for storage for any period preceding the date upon which the form for abandoned motor vehicle certification is sent ~~by the towing service~~ to the Department ~~of Motor Vehicles~~.

* * *

* * * Repeals and Conforming Change * * *

Sec. 25. REPEALS

The following sections are repealed:

(1) 23 V.S.A. § 366 (log-haulers; registration).

(2) 23 V.S.A. § 423 (negotiating and entering into an interstate compact regarding truck license fees).

(3) 23 V.S.A. § 605 (unsatisfied judgment; suspension).

Sec. 26. 23 V.S.A. § 369 is amended to read:

§ 369. TRACTORS OTHER THAN FARM TRACTORS

The annual fee for registration of a tractor, except ~~log haulers on snow roads and~~ farm tractors as otherwise provided in this chapter, shall be based on the actual weight of such tractor at the same rate as that provided for trucks of like weight under the provisions of this chapter. The minimum fee for registering any tractor shall be $20.00.

Sec. 27. 23 V.S.A. § 603(a)(2) is amended to read:

(2) The Commissioner may, however, in his or her discretion, refuse to issue a license to any person whenever he or she is satisfied from information given him or her by credible persons, and upon investigation, that the person is mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license~~,~~ under the provisions of this subsection ~~or section 605 of this title,~~ shall be entitled to hearing as provided in sections 105–107 of this title.

* * * Chemicals of High Concern to Children; Vehicle Exemptions * * *

Sec. 28. 18 V.S.A. § 1772 is amended to read:

§ 1772. DEFINITIONS

As used in this chapter:

* * *

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

* * *

(G) an aircraft, motor vehicle, wheelchair, or vessel;

* * *

(13) "Motor vehicle" means ~~every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products~~ all vehicles propelled or drawn by power other than muscular power, including snowmobiles, motorcycles, all-terrain vehicles, farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, or tracked vehicles or electric personal assistive mobility devices.

* * *

* * * Signage on State Property Regarding Unlawful Idling * * *

Sec. 29. INSTALLATION OF SIGNAGE REGARDING UNLAWFUL IDLING OF MOTOR VEHICLE ENGINES

(a) Before July 1, 2017, the Department of Buildings and General Services (Department), in consultation with the Agency of Transportation, shall oversee completion of a project to install signs on property owned or controlled by the State where parking is permitted indicating that idling of motor vehicle engines in violation of 23 V.S.A. § 1110 is prohibited. At a minimum, the Department shall install at least one such sign at each rest area, information center, park and ride facility, parking structure, and building owned or controlled by the State with a parking capacity of 25 pleasure cars or more. In its discretion, the Department may install additional signs at each such facility or at other State-owned or -controlled facilities where parking is permitted.

(b) On or before January 15, 2017, the Commissioner of Buildings and General Services, after consulting with the Secretary of Transportation, shall submit an interim written report to the House and Senate Committees on Transportation on the Department's activities and plans to complete the project required under subsection (a) of this section.

* * * Driving Under the Influence; Saliva Testing * * *

Sec. 30. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(3) "Evidentiary test" means a breath, saliva, or blood test which indicates the person's alcohol concentration or the presence of other drug and which is intended to be introduced as evidence.

* * *

Sec. 31. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person's alcohol concentration is:

(A) 0.08 or more~~,~~; or

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title; or

(D) 0.05 or more and the person has 1.5 nanograms per milliliter of delta–9 tetrahydrocannabinol in the person's blood; or

(2) when the person is under the influence of intoxicating liquor; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug~~; or~~

~~(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title~~.

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in an accident or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol or drugs in the system.

* * *

Sec. 32. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD ALCOHOL CONTENT OR DRUG IMPAIRMENT

(a)~~(1)~~ Implied consent.

(1) Breath test. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2)(A) Blood test. ~~If~~ A person is deemed to have given consent to the taking of an evidentiary sample of blood if:

(i) breath testing equipment is not reasonably available~~,~~; or ~~if~~

(ii) the law enforcement officer has ~~reason~~ reasonable grounds to believe that the person:

(I) is unable to give a sufficient sample of breath for testing~~,~~; or ~~if the law enforcement officer has reasonable grounds to believe that the person~~

(II) is under the influence of a drug other than alcohol~~,~~; or

(III) ~~the person is deemed to have given consent to the taking of an evidentiary sample of blood~~ is under the influence of alcohol and a drug.

(B) If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of saliva. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person's body, and shall not be used to extract DNA information.

~~(3)~~(4) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

~~(4)~~(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has

reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

* * *

Sec. 33. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Training Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, or laboratory assistant acting at the request of a law enforcement officer may withdraw blood for the purpose of determining the presence of alcohol or other drug. This limitation does not apply to the taking of a breath or saliva sample.

(c) When a breath test which is intended to be introduced in evidence is taken with a crimper device, or when blood is withdrawn at an officer's request, a sufficient amount of breath, or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample, and shall be held for at least 45 days from the date the sample was taken. At any time during that period, the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath test administered using an infrared ~~breath testing~~ breath-testing instrument, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared ~~breath testing~~ breath-testing instrument analyzes the sample and does not indicate the sample is deficient. Analysis of the person's breath, saliva, or blood which is available to that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety.

The Department of Public Safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath or saliva for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary ~~breath alcohol~~ screening ~~test~~. The results of this preliminary screening ~~test~~ may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening ~~test~~, additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

(g) The Office of the Chief Medical Examiner shall report in writing to the Department of Motor Vehicles the death of any person as the result of an accident involving a vehicle and the circumstances of such accident within five days of such death.

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva, or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

(i) The Commissioner of Public Safety shall adopt emergency rules relating to the operation, maintenance, and use of preliminary drug or alcohol screening devices for use by law enforcement officers in enforcing the provisions of this title. The ~~commissioner~~ Commissioner shall consider relevant standards of the National Highway Traffic Safety Administration in adopting such rules. Any preliminary alcohol screening device authorized for use under this title shall be on the qualified products list of the National Highway Traffic Safety Administration.

* * *

Sec. 34. 23 V.S.A. § 1203a is amended to read:

§ 1203a. INDEPENDENT CHEMICAL TEST; BLOOD TESTS

(a) A person tested has the right at the person's own expense to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of the law enforcement officer under section 1203 of this title. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test taken at the direction of an enforcement officer unless the additional test was prevented or denied by the enforcement officer.

(b) Arrangements for a blood test shall be made by the person submitting to the evidentiary breath or saliva test, by the person's attorney, or by some other person acting on the person's behalf unless the person is detained in custody after administration of the evidentiary test and upon completion of processing, in which case the law enforcement officer having custody of the person shall make arrangements for administration of the blood test upon demand but at the person's own expense.

* * *

Sec. 35. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

(a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating, attempting to operate or in actual physical control of a vehicle on a highway, the person's alcohol concentration or alcohol concentration and evidence of delta–9 tetrahydrocannabinol shall give rise to the following permissive inferences:

(1) If the person's alcohol concentration at that time was less than 0.08, such fact shall not give rise to any presumption or permissive inference that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

(2) If the person's alcohol concentration at that time was 0.08 or more, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(3) If the person's alcohol concentration at that time was 0.05 or more and the person had 1.5 nanograms per milliliter of delta–9 tetrahydrocannabinol in the person's blood, it shall be a permissive inference that the person was under the combined influence of alcohol and any other drug in violation of subdivision 1201(a)(3) of this title.

(4) If the person's alcohol concentration at any time within two hours of the alleged offense was 0.10 or more, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor, nor shall they be construed as requiring that evidence of the amount of alcohol in the person's blood, breath, urine, or saliva must be presented.

* * * Colored Lights on Fire Department and EMS Vehicles * * *

Sec. 36. 23 V.S.A. § 1252 is amended to read:

§ 1252. ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS, OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens or colored signal lamps in the following manner:

(1)(A) Sirens or blue or blue and white signal lamps, or a combination of these, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Training Council. If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a.

(B) One blue signal lamp may be authorized for use on a vehicle owned or leased by a fire department or on an emergency medical service (EMS) vehicle, provided that the Commissioner shall require the lamp to be mounted so as to be visible primarily from the rear of the vehicle.

(2) Sirens and red or red and white signal lamps may be authorized for all ambulances and other EMS vehicles, fire ~~apparatus~~ department vehicles, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer's employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities.

(3) ~~No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection.~~ [Repealed.]

(4) No motor vehicle, other than one owned by the applicant, shall be issued a permit until the Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the Commissioner, the Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

* * *

Sec. 37. 23 V.S.A. § 1255 is amended to read:

§ 1255. EXCEPTIONS

~~(1)~~(a) The provisions of section 1251 of this title shall not apply to directional signal lamps of a type approved by the Commissioner ~~of Motor Vehicles~~.

~~(2)~~(b) All persons with motor vehicles equipped as provided in ~~subdivision~~ subdivisions 1252(a)(1) and (2) of this title~~,~~ shall use the sirens or colored signal lamps, or both, only in the direct performance of their official duties. When any person other than a law enforcement officer, firefighter, or emergency medical service (EMS) responder is operating a motor vehicle equipped as provided in subdivision 1252(a)(1) of this title, the colored signal lamp shall be either removed, covered, or hooded. When any person, other than an authorized ~~ambulance~~ EMS vehicle operator, firefighter, or authorized operator of vehicles used in a rescue operation, is operating a motor vehicle equipped as provided in subdivision 1252(a)(2) of this title, the colored signal lamps shall be either removed, covered, or hooded unless the operator holds a senior operator license.

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

(a) This section and Secs. 28 (chemicals of high concern to children; definition of motor vehicle) and 29 (prohibited idling of motor vehicles; signs) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2016.

House Proposal of Amendment to Senate Proposal of Amendment

H. 778

An act relating to State enforcement of the federal Food Safety Modernization Act

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

In Sec. 1, 6 V.S.A. § 853, by striking out subdivision (a)(2) in its entirety and renumbering the subsequent subdivision to be numerically correct

NOTICE CALENDAR

Second Reading

Favorable

H. 111.

An act relating to the removal of grievance decisions from the Vermont Labor Relations Board's website.

Reported favorably by Senator White for the Committee on Government Operations.

(Committee vote: 4-0-1)

(For House amendments, see House Journal of March 16, 2016, page 423)

Favorable with Proposal of Amendment

H. 130.

An act relating to the Agency of Public Safety.

Reported favorably with recommendation of proposal of amendment by Senator White 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:

* * * Law Enforcement Officer Regulation Study Committee * * *

Sec. 1. LAW ENFORCEMENT OFFICER REGULATION; STUDY COMMITTEE; REPORT

(a) Creation. There is created a Law Enforcement Officer Regulation Study Committee to make recommendations to the General Assembly regarding law enforcement officer regulation.

(b) Membership. The Committee shall be composed of the following eight members:

(1) the Commissioner of Public Safety or designee;

(2) the Executive Director of the Vermont Criminal Justice Training Council or designee;

(3) one sheriff appointed by the Executive Committee of the Vermont Sheriffs' Association;

(4) the President of the Vermont Troopers' Association or designee;

(5) one member of the law enforcement officers represented by the Vermont State Employees' Association, appointed by the President of the Association;

(6) one chief of a municipal police department, appointed by the Chiefs of Police Association of Vermont;

(7) one law enforcement officer appointed by the Vermont Police Association; and

(8) a representative of the Vermont League of Cities and Towns, appointed by the Executive Director of the League.

(c) Issue to study. The Committee shall study the current regulation of law enforcement officers' certification and how that regulation should change, including:

(1) the number of hours that should be required for Level II basic training and the physical fitness that should be required for Level II basic training and annual in-service training;

(2) whether each law enforcement agency should be required to have an effective internal affairs program and, if so, what should be included in that program;

(3) when and under what circumstances a law enforcement agency should report alleged unprofessional conduct to the Vermont Criminal Justice Training Council;

(4) when the Council should be able to investigate and take further action on reports of alleged law enforcement officer unprofessional conduct, including the Council's ability to summarily suspend an officer; and

(5) what types of discipline the Council should be able to impose on a law enforcement officer's certification.

(d) Report. On or before December 1, 2016, the Committee shall report to the House and Senate Committees on Government Operations with its findings and recommendations for legislative action. The report may be in the form of proposed legislation.

(e) Meetings.

(1) The Commissioner of Public Safety shall call the first meeting of the Committee, to occur on or before August 1, 2016.

(2) At its first meeting, the Committee shall elect a chair from among its members.

(3)(A) A majority of the membership shall constitute a quorum.

(B) Notwithstanding 1 V.S.A. § 172, an action may be taken by the Committee with the assent of a majority of the members attending, assuming a quorum.

(4) The Committee shall cease to exist on December 2, 2016.

(f) Reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than five meetings.

* * * E-911, Dispatch, and Call-taking Services * * *

Sec. 2. E-911; DISPATCH; WORKING GROUP

(a) Creation and duties of working group.

(1) A working group shall be formed to study and make recommendations regarding:

(A) the most efficient, reliable, and cost-effective means for providing statewide call-taking operations for Vermont's 911 system; and

(B) the manner in which dispatch services are currently provided and funded, including funding disparity, and whether there should be any changes to this structure.

(2) Among other things, the group shall make findings related to the financing, operations, and geographical location of 911 call-taking services. In addition, the group's findings shall include a description of the number and nature of calls received, and an evaluation of current and potential State and local partnerships with respect to the provision of such services.

(3) The group shall take into consideration the "Enhanced 9-1-1 Board Operational and Organizational Report," dated September 4, 2015.

(4) The group's recommendations shall strive to achieve the best possible outcome in terms of ensuring the health and safety of Vermonters and Vermont communities.

(b) Membership. Members of the working group shall include a representative from each of the following entities: the Enhanced 911 Board; the Department of Public Safety; the Vermont State Employees' Association; the Vermont League of Cities and Towns; the Vermont State Firefighters' Association; the Vermont Ambulance Association; the Vermont Association of Chiefs of Police; the Vermont Police Association; and the Vermont Sheriffs' Association.

(c) Meetings. The representative from the E-911 Board shall convene the first meeting of the working group, at which the group shall elect a chair and vice chair from among its members. The group shall meet as needed, and shall receive administrative and staffing support from the Department of Public Safety, and may request relevant financial information from the Joint Fiscal Office.

(d) Report. On or before January 15, 2017, the group shall report its findings and recommendations to the House Committees on Commerce and Economic Development, on Government Operations, on Appropriations, and on Ways and Means and to the Senate Committees on Finance, on Government Operations, on Appropriations, and on Economic Development, Housing and General Affairs, and to the Governor.

(e) Reimbursement. Members of the working group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than five meetings.

Sec. 3. DEPARTMENT OF PUBLIC SAFETY; 911 CALL-TAKING

The Department of Public Safety shall continue to provide 911 call-taking services unless otherwise directed by legislative enactment.

* * * Law Enforcement Officers; Training and Scope of Practice * * *

Sec. 4. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

* * *

(B)(i) The scope of practice of a Level I law enforcement officer shall be limited to security, transport, vehicle escorts, and traffic control, as those terms are defined by the Council ~~by rule~~, except that a Level I officer may react in the following circumstances if the officer determines that it is necessary to do any of the following:

* * *

(2) Level II certification.

* * *

(B)(i) Except as provided in subdivisions (ii) and (iii) of this subdivision (B), the scope of practice of a Level II law enforcement officer shall be limited to investigating the following matters:

(I) 7 V.S.A. § 657 (person under 21 years of age misrepresenting age procuring, possessing, or consuming alcoholic beverages; third or subsequent offense);

(II) 7 V.S.A. § 658 (sale or furnishing to minors; enabling consumption by minors);

~~(II)~~(III) 13 V.S.A. chapter 7 (advertisements);

~~(III)~~(IV) 13 V.S.A. chapter 8 (humane and proper treatment of animals);

~~(IV)~~(V) 13 V.S.A. §§ 505 (fourth degree arson), 508 (setting fires), and 509 (attempts);

~~(V)~~(VI) 13 V.S.A. chapter 19, subchapter 1 (riots);

~~(VI)~~(VII) 13 V.S.A. §§ 1022 (noise in the nighttime), 1023 (simple assault), 1025 (recklessly endangering another person), 1026 (disorderly conduct), 1026a (aggravated disorderly conduct), 1027 (disturbing peace by use of telephone or other electronic communications), 1030 (violation of an abuse prevention order, an order against stalking or sexual assault, or a protective order concerning contact with a child), 1031 (interference with access to emergency services), 1042 (domestic assault), and 1062 (stalking);

~~(VII)~~(VIII) 13 V.S.A. chapter 35 (escape);

~~(VIII)~~(IX) 13 V.S.A. chapter 41 (false alarms and reports);

~~(IX)~~(X) 13 V.S.A. chapter 45 (flags and ensigns);

~~(X)~~(XI) 13 V.S.A. chapter 47 (frauds);

~~(XI)~~(XII) 13 V.S.A. chapter 49 (fraud in commercial transactions);

~~(XII)~~(XIII) 13 V.S.A. chapter 51 (gambling and lotteries);

~~(XIII)~~(XIV) 13 V.S.A. chapter 57 (larceny and embezzlement), except for subchapter 2 (embezzlement);

~~(XIV)~~(XV) 13 V.S.A. chapter 67 (public justice and public officers);

~~(XV)~~(XVI) 13 V.S.A. chapter 69 (railroads);

~~(XVI)~~(XVII) 13 V.S.A. chapter 77 (trees and plants);

~~(XVII)~~(XVIII) 13 V.S.A. chapter 81 (trespass and malicious injuries to property);

~~(XVIII)~~(XIX) 13 V.S.A. chapter 83 (vagrants);

~~(XIX)~~(XX) 13 V.S.A. chapter 85 (weapons);

(XXI) 13 V.S.A. § 7559(d), (e), and (f) (violating condition of release);

~~(XX)~~(XXII) 18 V.S.A. §§ 4230(a), 4230c, and 4230d (marijuana possession);

~~(XXI)~~(XXIII) 18 V.S.A. § 4231(a) (cocaine possession);

~~(XXII)~~(XXIV) 18 V.S.A. § 4232(a) (LSD possession);

~~(XXIII)~~(XXV) 18 V.S.A. § 4233(a) (heroin possession);

~~(XXIV)~~(XXVI) 18 V.S.A. § 4234(a) (depressant, stimulant, or narcotic drug possession);

~~(XXV)~~(XXVII) 18 V.S.A. § 4234a(a) (methamphetamine possession);

~~(XXVI)~~(XXVIII) 18 V.S.A. § 4235(b) (hallucinogenic drug possession);

~~(XXVII)~~(XXIX) 18 V.S.A. § 4235a(a) (ecstasy possession);

~~(XXVIII)~~(XXX) 18 V.S.A. § 4476 (drug paraphernalia offenses);

(XXXI) 20 V.S.A. § 3132 (firework prohibitions);

~~(XXIX)~~(XXXII) 21 V.S.A. § 692(c)(2) (criminal violation of stop-work order);

~~(XXX)~~(XXXIII) any misdemeanor set forth in Title 23 of the Vermont Statutes Annotated, except for 23 V.S.A. chapter 13, subchapter 13 (drunken driving), 23 V.S.A. § 3207a (snowmobiling under the influence), 23 V.S.A. § 3323 (boating under the influence), or 23 V.S.A. § 3506(b)(8) (operating an all-terrain vehicle under the influence);

~~(XXXI)~~(XXXIV) any motor vehicle accident that includes property damage and injuries, as permitted by the Council by rule;

~~(XXXII)~~(XXXV) any matter within the jurisdiction of the Judicial Bureau as set forth in 4 V.S.A. § 1102;

~~(XXXIII)~~(XXXVI) municipal ordinance violations;

~~(XXXIV)~~(XXXVII) any matter within the jurisdiction of a game warden or deputy game warden as set forth in 10 V.S.A. chapter 103, subchapter 4 (game wardens); and

~~(XXXV)~~(XXXVIII) any matter within the scope of practice of a Level I law enforcement officer.

* * *

* * * Electronic Control Devices; Policy Requirement * * *

Sec. 5. 20 V.S.A. § 2367 is amended to read:

§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES; REPORTING

* * *

(b) On or before January 1, 2015, the Law Enforcement Advisory Board shall establish a statewide policy on the use of and training requirements for the use of electronic control devices. ~~On or before January 1, 2016~~ Prior to any use of or intent to use an electronic control device, every State, ~~local,~~ county, ~~and~~ municipal, or other law enforcement agency and every constable who is not employed by a law enforcement agency shall adopt this policy. If a law enforcement agency or officer ~~that is~~ was required to adopt a policy pursuant to this subsection ~~fails~~ but failed to do so on or before January 1, 2016, that agency or officer shall be deemed to have adopted, and shall follow

and enforce, the model policy established by the Law Enforcement Advisory Board. The policy shall include the following provisions:

* * *

(c) The Criminal Justice Training Council shall adopt rules and develop training to ensure that the policies and standards of this section are met. The Criminal Justice Training Council shall ensure that a law enforcement officer receives appropriate and sufficient training before becoming authorized to carry or use an electronic control device.

(d) On or before June 30, 2017, every State, ~~local,~~ county, ~~and~~ municipal, or other law enforcement agency that employs one or more certified law enforcement officers shall ensure that all officers have completed the training established in 2004 Acts and Resolves No. 80, Sec. 13(a), and every constable who is not employed by a law enforcement agency shall have completed this training.

* * *

(f) Every State, ~~local,~~ county, ~~and~~ municipal, or other law enforcement agency and every constable who is not employed by a law enforcement agency shall report all incidents involving the use of an electronic control device to the Criminal Justice Training Council in a form to be determined by the Council.

(g) The Law Enforcement Advisory Board shall:

(1) study and make recommendations as to whether officers authorized to carry electronic control devices should be required to wear body cameras; and

(2) establish a policy on the calibration and testing of electronic control devices~~;~~

~~(3) on or before January 15, 2015, report to the House and Senate Committees on Government Operations and on Judiciary concerning the recommendations and policy developed pursuant to subdivisions (1) and (2) of this subsection; and~~

~~(4) on or before April 15, 2015, ensure that all electronic control devices carried or used by law enforcement officers are in compliance with the policy established pursuant to subdivision (2) of this subsection~~.

* * * Intentionally Injuring or Killing Law Enforcement Animals * * *

Sec. 6. 13 V.S.A. § 352a is amended to read:

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering; ~~or~~

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; or

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer.

* * * Forfeiture Proceeds to Vermont Police Academy * * *

Sec. 7. 18 V.S.A. § 4247 is amended to read:

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the State Treasurer under this subchapter, the State Treasurer shall, no sooner than 90 days of the date the property is delivered, sell the property at a public sale held under ~~27 V.S.A. chapter 13~~ 27 V.S.A. chapter 14.

(b) The proceeds from the sale of forfeited property shall be used first to offset any costs of selling the property, and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses, including animal care expenses related to the underlying violation. Remaining proceeds shall be distributed as follows:

(1) Five percent shall be distributed to the Vermont Police Academy.

(2)(A) Forty-five percent shall be distributed among:

(i) the Office of the Attorney General;

(ii) the Department of State's Attorneys and Sheriffs; and

(iii) State and local law enforcement agencies.

(B) The Governor's Criminal Justice and Substance Abuse Cabinet is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision ~~(1)~~(2), and may only reimburse the prosecutor and law enforcement agencies that participated in the enforcement effort resulting in the forfeiture for expenses incurred, including actual expenses for involved personnel. The proceeds shall be held by the Treasurer until the Cabinet notifies the Treasurer of the allocation determinations, at which time the

Treasurer shall forward the allocated amounts to the appropriate agency's operating funds.

~~(2)~~(3) The remaining ~~55~~ 50 percent shall be deposited in the General Fund.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except the following shall take effect on July 1, 2016:

(1) Sec. 6, 13 V.S.A. § 352a (aggravated cruelty to animals); and

(2) Sec. 7, 18 V.S.A. § 4247 (disposition of property).

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

An act relating to law enforcement, 911 call-taking, and dispatch

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 18, 2016, page 555-559)

H. 859.

An act relating to special education.

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

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:

* * * Payment of Special Education Funding to Supervisory Unions * * *

Sec. 1. 16 V.S.A. chapter 101 is amended to read:

CHAPTER 101. SPECIAL EDUCATION

Subchapter 1. General Provisions

* * *

§ 2948. STATE AID

(a) For the payment of general State aid, children with disabilities shall be counted in the same manner as children who do not have disabilities.

(b) [Repealed.]

(c) Each ~~school district~~ supervisory union shall receive an essential early education grant each school year. Grants shall be distributed according to the estimated number of children from three through five years of age. The State Board by rule shall encourage coordination of services and may set other terms of the grant. Each ~~district~~ supervisory union shall be responsible for the remainder of the costs of providing necessary services under section 2956 of this title. Annually, for each following fiscal year, the essential early education grant shall be increased by the most recent cumulative price index, as of November 15, for State and local government purchases of goods and services from fiscal year 2002 through that following fiscal year, as provided through the State's participation in the New England Economic Project.

(d), (e) [Repealed.]

(f) If a student is being provided education or special education or both in a school operated by the Department of Corrections, the Department of Corrections shall serve the student as if the Department were the school district of residence of the student.

(g) Notwithstanding any law to the contrary, a child with a disability who is residing in a State school, hospital, or community residential facility or in a State-approved private residential facility shall be provided special education in accordance with this chapter by the ~~school district~~ supervisory union in which the facility is located; provided, however, that this special education may be directly provided by the facility in which the child resides when the child's individualized education program and treatment plans indicate that the facility is the most appropriate educational placement for the child. Programs of special education provided by a facility described in this subsection shall be subject to the approval of the Secretary.

(h)-(j) [Repealed.]

(k) For the costs of students in the custody of the Department of Corrections, the Secretary of Education shall pay for the costs of special education in accordance with the provisions of 28 V.S.A. § 120.

(l) [Repealed.]

(m) All other State aid to ~~school districts and~~ supervisory unions shall be set forth in subchapter 2 of this chapter.

(n) If a student is being provided education or special education, or both in a school operated by the Department for Children and Families, the funding and provision of services shall be the responsibility of the Department for Children and Families and special education procedural responsibility shall be

the responsibility of the supervisory union for the school district of residence of the student's parent, parents, or guardian.

§ 2949. RECIPROCAL AGREEMENTS WITH OTHER STATES

* * *

§ 2950. STATE-PLACED STUDENTS

(a) ~~School district~~ Supervisory Union reimbursement. The supervisory union in which there is a school district responsible for educating a State-placed student under section 1075 of this title may claim and the Secretary shall reimburse 100 percent of all special education costs for the student, including costs for mainstream services. As a condition of receiving this reimbursement, the ~~district~~ supervisory union shall provide documentation in support of its claim, sufficient to enable the Secretary to determine whether to recommend appropriate cost-saving alternatives. The Secretary may approve any costs incurred in educating a State-placed student who is not eligible for special education that are incurred due to the special needs of the student, and, if approved, the Secretary shall pay those costs. When a State agency places and registers a student in a new district, the district and the supervisory union of which it is a member may request and the Agency of Education~~,~~ or the agency that placed the student, or both, shall provide prompt consultative and technical assistance to the receiving district and the supervisory union.

* * *

§ 2957. SPECIAL EDUCATION ADMINISTRATIVE AND JUDICIAL APPEALS; LIMITATIONS

* * *

(e) Except as provided in 20 U.S.C. § 1412(a)(10)(C) or unless a court or hearing officer determines otherwise, where a unilateral placement has been made without offering the supervisory union for the school district of residence ~~being offered~~ a reasonable opportunity to evaluate the child and to develop an individualized education program, reimbursement may not be sought for any costs incurred before the ~~school district~~ supervisory union is offered such an opportunity.

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL PLACEMENTS

(a) A school district shall notify the parents and the Secretary when it believes residential placement is a possible option for inclusion in a child's individualized education program.

(b) The Secretary may establish from within the Agency a Residential Placement Review Team. At the discretion of the Secretary, other persons not employed by the Agency may be appointed to serve on the Team. The Team shall make every effort to assist ~~school districts~~ supervisory unions and parents in understanding the range of educational options available as early as possible in the planning process for the child. The Team shall:

(1) advise ~~school districts~~ supervisory unions on alternatives to residential placement;

(2) review each individualized education program calling for residential placement of a student to consider whether the student can be educated in a less restrictive environment;

(3) assist ~~school districts~~ supervisory unions in locating cost-effective and appropriate residential facilities where necessary;

(4) request a new individualized education program where it believes that appropriate alternatives to residential placement are available; and

(5) offer mediation as a means of resolving disputes relating to the need for residential placement or the particular residential facility recommended for a child with a disability.

(c) The State Board shall by rule establish policies and procedures for the operations of the Residential Placement Review Team. The rules shall be consistent with federal law and, at minimum, shall include the following:

(1) provision for the Secretary to initiate a due process proceeding to challenge the need for residential placement where the team believes that a less restrictive educational placement is both available and appropriate for the child with a disability, and to reimburse the ~~school district~~ supervisory union and the parents or guardian of the child for reasonable costs and attorney's fees in the event the Secretary does not prevail;

(2) provision for technical assistance, a plan for correction, or withholding of funds under this section where a ~~school district~~ supervisory union places a child in a residential facility more expensive than an available and appropriate alternative residential facility; however, such withholding of funds shall not exceed the difference between the cost of the two facilities and the rule shall provide an opportunity for appeal of the withholding; and

(3) procedures and timelines to ensure that residential placement of a child with disabilities is not delayed or disrupted so as to adversely affect the child.

(d) Whenever a residential placement is determined to be necessary and appropriate for a child with a disability, the Residential Placement Review

Team shall include in the child's individualized education program goals and objectives designed to reintegrate the child into a local school district.

(e) Costs for residential placement shall be reimbursed under subchapter 2 of this chapter only if the residential facility is approved by the State Board for the purposes of providing special education and related services to children with disabilities.

§ 2959. RULEMAKING; MEDIATION

(a) The State Board shall adopt rules governing the determination of a child's eligibility for special education, accounting and financial reporting standards, program requirements, procedural requirements, and the identification of the ~~district~~ supervisory union or agency responsible for each child with a disability.

(b) Subject to rules established by the State Board, the Secretary shall offer mediation to parents, children with disabilities, and districts, supervisory unions, and agencies involved in special education disputes.

§ 2959a. EDUCATION MEDICAID RECEIPTS

(a) It is the intent of the General Assembly that the State of Vermont shall maximize its receipt of federal Medicaid dollars available for reimbursement of medically related services provided to students who are Medicaid eligible. It is further the intent that:

(1) each supervisory union identify special education and other students eligible for Medicaid reimbursement and, to the extent possible, submit Medicaid bills for services reimbursement;

(2) the Agencies of Education and of Human Services work with local school districts to maximize reimbursements, including services to non-IEP students.

(b) A Medicaid Reimbursement Special Fund is established within the Agency of Education. Funds received by the State under this section shall be transferred to the Medicaid Reimbursement Special Fund. The Fund receipts shall be allocated in accordance with this section.

(c) At least annually, the Secretary of Education shall pay to each supervisory union submitting Medicaid bills under this section, 50 percent of the reimbursed funds generated by the supervisory union's bill, excluding claims generated by State-placed students. Unless the supervisory union has agreed to use the funds to operate a supervisory unionwide program or to distribute the funds in a different manner, upon receipt, the supervisory union shall distribute the funds to its member school districts based on how the funds were generated. The Secretary may withhold payment due a ~~school district~~

supervisory union pursuant to section 2950 of this title for a Medicaid-eligible State-placed student if the ~~school district~~ supervisory union has not submitted a Medicaid claim for reimbursable services for that student.

(d) If the amount of Medicaid reimbursement funds received for services provided in the prior State fiscal year exceeds $25,000,000.00, in addition to the 50 percent of the funds paid to supervisory unions submitting Medicaid bills, 25 percent of the amounts in excess of the $25,000,000.00 shall be paid into an incentive fund created in the Agency of Education. These funds shall be used for an incentive payment to supervisory unions with student participation rates of over 80 percent in accordance with a formula to be developed by the Agency, in consultation with the Vermont Superintendents Association. For any incentive payments made subsequent to fiscal year 2007, the $25,000,000.00 threshold of this subsection shall be increased by the percentage increase of the most recent New England Economic Project Cumulative Price Index, as of November 15, for state and local government purchases of goods and services from fiscal year 2005 through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent.

(e) ~~School districts~~ Supervisory unions shall use funds received under this section to pay for reasonable costs of administering the Medicaid claims process, and school districts or supervisory unions shall use funds received under this section for prevention and intervention programs in prekindergarten through grade 12. The programs shall be designed to facilitate early identification of and intervention with children with disabilities and to ensure all students achieve rigorous and challenging standards approved and adopted by the State Board or locally adopted standards. A ~~school district~~ supervisory union shall provide annual written justification to the Secretary of Education ~~of the use of~~ how it or its member districts used the funds. Such annual submission shall show how the funds' use is expressly linked to those provisions of the ~~school district's~~ supervisory union's action plan that directly relate to improving student performance. A ~~school district~~ supervisory union shall include in its annual report the amount of the prior year's Medicaid reimbursement revenues and the use of Medicaid funds consistent with the purposes set forth in this subsection.

(f) Up to 30 percent of Medicaid reimbursements received under this section shall be available for administrative costs of the Agencies of Education and of Human Services related to the collection, processing, and reporting of education Medicaid reimbursements and statewide programs. The Secretaries of Education and of Human Services shall expend monies from the Fund only as appropriated by the General Assembly.

(g) Remaining reimbursed funds shall be deposited into the Education Fund.

* * *

Subchapter 2. Aid for Special Education and Support Services

§ 2961. STANDARD MAINSTREAM BLOCK GRANTS

(a) Each ~~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~~ supervisory union shall be eligible to receive a standard mainstream block grant each school year. The mainstream block grant shall be equal to the supervisory union's mainstream salary standard multiplied by 60 percent.

(b) The ~~district,~~ supervisory union shall expend all such assistance for special education services or for remedial or compensatory services in accordance with its service plan as required under section 2964 of this title. It shall likewise expend, from local funds, an amount not less than 40 percent of its mainstream salary standard for special education.

(c) As used in this section:

(1) "Mainstream salary standard" means:

(A) the ~~district's~~ supervisory union's full-time equivalent staffing for special education for the preceding year multiplied by the average special education teacher salary in the State for the preceding year; plus

(B) ~~its share, prorated according to average daily membership among the member districts of the supervisory union, of~~ an amount equal to the average special education administrator salary in the State for the preceding year, plus, for any supervisory union ~~or supervisory district~~ with member districts which have in the aggregate more than 1,500 average daily membership, ~~the school district's prorated share of~~ a fraction of an additional full-time equivalent salary for a special education administrator, the numerator of which is the aggregate average daily membership ~~in~~ of the supervisory ~~union or supervisory district~~ union's member districts minus 1,500, and the denominator of which is the aggregate average daily membership of member districts in the largest supervisory union ~~or supervisory district~~ in the State minus 1,500.

(2) "Full-time equivalent staffing" means 9.75 special education teaching positions per 1,000 average daily membership.

(d) If in any fiscal year, a ~~district that maintains a school~~ supervisory union in which a school is maintained does not expend an amount equal to its

mainstream salary standard on special education expenditures, the ~~district~~ supervisory union may expend the balance, including the matching funds, to provide support and remedial services pursuant to section 2902 or 2903 of this title. A ~~district~~ supervisory union choosing to expend funds in this way shall submit a report describing the services provided and their costs with the final financial report submitted under section 2968 of this title.

§ 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

(a) Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable, based on where the related cost is incurred, to ~~each~~ a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or to a supervisory union.

(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to 90 percent of its extraordinary special education expenditures.

(c) As used in this subchapter, "extraordinary special education expenditures" means a school district's or supervisory union's allowable expenditures that for any one child exceed $50,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.

(d) [Repealed.]

§ 2963. SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT

(a) ~~Each~~ Based on where the related cost is incurred, each town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or supervisory union shall receive a special education expenditures reimbursement grant each school year.

(b) The amount of a school district's or supervisory union's special education expenditures reimbursement shall be equal to the total of its special education expenditures multiplied by the reimbursement rate for that year.

* * *

§ 2963a. EXCEPTIONAL CIRCUMSTANCES

(a) In lieu of reimbursement under section 2963 of this title, the Secretary shall reimburse a school district or supervisory union for 80 percent of the ~~following expenditures:(1) Costs~~ costs not eligible for reimbursement under section 2962 of this title for each student causing the school district or supervisory union to be eligible for extraordinary services reimbursement pursuant to that section. However, in order for a school district or supervisory union to be eligible for reimbursement under this section, the total costs of the school district or supervisory union eligible for extraordinary services reimbursement must equal or exceed 15 percent of the total costs eligible for ~~state~~ State assistance under sections 2961, 2962, and 2963 of this title.

~~(2) The costs incurred by the school district in placing and maintaining a student in a program operated by the Vermont Center for the Deaf and Hard of Hearing.~~

(b) An eligible school district or supervisory union may apply to the Secretary to receive reimbursement under this section. The Secretary shall award reimbursement to a school district or supervisory union under this section if the Secretary makes a determination that school district or supervisory union considered all the cost-effective and appropriate available alternatives for placement and programs for students before incurring these costs. A decision of the Secretary shall be final.

§ 2964. SERVICE PLAN

(a) As a condition of receiving assistance under this subchapter, a supervisory union shall file a service plan with the Secretary annually on or before October 15. The service plan shall contain the anticipated special education expenditures for the following school year for the supervisory union and its member districts. The plan shall be in a form prescribed by the Secretary and shall include information on services planned and anticipated expenditures.

(b) If a supervisory union fails to file a service plan by October 15, the Secretary may withhold any funds due the supervisory ~~district or school districts~~ union and its member districts under this title until a service plan is filed and accepted by the Secretary as properly completed.

§ 2965. WITHHOLDING OF AID

If a ~~district~~ supervisory union, school district, or agency fails to meet its legally established obligations toward a child with a disability or the child's parent, and as a result the Agency of Education incurs costs to meet these obligations beyond those otherwise incurred under this chapter, the Secretary

shall withhold the amount of funds incurred from any grants due the ~~district~~ supervisory union, school district, or agency under this subchapter.

§ 2967. AID PROJECTION; STATE SHARE

(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~~ supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, 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.

* * *

§ 2968. REPORTS

(a) On or before November 15, March 15, and August 1 of each school year, each supervisory union ~~and school district~~ and its member districts to the extent they incur reimbursable expenditures under this chapter shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total expenditures for special education actually incurred during the preceding period, and shall describe revenues derived from different funding sources, including federal assistance, State assistance under this ~~section~~ chapter, and local effort.

(b) If a supervisory union ~~or school district fails~~ or its member districts that have incurred reimbursable expenditures under this chapter fail to file a complete report by August 1, until the properly completed August 1 report is filed and accepted by the Secretary, the Secretary may withhold any funds due the supervisory union or school district under this title and shall subtract $100.00 per business day from funds due to the supervisory union or school district under this title for that fiscal year. The Secretary may waive the $100.00 penalty required under this subsection upon appeal by the supervisory union or school district. The Secretary shall establish procedures for administration of this subsection.

(c) The Secretary shall review and monitor the reports received pursuant to subsection (a) of this section as well as the service plans received pursuant to section 2964 of this title, and shall assist supervisory unions and school districts to complete and submit these documents in a timely and accurate fashion.

(d) Special education receipts and expenditures shall be included within the audits required of ~~supervisory unions and school districts~~ a supervisory union and its member districts that have incurred reimbursable expenditures under this chapter pursuant to ~~sections~~ section 323 ~~and 563(17)~~ of this title.

§ 2969. PAYMENTS

(a) On or before August 15, December 15, and April 15 of each school year, the State Treasurer shall withdraw from the Education Fund, based on warrant of the Commissioner of Finance and Management, and shall forward to each ~~school district~~ supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, the amount of State assistance estimated in accordance with State Board rules to be necessary to fund sections 2961 through 2963a of this title in the current fiscal period. The State Board shall by rule ensure that the amount of such assistance shall be adjusted to compensate for any overpayments or underpayments determined, after review and acceptance of the reports submitted under section 2968 of this title, to have been made in previous periods. Notwithstanding this subsection, failure to submit the reports within the timelines established by subsection 2968(a) of this title shall result in the withholding of any payments until the report is filed.

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

(c) For the purpose of meeting the needs of students with emotional behavioral problems, each fiscal year the Secretary shall use for training, program development, and building school and regional capacity, up to one percent of the State funds appropriated under this subchapter.

(d) For the training of teachers, administrators, and other personnel in the identification and evaluation of, and provision of education services to children who require educational supports, each fiscal year the Secretary shall use up to 0.75 percent of the State funds appropriated under this subchapter. In order to set priorities for the use of these funds, the Secretary shall identify effective practices and areas of critical need. The Secretary may expend up to five percent of these funds for statewide training and shall distribute the remaining funds to school districts or supervisory unions.

(e) School districts and supervisory unions that apply for funds under this section must submit a plan for training that will result in lasting changes in their school systems and give assurances that at least 50 percent of the costs of training, including in-kind costs, will be assumed by the applicant. The Secretary shall establish written procedures and criteria for the award of such funds. In addition, the Secretary may identify schools most in need of training assistance and may pay for 100 percent of the assistance ~~provided~~ to the

supervisory union or school district for these schools to fund the provision of training assistance for these schools.

§§ 2970, 2971. [RESERVED FOR FUTURE USE.].

* * *

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

(a) Annually, the Secretary shall report to the State Board regarding:

(1) special education expenditures by ~~school districts~~ supervisory unions;

(2) the rate of growth or decrease in special education costs, including the identity of ~~high~~ high- and ~~low spending districts~~ low-spending supervisory unions;

(3) results for special education students;

(4) the availability of special education staff;

(5) the consistency of special education program implementation statewide;

(6) the status of the education support systems in ~~school districts~~ supervisory unions; and

(7) a statewide summary of the special education student count, including:

(A) the percentage of the total average daily membership represented by special education students statewide and by ~~school district~~ supervisory union;

(B) the percentage of special education students by disability category; and

(C) the percentage of special education students ~~by in-district placement,~~ served by public schools within the supervisory union, by day placement, and by residential placement.

(b) The Secretary's report shall include the following data for both ~~high~~ high- and ~~low spending districts~~ low-spending supervisory unions:

(1) each ~~district's~~ supervisory union's special education staff-to-child count ratios as compared to the State average, including a breakdown of ratios by staffing categories;

(2) each ~~district's~~ supervisory union's percentage of students in day programs and residential placements as compared to the State average of

students in those placements and information about the categories of disabilities for the students in such placements;

(3) whether the ~~district~~ supervisory union was in compliance with section 2901 of this title;

(4) any unusual community characteristics in each ~~district~~ supervisory union relevant to special education placements;

(5) a review of ~~high~~ high- and ~~low-spending districts'~~ low-spending supervisory unions' special education student count patterns over time;

(6) a review of the ~~district's~~ supervisory union's compliance with federal and State requirements to provide a free, appropriate public education to eligible students; and

(7) any other factors affecting its spending.

(c) The Secretary shall review ~~low-spending districts~~ low-spending supervisory unions to determine the reasons for their spending patterns and whether those ~~districts~~ supervisory unions used cost-effective strategies appropriate to replicate in other ~~districts~~ supervisory unions.

(d) For the purposes of this section, a "~~high-spending district~~ high-spending supervisory union" is a ~~school district~~ supervisory union that, in the previous school year, spent at least 20 percent more than the statewide average of special education eligible costs per average daily membership. Also for the purposes of this section, a "~~low-spending district~~ low-spending supervisory union" is a ~~school district~~ supervisory union that, in the previous school year, spent no more than 80 percent of the statewide average of special education eligible costs per average daily membership.

(e) The Secretary and Agency staff shall assist the ~~high-spending districts~~ high-spending supervisory unions, that have been identified in subsection (a) of this section and have not presented an explanation for their spending that is satisfactory to the Secretary, to identify reasonable alternatives and to develop a remediation plan. Development of the remediation plan shall include an on-site review. The ~~district~~ supervisory union shall have two years to make progress on the remediation plan. At the conclusion of the two years or earlier, the ~~district~~ supervisory union shall report its progress on the remediation plan.

(f) Within 30 days of receipt of the ~~district's~~ supervisory union's report of progress, the Secretary shall notify the ~~district~~ supervisory union that its progress is either satisfactory or not satisfactory.

(1) If the ~~district~~ supervisory union fails to make satisfactory progress, the Secretary shall notify the ~~district~~ supervisory union that, in the ensuing school year, the Secretary shall withhold 10 percent of the ~~district's~~

supervisory union's special education expenditures reimbursement pending satisfactory compliance with the plan.

(2) If the district fails to make satisfactory progress after the first year of withholding, 10 percent shall be withheld in each subsequent year pending satisfactory compliance with the plan; provided, however, before funds are withheld in any year under this subdivision (f)(2), the ~~district~~ supervisory union shall explain to the State Board either the reasons the ~~district~~ supervisory union believes it made satisfactory progress on the remediation plan or the reasons it failed to do so. The State Board's decision whether to withhold funds under this subdivision shall be final.

(3) If the ~~district~~ supervisory union makes satisfactory progress under any subdivision of this subsection, the Secretary shall release to the ~~district~~ supervisory union any special education expenditures reimbursement withheld for the prior fiscal year only.

(g) Within 10 days after receiving the Secretary's notice under subdivision (f)(1) of this section, the ~~district~~ supervisory union may challenge the Secretary's decision by filing a written objection to the State Board outlining the reasons the ~~district~~ supervisory union believes it made satisfactory progress on the remediation plan. The Secretary may file a written response within 10 days after the ~~district's~~ supervisory union's objection is filed. The State Board may give the ~~district~~ supervisory union and the Secretary an opportunity to be heard. The State Board's decision shall be final. The State shall withhold no portion of the ~~district's~~ supervisory union's reimbursement before the State Board issues its decision under this subsection.

(h) Nothing in this section shall prevent a ~~school district~~ supervisory union from seeking and receiving the technical assistance of Agency staff to reduce its special education spending.

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL ASSISTANCE

The Secretary may use up to two percent of the funds appropriated for special education expenditures, as that term is defined in subsection 2967(b) of this title, to directly assist ~~school districts~~ supervisory unions with special education expenditures of an unusual or unexpected nature. These funds shall not be used for exceptional circumstances that are funded under section 2963a of this title. The Secretary's decision regarding a ~~district's~~ supervisory union's eligibility for and amount of assistance shall be final.

Sec. 2. 16 V.S.A. § 4002 is amended to read:

§ 4002. PAYMENT; ALLOCATION

(a) State and federal funds appropriated for services delivered by the supervisory union and payable through the Agency shall be paid to the order of the supervisory union and administered in accordance with the plan adopted under subdivision 261a(4) of this title. Funding for special education services under section 2969 of this title shall be paid to the districts and supervisory unions in accordance with that section.

* * *

* * * Study of Funding for Special Education * * *

Sec. 3. STUDY OF FUNDING FOR SPECIAL EDUCATION

(a) Study. The Agency of Education shall contract for a study of special education funding and practice. The study shall evaluate the feasibility of implementing the census block model of funding, or a variation of this model as the contractor deems appropriate, for special education in Vermont, including the advantages, disadvantages, and policy considerations. The study shall develop a special education funding model recommendation for Vermont, which shall be designed to provide incentives for desirable practices and stimulate innovation in the delivery of services and shall take into account any factors the contractor determines relevant. The contractor shall conduct its evaluation and develop its recommendation in collaboration with the Agency of Education and, as directed by the Agency of Education, with interested superintendents, special education administrators, school business and administrative staff, and special education staff from the institutions of higher education and other stakeholders, including parents and family-based organizations. The contractor shall present its findings and recommendations to the General Assembly and the Agency of Education by December 15, 2017.

(b) Funding. The Agency of Education shall allocate out of its fiscal year 2017 budget a sum of up to $90,000.00 to provide funding for the purposes set forth in this section. Any application of funds for the purpose of administrative overhead shall be capped at ten percent of the total sum allocated pursuant to this section.

* * * Effective Dates * * *

Sec. 4. EFFECTIVE DATES

Sec. 3 and this section shall take effect on July 1, 2016. Secs. 1 and 2 shall take effect on July 1, 2017.

(Committee vote: 6-0-0)

(For House amendments, see House Journal for March 24, 2016, pages 661-663)

H. 872.

An act relating to Executive Branch fees.

Reported favorably with recommendation of proposal of amendment by Senator MacDonald for the Committee on Finance.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 6 V.S.A. § 1, in subdivision (a)(13), in the final sentence, by striking out the final sentence in its entirety and inserting in lieu thereof The Secretary may assess a late fee of $27.00, provided that the late fee is no greater than the fee due, in which case the late fee shall equal the fee due, for any license, registration, permit, or certification renewal that is received more than 30 days past expiration unless a higher late renewal fee is otherwise prescribed by statute;

Second: In Sec. 5, 6 V.S.A. § 366, in subdivision (a)(1), after "a $150.00" by striking out "base fee" and inserting in lieu thereof minimum tonnage fee

Third: In Sec. 13, 6 V.S.A. § 1112, in subdivision (a)(4), after "a maximum of", by striking out "$100.00" and inserting in lieu thereof $120.00

Fourth: In Sec. 13, 6 V.S.A. § 1112, after subdivision (a)(6), before the existing period, by inserting a semicolon ; and by inserting a subdivision (7) to read as follows:

(7) Government, Municipal, and Public Education Institution Applicators—$30.00

Fifth: In Sec. 16, 6 V.S.A. § 2724(b), after "under the supervision of a person that is registered." in the sentence before the final sentence, by striking out the final sentence in its entirety.

Sixth: After Sec. 33, by inserting a Sec. 33a to read as follows:

Sec. 33a. 9 V.S.A. § 5410 is amended to read:

§ 5410. FILING FEES

(a) A person shall pay a fee of ~~$250.00~~ $300.00 when initially filing an application for registration as a broker-dealer and a fee of ~~$250.00~~ $300.00 when filing a renewal of registration as a broker-dealer. A separate application in writing for branch office registration or renewal, accompanied by a filing fee of ~~$100.00~~ $120.00 per branch office, shall be filed in the Office of the Commissioner in such form as the Commissioner may prescribe by any broker-dealer who transacts business in this State from any place of business

located within this State. If the filing results in a denial or withdrawal, the Commissioner shall retain the fee.

(b) The fee for an individual is ~~$60.00~~ $85.00 when filing an application for registration as an agent, ~~$60.00~~ $85.00 when filing a renewal of registration as an agent, and ~~$60.00~~ $85.00 when filing for a change of registration as an agent. If the filing results in a denial or withdrawal, the Commissioner shall retain the fee.

(c) A person shall pay a fee of ~~$250.00~~ $300.00 when filing an application for registration as an investment adviser and a fee of ~~$250.00~~ $300.00 when filing a renewal of registration as an investment adviser. A separate application in writing for branch office registration or renewal, accompanied by a filing fee of ~~$100.00~~ $120.00 per branch office, shall be filed in the Office of the Commissioner in such form as the Commissioner may prescribe by any investment adviser who transacts business in this State from any place of business located within the State. If the filing results in a denial or withdrawal, the Commissioner shall retain the fee.

(d) The fee for an individual is ~~$55.00~~ $80.00 when filing an application for registration as an investment adviser representative, ~~$55.00~~ $80.00 when filing a renewal of registration as an investment adviser representative, and ~~$55.00~~ $80.00 when filing a change of registration as an investment adviser representative. If the filing results in a denial or withdrawal, the Commissioner shall retain the fee.

(e) A federal covered investment adviser required to file a notice under section 5405 of this title shall pay an initial fee of ~~$250.00~~ $300.00 and an annual notice fee of ~~$250.00~~ $300.00. To the extent required to be included in documents filed with the Securities and Exchange Commission, such notice filing shall include information on the branch offices of a federal covered investment adviser who transacts business in this State from any place of business located within this State, accompanied by a notice filing fee of ~~$100.00~~ $120.00 per branch office in Vermont. A notice filing may be terminated by filing notice of such termination with the Commissioner. If a notice filing results in a denial or withdrawal, the Commissioner shall retain the fee.

* * *

Seventh: After Sec. 40, 7 V.S.A. § 1002, by striking out the reader assistance and Sec. 41, 7 V.S.A. § 1013, in their entirety, and inserting in lieu thereof: Sec. 41. [Deleted.]

Eighth: After Sec. 34, 32 V.S.A. § 602, by inserting a reader assistance and Secs. 34a through 34c to read as follows:

* * * EB-5; Regulation; Oversight; Fees * * *

Sec. 34a. 10 V.S.A. § 20 is added to read:

§ 20. EB-5 PROGRAM; REGULATION; OVERSIGHT

(a) The U.S. Department of Homeland Security's U.S. Citizenship and Immigrations Services (USCIS) administers the EB-5 Program, a federal program designed to stimulate the U.S. economy through job creation and capital investment by foreign investors. The Vermont EB-5 Regional Center is a USCIS-designated regional center. The Center is managed by the Agency of Commerce and Community Development in partnership with the Department of Financial Regulation.

(b) The Agency of Commerce and Community Development has the personnel and resources to market and promote economic opportunities in Vermont, whereas the Department of Financial Regulation has the personnel and resources to supervise financial services and products offered in Vermont in a manner that advances fair business practices and protects the investing public. It is imperative that management of the EB-5 Program reflect the existing expertise of both these State entities.

(c) The Secretary of Commerce and Community Development and the Commissioner of Financial Regulation shall separately adopt rules pertaining to the administration and oversight of the EB-5 Program. The rules shall be consistent with federal regulations and requirements as well as with the statutory expertise of the Department and Agency.

(d) The rules adopted under this section shall be modeled after the Memorandum of Understanding between the Agency of Commerce and Community Development and the Department of Financial Regulation, dated December 22, 2014, which pertains to the duties and responsibilities of the Agency and the Department with respect to the EB-5 Program. As such, the rules shall include provisions related to:

(1) communication with and reporting to the USCIS;

(2) marketing activities;

(3) required provisions pertaining to private placement memoranda;

(4) securities analysis and standards for project approval;

(5) ongoing oversight and compliance of approved projects, including annual audits;

(6) the establishment of escrow accounts for capital investments and third-party oversight of requisitions, if deemed appropriate by the Commissioner and Secretary;

(7) investor relations and a formal complaint protocol;

(8) standards for revoking approval of a project;

(9) penalties for failure to comply with rules adopted under this section;

(10) communication between the Agency and the Department, as well as with media outlets and with other regulatory or law enforcement entities;

(11) fees and costs of the Regional Center, consistent with subsection 21(c) of this title; and

(12) any other matter the Commissioner and the Secretary determine will strengthen the oversight and management of the EB-5 Program and prevent fraudulent activities.

(e) The rules adopted under this section shall explicitly state that any interest obtained through a capital investment in the EB-5 Program is a "security" as defined in 9 V.S.A. § 5102(28) and as such is subject to regulation by the Commissioner of Financial Regulation under the Vermont Uniform Securities Act, 9 V.S.A. chapter 150.

Sec. 34b. 10 V.S.A. § 21 is amended to read:

§ 21. EB-5 SPECIAL FUND

(a) An EB-5 Special Fund is created ~~for the operation of the State of~~ to support the operating costs of the Vermont Regional Center for Immigrant Investment under the federal EB-5 Program. The Fund shall consist of revenues derived from administrative charges by the Agency of Commerce and Community Development pursuant to subsection (c) of this section, any interest earned by the Fund, and all sums which are from time to time appropriated for the support of the Regional Center and its operations. It is the intent of the General Assembly, however, that the collection of charges authorized by this section will obviate the need for legislative appropriations to support Regional Center expenses.

(b)(1) The receipt and expenditure of monies from the Special Fund shall be under the supervision of the Secretary of Commerce and Community Development.

(2) The Secretary of Commerce and Community Development shall maintain accurate and complete records of all receipts and expenditures by and from the Fund, and shall make an annual report on the condition of the Fund to the Secretary of Administration, the House Committees on Commerce and Economic Development and on Ways and Means, and the Senate Committees on Finance and on Economic Development, Housing and General Affairs.

(3) Expenditures from the Fund shall be used only to ~~administer the EB-5 Program~~ support the operating expenses of the Regional Center, including the costs of providing specialized services to support participating economic development projects, marketing and related travel expenses, application review and examination expenses, and personnel expenses incurred by the Agency of Commerce and Community Development and the Department of Financial Regulation. At the end of each fiscal year, the Secretary of Administration shall transfer from the EB-5 Special Fund to the General Fund any amount that the Secretary of Administration determines, in his or her discretion, exceeds the funds necessary to administer the Program.

(c) Notwithstanding 32 V.S.A. § 603, the Secretary of Commerce and Community Development, with input from the Commissioner of Financial Regulation, is authorized to impose ~~an~~ administrative ~~charge for the costs of administering the Regional Center and providing specialized services in support of participating economic development projects~~ charges on project developers to achieve the Fund's purpose. The charges shall include a one-time application fee as well as an annual assessment apportioned among approved projects in a fair and equitable manner as specified in rules adopted under section 20 of this title. In addition, the rules shall require that an applicant or approved project developer, as applicable, is liable for any additional expenses incurred with respect to the retention of outside legal, financial, examination or other services or studies deemed necessary by the Secretary or the Commissioner to assist with application or project review. The collection of some or all charges authorized under this section may be suspended for a period of time as deemed appropriate by the Secretary for good cause shown. Any charges imposed under this section shall be included in the consolidated Executive Branch fee report required under 32 V.S.A. § 605.

Sec. 34c. EB-5 PROJECT DEVELOPER; COLLECTION OF PAST-DUE FEES

On or before July 1, 2016, the Secretary of Commerce and Community Development shall make every reasonable effort to proceed with the invoicing and collection of charges authorized under 10 V.S.A. § 21, including any invoicing and collection of charges previously suspended by the Secretary. The charges shall be collected in a manner that does not diminish the value of a foreign investor's interest acquired through a capital investment in an EB-5 project.

Ninth: After Sec. 44, by striking out the reader assistance in its entirety and inserting a new reader assistance to read as follows:

* * * Environmental Conservation; Stormwater Discharge Permits; Concentrated Animal Feeding Operations * * *

Tenth: In Sec. 45, 3 V.S.A. § 2822(j), after subdivision (2), by striking out the "* * *" and inserting in lieu thereof the following:

(A) Application review fee.

* * *

(iv) Indirect discharge or underground injection control, excluding stormwater discharges.	
(I) Indirect discharge, sewage.	
(aa) Individual permit: original application; amendment for increased flows; amendment for modification or replacement of system.	$1,755.00 plus $0.08 per gallon of design capacity above 6,500 gpd.
(II) Indirect discharge, nonsewage.	
(aa) Individual permit: original application; amendment for increased flows; amendment for modification or replacement of system.	$0.06 per gallon of design capacity; minimum $400.00.
(III) Underground injection; ~~original~~ individual permit; amendment for increased flows; amendment for modification or replacement of system.	
(aa) For applications where the discharge meets groundwater enforcement standards at the point of discharge:	$500.00 and $0.10 for each gallon per day over 2,000 gallons per day.
(bb) For applications where the discharge meets groundwater enforcement standards at the point of compliance:	$1,500.00 and $0.20 for each gallon per day over 2,000 gallons per day.

Eleventh: After Sec. 47, 16 V.S.A. § 1694, by inserting a reader assistance and a Sec. 47a to read as follows:

* * * State Lottery Commission; Fantasy Sports Contests; Operators * * *

Sec. 47a. 9 V.S.A. § 4189 is added to read:

§ 4189. ANNUAL ASSESSMENT

(a) A fantasy sports operator shall pay two percent of its annual net revenue to the State Lottery Commission for deposit in the State Lottery Fund established in 31 V.S.A. § 658. These funds shall be reserved for programs addressing addiction in Vermont.

(b) As used in this section, "annual net revenue" means the total amount of consideration received in the prior year by a fantasy sports operator from fantasy sports players in Vermont, less the amount of cash prizes, awards, or cash equivalents that the fantasy sports operator paid in the prior year to fantasy sports players in Vermont. The amount of the annual net revenue shall be determined by the annual independent audit carried out pursuant to 9 V.S.A. § 4186(c).

Twelfth: In Sec. 48, Effective Dates, by striking out subsections (b) and (c) in their entirety and inserting in lieu thereof the following:

(b) Notwithstanding 1 V.S.A. § 214, in Sec. 45 (stormwater discharge permits), in 3 V.S.A. § 2822(j), subdivision (2)(A) shall take effect retroactively on July 1, 2015.

(c) This section shall take effect on passage.

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

(Committee vote: 6-1-0)

(For House amendments, see House Journal for March 24, 2016, page 666)

H. 873.

An act relating to making miscellaneous tax changes.

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

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:

* * * Tax Administration * * *

Sec. 1. 32 V.S.A. § 3102(e) is amended to read:

(e) The Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(3) To any officer, employee, or agent of any other state or Vermont municipality that administers its own local option sales tax or meals and rooms tax or gross receipts tax under its charter, provided that the information will be used by that state or municipality for tax administration and that state or municipality grants substantially similar disclosure privileges to this State and provides for the secrecy of records in terms substantially similar to those provided by this section.

* * *

(17) To the Department of Financial Regulation, if such return or return information relates to the tax on premiums of captive insurance companies contained in 8 V.S.A. chapter 141.

(18) To the Vermont Student Assistance Corporation if such return or return information is necessary to verify eligibility for the matching allocation required by 16 V.S.A. § 2880d(c).

Sec. 2. 32 V.S.A. § 3208 is amended to read:

§ 3208. ADMINISTRATIVE GARNISHMENT

(a) Notwithstanding other statutes which provide for levy or execution, trustee process, or attachment, the Commissioner may garnish a taxpayer's earnings pursuant to this section to satisfy amounts collectible by the Commissioner under this title, subject to the exemptions provided in 12 V.S.A. § 3170(a) and (b)(1).

* * *

(e) If, after 15 days, the taxpayer has not petitioned for a hearing, a notice of garnishment shall direct an employer to transmit a specified portion of the taxpayer's disposable earnings to the Commissioner from each periodic payment that is due to the taxpayer until the taxpayer's obligation is paid in full. The notice shall identify the taxpayer by Social Security number. An employer is immune from any liability due to compliance with the Commissioner's notice of garnishment.

* * * Use Value Appraisals * * *

Sec. 3. 32 V.S.A. § 3754(b) is amended to read:

(b) Annually ~~in August~~ on or before October 15, the Board shall hold a public hearing and such other hearings as they deem necessary to receive public testimony on the criteria and values for use value appraisals in the coming tax year and on the administration of this subchapter.

Sec. 4. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

* * *

(f) On or before September 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the time of the certification. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

Sec. 5. 32 V.S.A. § 3757(d) is amended to read:

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the Commissioner who shall remit to the municipality the lesser of one-half the tax paid or $2,000.00. The Director shall deposit three-quarters of the remainder of the tax paid in the Education Fund, and one-quarter of the remainder of the tax paid in the General Fund. The Commissioner shall issue a form to the assessing officials which shall provide for a description of the land developed, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of ~~payment~~ the completed and signed form, the Commissioner shall furnish the owner with one copy, shall retain one copy, and shall forward one copy to the local assessing officials, one copy to the register of deeds of the municipality in which the land is located, and one copy to the Secretary of Agriculture, Food and Markets if the land is agricultural land and in all other cases to the Commissioner of Forests, Parks and Recreation.

* * * Property Tax * * *

Sec. 6. 32 V.S.A. § 4041a is amended to read:

§ 4041a. REAPPRAISAL

(a) A municipality shall be paid $8.50 per grand list parcel per year, from the equalization and reappraisal account within the education fund to be used only for reappraisal and costs related to reappraisal of its grand list properties and for maintenance of the grand list. ~~Additionally, a municipality shall be paid $3.65 per grand list parcel for the first 100 parcels $0.20 for each of the next 100 parcels, and $0.01 for each parcel in excess of 200 from the equalization and reappraisal account within the education fund, to be used only~~

~~for costs to acquire assessment education provided under section 3436 of this title.~~

(b) If the Director of Property Valuation and Review determines that a municipality's education grand list is at a common level of appraisal below 80 percent or has a coefficient of dispersion greater than 20, the municipality shall reappraise its education grand list properties. If the Director orders a reappraisal, the Director shall send the municipality written notice of the decision. The municipality shall be given 30 days to contest the finding under procedural rules adopted by the Director, to develop a compliance plan, or both. If the Director accepts a proposed compliance plan submitted by the municipality, the Director shall not order commencement of the reappraisal until the municipality has had one year to carry out that plan.

(c) If a municipality fails to submit an acceptable plan or fails to carry out the plan, pursuant to subsection (b) of this section, the State shall withhold the education, transportation, and other funds from the municipality until the Director certifies that the town has carried out that plan.

(d) A sum not to exceed $100,000.00 each year shall be paid from the equalization and reappraisal account within the Education Fund to the Division of Property Valuation and Review for the purpose of providing assessment education for municipal assessing officials. The Director is authorized to establish guidelines and requirements for education programs to be provided using the funds described in this section. Education programs provided using funds described in this section shall be provided at no cost or minimal cost to the municipal assessing officials. In addition to providing the annual education programs as described in this section, up to 20 percent of the amount available for education programs may be reserved as a scholarship fund to permit municipal assessing officials to attend national programs providing education opportunities on advanced assessment topics. All applications for scholarships shall be submitted to and approved by the Director.

~~(d)~~(e) The Director shall adopt rules necessary for administration of this section.

Sec. 7. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF PROPERTY ~~TAX~~ VALUATION HEARING OFFICER; OATH; PAY

* * *

Sec. 8. 32 V.S.A. § 4467 is amended to read:

§ 4467. DETERMINATION OF APPEAL

Upon appeal to the Director or the Court, the hearing officer or Court shall proceed de novo and determine the correct valuation of the property as promptly as practicable and to determine a homestead and a housesite value if a homestead has been declared with respect to the property for the year in which the appeal is taken. The hearing officer or Court shall take into account the requirements of law as to valuation, and the provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th Amendment to the Constitution of the United States. If the hearing officer or Court finds that the listed value of the property subject to appeal does not correspond to the listed value of comparable properties within the town, the hearing officer or Court shall set said property in the list at a corresponding value. The findings and determinations of the hearing officer shall be made in writing and shall be available to the appellant. If the appeal is taken to the Director, the hearing officer ~~shall~~ may inspect the property prior to making a determination, unless one of the parties requests an inspection, in which case the hearing officer shall inspect the property prior to making a determination. Within 10 days of the appeal being filed with the Director, the Director shall notify the property owner in writing of his or her option to request an inspection under this section.

Sec. 9. TAX INCREMENT FINANCING DISTRICT AUDITS

Notwithstanding 32 V.S.A. § 5404a(l)(2), the first audit of the Milton Town Core Tax Financing District conducted by the State Auditor of Accounts shall be delayed one year to allow for completion of the first annual municipal audit that includes procedures required by 24 V.S.A. § 1901(3)(A).

Sec. 9a. 2013 Acts and Resolves No. 80, Sec. 18 is amended to read:

Sec. 18. BURLINGTON WATERFRONT TIF

(a) The authority of the City of Burlington to incur indebtedness for its waterfront tax increment financing district is hereby extended for five years beginning January 1, 2015; provided, however, that the City is authorized to extend the period to incur indebtedness for 6.5 years beginning on January 1, 2015 for three properties located within the waterfront tax increment financing district at 49 Church Street and 75 Cherry Street, as designated on the City's Tax Parcel Maps as the following:

(1) Parcel ID# 044-4-004-000;

(2) Parcel ID# 044-4-004-001;

(3) Parcel ID# 044-4-033-000.

(b) ~~This extension does not extend any period that municipal or education tax increment may be retained~~ Notwithstanding any other provision of law, the

City of Burlington may extend the period to retain municipal and education tax increment for the parcels described in subdivisions (a)(1), (2), and (3) of this section until June 30, 2035. The City shall not extend the period to retain municipal or education tax increment for any other properties within the waterfront tax increment financing district.

(c) The extension of the period to incur indebtedness for the specific parcels in subdivision (a)(1)–(3) of this section is subject to the City of Burlington's submission to the Vermont Economic Progress Council of an executed construction contract with a completion guarantee by the owner of the parcels evidencing commitment to construct not less than $50 million of private development on the parcels.

Sec. 10. 1892 Acts and Resolves No. 213, Secs. 5 and 6, as amended by 1906 Acts and Resolves No. 357, Sec. 1, and as amended by 2008 Acts and Resolves No. 190, Sec. 46 is further amended to read:

Sec. 5. ~~Said corporation~~ The Corporation shall have power to purchase and receive for the charitable purposes herein indicated, by gift, bequest, devise or otherwise, real and personal property, and the same to hold, for such purposes only, and to sell and convey the same or any part thereof when expedient in the judgment of the Directors. No more than ~~fifty thousand dollars~~ $50,000.00 in value of the property of ~~said corporation~~ the Corporation which is used directly as a nonprofit elder residential care home shall be exempt from municipal property taxation, and up to $500,000.00 of the same property shall be exempt from education property taxation~~, and such property~~; provided that the property, to be ~~so~~ exempt from taxation under this section, shall be located in Brattleboro.

Sec. 6. ~~Said~~ The Corporation, in the investment of its funds, shall be governed by the laws relative to ~~Savings Banks~~ savings banks in this ~~state~~ State. ~~Neither said Corporation, nor any corporator, officer, or employee, shall have power to create a debt against the Corporations except for current expenses.~~

* * * Income Tax * * *

Sec. 11. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2014~~ 2015, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 12. 32 V.S.A. § 5842 is amended to read:

§ 5842. RETURN AND PAYMENT OF WITHHELD TAXES

(a) Every person required to deduct and withhold any amount under section 5841 of this title shall make return thereof and shall pay over that amount to the Commissioner as follows:

(1) In quarterly payments to be made not later than 25 days following the last day of March, June, September, and December if the person ~~reasonably estimates that the amount to be deducted and withheld during that quarter will not exceed $2,500.00; or~~ is required to make quarterly or annual payments of federal withholding pursuant to the Internal Revenue Code.

(2) In semiweekly payments, if the person is required to make semiweekly payments of federal withholding pursuant to the Internal Revenue Code. Semiweekly shall mean payment of tax withheld for pay dates on Wednesday, Thursday, or Friday is due by the following Wednesday, and tax withheld for pay dates on Saturday, Sunday, Monday, or Tuesday is due by the following Friday.

(3) In monthly payments to be made not later than the 25th (23rd of February) day following the close of the calendar month during which the amount was withheld, if subdivisions (1) and (2) of this subsection do not apply.

(b) The Commissioner shall prescribe the method of payment of tax and may, without limitation, require electronic funds transfer or payment to a bank depository. The Commissioner may, in writing, permit or require returns to be made covering other periods and upon such dates as the Commissioner may specify and require payments of tax liability at such intervals and based upon such classifications as the Commissioner may designate:

(1) to conform to federal withholding law as the Commissioner deems appropriate;

(2) in cases in which less frequent reporting is determined by the Commissioner to be sufficient; and

(3) in cases in which the Commissioner determines that the taxpayer's repeated failure to file or pay tax makes more frequent reporting necessary to insure the prompt and orderly collection of the tax.

(c) In addition to the returns required to be filed and payments required to be made under subsection (a) of this section, every person required to deduct and withhold any tax under section 5841 of this title shall file an annual return covering the aggregate amount deducted and withheld during the entire preceding year, ~~not later than February 28~~ on or before January 31 of each

year. At the time of filing that return, the person shall pay over to the Commissioner any amount deducted and withheld during the preceding calendar year and not previously paid. The person shall, further, make such annual report to payees and to the Commissioner of amounts paid and withheld as the Commissioner by regulation shall prescribe.

(d) Notwithstanding section 5867 of this title, the Commissioner may, in his or her discretion, prescribe that one or more or all of the returns required by subsection (a) of this section are not required to be signed or verified by the taxpayer. The Commissioner may require businesses and payroll service providers to file information under this section by electronic means.

Sec. 13. REPEAL

32 V.S.A. § 5912 (characterization of income) is repealed.

Sec. 14. 32 V.S.A. § 5915 is amended to read:

§ 5915. MINIMUM TAX

An S corporation which is subject to the provisions of section 5914 of this title shall pay an annual tax of $250.00 to the Commissioner of Taxes on or before the due date prescribed for the filing of ~~C corporation returns under section 5862 of this title~~ S corporation returns under subsection 6072(b) of the Internal Revenue Code.

* * * Solid Waste Tax * * *

Sec. 15. 32 V.S.A. § 5954(a) is amended to read:

(a) Every person required to pay this tax shall on or before the 30th day of the month following each calendar quarter, file a return with the Commissioner of Taxes and pay the amount of tax due. The Commissioner may require a return to be filed for quarters in which no tax is due.

* * * Homestead Property Tax Adjustment * * *

Sec. 16. 32 V.S.A. § 6061(13) is amended to read:

(13) "Homestead" means a homestead as defined under subdivision 5401(7), but not under subdivision 5401(7)(G), of this title and declared on or before ~~September 1~~ October 15 in accordance with section 5410 of this title.

Sec. 17. 32 V.S.A. § 6069 is amended to read:

§ 6069. LANDLORD CERTIFICATE

(a) ~~By~~ On or before January 31 of each year, the owner of land rented as a portion of a homestead in the prior calendar year shall furnish a certificate of rent to the Department of Taxes and to each claimant who owned a portion of

the homestead and rented that land as a portion of a homestead in the prior calendar year. The certificate shall indicate the proportion of total property tax on that parcel which was assessed for municipal property tax, for local share property tax, and for statewide property tax.

(b) The owner of each rental property consisting of more than one rented homestead shall, ~~not later than~~ on or before January 31 of each year, furnish a certificate of rent to the Department of Taxes and to each person who rented a homestead from the owner at any time during the preceding calendar year. All other owners of rented homestead units shall furnish such certificate upon request of the renter. If a renter moves prior to December 31, the owner may either provide the certificate to the renter at the time of moving or mail the certificate to the forwarding address if one has been provided by the renter or in the absence of a forwarding address, to the last known address.

(c) A certificate under this section shall be in a form prescribed by the Commissioner and shall include the name of the renter, the address and any property tax parcel identification number of the homestead, notice of the requirements for eligibility for the property tax adjustment provided by this chapter, and any additional information which the Commissioner determines is appropriate.

(d)(1) An owner who knowingly fails to furnish a certificate to the Department or a renter as required by this section shall be liable to the Commissioner for a penalty of $200.00 for each failure to act. An owner shall be liable to the Commissioner for a penalty equal to the greater of $200.00 or the excess amount reported who:

(A) willfully furnishes a certificate that reports total allocable rent in excess of the actual amount paid; or

(B) reports a total amount of allocable rent that exceeds by 10 percent or more the actual amount paid.

(2) Penalties under this subsection shall be assessed and collected in the manner provided in chapter 151 for the assessment and collection of the income tax.

(e) Failure to receive a rent certificate shall not disqualify a renter from the benefits provided by this chapter.

* * * Corporation Taxes * * *

Sec. 18. 32 V.S.A. § 8146 is amended to read:

§ 8146. ADDITIONAL TAX; REFUNDS

When the Commissioner finds that owing to the incorrectness of a return or any other cause, a tax paid pursuant to this chapter is too small, he or she shall assess an additional tax sufficient to cover the deficit and shall forthwith notify the parties so assessed. The administrative provisions of chapters 103 and 151 of this title shall apply to assessments and refund claims under this chapter, including those provisions governing interest and penalty in section 3202 of chapter 103, appeals, and collection of assessments.

Sec. 19. 32 V.S.A § 8557(a) is amended to read:

(a) Sums for the expenses of the operation of training facilities and curriculum of the Vermont Fire Service Training Council not to exceed ~~$950,000.00~~ $1,200,000.00 per year shall be paid to the Fire Safety Special Fund created by 20 V.S.A. § 3157 by insurance companies, including surplus lines companies, writing fire, homeowners multiple peril, allied lines, farm owners multiple peril, commercial multiple peril (fire and allied lines), private passenger and commercial auto, and inland marine policies on property and persons situated within the State of Vermont within 30 days after notice from the Commissioner of Financial Regulation of such estimated expenses. Captive companies shall be excluded from the effect of this section. The Commissioner shall annually, on or before July 1, apportion such charges among all such companies and shall assess them for the same on a fair and reasonable basis as a percentage of their gross direct written premiums on such insurance written during the second prior calendar year on property situated in the State. An amount not less than $100,000.00 shall be specifically allocated to the provision of what are now or formerly referred to as Level I, units I, II, and III (basic) courses for entry level firefighters. An amount not less than $150,000.00 shall be specifically allocated to the Emergency Medical Services Special Fund established under 18 V.S.A. § 908 for the provision of training programs for emergency medical technicians, advanced emergency medical technicians, and paramedics. The Department of Health shall present a plan to the Joint Fiscal Committee which shall review the plan prior to release of any funds.

* * * Meals and Rooms Tax * * *

Sec. 20. 32 V.S.A. § 9202(15) is amended to read:

(15) "Restaurant" means:

(A) An establishment from which food or beverage of the type for immediate consumption is sold or for which a charge is made, including a cafe, cafeteria, dining room, diner, lunch counter, snack bar, private or social club, bar, tavern, street vendor, or person engaged in the business of catering.

(B) An establishment 80 percent or more of whose total sales of food and beverage in the previous taxable year were, or in the first taxable year are reasonably projected to be, of alcoholic beverages, food, and beverage that are taxable under subdivision (10)(C) of this section, and food and beverage that are taxable under subdivision (10)(B) and are not exempt under subdivision (10)(D) of this section.

(C) "Restaurant" shall not include a snack bar on the premises of a retail grocery or "convenience" store.

~~(D) A vending machine is not a restaurant, but food or beverage that is sold from a vending machine shall be deemed to be sold by a "restaurant" if the vending machine is located on the premises of a restaurant.~~

Sec. 21. PRIVATE SHORT-TERM RENTALS

Given the growth in private short-term rentals in the State, the Department of Taxes shall pursue negotiations to enter into a contract for the collection and remittance of the rooms and meals tax under 32 V.S.A. chapter 225 with persons who provide an Internet platform for the short-term rental of property for occupancy. The Department of Taxes shall report to the Senate Committee on Finance and the House Committee on Ways and Means on or before January 15, 2017 on the status of any contracts signed under this section.

Sec. 21a. 32 V.S.A. § 9248 is added to read:

§ 9248. INFORMATIONAL REPORTING

The Department of Taxes shall collect information on operators from persons providing an Internet platform for the short-term rental of property for occupancy in this State. The information collected shall include any information the Commissioner shall require, and the name, address, and terms of the rental transactions of persons acting as operators through the Internet platform. The failure to provide information as required under this section shall subject the person operating the Internet platform to a fine of $5.00 for each instance of failure. The Commissioner is authorized to adopt rules and procedures to implement this section.

* * * Sales and Use Tax – Contractors * * *

Sec. 22. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

* * *

(5) "Retail sale" or "sold at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent, including sales to contractors, subcontractors, or repair persons of materials and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property. A manufacturer or retailer shall be treated as a contractor when purchasing material and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property unless an election is made under section 9711 of this title.

* * *

Sec. 23. 32 V.S.A. § 9711 is added to read:

§ 9711. ELECTION BY MANUFACTURER OR RETAILER

(a) As used in this section:

(1) "Manufacturer" is any person that is primarily engaged in the business of manufacturing tangible personal property for sale.

(2) "Retailer" is any person that is primarily engaged in the business of making retail sales of tangible personal property.

(b) A manufacturer or retailer that purchases material and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property shall be permitted to make an election that it will be treated as a retailer on the purchase of those materials and supplies and such purchase will not be considered a retail sale under subdivision 9701(5) of this title.

(c) A manufacturer or retailer making an election under subsection (b) of this section shall charge sales tax to its customer on its materials and supplies or, in the case of a manufacturer, the finished manufactured products, when it uses those materials, supplies, or finished manufactured products in erecting structures or otherwise improving, altering, or repairing real property. The sales price for the purposes of calculating sales tax on materials, supplies, or finished manufactured products shall not be less than the manufacturer's or retailer's best customer price. The tax charged shall be separately stated on any invoice or receipt.

(d) An election made under subsection (b) of this section shall be binding on a manufacturer or retailer for a minimum of five years and shall remain in effect until the manufacturer or retailer files a withdrawal of election. No manufacturer or retailer shall be entitled to a refund on the basis of a withdrawal of an election.

(e) The provisions of this section shall not excuse any person from the obligation to collect tax on retail sales of tangible personal property not used in erecting structures or otherwise improving, altering, or repairing real property or from the obligation to pay sales tax or remit the use tax on tools, services, and other materials that are not used in erecting structures or otherwise improving, altering, or repairing real property.

(f) An election made under subsection (b) of this section shall be made on a form prescribed by the Commissioner and filed with the Department of Taxes at least 30 days prior to such election taking effect.

Sec. 24. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this State. The tax shall be paid at the rate of six percent of the sales price charged for but in no case shall any one transaction be taxed under more than one of the following:

(1) tangible personal property~~, including property used to improve, alter, or repair the real property of others by a manufacturer or any person who is primarily engaged in the business of making retail sales of tangible personal property~~;

* * *

* * * Sales and Use Tax – Out-of-State Vendors * * *

Sec. 25. 32 V.S.A. § 9701(54) is added to read:

(54) "Noncollecting vendor" means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

Sec. 26. 32 V.S.A. § 9712 is added to read:

§ 9712. NOTICE REQUIREMENTS FOR NONCOLLECTING VENDORS

(a) Each noncollecting vendor making sales into Vermont shall notify Vermont purchasers that sales or use tax is due on nonexempt purchases made from the noncollecting vendor and that the State of Vermont requires the purchaser to pay the tax due on his or her tax return. Failure to provide the notice required by this subsection shall subject the noncollecting vendor to a penalty of $5.00 for each such failure, unless the noncollecting vendor shows reasonable cause for such failure.

(b) Each noncollecting vendor shall send notification to all Vermont purchasers on or before January 31 of each year showing the total amount paid

by the purchaser for Vermont purchases made from the noncollecting vendor in the previous calendar year. The notice requirement in this subsection only applies to Vermont purchasers who have made $500.00 or more of purchases from the noncollecting vendor in the previous calendar year. The notice shall include any information required by the Commissioner by rule. The notification shall state that the State of Vermont requires a sales or use tax return to be filed and sales or use tax paid on nonexempt purchases made by the purchaser from the noncollecting vendor. The notification required by this subsection shall be sent separately to all Vermont purchasers by first-class mail or electronic mail and shall not be included with any other shipments. The notification shall include the words "Important Tax Document Enclosed" on the exterior of the mailing. The notification shall include the name of the noncollecting vendor. Failure to send the notification required by this subsection shall subject the noncollecting vendor to a penalty of $10.00 for each such failure, unless the noncollecting vendor shows reasonable cause for such failure.

(c) Each noncollecting vendor shall file an annual statement for each purchaser with the Department of Taxes, on forms required by the Commissioner, showing the total amount paid for Vermont purchases by that purchaser during the preceding calendar year or any portion thereof, and this annual statement shall be filed on or before March 1 of each year. The notice requirements of this subsection only apply to noncollecting vendors who make $100,000.00 or more of sales into Vermont in the previous calendar year. Failure to file the annual statement required by this subsection shall subject the noncollecting vendor to a penalty of $10.00 for each purchaser that should have been included in the annual statement, unless the noncollecting vendor shows reasonable cause for such failure.

(d) The Commissioner is authorized to adopt rules or procedures, or to create forms, necessary to implement this section. Penalties imposed under this section shall be subject to the same administrative and appeal provisions of this chapter as if imposed under section 3202 of this title.

Sec. 27. 32 V.S.A. § 9701(9)(F) is amended to read:

(F) ~~A person making sales of tangible personal property from outside this State to a destination within this State and not maintaining a place of business in this State who engages in regular, systematic, or seasonal solicitation of sales of tangible personal property in this State:~~

~~(i) by the display of advertisements in this State;~~

~~(ii) by the distribution of catalogs, periodicals, advertising flyers, or other advertising by means of print, radio, or television media; or~~

~~(iii) by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication systems, for the purpose of effecting sales of tangible personal property; provided such person has made sales from outside this State to destinations within this State of at least $50,000.00 during any 12-month period preceding the monthly or quarterly period with respect to which such person's liability for tax under this chapter is determined.~~

A person making sales of tangible personal property from outside this State to a destination within this State and not maintaining a place of business or other physical presence in this State that:

(i) engages in regular, systematic, or seasonal solicitation of sales of tangible personal property in this State:

(I) by the display of advertisements in this State;

(II) by the distribution of catalogues, periodicals, advertising flyers, or other advertising by means of print, radio, or television media; or

(III) by mail, Internet, telephone, computer database, cable, optic, cellular, or other communication systems, for the purpose of effecting sales of tangible personal property; and

(ii) has either made sales from outside this State to destinations within this State of at least $100,000.00, or totaling at least 200 individual sales transactions, during any 12-month period preceding the monthly period with respect to which that person's liability for tax under this chapter is determined.

* * * Health Care Provisions* * *

Sec. 28. 18 V.S.A. § 9607 is amended to read:

§ 9607. FUNDING; ~~INTENT~~ ALLOCATION OF EXPENSES

(a) The Office of the Health Care Advocate shall specify in its annual report filed pursuant to this chapter the sums expended by the Office in carrying out its duties, including identifying the specific amount expended for actuarial services.

(b)(1) Expenses incurred by the Office of the Health Care Advocate for services related to the Green Mountain Care Board's and Department of Financial Regulation's regulatory and supervisory duties shall be borne as follows:

(A) 27.5 percent by the State from State monies;

(B) 24.2 percent by the hospitals;

(C) 24.2 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125; and

(D) 24.2 percent by health insurance companies licensed under 8 V.S.A. chapter 101.

(2) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

(3) The Green Mountain Care Board shall administer the bill back authority created in this subsection on behalf of the Agency of Administration in support of the Agency's contract with the Office of the Health Care Advocate pursuant to section 9602 of this title to carry out the duties set forth in this chapter.

(c) It is the intent of the General Assembly that the Office of the Health Care Advocate shall maximize the amount of federal and grant funds available to support the activities of the Office.

Sec. 29. 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

* * *

(15) "Ambulance agency" means an ambulance agency licensed pursuant to 18 V.S.A. chapter 17.

Sec. 30. 33 V.S.A. § 1959 is added to read:

§ 1959. AMBULANCE AGENCY ASSESSMENT

(a) The annual assessment for each ambulance agency shall be 3.3 percent of the ambulance agency's annual net patient revenues for services delivered to patients in Vermont during the most recent annual fiscal period. The Department shall determine the appropriate fiscal period as necessary to ensure compliance with federal law. Ambulance agencies shall remit the assessment amount to the Department annually on or before March 31, beginning with March 31, 2017.

(b) The Department shall provide written notification of the assessment amount to each ambulance agency. The assessment amount determined shall

be considered final unless the agency requests reconsideration. Requests for reconsideration shall be subject to the provisions of section 1958 of this title.

(c) Each ambulance agency shall remit its assessment to the Department according to a schedule adopted by the Commissioner. The Commissioner may permit variations in the schedule of payment as deemed necessary.

(d) Any ambulance agency that fails to make a payment to the Department on or before the specified schedule, or under any schedule of delayed payments established by the Commissioner, shall be assessed not more than $1,000.00. The Commissioner may waive the late-payment assessment provided in this subsection for good cause shown by the ambulance agency.

Sec. 31. AMBULANCE PROVIDER TAX; INTENT

In establishing a provider tax on ambulance agencies, it is the intent of the General Assembly to increase Medicaid reimbursement rates to these providers while ensuring full compliance with 42 C.F.R. 433.68.

* * *

Sec. 32. 33 V.S.A. § 1955a is amended to read:

§ 1955a. HOME HEALTH AGENCY ASSESSMENT

(a) Beginning on October 1, ~~2011~~ 2016, each home health agency's assessment shall be the greater of 19.30 percent of its net operating revenues from core home health care services, excluding revenues for services provided under Title XVIII of the federal Social Security Act, or two percent of its annual net patient revenue; provided, however, that each home health agency's annual assessment shall be limited to no more than ~~six~~ 4.5 percent of its annual net patient revenue. The amount of the tax shall be determined by the Commissioner based on the home health agency's most recent audited financial statements at the time of submission, a copy of which shall be provided on or before May 1 of each year to the Department. For providers who begin operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

* * *

Sec. 33. HOME HEALTH AGENCY ASSESSMENT WORKING GROUP; REPORT

(a) The Department of Vermont Health Access shall convene a working group comprising nonprofit and for-profit home health agencies and other interested stakeholders to develop a common understanding, for purposes of the home health agency assessment established in 33 V.S.A. § 1955a, of:

(1) core home health agency services;

(2) net operating revenue for core home health agency services;

(3) net patient revenue; and

(4) criteria for determining medical necessity.

(b) On or before October 1, 2016, the Department shall provide the results of the working group's meetings and any recommendations for statutory modifications to the Health Reform Oversight Committee, the House Committees on Health Care and on Ways and Means, and the Senate Committees on Health and Welfare and on Finance.

* * * Fuel Gross Receipts Tax * * *

Sec. 34. 32 V.S.A. § 2501(d) is added to read:

(d) The Emergency Board shall adopt an official revenue estimate for the fuel gross receipts tax under section 2503 of this title in the same manner as it does for other revenues under 32 V.S.A. § 305a.

Sec. 35. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of:

(1) ~~0.5~~ 0.75 percent on the retail sale of the following types of fuel:

~~(1)~~(A) heating oil, propane, kerosene, and other dyed diesel fuel delivered to a residence or business;

~~(2) natural gas;~~

~~(3) electricity;~~ and

~~(4)~~(B) coal.

(2) There is imposed a gross receipts tax of 0.5 percent on the retail sale of natural gas and electricity.

* * *

(d) ~~Fuel sellers, which are regulated "companies" as defined in subsection 30 V.S.A. § 201(a), which provide conservation programs that meet the goals of the Weatherization Program in a manner approved by the Public Service Board, and which enhance the Weatherization Program's capacity to serve low-income households may be eligible for rebates from the fuel gross receipts tax imposed under this section. To establish rebate eligibility, a company shall file with the Public Service Board, on or before August 15 of each year, a request for approval of rebates based on the company's activities during the prior fiscal year. The Public Service Board shall make a determination of the~~

~~amount of rebate for each applicant on or before January 15 of each year, and such amount shall be rebated by the State Office of Economic Opportunity under the provisions of subsection (f) of this section. The Public Service Board shall authorize rebates equal to the expenditures undertaken by the regulated utilities provided that such expenditures were prudently incurred and cost-effective, that they provided weatherization services following a comprehensive energy audit and work plan, except in cases where the fuel seller and weatherization staff jointly conclude that the need for weatherization services can be determined without a comprehensive energy audit, and that they were targeted to households that meet the eligibility criteria for low-income weatherization services as determined by the Office of Economic Opportunity.~~

~~(e) Unregulated fuel sellers providing conservation programs that meet the goals of the Weatherization Program in a manner approved by the State Office of Economic Opportunity and that enhance the weatherization program's capacity to serve low-income households may be eligible for rebates from the fuel gross receipts tax imposed under this section. To establish rebate eligibility, a company shall file with the State Office of Economic Opportunity, on or before August 15 of each year, a request for approval of rebates based on the company's activities during the prior fiscal year. The State Office of Economic Opportunity shall make a determination of the amount of rebate for each applicant on or before January 15 of each year, and that amount shall be rebated by the State Office of Economic Opportunity under the provisions of this subsection. The State Office of Economic Opportunity shall authorize rebates equal to the expenditures undertaken by the unregulated fuel sellers provided that the expenditures were prudently incurred and cost-effective, that they provided weatherization services following a comprehensive energy audit and work plan, except in cases where the fuel seller and weatherization staff jointly conclude that the need for weatherization services can be determined without a comprehensive energy audit, and that they were targeted to households at or below 150 percent of the federally established poverty guidelines.~~

~~(f) On or before August 7 of each year, the Director of the State Office of Economic Opportunity shall set aside a sum of money equaling two and one-half percent of the tax receipts of the fuel gross receipts tax for the preceding fiscal year in an escrow account. The monies in the escrow account are to be used for rebate, as approved under subsections (d) and (e) of this section, of the gross receipts tax established in subsection (a) of this section. Upon approval of rebates, the Director shall pay the approved rebates out of the escrow account. In the event that the approved rebates exceed the amount of money set aside in the escrow account, the Director shall prorate each~~

~~rebate. Any balance of rebate awards remaining unpaid as a result of proration may be carried forward for payment in a succeeding year. If monies set aside exceed approved rebates, then the balance shall be returned to the Fund. The Director of the State Office of Economic Opportunity shall use the remainder of the tax receipts of the fuel gross receipts tax for the preceding fiscal year to assure the provision of weatherization services as described in subsections 2502(a), (b), and (c) of this title.~~

~~(g)~~ No tax under this section shall be imposed for any ~~quarter~~ month ending after June 30, ~~2016. Monies from the escrow account shall be issued for rebates pursuant to subsection (f) of this section until March 1, 2017~~ 2017.

Sec. 36. STUDY ON FUEL GROSS RECEIPTS TAX

The Vermont Department of Taxes, with the assistance of other executive agencies, shall report to the General Assembly on or before November 15, 2016 with a specific proposal to restructure the fuel gross receipts tax from one based on gross receipts to one based on a levy for each unit of fuel source, including draft legislation to implement the proposal. The proposal shall be designed to raise the same amount of revenue as the fuel gross receipts tax did for a three-year average from fiscal years 2013–2015.

Sec. 36a. ANALYSIS OF ADMINISTRATIVE COSTS

The Joint Fiscal Office shall conduct an analysis of the administrative costs associated with seasonal and crisis fuel and weatherization programs for the State of Vermont. The Joint Fiscal Office shall report its findings to the Senate Committees on Finance, Health and Welfare, and Appropriations, and the House Committees on Ways and Means, Human Services, and Appropriations on or before December 15, 2016.

* * * Filing Periods * * *

Sec. 37. 32 V.S.A. § 5836(c) is amended to read:

(c) The tax imposed by this section shall be paid ~~quarterly~~ monthly to the Commissioner ~~not later than~~ on or before the 25th day of ~~the~~ each month ~~following the last day of each quarter of the corporation's taxable year under the federal Internal Revenue Code, for the three months of that quarter~~ for the tax due in the previous month.

Sec. 38. 32 V.S.A. § 8521 is amended to read:

§ 8521. IMPOSITION AND RATE OF TAX

(a) There is hereby assessed, upon each person or corporation owning or operating a telephone line or business within the State, a tax equal to 2.37 percent of net book value as of the preceding December 31 of all personal

property of the taxpayer located within the State. The tax shall be paid to the Commissioner in equal ~~quarterly~~ monthly installments ~~no later than~~ on or before the 25th day of ~~the third, sixth, ninth, and 12th month of each taxable year~~ each month of each taxable year.

* * *

(f) When personal property is transferred during the year from a person or corporation subject to a tax imposed by this subchapter to another person or corporation ~~who~~ that operates or will operate a telephone line or business in the State:

(1) for ~~quarters~~ months beginning after the date of transfer, the transferee shall include the net book value of the transferred property as of the date of transfer in the calculation of the tax due under subsection (a) of this section and the transferor shall exclude such value from its calculation of its tax under subsection (a);

(2) for the ~~quarter~~ month during which the transfer occurs, the transferor shall include the net book value of the transferred property as of the preceding December 31 multiplied by the number of days during the ~~quarter~~ month it owned the property and divided by the total number of days in the ~~quarter~~ month and the transferee shall include the net book value of the property as of the date of transfer multiplied by the number of days during the ~~quarter~~ month it owned the property divided by the number of days in the ~~quarter~~ month.

Sec. 39. 33 V.S.A. § 2503(b) is amended to read:

(b) The tax shall be levied upon and collected ~~quarterly~~ monthly from the seller. Fuel sellers may include the following message on their bills to customers:

"The amount of this bill includes a ~~0.5%~~ 0.75% gross receipts tax, enacted in 1990, for support of Vermont's Low Income Home Weatherization Program."

* * * Evaluation of Tax Expenditures * * *

Sec. 40. EXPEDITED REVIEW OF CERTAIN TAX EXPENDITURES

The Department of Taxes and the Joint Fiscal Office shall conduct an expedited review of certain tax expenditures as outlined in Appendix C of the report required by 2015 Acts and Resolves No. 33. As used in this section, "expedited review" means an evaluation of a tax expenditure that analyzes the purpose of the tax expenditure, delineates its cost and benefits, and considers whether it still meets its policy goals. The specific tax expenditures receiving expedited review, and the schedule for conducting that review, shall be as follows:

(1) For the tax expenditure report due in January 2017, the tax expenditures related to encouraging economic growth and investment shall be reviewed.

(2) For the tax expenditure report due in January 2019, the tax expenditures related to incentivizing a specific desirable outcome, including agriculture, and related to excluding charitable and public service organizations from taxation shall be reviewed.

(3) For the tax expenditure report due in January 2021, the tax expenditures related to enhancing community development, including housing and historic revitalization, shall be reviewed.

(4) For the tax expenditure report due in January 2023, the tax expenditures related to promoting income security and encouraging work; exempting the necessities of life, including health care, from taxation; and implementing State tax policy and other priorities shall be reviewed.

* * * Effective Dates * * *

Sec. 41. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 11 (annual update of income tax link to the IRC) shall take effect retroactively on January 1, 2015 and apply to taxable years beginning on and after January 1, 2015.

(2) Secs. 12 (withholding and W2s), 15 (solid waste tax returns), 22–24 (sales tax contractors), 28–30 (ambulance provider tax), and 35 (fuel gross receipts tax) shall take effect on July 1, 2016.

(3) Sec. 19 (fire service training council) shall take effect for fiscal years 2017 and after.

(4) Secs. 21a (informational reporting) and 25–26 (definition of vendor and out-of-state vendor notification requirements) shall take effect on the earlier of July 1, 2017 or beginning on the first day of the first quarter after a resolution favorable to the State of Colorado in *Direct Marketing Assoc. v. Brohl*, 814 F.3d 1129 (10th Cir. 2016).

(5) Sec. 27 (definition of vendor) shall take effect on the later of July 1, 2017 or beginning on the first day of the first quarter after a controlling court decision or federal legislation abrogates the physical presence requirement of *Quill v. North Dakota*, 504 U.S. 298 (1992).

(6) Secs. 37 (filing period for bank franchise tax), 38 (filing period for telephone company tax) and 39 (filing period for fuel gross receipts tax) shall take effect on January 1, 2017.

(Committee vote: 5-1-1)

(For House amendments, see House Journal for March 23, 2016, page 627 and March 24, 2016, pages 667-673)

H. 875.

An act relating to making appropriations for the support of government.

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

For text of report of the Committee on Appropriations, see Addendum to Senate Calendar for April 23, 2016.

(Committee vote: 7-0-0)

(For House amendments, see House Journal for March 24, 2016, page 674-686)

House Proposal of Amendment

S. 174

An act relating to a model State policy for use of body cameras by law enforcement officers.

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

First: In Sec. 1, subdivision (a)(1), after the word "report" by inserting the words in the form of proposed legislation

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

(c) A law enforcement agency or constable that does not use body cameras shall not be required to adopt a model policy regarding their use.

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.

Alyson Richards of Montpelier – Member of the Vermont State Colleges Board of Trustees – By Sen. Cummings for the Committee on Education. (4/25/16)

Mary Alice McKenzie of Burlington – Member of the State Police Advisory Committee – By Sen. Collamore for the Committee on Government Operations. (4/25/16)

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).